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Conseil national des droits de l'Homme

Report on
**Al Hoceima
Protests**

— March 2020 —

Executive Summary



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INTRODUCTION

The long-awaited report on Al Hoceima protests, issued by the National Human Rights Council (CNDH), and approved by its second general assembly, is the outcome of long months of painstaking efforts of investigation, data scrutiny and cross-checking.

In order to draw up a comprehensive, neutral and well documented report, the CNDH staff, committed to the role of the Council as the conscience of the rule of law, collected several documents and videos, organized several meetings and hearing sessions, and conducted numerous investigations and visits.

This report, drafted from November 2019 to March 2020, aims to present a human rights-based interpretation of the protests that occurred in Al Hoceima during the last 12 months.

Based on an open and transparent approach, this report focuses on the anti-democratic and anti-human rights practices of authorities and citizens that the Council has identified.

Al Hoceima protests occurred in particular conditions distinguished by difficulties in forming the government. It would be no exaggeration or mistake to say that these protests were an exceptional event in the political, economic and cultural life of the new Morocco, either referring to its duration, magnitude, or impact. Still, the Council considers that Al Hoceima protests are mostly characterized by the content of their noticeable expressions.

In this report, the Council details allegations of torture and ill-treatment related to this case, which has witnessed many changes. For this reason, the Council spares no effort in revealing all the information it holds on this subject.

Besides, the report raises many unprecedented issues, namely analysis of fake news, hate speech and incitement to violence, which emerged on the sidelines of the protests.

Moreover, the Council initiated meetings and hearing sessions and interacted with the relatives and families of detainees. On the one hand, these initiatives, have allowed the CNDH to strengthen its understanding of forms, conduct, methods, and processes of protests and arrests. On the other hand, the CNDH is supporting the detainees' families, continuously, taking into account the particularities of each case.

At the same time, testimonies of law enforcement officials who were injured or suffered from the impact of injuries, has made it possible to shed light on an aspect that has long

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remained unknown or ignored by citizens.

This initiative is motivated by the need to assess and measure all facts, allegations and accusations within an objective approach, where all humans are equal regardless of their status, conviction, opinion or beliefs. The final purpose is to shed light, exclusively and accurately, on all the features that made Al Hoceima protests an unparalleled event in the field of human rights context in Morocco.

Besides, the Council considers that it would be judicious to make sure that many components of the international jurisprudence on human rights be integrated into this report. This effort is part of the Council's prerogatives related to reinforcing and raising awareness on human rights culture and democracy in general.

This effort is deemed essential, not only for didactic reasons, but also to provide citizens with a general overview on the Council's standards and methodology. In fact, knowledge is the most powerful tool to build a state of law and it is the best guarantee to build a democratic community.

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To conclude, memory and identity requests, which have mostly characterized the protests, are of major concern to the Council, considering its mission related to following up the implementation of the recommendations of the Justice and Reconciliation Commission (Moroccan Truth Commission). These requests are also significantly important to the Council because of the unprecedented dimensions of Al Hoceima protests.

Hence, the Council wishes that this report will provide sufficient information, explanations, and reflections in order to allow readers to forge their own opinion about the painful events of Al Hoceima, which have marked the history of protests in Morocco.

I. DEFINING “AL HOCEIMA PROTESTS”

Several designations were given by human rights reports and press coverage to the events which occurred in Al Hoceima from October 2016 to October 2017, namely: Events of Al Hoceima, *Hirak* of Rif, or Al Hoceima protests. The present report chooses to refer to these events as “Al Hoceima protests” for the following reasons:

1. “Events of Al Hoceima” has many connotations. It may mean every event that occurred from an absolute perspective. It may also mean what occurred in a given period, which means that talking about the event implies previewing its beginning and its end in a short period. This concept may also mean that these events were serious and significant. Besides, an event may be both positive and negative: A horrible crime is as eventful as breaking a record.

As the Council’s approach to what occurred in Al Hoceima is based on human rights and legal and judicial jurisprudence governing peaceful protests, the expression “Events of Al Hoceima” does not sufficiently reflect the circumstances and the extent of the events.

2. The “*Hirak* of Rif” is an ambiguous expression, considering that:

- The word *Hirak* means movement. Linguistically, the verb “to move” does not carry a precise and definite connotation as required in a human rights report. It is also infused with a large dose of ideology and politics, reflecting a prior position to the facts that the report aims to describe.
- Second, the word “Rif” is not precise as to the location where the events of the report occurred. Considering that they happened in Al Hoceima, a city located in the Rif region, it would be illogical to use the whole region to refer to a mere part of it. This may result in generalization and exaggeration.

3. Based on the above, “Al Hoceima protests” is the most precise and objective expression. Protesting is in fact a pillar of human rights considering that protests can take the forms of the “right to assembly, peaceful demonstration, to association, and to political and union affiliation”. Hence, “Al Hoceima protests” as used in this report, involves the peaceful meetings, gatherings and demonstrations as well as the violent protests. Other more violent acts will be referred to in this report as “riots”.

2. CHRONOLOGY OF AL HOCEIMA PROTESTS: OCTOBER 28, 2016- OCTOBER 2017

Al Hoceima protests emerged as officials were held accountable after Mohsine Fikri was crushed to death in a garbage truck. Events unfolded since then and led to peaceful and violent protests which lasted around one year.

I - Peaceful demonstration

From October 2016 to March 2017, Al Hoceima protests were described as peaceful, considering the following elements:

- a. Duration: Peaceful demonstrations lasted around six months, the longest period in the history of peaceful demonstrations in Morocco.
- b. Timing: The protests occurred night and day, especially that they coincided with Ramadan.
- c. Marches: peaceful marches occurred in several avenues, crossing long distances, without any incident.
- d. Pot-banging: first-ever witnessed form of protest (occurred in May), where people banged pots and pans on their rooftops.
- e. Black clothing: Women wore black dresses and marched twice, once during the day and once at the night, to protest against home raids and to call for respecting the sanctity of houses, releasing detainees and meeting claims.
- f. Citizens from neighboring cities joined the demonstrations, without any breach of security or intervention from the law enforcement authorities.
- g. A protest was held in Boukidarne, and evolved into a march, without the presence of law enforcement authorities.

2- Violence and stone-throwing

Violent acts started arguably after the first tents were pitched for a sit-in attempt in the city center. As forces tried to disperse the protesters, various injuries were caused, which led to pursued violence using stones and slings, and sometimes setting fire. Violent protests were marked by:

1. Violent acts mostly emerged after calls to disperse the crowds were refused, and sometimes due to stone-throwing.
2. Violent acts were mostly initiated by masked protesters;
3. Most of the times, violent acts caused injuries among law enforcement authorities;
4. During one of the protest movements, women withdrew from the front line, leaving their places to masked protesters, who started throwing stones.
5. Violent acts resulted in various injuries and marked by arrests and detentions, including among minors;
6. Students protests in Imzouren, Beni Bouayyach, Bouikdaren, and Bouslama, witnessed violent confrontations which led to injuries and arrests (in February);
7. Protesters besieged a helicopter transporting ministers and officers in Isaken, prevented it from taking off, and threw stones at it;

In June, manifestations and protests happened nearly daily, while they escalated in July and the government and social initiatives multiplied.

3- Severe violence

In addition to the damages caused by stone-throwing, with no contact, or almost no contact, between the protesters and the law enforcement authorities, Al Hoceima protests witnessed acts of severe violence, especially in cases of contact between the two sides. Severe violence acts can be divided into two types:

- Violent acts due to confrontations between the protesters and the law enforcement authorities;
- Violent acts due to surprise attacks against law enforcement authorities, outside the context of the protests;

Injuries and losses resulting from these severe violence acts were the most dangerous and significant. Some injuries caused permanent handicap among members of law enforcement authorities, resulted in deep psychological chocks, and led to sometimes permanent impact on social relations. Among the most severe acts of violence are the following:

1- Burning the police building on March 26, 2017

On March 26, 2017, afternoon, students from Beni Bouayyach, Imzouren, and Tamansit gathered in a march toward Al Hoceima, where they started throwing stones at the public forces. The March headed towards the city of Beni Bouayyach, nearby Imzouren, and stones were thrown at the cars of the law enforcement authorities. Crowds significantly gained in number and some of them attacked the police building, and started by setting fire in the bus using Molotov cocktails, then in a police car and a truck transporting luggage of the law enforcement authorities. Besides, explosion of gas bottles was heard in the same building.

As a result, various burns, fractures and injuries were recorded, and several members of the public force fell from rooftops as they tried to flee from the attacks. The latter only stopped after public forces intervened.

2- Protests against an attempt to arrest Nasser Zefzafi

On May 26, 2016, law enforcement authorities were confronted to a group of persons, as they tried to arrest Zefzafi. At first, there was no apparent violence, and the alleys were almost empty. However, rooftops were full of people. At around 3 pm, violence acts emerged and stones were thrown from the roof by protesters, who were huge in numbers, including men and women, young and adults, and some of them were masked.

3- Protests of July 20, 2017

Testimonies confirmed that during manifestations of July 20, 2017, protesters poured in the streets of the city and committed acts of violence using different tools, and leaving various degrees of injuries among police officers. Such violent manifestations occurred in Sidi Al Abed, near Mohamed V hospital, Boujibar region, and the neighborhood of Afrar.

– Protests in Sidi Al abed:

Many inhabitants, headed by women, went out to protest in Hay Sidi El Abed. On the other side, female police officers were in the front line, while male officers were behind. The Chief of the police joined the forces, called the protesters three times and urged them to abide by the law and get dispersed.

Later, more than 200 masked persons joined the protesters, and started throwing stones at the police officers. The women who headed the protesters returned back, while protesters continued throwing stones. The violence continued until late in the evening.

– **Protests near the Mohamed V hospital in Al Hoceima**

On July 20, 2017, Al Hoceima experienced violent incidents. Many statements confirmed that many protesters gathered near Mohamed V hospital, where they set up barricades, large stones, iron barriers, rubber wheels, and broke the street lights. At around 10 pm, the police members came to disperse the protesters, and violence broke out.

Most of the protesters came masked; they met in the alleys and niches up the street, and started throwing stones at the police, who were down the street. Many of the police members were victims of various degrees of injuries, wounds and fractures.

– **Protests in Boujibar region**

Members of the law enforcement orders were suddenly attacked by around 300 protesters, some of whom were masked. These put stone barriers, besieged the police car and the members present there, as the protesters were up the road and the police officers down. They started throwing stones massively, pursued their violence and continued their assault, which led to serious injuries among police members, some of whom even fainted.

– **Protests of Hay Afrar**

In Hay Afrar, near the hospital, demonstrators started yelling, and the police officers (about 20), formed a security barrier, as protesters were few. However, their number soon grew to almost 200, including women, and masked protesters in the front lines. Then, the Chief of the police urged them to disperse. Instead, they started throwing stones using slings to harm the police officers. Although the police had intervention tools at their disposal, instructions forbid the use of power. However, when things worsened and injuries increased among police officers, tear gas was used and one of the ambulances was able to go through the barriers set by the protesters and carried the injured officers.

– **Dhar massaoud protests:**

The protests of Dhar Massaoud involved riots and violence. As a result, the police intervened to arrest some protesters, and transported them to the police station using the police cars. However, due to the fire set and the barricades and barriers put on the road, and as the police car was besieged, and as attacks and violence continued, the police officer fired three shots on the ground. As the threat continued closer, the same

officer fired two other warning shots on the air in an attempt to help his colleague and free him from the protesters.

These attacks led to injuries among several police officers, including the one who shot the warning gunfire and his colleague, the driver, in different parts of their bodies. The person “M.O”, who was arrested, was also wounded inside the car due to the stone throwing acts. Mr. Imad El Attabi was also injured by bullet fragments which hit the ground.

In August, the General prosecutor announced the death of Imad El Attabi. His funerals witnessed violent confrontations between the public forces and the protesters from Boujibar, Hay Marmoucha, Hay Afrar, Hay Mirador, Sabadiya coast, and Hassan II street. A police car was burnt and many injuries and property assaults occurred that day.

4- Sabadiya beach, August 9, 2017

Around 1pm, 8 police members gathered near the entry of the “Sabadiya” coast. At about 10pm, while they were in the car, they were surprisingly attacked by a group of people, who threw stones and solid objects at them. They also totally besieged the car and removed its protective iron fence, while still throwing stones, which led to breaking of the windshield.

The demonstrators succeeded in removing the protective fence of the police car mentioned, then stepped back a little and starting throwing stones at it. At this moment, the police officers were able to flee away towards different directions under a hail of stones and solid objects. The police resorted to tear gas in order to prevent the demonstrators from attacking or assaulting them. In fact, the police members were able to jump over the short wall of the coast and get into the “Sabadiya beach”.

Besides, a soccer match ended with violent confrontations between supporters of both teams. This event resulted in injuries of around 69 persons from among supporters and police officers. Also, 5 buses and 12 cars, including 2 police cars were destroyed.

5- Protests near Imzouren

On September 3, 2017 at 5 pm, a group of people, the majority of which were masked, gathered in one of the mountains nearby the city, holding knives and repeating slogans. When the Chief of the police called for their dispersion, they started throwing massive stones at the police officers. Resistance of the police officers resulted in injuries among the protesters, who experienced various degrees of wounds and fractures.

The protestors threw a police officer in a hole and started dragging him, while others hit him with a knife. As a result, the officer was wounded and his proof vest torn.

Tear gas was used twice, once to disperse the gatherings in Hay Sidi Abed, and the other time in Sabadiya beach as self defense. Both cases recorded violence and injuries.

IV- Measures taken

- After prosecution of the persons concerned with the truck incident, the “interim committee on the popular movements of Rif” was set up;
- In March, demands evolved. In the same month, many officials were relieved, including the Governor of Al Hoceima, delegates of the ministries of equipment, health and fisheries, as well as the director of the regional hospital of Al Hoceima;
- In April, the Pachas of some urban and rural communities, and some representatives of local authorities were relieved. The Court of Appeal of Al Hoceima issued sentences ranging from 5 to 8 months against the culprits accused of murdering Mohssine Fikri, and ordered payment of a compensation by the insurance and cleaning companies;
- After one week, Nasser Zefzafi broke into Mohamed V mosque during the Friday prayer. The General Prosecutor then issued an order to arrest him for “obstructing the freedom of worship inside the mosque and hampering the Friday prayer”;
- In May, a ministerial delegation, composed of 6 ministers and the Director of the National Office of Electricity and Potable Water, visited the city to identify the developments made with regard to the «*Al Hoceima, Mediterranean lighthouse*» project;
- At the end of the month, the General Prosecutor announced the arrest of Nasser Zefzafi and some of his companions;
- On June 25, a royal order was issued to investigate the development projects and audit the «*Al Hoceima, Mediterranean lighthouse*» project;
- Some ministers and officials were relieved from their duties;
- In July, a consultative meeting with actors was held by the government, under

the supervision of the Ministry of State in charge of Human Rights. A representative of the CNDH took part in this meeting;

- Royal pardon was granted on July 29 to 35 detainees and 14 juvenile prisoners.

Preliminary data on the results of the protests

- 814 manifestations, 340 of which required special intervention
- 60 manifestations dispersed, equal to less than 10% of the total
- 788 member of public forces wounded: 178 from public forces and 610 from the police;
- Some media reported that Mr El Houcine Kerrout, lawyer of the National Security General Directorate, in his statement before the court, that these events caused 902 victims in total;
 - o 604 police officers
 - o 178 from Auxiliary Forces
 - o 120 from the Gendarmerie
 - o 500 physical injuries among public forces members
 - o Mental impact on 111 member of the police, 34 of whom are under psychological monitoring
 - o Total maximum temporary disability: 760 days
 - o Number of arrested persons: 400
 - o Arrested minors: 129 persons, 45 of whom were put in reformatories, and 84 were handled to their parents
 - o Number of persons imprisoned up to march: 49 persons
 - o Tools used by the police: Proof vests, batons, tear gas, and water hoses
 - o The Lawyer of the civil party reported that the losses were estimated as follows:
 - Losses of more than 25 million DH incurred by the National Security General Directorate
 - The Gendramerie incurred over 4 million DH
 - The Auxiliary Forces incurred more than one million and 160 000 DH
- The Council was unable to get information on victims among protesters or civilians
- Authorities received complaints from 136 small merchant; including 56 in Al Hoceima and 80 in Imzouren, requesting protection of public order, considering the serious damages inflicted to their commerce.

3. VIOLATION OF THE FREEDOM OF WORSHIP AND BELIEF

Intrusion into a mosque during the Friday sermon

In all religions, worship places are treated with particular respect. Hence, the mosque is a place of worship and prayer, and the Friday prayer enjoys particular characteristics and special rituals involving the two obligatory sermons.

Rights to religious freedom include the right of belief and worship, which grant the person the right to choose the religion he/she wants without coercion. These rights also refer to the right to safely practicing worship and observance of one's religion, with no provocation or harassment.

In the context of the frequent protests in Al Hoceima, Nasser Zefzafi intruded, on May 26, 2017, the mosque during the Friday sermon, interrupted the Imam and started addressing the worshippers. As a result, he deprived the latter from exercising their right to practicing the Friday prayer, as the Imam ended by leading a normal prayer of Dhuhr (four Rakaats) instead of a Friday prayer. Hence, this act has deprived the worshippers of their right to perform all the rituals of the Friday prayer.

1. Arguments presented by Nasser Zefzafi:

Nasser Zefzafi considered that the Imam was pleading in favor of corruption to ensure “the submission of the Rif and to allow rich people from the Gulf States to rape our women and children”. He also considered that it was “his duty” to follow the path of the Caliph Omar Ibnu Al Khattab and correct “the distorted discourse” of the Imam.

Zefzafi added that he interrupted the imam because he was giving “*Fatwas*” and agreeing with the “government to rape women and besiege the young to arrest them in the name of religion”. He also added that he rose against the Imam, whom he described as “a charlatan”, because his sermon about sedition and stability is “dangerous”, as it gives the government legitimacy to resort to repression.

Besides, he added, the government resorted to Imams and mosques after “failure” of the meeting with the elected members, whom he calls “the malicious”. Zefzafi deemed that the purpose behind this was “to blockade the protests”.

2. Results of the intrusion

After this intrusion, the Public prosecutor at the Court of Appeal of Al Hoceima issued, on the same day, an order to arrest Zefzafi¹ for “obstructing the freedom of worship inside the mosque and hampering the Friday prayer”.

¹ Communiqué of the Public Prosecutor of the Court of Appeal of Al Hoceima.

The Public Prosecution outlined, in a statement published afterward, that “the accused person in question” forbade the Imam from continuing his sermon gave a hate speech inside the mosque where he insulted the Imam, “caused disorder and breached the calm of the prayer, its reverence and sacredness”.

On the other hand, the Ministry of Islamic Affairs² denounced this act of breaching the due sacredness and reverence to mosques during Friday prayers, “which resulted in spoiling the Friday prayer and insulting the Muslim group”. The Ministry considered that this act is a “serious sedition” and a “vice” in a country where prayers and worships are significantly respected and revered.

3. Legal foundations

This event does not concern a public discussion and a public area, where opinions and attitudes are judged by proof and arguments, this is a religious worship practiced by believers, and which carries its own sacred significance. Hence, in case of disagreement, opinions are expressed in a public space.

Thus, if Nasser Zefzafi were to criticize the sermon outside the mosque, his act would be considered as exercising his right to expression. But, as he intruded into the mosque, he has breached the right of other people to practice freedom of worship and freedom of religion, and violated their right to exercise their religious rituals.

In fact, international texts have entrusted public authorities with the responsibility to protect places of worship from any act which may obstruct the practices of worshippers and affect their peaceful exercise. In view of the interdependence between the right to belief and the right to worship, the international texts have considered that protecting the places of worship guarantees the protection of the right to belief and worship.

4. Criminalization of acts violating freedom of religion

Intruding into a mosque and interrupting an *Imam* while delivering his sermon is considered as a breach to the freedom of religion and to the safety of the worship place. Different texts in this regard have stated that worship is an essential constituent of religious freedoms.

The Council has examined several similar cases and their judicial processing. For example, the case of the 3 activists who were pursued and convicted for disrupting a service in the Cologne Church in Germany in August 2020, in solidarity with the “Pussy riot” detainees in Russia. Another one is the case of Elois Bouton, the FEMEN female activist who intruded into the Madeleine Church in Paris in December 2013. Although

2 Ministry of Religious Endowments and Islamic Affairs.

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her intrusion was to protest against the Church's position towards the freedom of abortion, she was convicted by the French courts, at all levels.

The European court, in its decision issued in February 2015³, ruled that protestors have the right to express themselves, that worshippers have the right to practice their rituals and prayers, and that a sufficient distance must be kept between the two spaces (prayer space and demonstrations space). It is obvious that judicial authorities did not consider disrupting churches as a freedom of expression to be provided for by the law, but rather as a breach of the sanctity of worshipping places and the freedom of worshippers inside of these places, which should be protected.

³ In February 2015, the Court ruled that, in the case of KARAAHMED vs. BULGARIA, there has been a violation of Article 9 of the European Convention on Human Rights. The case goes back to May 2011 where supporters of the Bulgarian political party Ataka protested in front of a mosque in Sofia.

4. CLAIMS OF AL HOCEIMA PROTESTS: REALITY AND OUTCOME

Many factors have contributed to the growing claims of Al Hoceima protesters, who have split into pro-dialogue and anti-dialogue protesters. Also, symbols were used in a distortive way, considering their importance as an integral part of the rich and multi cultural identity of Morocco.

More details will be given in this document concerning the circumstances of these protests, their types, content, forms, categories, and results.

First: Claims of Al Hoceima protests:

Claims of Al Hoceima protesters are not much different from those expressed by inhabitants of the other regions of Morocco with regard to economic, social and cultural issues, whether they are expressed under protests in some cities and villages or through the institutional channels at the local or central level. Requests covered different fields, namely education, health, culture, fishery, sports, agriculture, industry, development, transportation, communications, environment, tourism and governance.

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However, it is worth pinpointing that:

- The claims were not intermittent or progressive and depending on the priorities, but came mounting and with no scale;
- Dialogue with the officials was rejected;

Hence, concerning management, possibility of implementation and achievement of claims, it is possible to distinguish between regular claims which can be implemented gradually via negotiation tools, and those related to management and governance issues, which need special procedures:

Type 1: Claims of management issues:

Claims related to projects which were scheduled, or which implementation has been delayed, procrastinated, or transferred.

Type 2: Claims on proximity issues:

These claims were scheduled and were not implemented locally. Discussing these claims could have allowed an objective correction of local competencies and ensured progress in their achievement by connecting responsibility to accountability.

Type 3: Claims requiring special legal procedures:

These claims rely on specific laws and procedures. Thus, they should be discussed within an adequate framework. Example, land expropriation for public interest non-interference of the Ministry of Endowments in lands donated by citizens for religious purposes, forests, and water and electricity pricing.

Opening the path towards achieving the claims of Al Hoceima protests (most or all of them) requires awareness of their multiplicity. Presenting them as a whole in an exponential way reflects the rejection of moving towards a solution, and translates the desire to escalate the issue. Therefore, discussing the fulfillment of these claims was hindered.

Second: Claims handling by the State

The way the public authorities handled the claims of protesters is a mere phase of an entire management process which puts Al Hoceima among the priorities of the State's development policy for the last two decades.

I. Al Hoceima in public policies:

Achieving reconciliation did not require only working to improve oneself or considering history. However, it also required rebuilding trust, revising the past, and most importantly, facing challenges of the present and the future, especially with regard to the State's responsibility in ensuring economic, social, cultural and environmental rights of citizens.

Hence, the State worked to redefine the development path of the region and fill its huge gaps, especially in education, health, and infrastructure. These efforts are mainly reflected in the two structural projects which were achieved, and which set up the basis for a new approach to developing the region with a view to recovering what is, sometimes, called "the historical debt" of the Rif on the State.

- The Mediterranean circular road between Tangiers and Saïdia regions;
- The sectoral development program "Al Hoceima- Mediterranean lighthouse";

However, most of these projects languished, and their management dysfunctions resulted in calling for an investigation order, which was issued by His Majesty Mohamed VI, to define the responsible parties and hold them accountable. As a result, some ministers were relieved from their duties by royal decisions.

- Social inequality program: covering sectors of health, education, employment, and infrastructure in different areas of the region.

2. Claims handling by public authorities:

The Council notes the slow response of the State, and to a lesser degree, of the elected representatives. The late dialogue with members of the government and its quasi-absence with the elected representatives for a period of 6 months, has certainly impacted the protests and changed their trend, especially that the first dialogue attempts were not considering a participative approach.

On the other hand, the Council notes that the government did not respond effectively until the protests went on an upward trend. The Minister of Interior had declared that dialogue sessions foundered after the protesters insisted on abrogating the “Militarization Decree” and refused any other discussion.

3. Results of the protests

Interaction with the protesters involved three main phases:

- Dialogue attempts: interventions of official, civil and associative parties to establish dialogue were vain;
- Relieving from duty: some ministers and officials were relieved from their duty, further to investigations conclusions;
- Impact of the non-peaceful protests: ministers and officials held several meetings with the elected representatives and non government actors, in an attempt to discuss the claims, namely:
 - In May 2016, The Ministry of Interior announced that it allocated around 200 positions to Al Hoceima;
 - May 21, 2017: A ministerial delegation paid a visit to the region to examine the progress made in local development projects, especially with regard to the project of “Al Hoceima- the Mediterranean Lighthouse”. The delegation was headed by the Minister of Interior and composed of the Minister of Agriculture and Fisheries, Minister of Equipment, Transport, Logistics and Water, Minister of Health, Minister of National Education, Vocational Training, Minister of Culture and Communication, as well as the General Director of the National Office for Potable Water and Electricity.

- June 12, 2017: A second delegation visited the region to follow up on the implementation of a number of projects, particularly the Oued Ghiss dam project and the water desalination project. The delegation was composed of the Ministers of Interior; and Equipment, Transport and Logistics and its Secretary of State, and the Director General of the Office of Water and Electricity.

4. Claims of abrogating the “Militarization Decree”

The “Militarization Decree” was one of the most raised issues in Al Hoceima protests, claiming that Al Hoceima is a military zone. After having examined the constitutional provisions, decrees, and legal texts to ensure historical monitoring of events, and having noted different interpretations and jurisprudence as well as the factual elements, the Council has concluded that Al Hoceima is undoubtedly a normal region, as enshrined in laws issued to govern the administrative division of the Kingdom. Consequently, the Decree No.1.58.381 is certainly abrogated by all legal texts. Based on the above, the Council affirms that no legal texts or special procedures put in place to manage affairs of Al Hoceima indicate that the region is subject to what protesters call “Militarization Decree”.

5- FREEDOM OF EXPRESSION AND ASSEMBLY

Among the fundamental freedoms are the freedom of thought, expression, association, and assembly. All these freedoms have an immediate impact on each other, and directly affect the democratic processes, and the enjoyment of all rights. However, such rights should be preserved to avoid violation of others' rights.

One of the problematic issues related to the freedom of expression is defining limits to avoid impeding people from enjoying this right. The International Covenant on Civil and Political Rights was clear in this regard. It excluded, from the beginning, unquestionable violent acts. It, thus, prohibited propaganda of war and any advocacy of « national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence». However, the issue remains as to the extent to which inciting violence should be limited, as well as to determining whether the verbal threat is included in this probation or not.

If the freedom of expression is the basis of practicing democracy, hate and racism pave the way towards despotism. Hence, it has become necessary to prevent “all forms of expression which spread, incite, promote or justify hatred based on intolerance”.

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However, Anglo-Saxon jurisprudence does not consider this speech as defensible, given that any speech promoting violence and hate cannot be right, and must be considered a crime.

I-Freedom of expression

In Britain, this type of speech is criminalized for being an eventual cause of panic, distress or fear for a normal person (not suffering any phobia...). In the U.S.A, freedom of expression is governed by some restrictions despite its significant importance. Fighting words, namely expressions (written or verbal) promoting violence and racism, are considered as forms of **imminent violence**. Such acts include **defamation and slander speech, obscene speech, fighting words, incitement to hate, and any speech which can cause massive harm**.

The Supreme Court of the United States has defined “clear and present danger” as a factor of interdiction. If the danger is clear and present, the act should be forbidden and the doer pursued. This standard has been replaced by the Brandenburg test, built on the “imminent or lawless action”. This test includes three elements: the intention to direct a speech inciting violence, the significant probability of committing violence, and the imminence of these acts. What applies to violence also applies to violence acts and to complicity in inciting, organizing, promoting, encouraging or taking part in violence.

On the contrary, criticism and protest remain protected even if they are directed

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against the police or involve aggression and rudeness, except for the fight words, as in racist speeches directed against a person, or insults against police officer by wishing his mother's death, or by cursing and spitting on him, which constitute criminalized matters.

Brandenburg bemoaned the fate of the "White Caucasian race" at the hands of the government. He made anti-Semitic and anti-black statements and alluded to the possibility of "revengeance" if the federal government and the curt continued so doing. Brandenburg was convicted for advocating crime, sabotage, or unlawful methods of terrorism as a means of accomplishing industrial or political reform.

However, the United States Supreme Court rejected this conviction, and ruled that punishment cannot be constitutionally upright for an act void of force. Therefore punishment can only be ordered for a speech directed to inciting or producing imminent lawless action, and likely to incite or produce such action.

2. Freedom of assembly

According to the Human Rights Council and the European Convention on Human Rights, for the freedom of assembly to be protected by the law, it shall be peaceful and exclusive. No limits shall be imposed on the right of assembly except the maintenance of national security, public safety, public order, protection of public health, public morals, or protection of others' rights and freedoms.

In the case of Lachmankin, the European Court of Human Rights ruled that protecting the right to peaceful assembly does not include "gatherings where the organisers and participants have *such* intentions, incite violence or otherwise reject the foundations of a democratic society". The same ruling was issued in the case of Stankov and the United Macedonian Organization v. Bulgaria (2001); the Faber vs. Hungary case (2012); and the Cisse v. France case (2002).

Protection of the right to peaceful assembly includes all non-violent gatherings that are organized in public and private places, whether authorized or not by the authorities, "taking into account the restrictions stipulated in Article 21 of the International Covenant on Civil and Political Rights". This right includes a wide range of gatherings, including political, economic, artistic, and social ones. The right also extends to counter-demonstrations, although states are obliged to ensure that counter-demonstrations do not violate the right of others to assemble, and are obliged to protect demonstrators from "provocative action against any element" that may hinder holding the assembly.

Restrictions on peaceful assembly should be provided for by the law that "and be compatible with the legitimate restrictions". Of course, it should **not call for**

discrimination, enmity, violence or hatred on a national, racial or religious basis ... Nevertheless, these restrictions cannot deviate from the principles of legality, necessity and proportionality. It is stipulated that explicit demonstration, if necessary, is to have a more convincing justification, once all other alternatives are exhausted. Even when acts of “violence and spontaneous violations” are committed by demonstrators, some should not be punished for acts committed by others.

Although the system of notices and authorizations is not incompatible with the freedom of assembly, it sometimes hides the restriction on such freedom. Besides, this system is harmonizing the freedom of assembly with other rights, such as the right to movement and safety needs. However, jurisprudence holds that a spontaneous peaceful demonstration should not be prohibited for the mere reason of not having an authorization issued. Nevertheless, many countries, such as France, Great Britain and the United States of America, are still issuing punishments for unauthorized or prohibited demonstrations. Failure to pre-authorize should not result in criminal or administrative punishment. However, the collisions that happened on the sidelines of the demonstration are subject to criminal law.

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On the other hand, disturbing public order becomes a riot when there is resistance, assault, or threat to a police officer. In this case, the punishment is more severe on leaders. In Germany or Japan, riots, property damage, vandalism, or destruction are punishable by imprisonment. This punishment is increased when these acts are committed against the police or gendarmerie. Besides, punishment for participation in an armed group with the aim of preparing acts of violence or sabotage is even more severe.

The decision to disperse the demonstration cannot ignore the principles of necessity and proportionality. The following elements should be taken into consideration:

- Prior authorization should not be a sufficient condition for dispersal of assembly;
- Isolated violence is rarely considered a justification for dispersing the demonstration;
- Law enforcement officials are obligated to give clearly enough information and explain orders to disperse the demonstration;
- Demonstrators must be given sufficient time to disperse, before resorting to coercive means;

- Conditions for departure must be provided for trapped non-violent individuals and passers-by, who are in a state of fragility or distress, without prejudice to their person;
- Security forces can resort to force in exceptional cases, always in accordance with the principles of necessity and proportionality;
- Availability of equipment that is less likely to kill and which allows the diversified resort to force while respecting the principles of necessity and proportionality and allowing reduced harm to demonstrators. In all cases, taking part in gatherings should not be considered a crime, nor should anyone be deprived of their freedom arbitrarily. Besides, measures of suspension should be singled out and ensure that the arrested person has actually broken the law and that he was not punished merely for being present in the field of the demonstration.

Organizers and protesters should designate “spokespersons” whom the authorities can contact to facilitate demonstrations and ensure compliance with legal restrictions. They should, as far as possible, establish cooperative and partnership relations with competent authorities and law enforcement officials when planning to conduct the demonstrations. In cases where public spaces are to be reserved or if a large number of demonstrators are expected, organizers must comply with voluntary notification procedures.

3. Freedom of assembly and expression in Al Hoceima protests

I-Freedom of assembly:

Among the 814 protests (most of which are not licensed, and only two were prevented), 40% required a special security framing. A rate of 8% used force considering the necessity of public order, physical safety, or freedom of movement. The first clashes between protesters and public forces took place on January 5, 2017, where some of them threw stones. Since the clashes of February 6, where 54 security agents were wounded, until the month of March, about twenty protests were organized without clashes, except for the events of the hooligans.

As to international standards governing the right to assembly and expression, communication between protesters and the public forces may be considered poor or nonexistent. Moreover, preventing some protesters from negotiating or raising the national flag is considered a restriction on freedom of expression.

I-Freedom of expression:

a- examples of lawfully protected speeches

Insulting and verbal abuse is generally considered one of the arguments that do not help resolve the dispute, and are generally void of any sound pronunciation. It is no violation of the freedom of expression to use slogans that reflect economic, social, cultural and environmental demands, no matter how severe they can be, as long as they do not encourage violence. The same applies to Al-Hoceima protests. For example: “Scoundrel”, “puppet”, “liars, not trustworthy, junkies, government of worst losers”, “politics outlets”, “Community heads and their informants are doomed to hell, to the trash bin of history, they are cursed”, “Blast the dwarves and the illusion promoters”, and “No confidence in mercenary or bread associations.”

b- Examples of violence and hate speeches

The democratic process requires constructive criticism, which raises the deficiency elements, provides viable alternatives and seeks to convince people about it. There is consensus that hate speech and incitement to violence neither serve this process, not benefit society, and pave the way for tyranny. Al-Hoceima protests have used many expressions inciting violence and hatred, including:

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“To make this clear, you, the oppressive organisms, are under a threat. Your presence here is suspicious, it threatens your life. We are not the threat, it is rather the Makhzen, headed by the Ministry of Interior, which endangers your life to kill you in order to gain legitimacy. Why? This is our warning, we are saying it frankly: the Ministry of Interior is going to kill citizens.”

“They want to turn the Rif into a swamp of blood.” “The Makhzen state rejects the Rif and the regime hates it”. “We swear that if you do not fulfill our requests, we will follow the path of our grandparents and shed blood on this holy land”. “Political outlets loot and eat like a snake. The government handled many files as if we were ISIS members. The state is nihilist and believes in violence, assassinations and death”. “We are telling them that the next battle will be with you. We will extinguish internal traitors before external ones”.

Such expressions do not positively help analyze and defend claims, as they incite to violence and hatred, thus threatening democracy and the enjoyment of human rights.

6. ALLEGATIONS OF TORTURE AND CASES OF VIOLENCE

Based on the relative ambiguity noted in the reactions of governmental and non-governmental observers regarding the various allegations of cruel treatment, the Council referred, just like in the case of freedom of expression, to the basic standards of international law governing this important and main issue of human rights. After discussing this issue in its theoretical and normative aspects, the Council considered the special circumstances that occurred on the sidelines of Al-Hoceima protests.

Human rights adaptation

Excerpts of a report drafted by the doctors delegated by the Council have drawn the attention of the detainees' families and the public opinion on the allegations of torture of some detainees in Al Hoceima protests.

Before examining cases of Al Hoceima protests detainees' allegations, we chose to remind of the international process related to torture, as well as to cruel, inhuman, and degrading treatment, with a view to adopting these concepts in adapting the allegations of torture.

Moreover, we did not dwell on the principles, but rather discussed the comments of the Human Rights Committee and the jurisprudence of several courts, European and international, in dealing with some cases of torture, including their method of identifying elements of cruel, inhuman, and degrading treatment. This helped us adapt the allegations of detainees of Al-Hoceima protests, based on their statements given to the medical experts delegated by the CNDH, the doctor appointed by the investigating judge, and the prison doctor.

We deemed it necessary to extend these concepts and jurisprudence to protect cases of allegations of torture and to identify cases that could be classified as cruel, inhuman or degrading. Our methodology aims to spread accurate concepts of torture and other cruel, inhuman or degrading treatment.

First: Allegations of torture and other cruel, inhuman or degrading treatment

In order to capture the concept of torture and other cruel, inhuman or degrading treatment, and to identify acts that fall within its scope, the Council did not limit its works to defining the general principles but went further as to examining the comments of the Human Rights Committee and the jurisprudence of several courts, including European and international ones. To this end, the Council founded its analysis

on statements given by detainees to its delegated medical experts, the expert doctor appointed by the investigating judge and to the prison doctor. Hence, the Council's action is considered as a contribution to promote accurate concepts of torture and other cruel, inhuman or degrading treatment.

Torture in international law

International laws and covenants unanimously, just like many regional agreements, prohibit torture and other cruel, inhuman or degrading treatment worldwide. The Rome Statute of the International Criminal Court and the International Criminal Tribunals, provide other additional criteria, besides the customary international law.

Jus cogens

Prohibition of torture in international law as a peremptory norm reflects the absolute prohibition of torture and cruel, inhuman or degrading treatment or punishment in this law. This norm may not be restricted and any measures may not be taken against its provisions. This ban is supported by an expanded and strict international criminal arsenal, rooted in international law. In other words, this prohibition shall fully apply in all circumstances, including in times of peace and war and during public emergencies, whatever their nature, including terrorist attacks, for example.

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Customary international law

Customary international law consists of rules drawn from "opinio juris", and is independent of the law of treaties. Although not written, the International Court of Justice considers "international custom, which stems from an acceptable public practice as law," is a second source of law, which fills the gaps in law of treaties and contributes to its development as well.

Distinguishing torture from cruel, inhuman and degrading treatment

The UN Human Rights Committee considers that it is unnecessary to distinguish torture from cruel, inhuman or degrading behaviors, considering that they are all a violation of the provisions of Article VII. However, international jurisprudence adopts such a distinction. In the case of Ireland vs. the United Kingdom, the European Court of Human Rights considered that, contrary to what it seems, distinguishing "torture" from "inhuman or degrading treatment", means giving to the first term a special "stigma" to deliberate inhuman treatment causing very serious and cruel suffering. The same distinction was adopted by the United Nations General Assembly on December 9, 1975, which states that "torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment". In general, the decision to distinguish

between them depends on determining the degree of risk and the circumstances surrounding it.

International jurisprudence sums up the issue by the following distinction: “torture is sometimes distinguished from other forms of maltreatment by the severity of the suffering endured”. It should be noted that the jurisprudence does not specify the degree of pain and suffering where the act starts being considered torture.

Criteria determining an act of torture

To consider an act as “torture”, each of the five criteria defining torture [...] must be fulfilled as follows: (1) The act must result in severe physical or mental pain or suffering; (2) the act must be intentional (3) the act must be for a prohibited purpose; (4) the act must be committed by a public official or at his instigation, or with his explicit or implicit consent, by a person subject to his authority or control; (5) the act must not be the result of legitimate sanctions.

Torture against lawful sanctions

Lawful sanctions are not considered torture, the Convention against Torture states that the latter does not include “pain or suffering arising only from, inherent in or incidental to lawful sanctions.” Both the UN Special Rapporteur and international bodies have stressed the need to interpret the term “lawful sanctions” in the context of international human rights law.

The Special Rapporteur on torture stated that “no form of physical punishment is contrary to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Under international law, they are not lawful sanctions and violate the international human rights treaties⁴ [...]”

In turn, the Human Rights Committee considered that “The prohibition in article 7 relates not only to acts that cause physical pain but also to acts that cause mental suffering to the victim. In the Committee’s view, moreover, the prohibition must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime or as an educative or disciplinary measure”⁵.

No criminal sanction, although it is valuable in national law, can be considered compatible with international law if it allows acts of torture or cruel, inhuman or degrading treatment, given the imperative and absolute nature of torture prohibition.

4 <https://undocs.org/A/HRC/7/3/Add.4>

5 HRC General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)

Adaptation of torture and cruel treatment allegations to Al Hoceima protests

Detainees' testimonies and doctors expertise

By virtue of the principles and conditions specified above, the Council studied the various reports and opinions of medical experts, including the prison doctor, the medical delegation of the Council, and the doctor appointed by the investigating judge. The Council also examined the testimonies conducted by its teams and the information contained in the files of each detainee in order to adapt the allegations.

The Council first examined the various sources at its disposal then assessed each case separately. Accordingly, the Council divided the forty (40) examined cases into five groups.

The Council described allegations that may include acts of torture or allegations that can be adapted as cruel, inhuman or degrading treatment when these standards are only partially met.

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The Council recognizes the extreme rigor chosen in its classification. The adoption of this strict standard is based on its declaration to guarantee the right to physical integrity first and to implementing the constitutional guarantees and Morocco's commitments in this field. The Council also wishes to extend its work to include the psychological dimension of abuse.

Based on the above, the cases were classified as follows:

❖ The first group: allegations of possible torture

This group includes allegations containing one or more constituent of the act of torture as a peremptory norm and as determined by international covenants and jurisprudence. That means: intentional acts perpetrated by a public official for an unlawful purpose, which cause pain and suffering, and which do not fall under lawful sanctions.

– Mahmoud Bohnouch

He stated that while he was being arrested, he was beaten and injured. He also declared that he was insulted and verbally abused, and that his beard hair was plucked while he was under police custody.

In their reports, both the Council and the prison doctors concluded that there was pain at the neck with no marks of violence on the body.

– **Houcine El Idrissi:**

Mr. **Houcine El Idrissi** stated that he was beaten on the hand by a stapler. The Council's doctor noted the presence of traces which seem compatible with the statements of the person in question.

The medical examination ordered by the investigating judge concluded that no clinical signs or effects were found on the skin to justify his allegations.

– **Zakaria Adahchour:**

Mr. **Zakaria Adhashour** stated that his left ankle was trampled on while he was being transferred to Al-Hoceima Police station. He was also slapped in the same station. His beard was plucked, and was threatened that it would be burnt.

In his report, the Council's doctor noted consistency of the statements with the traces on his body. The medical examination ordered by the investigating judge did not record any effects consistent with the statements of the person in question.

❖ **The Second group: Allegations of excessive use of force**

This group included cases whose (multiple) medical examinations showed that the wounds, bruises or scars represented evidence of the disproportionate use of force. These are cases which resisted arrest.

– **Wadif Kamouni:**

He stated that he was beaten with sticks to his chest and face. While attempting to protect himself, he was beaten on his right hand. He was taken to hospital where he received x-rays.

The prison's doctor and the Council's doctor recorded that the marks were caused by the excessive use of force, as he resisted arrest.

– **Nasser Zefzafi:**

Mr. **Nasser Zefzafi** stated that he was beaten with a stick during the police raid, which resulted in an injury in his scalp, which will be stitched at a later time. He added that after he was handcuffed behind his back, he received a punch on his left eye and another on the abdomen, while another person inserted a stick between his thighs (above his clothes). He added that he received punches and kicks along his body. He told the pathologist that he would “prefer to be tortured rather than verbally insulted.”

Both doctors asserted that what he underwent could be the result of disproportionate use of force during the arrest. They strongly recommended a psychological evaluation and follow-up of all prisoners.

Lawyers of Mr. Zefzafi⁶ stated that he was not subjected to any violence or torture when he was referred to the National Division⁷.

– **Mourad Zefzafi:**

Mr. Mourad Zefzafi stated that he received punches on his face while he resisted his arrest.

He was examined by both the doctor appointed by the General Prosecutor and the medical delegation of the Council. Both doctors concluded that his statements were consistent with allegations of excessive use of force to resist the arrest.

– **Abdelkarim Boukri:**

Mr. Abdelkarim Boukri stated that he was beaten with truncheons while in detention. Both doctors, the one appointed by the investigating judge and the one delegated by the Council, concluded that it was consistent with the use of force.

– **Yahya Fakh:**

Mr. Yahya Fakh stated that he was hit by the radio talkie-walkie while he was being arrested. He also received many punches while being transferred to the police station. Doctors concluded the use of force considering the existing traces.

– **Ilias Tounayoush:**

He stated that he was beaten, insulted and verbally abused by the public forces that arrested him.

The Council doctor and prison doctor noted that the existing traces were consistent with the use of force.

– **Bilal Ahbati:**

Mr. Bilal Ahbati (minor) stated that he was beaten on the face and the left shoulder several times while he was being arrested. He was also punched on all parts of his body, insulted and verbally abused by the police officers in their car.

6 See statements made by Mr. Zefzafi's lawyers on <https://arlesinfos.com/politique/1616.html>

7 See the release of the General Directorate of National Security on the conditions of his arrest.

The prison doctor, the Council doctor, and the doctor appointed by the investigating judge, noted that his statements are consistent with the disproportionate use of force to resist the arrest.

– **Tariq Eanisi:**

Mr. Tariq Eanisi stated that he was arrested carrying stones in his hands. He was a victim of the use of force while he was arrested and transferred to the police station. Medical examination noted consistency of his claims related to the use of force during his arrest.

– **Abdelhak Saddik:**

He stated that he had tried to escape, before retreating and turning himself to the police. He also confirmed that he was strongly pushed against the door of the house, which resulted in a wound on his left eyebrow. He declared that he was insulted and verbally abused while arresting him and transferring him to the central police station in Al Hoceima. Comments of the investigation and the Council's doctor noted consistency of his statements with the disproportionate use of force during arrest.

❖ **Third group: allegations of cruel or inhuman treatment**

The classification of these cases was based on the jurisprudence of the European Court of Human Rights and the international courts, which considered that all elements not included among torture falls under cruel, inhuman and degrading treatment.

– **Adil El Hachimi:**

Mr. Adil El Hachimi stated that he was beaten several times with batons on his legs and head. He also stated that he was beaten by every policeman passing by. When the doctor examined him in the hospital on the instructions of the public prosecutor, doctors concluded that his statements were consistent with the allegation of cruel and inhuman treatment during detention.

– **Abdelkarim Saadi:**

Mr. Abdelkarim Saadi stated that he was beaten on different parts of his body while he was being transferred to police headquarters. A doctor was delegated by the Public prosecutor to carry out medical examination, besides the Council's doctor, who confirmed that his statements are consistent with the allegation of cruel and inhuman treatment during arrest.

– **Soulaymane Al Fahli:**

Mr. Soulaymane Al Fahli stated that he tried to escape and that he was a victim of revenge by the police chief who works for the Central Police station in Al Hoceima. Mr. Al Fahli had previously filed a complaint of marital infidelity against his wife and published a poster and a video threatening to kill the police chief. He stated that the latter pounced on him as soon as he reached the police station by grabbing his hair and slapping him several times.

The National Council doctor and the doctor appointed by the investigating judge notes that the statements are consistent with the claims of inhuman treatment.

❖ **Fourth group: Allegations of degrading and humiliating treatment**

Most of the detainees and arrested persons declared being subjected to various forms of insults, verbal abuse, slander and verbal insults, whether during arrest, in police cars, during pre-trial detention, or during the completion or signature of police records. Given the nature of these allegations, the Council was unable to confirm or refute them.

❖ **Fifth group: Cases not proven to be violent**

In order to determine the cases which have been exposed to any violence, we relied on the findings of medical examination on allegations of torture and cruel and inhuman treatment.

– **Abdelkarim Taaraiti:**

Mr. Abdelkarim Taaraiti stated that he had been beaten on his right thigh. He also declared that a policeman placed a bad-smelling towel on his mouth before he handcuffed him and dropped him on the floor next to two other arrested persons.

The Council's doctor noted that the medical examination showed no particularities.

– **Fouad Saadi:**

He declared that he was mistreated during the record signature. He was examined by the doctor ordered by the investigating judge. The medical examination showed no particularities.

– **Samir Tighadouin:**

Mr. Samir Tighadouin declared that he received several punches in the shoulder during his detention. He was examined by the prison's doctor, but no particularities were

revealed.

– **Abdelwahed El Kamouni:**

Mr. Abdelwahed El Kamouni stated that he was punched several times at the pelvis and the right leg during his transfer to the gendarmerie headquarters. He added that his legs were tied and that he was placed in the toilet and hit on his legs.

The tests carried out by the prison doctor and the doctor appointed by the Council showed no particularities.

– **Ibrahim Bouziane:**

Mr. Ibrahim Bouziane stated that he was threatened to sign the record of the hearing. Examination by the doctor ordered by the investigating judge showed no particularities.

– **Fouad Saidi**

Mr. Fouad Saidi stated that he had been ill-treated while signing the report, but the medical examination revealed nothing. This conclusion was confirmed by the doctor appointed by the investigating judge.

– **Youssef Elhamdioui:**

Mr. Youssef Elhamdioui declared that he was forced to sign the record. It was decided that he continue psychological support as he did before his arrest. Examination by the doctor appointed by the investigating judge revealed no particularities.

– **Ashraf ElYakhloufi:**

Mr. Ashraf ElYakhloufi stated that he was insulted and verbally abused during his arrest and during his transfer to the police station in Al-Hoceima, but the medical examination revealed nothing.

– **Mohamed Majjaoui:**

Mr. Muhammad Majjaoui stated that he was threatened during the interrogation, and that he was insulted and verbally abused during his arrest and during his transfer to the Al-Hoceima Police Station. The doctor appointed by the Council noted no particularities.

– **Nouri Achahbar:**

He stated that he was continuously slapped in his ears at the police headquarters, and that he had been strapped to the top with his hands behind his back. Examination carried out by the doctors appointed by the investigating judge and the Council revealed

no particularities.

– **Othmane Bouziane:**

He stated that he was forced to sign the record and that he was insulted and verbally abused. The medical examination conducted by the investigating judge doctor revealed no particularities.

– **Wasim Boustati:**

He stated that he was not forced to sign the record but was insulted and verbally abused. The doctor appointed by the investigative judge noted no particularities, but recommended psychological follow-up on the person concerned.

– **Abdelhamid Elynsari:**

He stated that he was threatened during the signing of the record. The medical examination made by the doctor appointed by the investigating judge and the Council concluded that nothing to be mentioned.

– **Rachid Amaarouch:**

He stated that he was kicked. The doctor appointed by the investigating judge and the Council revealed no particularities.

– **Mohamed Fadil:**

In his statement, he affirmed that his beard was plucked while he was at the police station. He also declared that he was insulted and verbally abused. The Council's doctor revealed no particularities.

– **Jamal Bouhadou:**

He stated that he was slapped and beaten on the neck. The Council's doctor concluded that there were no particularities and strongly recommended psychological support.

– **Rabii Al Ablaq:**

He stated that he was hit several times on the face for hours. The prison's doctor, the doctor appointed by the investigating judge, and the Council's doctor concluded that nothing to be mentioned.

Mr. Rabii Al Ablaq announced starting a hunger strike at his examination.

– **Ayman Fikri:**

He stated that he was arrested in front of his house while he was collecting stones. He was hit on the abdomen.

Both doctors, the one appointed by the investigating judge and the one delegated by the Council, concluded that there were no traces of violence, but there was a pain in the right shoulder. He was examined by the Council doctor and he is in provisional release.

– **Chakir Lamakhrouf**

No particularities mentioned by the doctor appointed by the investigating judge.

– **Mohamed El Haki:**

No particularities mentioned by the doctor appointed by the investigating judge.

– **Habib ElHanoudi**

No particularities mentioned by the doctor appointed by the investigating judge.

– **Ahmed Hazat:**

No particularities mentioned by the doctor appointed by the investigating judge.

– **Abdelkhir ElYensari:**

No particularities mentioned by the doctor appointed by the investigating judge.

– **Mohammad El Mehdal**

No particularities mentioned by the doctor appointed by the investigating judge.

– **Omar Bouahras:**

Mr. Omar Bouahras stated that he was tortured and that his teeth were broken due to the violence practiced against him. He was examined by the prison's doctor when he was imprisoned, as he confirmed during the detailed interrogation. According to information and testimonies collected during the trial, medical certificates, and prescriptions, Mr. Omar Bouahras was examined as soon as he entered the prison institution on June 2, 2017, and he showed no sign of violence, according to the prison's doctor. The detainee stated that the national police treated him well.

On June 7, 2017, in response to his request to see the dentist, his examination was carried out the same day. His examination revealed that molar 36 is eroded by decay, which ate away the visible part of the molar over the gums, leaving only the roots. The dentist uprooted two molars and handed them over to Mr. Omar Bouahras.

The doctor did not notice any traces of wounds at the level of the cheek on the inner side related to molar 36.

The court heard the doctor of the prison and the dentist, and the latter affirmed that “no person can tolerate the pain caused by the sudden cracking of a molar or a tooth, because the molar arteries are alive, exposed, and leave very severe pain that cannot be tolerated.”

Mr. Omar Bouahras was imprisoned on June 2, 2017, and he was examined by the dentist after feeling pain on June 7, 2017.

– **Khaireddine Chanhout:**

He declared that he was punched and slapped while he was arrested and transferred. The prison’s doctor and the Council’s doctor concluded that there was nothing to mention.

The prison’s doctor also recommended continuing his skin treatment prescribed by his doctor in Nador.

– **Abed Nahdi:**

He stated that he was arrested with stones in his hands and a knife in his pocket. He also declared that he was beaten with sticks and hit on his right shoulder. He said that he was previously convicted for aggravated robbery, beatings and injury. He was examined by the prison’s doctor and the medical delegation of the Council, who concluded that nothing to be mentioned regarding his allegations. The prison’s doctor recommended pursuing his skin treatment according to what his former doctor described in Nador.

– **Ibrahim Zaghdoud:**

He stated that he was slapped and beaten during his arrest, when he was in police custody, and while signing the report. According to the examination conducted by the doctor appointed by the investigating judge, no particularities were to be mentioned regarding these allegations.

The doctors recommended psychological support for the detainees.

Second: Distinguishing between peaceful protest and violence

To complete its report on the protests of Al-Hoceima and the surrounding areas, the Council appointed a delegation led by the President, to hold meetings with several police officers who were subjected to violence during these events. On December 5, 2019, a preliminary meeting was held with the Head of the Judicial Police Department, then a group of police members were heard for being subjected to attacks and violence, causing medium and serious effects. On December 12, 2019 a second group was heard, bringing the number of heard police officers to 19.

I. Hearing methodology

In view of the necessity to objectively complete the Al-Hoceima protests report, and in order to avoid personal assessments, the hearings of public forces members who were victims of violence were conducted according to the following methodology:

1. In principle, monitoring human rights violations covers all violations regardless of age, gender, profession, social origin, economic status, political opinion, etc. The police officers were heard based on this consideration.
2. The hearing was carried out on the basis of pre-configured axes that cover the sequence of events, general conditions and the location of the person to be heard, without eliminating the possibility of spontaneous interaction. Two separate narrative reports of the narrated events were prepared. After their completion and comparison, and after the facts were retrieved and cross-checked, the present synthesis report was elaborated.
3. A sample of police members, victims of violence, was chosen to represent all cases of special importance with regard to the type of injuries, the degree of their severity, and the effects thereof, as well as the diversity of events in terms of their location, and the forms of dispersing demonstrations which led to the observed results;
4. Members of the public forces, victims of violence, were heard individually, with no other person present.

2. Places of violent incidents

Hearings with a group of police members who were attacked by demonstrators showed that the protests in these areas were numerous and occurred on separate timings. However, some of these protests witnessed intense violence against members of security forces and caused various injuries. The victims heard declared in detail what happened in the following places:

1. **Setting fire at the police residence in Imzouren on March 26, 2017;**
2. **Protesting the attempt to arrest Mr. Nasser Zefzafi on May 26, 2016;**
3. **Protest during the month of Ramadan in Sidi ElAbed neighborhood;**
4. **Complex protests of July 20, 2017:** Testimonies confirmed that most of these protests gathered a number of demonstrators in several neighborhoods of the city and witnessed violence acts performed by demonstrators, who used various methods. These acts resulted in various severe injuries among the police members. Protests of severe violence were also recorded near the Mohammed V Hospital, Boujibar area, Hay Afrar, and Dhar Massoud.
5. **Protests near Imzouren on September 3, 2017;**
6. **Sabadia beach incident.**

3. Testimonies of some police officers

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According to testimonies, these attacks were caused by a group of people, mostly masked persons, including minors. Their violence was not limited to people, but it vandalized the fire truck, the ambulance (of Imzouren City), and public and private properties. Demonstrators used different means of sabotage and violence, including:

Stone-throwing; use of “slingshot” and sticks; breaking glass and cars, damaging and vandalizing property; using bladed weapons; throwing stones from rooftops; pouring hot oil on police officers; setting fire (residence, cars, rubber wheels ...); using Molotov cocktail; blocking ambulances and fire trucks and preventing them from reaching the scene of events to transport the injured; breaking the street lights. For a better embodiment of the extent of physical and psychological damage inflicted on some police officers, below are some details of the facts.

❖ **The first case: (S.F.), police officer, born on October 19, 1982**

On May 26, 2016, there were no signs of violence at first. Most of the alleys were almost empty and the rooftops were full of protesters. After a while, at about 2:30 pm, many protesters, some of whom were masked, started throwing stones from the roofs. “We were surrounded by them. Rooftops were full. There were just the police and people on the rooftops ... We were showered with stones, and I did not have a helmet ... One of the protesters threw a big stone on my head. The stone fell and scattered”, he said. Protesters were throwing stones at the policemen from everywhere and over the roofs. When the attack took place, the stone-throwing did not stop, and the person

attacked fell to the ground, unconscious.

As a result of this injury, Mr. S.F. was deeply wounded on the head. His condition required surgery, and the intervention lasted from 3 pm to 11 pm in Al-Hoceima. The officer suffers from permanent disability and has stopped working for more than two years.

❖ **The second case: (M.D.), security guard, born on March 3, 1988.**

He was surprised by the protesters. **“They pushed me into a 3-meter hole and started throwing stones and iron objects at me. They took my shield and started dragging me on the floor...”** He was beaten with wood and iron. **“I was hit with a knife in the right elbow and with a stick on the face ... with knives and anything else ... The vest was completely ripped with knives”.** **When I saw the police car, I pushed myself down a slope and got into the police car.”**

While resisting, he was deeply wounded by a bladed weapon in his arm and received many bruises on his face. He also suffered from a fracture in his elbow, which required a rodding surgery. He stopped working for half a year and has an almost permanent disability.

❖ **The third case: (H.M.), police chief, born on May 31, 1989.**

He and his colleagues were surprised by an attack from several protesters. The number of the latter was limited before it turned into a crowd of about 400. They started throwing stones and Molotov cocktail at the police cars.

He suffered fractures in his legs after his hands were burned when he was on the roof. In the hospital, he underwent urgent surgery on his right leg, but it was unsuccessful. **“The leg made a total twist and the ends of the joint touch each other, which caused friction.”** This caused a permanent disability as **“he can no longer twist his leg”**.

7. PROSECUTION OF DETAINEES OF AL HOCEIMA PROTESTS

In consideration of the fundamental right to a fair trial, the National Human Rights Council decided to follow up and observe the trials of detainees of Al-Hoceima protests. Trials were conducted individually, by the Public Prosecution, and each detainee had a special file, charges and evidence.

1. Observation of the implementation of international standards for fair trial

1. The right to a public hearing: The Council notes that the condition of a public hearing was provided, as:

- The courtroom was open throughout the trial. A group of observers from Morocco and abroad attended the sessions, as well as national and international media, along with the families of the accused, the victims, and their friends.
- The court announced at the end of each session the date and timing of the next session.
- The defendants were heard. Discussions and verdict read out in public hearings.

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2. The right to be informed of the reasons for arrest

- Judicial police reports state that all detainees are notified of the reasons for their arrest, but some of them denied having been informed during the preliminary investigation.

3. The right to be brought promptly before a judge

- All suspects were referred immediately upon presentation to the Public Prosecutor, who opened two investigation files concerning them then referred them to the Investigation Judge.
- Many suspects raised allegations of torture, and the investigation judge ordered their medical examination.

4. The right of detainees to have access to the outside world

- Judicial police reports state that all detainees are entitled to their rights to notify their families of their status under police custody, and their whereabouts, but a number of them contested this.
- The arrested individuals have been granted the right to contact the defense, and many lawyers have visited the detainees.

5. The right to challenge illegal detention

- Many detainees challenged the illegal decision of their detention, for not having taken part in the protests, and some of them contested the flagrante delicto.

II. Observation of the procedural principles of a fair trial

1. Right to be tried by a competent, independent and impartial tribunal established by law

During the appeal, the defendants' lawyer submitted to the Court of Cassation a note lawfully questioning the court's impartiality, when the presiding judge stated that the case brought before him was not a political crime. The Court of Cassation rejected the referral request, considering that: "The issue raised (by the defendants' lawyer) regarding the conduct of the session of examining the identity and presence of the accused, (...), does not suggest that the judiciary (...) is not impartial ..."

In terms of jurisdiction, the defendants' lawyer questioned the jurisdiction of the court. The court ruled to reject this request, considering that the referral decision was issued following the law and that it was not competent to question the decision of the Court of Cassation.

2. Right to immediate information about charges

- The president of the body notified each accused, upon confirmation of his identity, of the charges held against him.

3. Right to be present at trial

Satisfaction of this condition was evidenced by the several procedures taken by the court, particularly:

- Ensuring that accused parties pursued in liberty receive their summons;
- Ensuring that detainees are brought in and their identity confirmed;
- Ensuring that the means of evidence are discussed in the presence of the accused;
- Ordering the clerk officer to move to the local prison and report the trial to the defendants who refused to appear in court.

4. Right to be assisted by counsel

The defense of the accused consisted of approximately 65 lawyers from different bar associations, of whom only 15 followed the trials. The civil defense consisted of only four lawyers from the Rabat and Casablanca bar associations.

5. Right to the assistance of an interpreter

- A police officer was hired during the preliminary investigation to ensure translation.
- During trial sessions, an interpreter of the Riffian dialect was provided to the defendants upon their request.

6. Presumption of innocence

- The defendants' defense considered that placing the defendants in a glass room inside the hall violated the presumption of innocence, as it indicated that the defendant was guilty before being sentenced.
- The Public Prosecution clarified that the session's hall is equipped with a transparent glass room specifically prepared for all the defendants to sit inside, that they are not handcuffed, and that they are accompanied by guards until each of them appears before the president of the session to be interrogated.

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7. Hearing the defendants

- The court heard the defendants in forty-one (41) hearings. It is nearly half of the hearings conducted in the trial stages.
- The president of the hearing allowed each defendant to expose the conditions of his detention and the status of his imprisonment, to present and extend his case to the court as he wanted, to view the documents that he had filled in advance, as well as to copy the transcripts, and to comment on their content.

8. Evidence

- The Council noted that the court relied on videos, photos, text messages, phone records, notes, and money transfers, along with witnesses as evidence, while emphasizing that judicial police transcripts are merely informational in criminal cases.

9. Witnesses:

The number of witnesses reached thirty-four (34). When collecting the witnesses' information, the president was asking every witness about his identity, without inquiring about the existence of a work relationship binding him to the accused. There was no room for witnesses to stay in, and they were sitting in the Court hall.

10. Allegations of torture

- Many defendants contested the reliability of their statements during the preliminary examination, pretending that they were made from them under coercion and torture.
- Most of the detainees during their police custody were able to see their defense, and the latter filed no complaint that their clients were subjected to violence during the preliminary examination period.
- Several detainees declared during the primary interrogation by the investigating judge, in the presence of their defense, that they were not subjected to violence.
- Some of the defendants' lawyers declared to the media⁸ that Mr. (N.Z.) was not subject to violence by the National Judicial Police, and that the apparent violence against him occurred while he was resisting his arrest in Al-Hoceima.
- The detainees' medical examination ordered by the investigating judge concluded that they were subjected to no physical violence, except for the accused (A.S.), who got a surface wound in his left eye, now healing. Also, the defendant (M.B.) was found to have difficulty moving his head and claimed pain in the muscles of the posterior body, but the medical examination ordered by the investigating judge did not reveal any clinical traces or signs on the skin proving that.
- Results of the medical examination reports, issued by the prison doctors once the detainees imprisoned, and which determined the health status of all cases, revealed that most of the cases are normal.
- The medical report of the prisoner (A.B.), was completed by the dentist at the prison, by order of the investigating judge, and was based on his testimony.
- The Director of the Reform and Education Centre in Ain Sbaa, Casablanca declared that the statements made to the prison administration by (B.A.) and (M.B.), where they declared suffering from malaise and feeling some pain on

8 See the link: www.hespress.com/video/353061.html

their left shoulder due to the friction they were subjected to during their police custody. Also, the preliminary examination of the center director stated that they do not show any signs of beating or violence.

I 1. Right to trial without undue delay

- The trial respected the principle of judgment within a reasonable period. Its duration seemed reasonable considering the number of defendants and witnesses, and the nature of the charges subject of the trial.

I 2. Right to appeal

- The defendants were given the right to a second hearing. The case was brought up again before the Criminal Appeal Chamber in the Court of Appeal in Casablanca. The defendants announced, through (N.Z.), their decision to leave the courtroom until their request to be outside the glass room was fulfilled;
- The court decided to continue the hearing in the absence of the defendants after the legal procedures have been exhausted;
- The court ensured the right of the defense of defendants to have the floor, despite the withdrawal of the latter;
- The defendants' lawyers informed the court of their decision not to intervene, and remained silent at the request of their defendants. (Except for lawyers of the defendant H.M.).

I 3. Civil party

According to the civil party defense memorandum, the damage and injuries resulting from the protests were as follows:

- The total number of the injured reached 607, including 185 benefited from work accident files.
- Loss of more than 22,960 working days, for the human resources department of the General National Security Directorate.
- The court ruled a symbolic compensation for the civil party, estimated at one dirham, following their request.

8. ANALYSIS OF SOCIAL MEDIA POSTS ON AL HOCEIMA PROTESTS

The Council relied on social media posts as one of the sources of documentation and cross-cutting information. Due to the large volume of circulation and to the serious violations published on social media, as videos were posted about events unrelated to what happened in Al-Hoceima, the President of the Council decided to study the circulation of data on human rights, by appointing a team to monitor information dissemination and verify it in comparison to the real facts. The team discovered information regarding “gross violations of human rights” circulating on social networks, which are unrelated to what happened in the province of Al-Hoceima. Such “fake or misleading news” include the following:

- Disseminating fake information that affects the essence of human rights protection;
- Undervaluing the work of human rights actors, including institutional and non-institutional ones;
- Provoking national and international public opinion about false events;
- Influencing the peacefulness of the protests;
- Creating sharp polarizations among public opinion and encouraging irrationality and illogic in dealing with the rumor.

I. Conceptual debate

The debate on terminology continues. Some consider that the term “fake news” is not accurate given that all news are verifiable, as stated in the UNESCO Guide “Journalism, fake News and disinformation – Handbook for education in journalism and training”. This guide points out that “Disinformation is generally used to refer to deliberate (often orchestrated) attempts to confuse or manipulate people through delivering dishonest information to them”. However, the United Nations adopts the term “Disinformation” instead of “Fake News”.

II. The foundations of the Council’s decision to follow up disinformation circulation

A 2018 European Commission report entitled “A Multidimensional Approach to A disinformation” on fake news and online disinformation, recommended “continually monitoring the scale, techniques and tools, and the precise nature and (potential) impact of disinformation in society; identifying and mapping disinformation sources and

mechanisms that contribute to their digital amplification; sharing knowledge with news media and platforms to enhance public awareness about disinformation”.

Among the most prominent challenges posed by the Internet in general and social media platforms in particular, in this regard, are those related to the protection of personal data and the private life of individuals or privacy and closure, or what is known as “echo chambers” or “bubbles” and “cocoons”, and algorithms that filter out the content entering to fit our filter ideas and beliefs (filter bubbles). Adding to that misleading and spreading fake news and using these spaces to control public opinion, mobilizing and guiding it and influence its behavior and choices (during elections, for instance), not to mention safety (especially among children), persecution and harassment of women.

The UN Human Rights Council, during its 38th session (Resolution No.A / HRC / 38 / L.10) affirmed that “ the same rights that people have offline must also be protected online, in particular freedom of expression,”, and expressed its “concern about the spread of disinformation and propaganda on the Internet, which can be designed and implemented so as to mislead, to violate human rights and privacy and to incite violence, hatred, discrimination or hostility.”

Also, a recent study conducted by the European Parliament highlighted propaganda mechanisms and techniques used in the speech, including:

- The constant repetition of a slogan or idea, to make it prevalent and acceptable;
- Using symbols or personalities, outside the context of the protest and demands;
- Disinformation by exposing deceiving or misleading facts or points of view;
- Appealing to fear, anger or a sense of injustice to gain advocacy and mobilization;
- Publishing rumors and unverified news, not to mention attacking opponents instead of discussing proposals and evidence, attacking institutions and underestimating them.

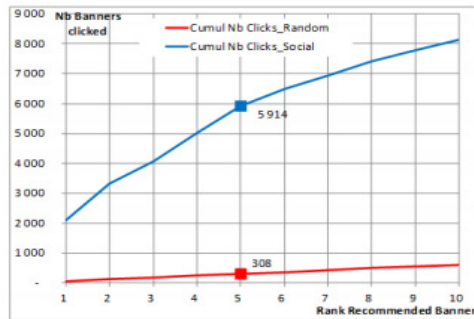
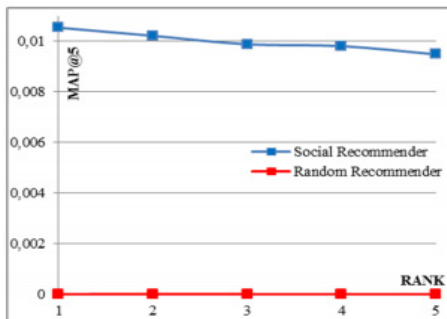
III. Social media and Al Hoceima protests

Social media has been a major player in Al Hoceima protests, considering its frequent protests.

I- An introduction to understanding the operating mechanisms of social media

Social media has witnessed a remarkable development in the number of users and operating mechanisms. The constant increasing number of users and data in these sites (pictures, videos, blogs, articles...) has urged for ways to automatically “organize the content”. Content-organizing mechanisms on social media, known as algorithms, seek to “arrange” the content that appears on the users’ personal pages based on many filters. Mark Zuckerberg, founder of Facebook, explained that “each user gets exposed to more than 1,500 stories each day, but an average user would only get to see about 100 a day.”

The role of content regulation mechanisms is also evident in proposing ads with the same logic of the above determinants, that is, “personalized ads” capable of generating more interaction, as shown in the graph below: (the graph on the left shows the user interaction between the content proposed by the mechanisms and the arbitrary content, while the graph on the right shows users’ interaction with the automatically proposed ads and arbitrarily published ones):



From this standpoint, recent research showed that, in the context of studying “the use of how social media has been linked to the spread of political protest in many cities around the world, including Moscow, Kiev, Istanbul, Ankara, Cairo, Tripoli, Athens, Madrid, New York, Los Angeles, Hong Kong...”, digital data sources and the new systems set up for their compilation on the net generate an overwhelming amount of observations which will be most helpful in understanding the causes and consequences of political behavior”.

2- Al-Hoceima protests and social media

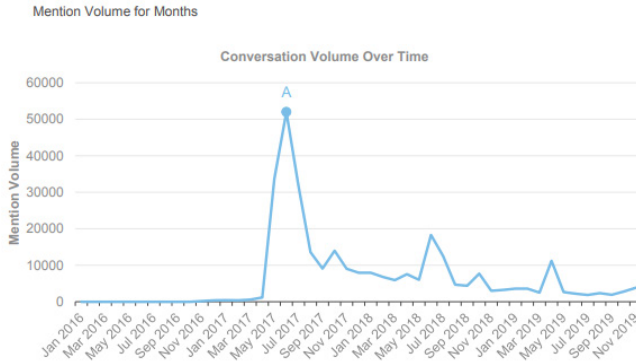
Based on the criteria mentioned above, the Council team focused on elaborating methodological determinants to analyze what happened on social networks:

- The time frame for this observation runs from January 1, 2016, to late November 2019;
- The following keywords have been identified: Rif, Al Hoceima, N. Z., Hirak, M.F. (besides their translation in French, Spanish, English, German, and Dutch);
- These two elements enabled us to:
 - Determine the days of high interaction with the subject of the study;
 - Relate them to documented chronological facts;
 - Determine the most interactive publishing sources on the topic.
- Some of the more “interactive” publications were studied and validated with regard to publishing news;
- 10 most influential pages on Facebook were studied, and their content analyzed to serve this study;
- Focus on a sample of the most interactive accounts on the topic on Twitter to do a socio-technology study;
- Technical tools used: sparktoro, twitonomy, google, facebook, twitter, youtube...

3- Data and indications

- In the observed time frame, more than 43 000 participants (content creators) and more than 302 000 published articles were recorded using the keywords specified in the methodology.
- The period from May to July 2017 was the peak of interaction and publication on the topic, while relative peaks of interaction were noted in June 2018 and April 2019.

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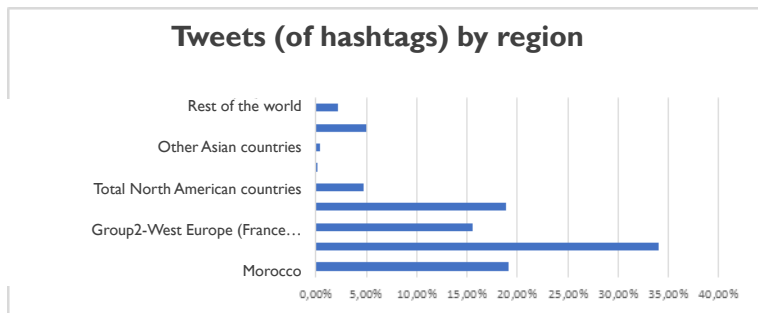
1 Peak detected

A May, 2017 - Jul, 2017

1627% volume increase, driven by:

- 13051 mentions using the hashtag #hirak
- 27495 mentions from news sites
- 11410 mentions using the hashtag #rif
- 5262 mentions using the hashtag #alhoceima
- 3595 mentions using the hashtag #maroc
- 3770 mentions using the hashtag المغرب
- 3459 mentions using the hashtag الحسيمة
- 1802 mentions using the hashtag #zefzafi
- 1666 mentions using the hashtag #morocco
- 1216 mentions using the hashtag الزفافي ناصر ككتا

- Regarding the publications, the study shows that 31 percent of the contributors are women compared to 69 percent of men. 17 percent of them have an interest in politics, only 24 percent are journalists, and only **19 percent of them reside in Morocco.**



- The study of the most influential information sites reveals that 100% are not Moroccan.

4- Content analysis - Monitoring some fake news, disinformation, propaganda and human rights issues

Based on 302,000 elements published, we found that more than 10,000,000 elements include fake and mistaken content. Given this huge amount, we focused on materials having the highest interaction, and including human rights issues in connection with the regional and United Nations foundations mentioned in the introduction of this analysis in terms of the content of these news and publications and taking into account the data as previously detailed.

9. INTERACTION OF THE COUNCIL WITH THE DETAINEES AND THEIR FAMILIES WITH REGARD TO AL HOCEIMA PROTESTS

Teams and commissions of the National Human Rights Council have monitored and followed up the situation of detainees, and accompanied their families since the Al Hoceima protests began being non-peaceful, whether in Al Hoceima prison or in Casablanca where some detainees were transferred to the local prison Ain Sbaa, or after they were dispatched to several prisons by the National Judicial Police.

The number of human rights missions and visits carried out by the Council and its Regional Commissions since the beginning of the detention until February 2020 has reached more than 240. They can be summarized as follows:

I- Improving conditions of detention

- The Council team conducted inspection and preventive visits to all detainees in different institutions, whether on its initiative, by virtue of the powers entrusted to it, based on requests or grievances submitted by the detainees themselves, their families, or their defense, or further to the hunger strikes of various detainees on many occasions.
- The Council pursued its visits after the appeal judgments were issued, and the detainees were dispatched to several prisons, 17 prison institutions back then. Regional Human Rights Commissions throughout the country, and sometimes locally, have monitored the incarceration conditions of the detainees in their jurisdiction.
- The Council followed up on cases known through its instant visits. It collaborated with the prison administration to find solutions, and facilitate the hospitalization outside the penal institutions.
- The Council supported all petitions and requests.
- The Council responded to requests of detainees and their families to find an appropriate formula to provide transportation to the detainees' families;
- Two whole blocks were allocated to the detainees, after each one was in a single cell, with different sizes. They were provided with a television, and some of them were placed in the prison infirmary.

2- Solitary confinement

Several provisions of international law and procedures' scrutiny addressed the issue of solitary confinement.

Following the international standards, the Council visited the detainees Nasser Zefzafi and Hamid El Mahdaoui, who were in separate cells. The Council investigated on their conditions and noted that:

✓ **Mr. Nasser Zefzafi**

Since his imprisonment in Oukacha jail in Casablanca, on May 26, 2017, until August 31, 2018, Mr. Zefzafi has been in a solitary cell measuring approximately 4.5 square meters, i.e. more than 3 square meters⁹, with a mesh window, and a clean and properly ventilated toilet, along the bed. The detainee was also provided with physical hygiene and clean clothes.

- His solitary confinement is not a disciplinary punishment, nor at his request, and not because of any dangerous behavior.
- The prison administration emphasized that the audio recordings which leaked from inside the prison are inconsistent with the interest of the judicial investigation.
- He demanded to join the rest of the detainees, be allowed to gather with them in the rest period, and to have their family visits collectively as it is the case for other detainees.
- On May 25, 2018, he announced during the session that he was on strike to protest against his isolation.
- On August 31, 2018, all detainees, including Nasser Zefzafi, were grouped into one block.
- The requirements regarding the daily rest, family visits, and phone calls were taken into account during his solitary confinement, and the detainee was allowed to have a medical examination by the prison doctor. The Council followed up on his health status.

9 According to international standards.

✓ **Mr. Hamid El-Mahdaoui**

Mr. El Mahdaoui was placed in a large room of about 14 square meters, with three small windows leaving room for weak lighting, and requires the lighting of electric lamps. The room has a separate toilet and a bathroom.

Mr. El Mahdaoui declared to the Council team that he does not complain of any mistreatment inside the prison and that he benefits from the rest time and the visit regularly.

The detainee was also examined by the prison doctor and followed up on his health status by the Council.

Mr. Hamid El Mahdawi had never complained of being in a solitary confinement.

Regarding the allegations saying that detainees are subjected to solitary confinement, and even to cruel treatment, the Council would like to state that solitary confinement does not constitute “in itself a form of torture”. However, it can constitute cruel, inhuman, and degrading treatment, when the confinement period is long and “associated with absolute social isolation”, given the severe impact on the person which can go to destroying his personality.

In both cases, the detainees were not prevented from receiving visits from their families and lawyers, communicating by phone, and having medical follow-up. Nor were they deprived of exercising their free time in prison as they wished. The doctors did not record any psychological impact of their solitary confinement.

3- Following up the situation of the hunger strikers

The National Human Rights Council and its Regional Commissions worked on the following up on the health conditions of all hunger strikers in various prisons. The Council has assigned several doctors to this task, which includes particularly:

- The coordination and interaction of the Council with the General Delegation for Prison Administration and Reintegration (DGAPR) to visit the detainees sentenced following Al-Hoceima protests, after their transfer on April 11, 2019, from the prisons of Ain Sbaa I and Oukacha in Casablanca, to the prisons of Fez, Tangier, Al-Hoceima, Nador and Tetouan.
- During these visits, the Council investigated the conditions of reception, detention, and detainees' health status, through individual and group interviews with

the detainees, and meetings with the prison directors and health officials. The Council also made sure that detainees received visits from their families and relatives.

- The Council was keen, through the delegations of Regional Commissions in Fes and Tangier, including member doctors, to follow up on the health status of the hunger strikers regularly, continuously, and with special care (more than 15 visits and daily phone calls).
- The Council defended supremacy of the right to life and the respect of international standards related to detention during hearings and meetings with detainees.

Based on the commitment of the Delegation for Prison Administration and Reintegration to make an additional effort to improve the conditions of detention and the proper functioning of families' visits, it was agreed on the night of April 25, 2019, with the detainees to stop the hunger strike.

✓ **The case of Mr. Rabii AlAblaq**

- On Thursday, October 31, 2019, the Council phoned the mother of Mr. Rabii AlAblaq, detained in the local prison Tangier 2 following Al-Hoceima events who resumed his strike, to confirm that he had stopped his hunger strike.
- The mother of Mr. AlAblaq had visited him, accompanied by the President of the Regional Human Rights Commission of the Region Tangier-Tetouan-Al Hoceima.

4- Allegations of torture

✓ **The case of Mr. Nasser Zefzafi**

Having noted, on Saturday, January 26, 2019, the news on the health status of Mr. Nasser Zefzafi (Hemiplegia), who was detained at Ain Sbaa I local prison in Casablanca, circulating in the written press and websites, the Council's Chairperson delegated a team of three members, including a forensic doctor, to investigate his health and check his medical file.

- The team moved to the prison and held meetings with the prison administration, the two local prison doctors, and Mr. Nasser Zefzafi, who was examined. The team consulted the medical file of the detainee and viewed the records of what happened on Saturday 26 January 2019.

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- The team prepared a general report on the visit, including a detailed supplement on the health of Mr. Nasser Zefzafi.
- Accordingly, the Council confirmed that on January 26, 2019, Mr. Nasser Zefzafi underwent seven medical examinations by various specialized doctors at the University Hospital Center Ibn Rochd in Casablanca.
- Report of the forensic doctor delegated by the Council made clear that the health of Mr. Nasser Zefzafi did not present any concern. The doctor also recommended that the prison administration complete the additional checks.

The Council concluded that the carried out medical examinations were inconsistent with the statements of the detainee regarding the allegations of torture.

✓ **Visits of detainees in Ras El Ma prison (in Fez)**

Following the disciplinary measures taken against the detainees of Ras El Ma prison and the allegations of torture that circulated in the written and electronic press:

- On November 7 and 8, 2019, the Council sent a delegation coordinated by the Head of the Permanent Committee on Monitoring Human Rights Violations (Council member) and a forensic doctor to the prisons of Tiflet 2, Toulal 2 (Meknes), Ras El Ma (Fez), Ain Aicha (Taounat) and the prisons of Taza and Guersif, to which were transferred detainees subject to the disciplinary measures announced last week. During these visits, the Council delegation:
- Visited the disciplinary cells in which the six detainees were placed, as well as the clinic area where stood two other persons;
- Conducted private meetings with each one of the detainees, which lasted between one and two hours, in places that guarantee confidentiality. These meetings were held after obtaining the informed consent of the concerned persons.
- Investigated allegations of torture and abuse transmitted by family members of the detainees and by media platforms;
- Conducted a medical examination of all detainees concerned;
- Viewed the surveillance camera records of the events;
- Conducted interviews with the prison guards involved.

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- After reviewing the content of video recordings, collecting testimonies and comparing them with medical examinations, as well as all the information obtained, the Council concluded the following:
 - a. Viewing the video recordings, the Council's delegation noted that, on Thursday, October 31, 2019, the six detainees refused to leave the yard near the observation center and return to their cells, for more than two hours. This statement was confirmed by the detainees during individual interviews;
 - b. Except for one case, all detainees underwent medical examinations, once transferred from Ras El Ma to other prisons;
 - c. The information compiled by the Council confirm that altercations occurred between the prison guards and two detainees, which resulted in some bruises for the two detainees and certificates of cessation of employment for the guards;
 - d. No trace of torture against the detainees was observed;
 - e. During the Council's delegation visits to the prisons of Toulal 2 and Ain Aicha, the Council noted the deplorable conditions of the disciplinary cells. The later provide no lighting and ventilation which violate the requirements of provision 13 of the Standard Minimum Rules for the Treatment of Prisoners;
 - f. Some detainees declared starting a hunger strike as they were transferred to the disciplinary cells. According to the relevant information made available to the Council, this hunger strike has been stopped.

The National Human Rights Council ensured informing the detainees in question about the presence or not of elements related to torture practices in the cases of each one of them.

5- Interaction of the Council with the detainees' families

The Council studied the demands of the families of detainees of Al-Hoceima protests, and the President interacted directly with them. These demands include:

- Mediation and negotiation with the General Delegation of Prison Administration to discuss the families' requests, and address issues related to the conditions and the system of family visits to improve detainees' communication with the outside world,
- Supporting visits of the detainees' families to the local prison of Ain Sbaa, which

reached 51 visits.

- Providing a weekly bus to transport families to visits from Al Hoceima to Casablanca at the beginning, then every two weeks. This situation has continued until the appeals were issued.
- Based on the renewed request of detainees and their families, at the beginning of 2019, transferring the families from Al Hoceima to both Fez and Tangier continued. After the detainees were moved from the prison of Fez to several prisons, families of the detainees continued to be transferred to the Tangier 2 Prison.
- At the end of the litigation procedure in the courts of appeal of Casablanca, Al Hoceima, and Jerada, the Council's President announced on March 12, 2019, her will to meet with mothers and families of the detainees of Al Hoceima and Jerada events.

At the beginning of this process, mothers and families were received between May and June 2019. Through these meetings, the Council intended to:

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- **First: starting a direct discussion with families** to facilitate communication.
- **Second: listening to all parties** to examine the sequence of events that occurred in Al-Hoceima region and its consequences.
- **Third: Examining information on the moment of arrest.**

The families presented all the information regarding the time and place of the events, the resulting arrests, and the prosecutions to the Council.

These meetings were an opportunity for the Council to emphasize its foundations in dealing with this issue, which are based on the human rights approach, as defined in its law, and practiced in reality.

Within the same context, and upon the request of some human rights associations and civil society movements following up the protests of Al Hoceima and Jerada, the Council's President met with the "Thafra for Loyalty and Solidarity Association", "the Civil Initiative for the Rif", and the "Al Hoceima Solidarity Committee", who presented their points of view to the Council.

10. GENERAL FINDINGS

For the National Human Rights Council, the unprecedented aspects of Al-Hoceima protests, of which the report reviewed some examples, constitute an advanced stage as part of the process of expanding the public space for citizens, especially given the growing reluctance or alienation of traditional political structures.

The Council will not dwell on the reasons behind this dynamic. A brief diagnosis of this situation is satisfactorily provided in the speech¹⁰ made by His Majesty King Mohammed VI on July 29, 2017, on the occasion of the Throne Day.

However, it is useful to recall that the high rates of unemployment and illiteracy, despite the volume of investments allocated to this region, along with the representational crisis and the effects of the gradual polarization in Moroccan politics, have had negative intertwining effects, which initially led to the growth of populism, then to the rise of extremist tendencies in the suburbs, whose political and economic integration remains limited.

Besides, the historic reconciliation process, continuing since 2000, in Morocco is very specific to the region. In this regard, it should be noted that the Equity and Reconciliation Commission was then aware “that the 1958-1959 Rif events require in-depth academic research (collecting testimonies of victims and actors, consulting written archives, including those available in foreign documentary bases, and conducting serious cross-checking and analysis)”. However, the Commission has not been able to achieve advanced results on this issue¹¹.

Taking into account the efforts made by the Council to compensate victims of severe human rights violations in the region (70 files submitted by the Equity and Reconciliation Commission / 1463 beneficiaries of material compensation and social inclusion / 21 files pending so far), the task remains far from being accomplished in full, and all the Commission’s recommendations cannot be claimed to be implemented.

Perhaps the most important novelty in this matter, is that the economic dimension is predominant towards achieving equity and reconciliation for the inhabitants. The Council notes, after analysis of various slogans and requests, that the issue of memory is raised with its economic dimension, in addition to the political and cultural ones. Protesters consider that this reconciliation is asymmetric and benefits only to a limited category that has failed its representative duties.

¹⁰ <https://www.justice.gov.ma/lg-1/actualites/act-596.aspx>

¹¹ Final report of the Equity and Reconciliation Commission, book 3, page 108 (in Arabic) https://www.cndh.org.ma/sites/default/files/ier_3_ar.pdf

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Rather, the “reconciliation” intended here refers to compensating the victims for their economic marginalization and for the absence of a governance system, which limits access of young people to opportunities.

What is particularly disturbing is that this mixture of reluctance and polarization has led, in the case of the Al Hoceima protests, to violent extremism, both verbal and physical, stained with a common discourse of incitement to hatred, and reveals the discriminatory nature of identity. Regional affiliation, in its narrow sense of contempt for regional identity, has become the only criterion that defines political awareness of youth in the region.

In this regard, the Council called for the establishment of a new social contract¹², as an extension of the development efforts and as a new stage of the socio-economic reconciliation process which has already begun in the region.

For its part, the Council will soon create a special unit at the institution’s presidency to monitor memory rehabilitation in the region. The testimonies collected by the Equity and Reconciliation Commission relating to the history of the region will also be published. Also, the opening of the Rif museum will be a defining moment in the history of the region’s collective memory, whose symbolism cannot be ignored.

II. GENERAL CONCLUSIONS AND RECOMMENDATIONS

- Considering the duration and magnitude of the protests and their peaceful, and sometimes non-peaceful nature, as well as their consequences;
- Based on the problems and violations related to freedom of expression and assembly;
- Considering the allegations of torture and cruel, inhuman and degrading treatment;
- Given the exceptional fluidity of fake news circulation about the events;
- In accordance with to fair trial standards;
- Guided by international human rights standards and jurisprudence;

The Council provides the following conclusions and recommendations:

I. Conclusions:

– Requests of the protesters

1. The number and frequency of protesters requests were steadily increasing;
2. The demands were presented in a block with no ranking, which complicated things for the interlocutor;
3. It was found that some of the demands require legal and complex administrative procedures.
4. The constitutional, legal and organizational research revealed that the requirement to “abolish militarization” is not applicable as militarization is considered abolished since the promulgation of the 1962 Constitution and the laws of the administrative division of the Kingdom;
5. There is no doubt that the delayed dialogue with members of the government and its near-absence with the region’s elected officials for six months has negatively affected the course of the protests. Also, the first dialogue attempts were not based on a participatory approach. The Council noted that the government’s actual response occurred at a time when the protests took an upward trend.
6. Riots and violent protests caused to waste the opportunity to dialogue on

demands to set up development projects to face post schooling rate, high unemployment and ensure the economic, social and cultural development of Al Hoceima;

7. High significance of identity, in conjunction with the memory of the region, which contributed to founding requests based on “injustice” and “the exceptional”.
8. The common point between the demands of Al Hoceima and those of other regions are the social, economic, and cultural requests. They are also distinguished by their particularity, considering their historical dimension, their form of presentation and the dialogue requirements on those demands;
9. It can be said that the government’s position was rather ambiguous, inconsistent, and lacking concordance. They range from denunciations to the demands of releasing detainees arrested following the events of Al-Hoceima.

– **The nature and consequences of the protests:**

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10. After they were related to request investigation on a death incident, the protests expanded to include the management of the Al Hoceima Mediterranean lighthouse project. These protests went then peacefully, and the protesters managed to diversify the methods and times of protests through large scale marches. They were sometimes monitored by the public forces and sometimes occurred without them;
11. Of the eight hundred fourteen (814) meetings and gatherings that Al Hoceima witnessed, over a period of twelve (12) months, 40% of the protests required special framing by public authorities while about 8% of the protests required the use of force, for reasons of maintaining public order, physical safety of the persons, and ensuring the citizens’ right to movement;
12. In all these eight hundred and fourteen protests, without exception, the protesters did not make any request for any permit or notice, although the organization of these demonstrations was planned and was not spontaneous in most of them;
13. Sometimes, the police did not provide adequate protection for individuals from violent demonstrators (April 21, 2017, or some journalists, for example).
14. The rooted violence in the protest movement was faced with the increased use of force by public authorities. When the use of force was necessary for

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some of them, it could have been less excessive, especially during the dispersal of gatherings and arrests;

15. Depriving the worshipers of exercising their right to Friday prayers, and of completing the rituals of the sermon and Friday prayers, is considered as a violation of the freedom of religion and the worshipping space ... Mr. Nasser Al-Zafzafi broke into the mosque during the Friday sermon, interrupted the imam and started addressing the worshipers;
16. The Council considers the speech given by Mr. Nasser Al-Zafzafi on the roof of a house while he is on the run is a remarkable example of a speech inciting to violence and hatred, which several protesters followed. In this regard, it should be mentioned that resisting an arrest cannot be justified, under any circumstance, in a State governed by law;
17. The protests can be categorized into two phases: from October 2016 to March 2017, where they were peaceful, and the phase after March 26, 2017, characterized by violence, and sometimes severe violence;
18. The death case recorded can be described, within the circumstances of its occurrence, as self-defense;
19. The complete absence of communication between protesters and the public forces over a whole year of protests;
20. The way public authorities handled unauthorized protests or those which have not been notified by any organized body, gives room to a human rights interpretation paving the way for amending the relevant legal texts;
21. The Council expresses its concern about the intentional nature of many episodes of violence, as it was revealed that the protesters were prepared for clashes. In addition to wearing veils or masks, the more dangerous was that some of them carried white weapons, especially during their detention. Such cases are difficult to face, not to mention the large number of cases of illegal violence, since May 2017 (80%), which radically changed the nature of protests in Al Hoceima;
22. Al Hoceima protests resulted in unprecedented measures that included exempting ministers as well as regional and local officials, forming an inspection committee, and ordering an audit by the Court of Auditors.

– **Violating the freedom of belief and worship**

23. Places of worship are not spaces for shoving and grappling situations and visions. If it were to be, it would have opened the doors of tensions and violence between citizens. Therefore, the human rights standards, as they emphasize individuals' freedom of thought and belief, focus on the role of the State in managing and regulating this freedom when it comes to worship.

– **Exercising freedom of expression and assembly:**

24. The use of verbal violence, whether by the protesters or the public forces, while the latter are obliged to have an exemplary behavior despite the hard circumstances;
25. Riots and illegal violence during periods of protests, which resulted in very severe injuries among some members of the public forces causing permanent disability among some of them, ranging from a few months to two years for many of them;
26. The Council deplores the nature of the mutual degrading discourse¹³, which can only exacerbate violence on both sides and which was unnecessary, in the Council's opinion;
27. Some citizens were threatened and subjected to violence, for not sharing the same opinion with some protesters;
28. The Council notes, while verifying and cross-checking data, that a large number of unrealistic and incorrect information (disinformation and propaganda) has been widely circulated on social media networks, and that many citizens interacted with it outside and inside Morocco;

13 In a book entitled "Hirak of Rif, the dynamics of protest identity", the author, Mohammed Saadi, states that "the collective attitude, glorification of heroic history, and the pride of historical differentiation and identity uniqueness (...) used to go far beyond the pride of belonging ("Rifian and proud") and unconsciously turn among some young people (especially the youngest) into a kind of exclusionary purism, populist nationalism, and sometimes even racial racism (among the examples stated by the writer: "pure Rifian", "great Rifian people" "The Rif for the Rifian" "the authentic and impudent Rifian", "our genes are not the same as theirs."). The writer also adds that "they consider themselves as radically different from others", "belonging to a distinct and unique people united by a nationality carrying a common natural and spiritual soul, transmitted through blood and never endowed." However, the author also documented examples of counter-speeches in the same context, such as "Rifians, uncommon aliens" totally unrelated to "the rest of the Moroccans", they "have a special chemistry that is difficult to decipher and understand." They are "Moroccans ... but" ... it is worth noting that this last example (Rifians are "Moroccans ... but", which the author included in his book as indicated in the margins of the book, is the title of a program broadcasted on a foreign, not Moroccan, channel. In this context, it should be specified that this same channel had previously published, in a newsletter broadcast on July 11, 2017, photos of protests suppression in Venezuela while referring to events of Al Hoceima.

29. Publication of fake information, as part of twitter raids, impacted the essence of human rights protection. Such information underestimates the work of human rights actors, including institutional and non-institutional ones, and incites national and international public opinion about unrealistic actions. It also influences the peacefulness of the protests, creates sharp polarizations among public opinion, and encourages irrational and illogic ways of dealing with rumors;
30. The protests witnessed exceptional flow of relevant information, as the total number studied by the Council team exceeded 10,000 publications;
31. Most of the publications revolve, in quantitative terms, on the subject of Al Hoceima protests (from the most representative and adopted keywords). 81 percent of them emerged from sources outside Morocco, therefore outside the region of protests (Al Hoceima). The survey on Twitter also showed that half of the tweets on the topic originated from Western European countries, where users of the website exceed their counterparts in Al Hoceima and Morocco;
32. Based on a sample of the most influential Twitter accounts, the Council concludes that they were created during the protests, especially after the issuance of judgments, and that they are robustly linked and even more strongly organized;
33. Considering the analysis of live videos on Facebook, it appears that the discourse carries religious loads, exploits memory, symbols, and characters outside the context. In addition to diffusing defamation and disinformation (and other human rights problems), these videos contribute to fueling feelings and creating violent polarizations and incitement, given the huge number of observations and interactions, which experienced a significant increase in the period between mid-April and the end of May 2017.

– **Dispersing crowds:**

34. Although the protesters could have been violent, armed and resistant - which requires the use of force to evade their harm and danger, the Council asserts that once the person is neutralized, violence is no longer permissible. A citizen lying on the ground or handcuffed cannot be considered as a threat;
35. The Council notes with satisfaction that no weapons or firearms were used during the twelve months of protests. The very few occasions that have witnessed the use of water cannons or tear gas, occurred after legal warnings were issued;

36. If it was necessary to disperse several protests, the principle of proportionality in the use of force was not always respected.

– **Allegations of torture and violence:**

37. In its classification of allegations of torture and cruel and inhuman treatment, the Council distinguished between the constituents of the act of torture and the elements of cruel and inhuman treatment, in accordance with international jurisprudence.

38. The Council described the allegations which can include elements of torture or allegations that can be adapted as elements of cruel, inhuman or degrading treatment and when standards are met and allegations of the use of violence to resist arrest as well as cases where the examination has not confirmed the statements of those involved in the allegations;

39. The conclusions of the medical examination of both the prison doctor and the doctor appointed by the investigating judge or the consultations provided by the medical delegation of the Council agreed with regard to most of the allegations. The two doctors did not agree in two cases, which were identified in the first group.

40. Violence against the public forces was carried out through throwing stones and other objects, during the dispersion of gatherings.

41. The public forces were surprised by the use of sharp and illegal violence;

42. The Council notes that the detainees have enjoyed permanent contact with their families and lawyers and that they have benefited from the quotas of phone calls, necessary space, and continuous medical follow-up. The Council doesn't record any cases of detention in one room that meets the catastrophic conditions of "isolation" defined by international standards.

– **Trial observation:**

43. The Council notes that the trial of the defendants of Al Hoceima protests before the Casablanca Court of Appeal was characterized by the following:

– The "independence" criterion of the court has been met, in accordance with the 2011 Constitution that states that the judiciary shall be independent of the legislative and executive powers (107), and that the ruling judges shall only be transferred and exempted under the law (108 legal requirement). It also prohibits all interference in cases brought before the judiciary (109). Article

48 of the Statutes of Judges stipulates that: “In accordance with the provisions of Chapter 109 of the Constitution, the judge does not receive any orders or instructions, and is not subject to any pressure, and every judge who considered his independence to be threatened, must refer the matter to the Supreme Council of the Judicial Authority”. The Supreme Council of the Judicial Authority shall strive to implement the guarantees afforded to judges, particularly with regard to their independence, appointment, promotion, retirement, and discipline (113);

- The court ruling on the case is established according to the law, and the Constitution prohibits the creation of extraordinary courts (127). Also, the referral of the case from the Al-Hoceima Court of Appeals (where the protests occurred) to the Appeal Court in Casablanca was made by a decision of the Court of Cassation for Public Security, according to Chapter 272 of the Code of Penal Procedure (CPP);
- The trial was public, and the accused were present at the hearing, both during the trial and the appeal.
- The verdicts were pronounced in a public session. A reasonable period of time was respected between the detention and the verdict. The Council noted compliance with the principle of granting the defense a reasonable period of preparation;
- With regard to the presumption of innocence, guaranteed by the Constitution (23), and the Code of Penal Procedures (Article 1), it is noted that the releases issued by the Public Prosecution did not affect that principle, as it did not state any prior position regarding the course of the trial. Moreover, the contents of the trial elements were not divulged, and evidence against detainees was presented within the jurisdiction of the Public Prosecution. The Council notes that several defendants’ lawyers have discussed the axes and phases of the trial in various media outlets, including personal pages on social media;
- Regarding the respect of the right of the accused not to be forced to confess guilt or to testify against himself, Moroccan law establishes the right to silence (66 CPP). Besides, any statement established to have been made as a result of torture, shall not be invoked as evidence in any proceedings (293), as stipulated in Article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; judicial police records indicate that all defendants are notified of their right to silence, while some detainees objected to this. The Council notes, for example, that the detainees Nasser Zefzafi and Rabii Al Ablaq exercised their right not to criminalize themselves by not an-

swering many questions in the preliminary examination. The defendant, Jamal Bouhadoui, also maintained his right to silence throughout the trials.

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44. The Council recalls the Moroccan jurisprudence¹⁴ and the decision of the European Court of Human Rights issued on June 16, 2015, in the case of SCHMIDLAFFER V. SUISSE. (Request No 41269/08), where it was concluded that failure to inform the defendant of his right to silence did not affect the fairness of the trial, as the investigation represented a minor element compared to other evidence;
 45. The Council recorded that the prosecution presented various evidence in the trial files. Several defendants contested, during the investigation and the trial, that they were notified of their rights during hearing sessions by the National Judicial Police Division. They also contested the validity of their confessions for being obtained under coercion and torture;
 46. The Council records that facts were mainly verified based on videos recorded by the detainees themselves, photos, phone calls, WhatsApp recordings, financial transfers, posts via Facebook, witness statements, likes of blogs¹⁵, rather than relying on the defendants' statements written in the police records. It was also highlighted that eavesdropping and calls recording were carried out by judicial order and in accordance with the law;
 47. Concerning the defendants' lawyer's request to play all the phone calls recorded and display other videos that are not included in the file documents, the Court considered that it is only concerned with the records which fall within the case and the pursued actions and persons¹⁶. The Court also deemed that the videos that the defendants had requested to play are related to other facts, not to those under trial.
 48. The "Equality of arms" and the "Contradiction" procedure principles have been respected. Each party was able to defend its position with no obstacles or disadvantages. They were all provided with file elements and evidence against the detainees and they were able to comment on them. These comments were examined;
 49. The principle of immediacy was respected. All the defendants, without exception, were able to confront witnesses in the presence of the judge. They were

¹⁴ Decision of the Court of Cassation No. 411, issued on April 10, 2014, criminal file No 779/11/2014.

Decision of the Court of Appeal of Agadir No. 6955, file No 14/2601/1969 issued on July 25, 2014.

¹⁵ Pressing « like » for a post was considered by the Swiss Court in 2017 (Geschäfts-Nr. GG160246) as an incriminating evidence.

¹⁶ CEDH/ Case JASPER V. United Kingdom (File no 27052/95)

also able to ask all their questions (which were hostile and slanderous against the witnesses of the civil party). They were also given the possibility of questioning the authenticity of evidence submitted by the Public Prosecution, especially those crucial in the trial process;

50. The Council notes no refusal by the Court to examine the evidence submitted by the defense. It also did not reject any element that could have acquitted the defendant.

– Investigating allegations of torture

51. Allegations of torture were examined in accordance with general rules, particularly articles 73, 74, 134, and 293 of the CPP. The investigative judge ordered medical examination of all the defendants, listened to doctors' testimony, and incorporated the medical reports into the file;
52. Investigation was also conducted following the complaints of some defendants regarding the violence they suffered during their arrest by the judicial police in Al Hoceima;
53. Defendants and their lawyers were not notified of the conclusions of the investigation;
54. The Council recalls that cases of allegations, considered by the Council may include elements of torture, were not sufficiently discussed and debated during trials;
55. The Council recalls that various degrees of Moroccan courts issued rulings nullifying judicial police records where defendants' confessions were proved to be extracted under coercion or violence, by virtue of Article 15 of the Convention against Torture (rule of exclusion). As is the case of the Court of Cassation,¹⁷ which convicted the defendant for the facts for which he is prosecuted, disregarding the physical torture he was subjected to, and ruled that that the contested decision is incomplete, lacking evidence, and considered void. As with Agadir Appeal Court¹⁸ which issued a judgment ruling that the records are null and void due to torture¹⁹;
56. The Council did not note any impediment as to the effective participation of detainees who were able to listen, follow, and intervene during the discus-

¹⁷ Decision of the Court of Appeal of Agadir issued under No 6955, file 14/201/1969, on July 25, 2014.

¹⁸ Decision of the Court of Cassation No 411, issued on April 10, 2014, criminal file No 2014/11/779.

¹⁹ Re, Richard. "The Due Process Exclusionary Rule: A new textual foundation for a rule in crisis", Harvard Law Review, Vol. 127 (2014).

sions²⁰. Statements of the defense, mentioning that maintaining the defendants in the glass room prejudice the presumption of innocence and their participation in their trials, seem to be ill-founded as the President of the Court was summoning separately each defendant, who appeared before him outside the glass room next to his defense, and that the glass room was equipped with chairs to allow the defendants to follow the trial comfortably. The detainees were also provided with pens and notebooks to record their notes²¹.

57. Some questions asked by the Court of First Instance to some defendants were protested by the later and by their defense, as it violated the principle of the Court's impartiality. Among these questions was the one directed to a defendant, whether he was "Moroccan". The Court clarified, in this regard, that the purpose of this question is to determine the motive behind the actions of the defendant and the reason for the alleged acts, without any bias against him;
58. All witnesses were heard and discussed in the presence of the defendants, while the defense was unable to provide further evidence. If the right to silence is granted to the defendant, it cannot be granted to the defense, in accordance with the law;
59. At the request of the defendants' lawyer, to summon some witnesses from public figures (such as Mark Zuckerberg, ministers, and national officials), the Court refused to summon them, considering the request unjustified and unproductive. The Council considers that the request to hear these witnesses was not reasoned and sufficiently relevant given the subject of the charge. There is no direct relationship between public figures and the facts of the matter pursued. The Court also successfully examined these requests and sufficiently justified their rejection, saying that the latter does not prejudice a fair trial. In application of these criteria, the Council concludes that there has been no refusal to hear any effective witness in this case;
60. The Court responded to the request to appoint an interpreter for the Riffian dialect, although the Public Prosecution confirmed that some of the defendants can understand the Arabic language used by the Court, and that the investigation was conducted in Arabic without any objection from them;
61. Trials have respected the rights of the defense, particularly the right to inform every defendant of the charges against him, the right to have time to prepare his defense, the right to be assisted by a lawyer of his choice, the right to subpoena and interrogation, the right to cross-examine prosecution witnesses, and

20 CEDH /Case Stanford United Kingdom (file n° 16757).

21 CEDH/ Case Murtazaliyeva Vs Russie (file n° 36658).

the right to free interpreter assistance;

62. The Court did not object to the defendants' statements and did not compare them with the records. It was the role of the Public Prosecution office, especially for some of the defendants prosecuted for public order;
63. All witnesses were heard and confronted in accordance with the law;
64. Most of the defendants spoke freely about their detention conditions;
65. Equal and proportionate time has been allocated for discussion between the parties;
66. The Council considers that the judgments issued against the defendants, convicted and acquitted, were based on legal grounds.

II. Recommendations

– Freedom to demonstrate peacefully

Considering the duration and the size of the protests and their consequences, the Council recommends:

1. Respecting the right to peaceful demonstration, which constitutes a national achievement as part of the process of democracy and human rights, including finding ways to cooperate with public authorities in preserving public order, and ensuring the exercise of the right to freedom of expression and peaceful assembly;
2. Implementing the legal interpretation of the right to peaceful demonstration, regardless of the statement or notice;
3. Respecting the right to physical safety of protesters and public forces members;
4. Working to develop national guidelines governing the intervention of public forces in accordance with the relevant international principles;
5. The use of arrest and investigation authorities shall not be intensive. As for protesters' arrest and detention, they shall not be extended, but rather singled out. It shall be done on the basis of specific facts;
6. Requesting the public authorities to communicate with public opinion on the dispersion of the demonstrations;

7. The state has a duty to effectively protect demonstrators, along with other people, from any form of threat and violence by persons wishing to prevent, hinder, or obstruct protests, including “provocative individuals” and “anti-demonstrators”;
8. It is the responsibility of the authorities to protect citizens who do not wish to take part in the demonstrations.

– **Freedom of expression and opinion**

9. The Council affirms that all forms of discourse inciting violence, hatred, racism, discrimination, and causing prejudice to the reputation of others, shall not be protected in any way. Besides being far from exercising freedom of expression, these forms of discourse constitute a serious violation of all the principles to be protected and promoted in a democratic society;
10. Implementing the recommendation of the study carried out by European Parliament Research Center “to create algorithms that stimulate pluralism and enhance the capabilities of users ... to give their users the ability to choose the level of pluralism required, ... and to prioritize approved news or those related to public services”;
11. Inviting professional media organizations “to consider the critical coverage of fake news and disinformation and providing precise information, as one of the basic elements of press and media services, as part of their roles in informing society in particular, and guiding discussions of public interest”;
12. Calling the public opinion to be cautious about the sources of information and news, to verify their authenticity, and to monitor social media as a tool for disseminating ideas and opinions and for debates;
13. Calling on the Moroccan government to take the necessary measures to ensure that the public media is opened to all opinions and expressions, and to guarantee professional follow-up of events while highlighting pluralism, in compliance with the recommendations on freedom of expression and the right to have access to correct and pluralistic information;
14. Requesting the Moroccan parliament to update the national legislation in line with the international agreements including the International Covenant on Civil and Political Rights and the International Convention on the Elimination

of All Forms of Racial Discrimination, in conformity with the recommendation issued by the Special UN Special Rapporteur on his report on promoting and protecting the right to freedom of opinion and expression²².

Reviewing the legislation regarding hate speech to fulfill the requirements of necessity, proportionality, and legitimacy. Reviewing this legislation shall be done through a significant contribution of the public.

– **Reviewing legal requirements**

16. The Council renews its call to change the wording of Chapter 206 of the Criminal Code with a view to auditing the elements constituting the crime of breaching internal safety²³ and its manifestations²⁴;
17. Add a new provision on violence in the public space and inciting violence within the context of the protests²⁵;
18. Criminalize unlawful violence, to guarantee the exercise of the right to expression, assembly and peaceful protest;
19. Incorporate the right to appeal all decisions related to deprivation of liberty, especially for police custody situations;

– **Allegations of torture**

20. Providing for procedural requirements to search and investigate allegations of torture and cruel, inhuman and degrading treatment;
21. The detainee shall not bear the burden of proving allegations of torture;
22. Adopting the Istanbul Protocol as a guide for the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment;
23. Demanding the relevant authorities to further investigate cases consid-

22 Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. October 2019. Reference: A/74/486. https://www.ohchr.org/Documents/Issues/Opinion/A_74_486.pdf

23 Recommendations of the Council's Memorandum regarding the Amendment of the Criminal Law: For a Criminal Law that protects freedoms and meets the principles of legitimacy, necessity, and proportionality, 2019.

24 This was also the conclusion of the study elaborated for the Council by Dr. Mohammed Drissi Alami Machichi on the harmonization of criminal law with the principles and rules adopted in the human rights system.

25 Recommendations of the Council's Memorandum on the amendment of the Criminal Law, CP.

ered by the Council as possibly involving elements of torture and cruel and inhuman treatment, as to guarantee the right to remedy for the persons in question. The Council also requests the relevant authorities to publish the results of the research in this regard.

24. Requesting relevant authorities to further investigate the death of Mr. Imad al-Atabi.

– Fair trial standards

25. Adopting audiovisual recording during the interrogation of persons under police custody, and extending the right to be assisted by a lawyer to the preliminary investigation phase;
26. The necessity to harmonize the Criminal Procedure Law with international obligations, especially with regard to:
 - Strengthening the role of the defense during the pre-trial phase, by allowing its presence during the pre-trial phase;
 - Incorporating the right to appeal into all decisions related to deprivation of liberty;
 - Allowing trial observers delegated by the Council to attend the closed sessions.

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– Public policy

27. Evaluating development programs in their relation to the impact on education, health, and employment, and reviewing relevant indicators;
28. Giving importance to the social and economic aspects of public policy programs related to Al Hoceima, and involving citizens in elaborating urgent programs;
29. Activating regional mechanisms to enable women to participate in the economic, social, cultural, and political fields;
30. Establishing programs to promote culture, art, theater, and music, taking

into account local dynamics and include them within the school schedule to promote a culture of dialogue and exchange, through various means, including digital;

31. Implementing the recommendations of the Court of Accounts report regarding Al Hoceima Development Program.

– **Strengthening capacities on dispersing the crowd**

32. Compensating members of the public forces whose physical safety was compromised during unlawful acts of violence, and providing for those with cases of long-term disability;
33. Given the difficulties and importance of preserving order and security, it is necessary to strengthen psychological, technical, and professional capacities;

The Council declares:

- The decision to create a memory-preserving unit, besides the presidency of the Council, to be devoted to promoting all components of Moroccan history and support its implementation via educational curricula and syllabi;
- A project to develop a joint program with the National Office for Vocational Training to facilitate access of released detainees to programs aiming at strengthening their professional and educational capabilities;
- Willingness to cooperate with the lawyers' Bar Association in preparing an opinion on the draft law on the legal profession; Its commitment to working with all actors to combat all hate speech and violence to consolidate the achievements made in the human rights field;
- The Rabat Institute for Human Rights- Driss Benzkeri has been entrusted with interpreting many jurisprudencerelated to current human rights issues, whether legal or judicial, to support the references used by various actors;
- Publication of a study on peaceful demonstrations in relation to their new forms.



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Conseil national des droits de l'Homme

Report on
AI Hoceima Protests

March 2020

Executive Summary

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