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do not.<sup>19</sup> The future of investment treaty arbitration will likely rely on finding a balance between protecting human rights and recognizing the benefits of investment treaties for foreign investment and economic growth — especially in the natural resources sector.

## HOW A FISHERMAN'S MURDER REVEALED MOROCCO'S POLICE BRUTALITY AND ETHNIC DISCRIMINATION

*by Nora Elmubarak\**

Mouhcine Fikr, a fisherman, was crushed to death three years ago in the Rif region of northern Morocco when he was attempting to retrieve swordfish that police officers had confiscated and placed in a trash compactor.<sup>1</sup> His death in 2016 sparked the “Hirak,” a socioeconomic protest movement in the Rif region. Fikr’s death was a turning point for those in the Rif region; they were no longer complacent with the amount of policing in their community and the severe economic disparities that led to people like Mouhcine Fikr risking their lives. Police arrested over 450 activists in May 2017,<sup>2</sup> but the violence between the police and protestors is ongoing.<sup>3</sup> By arresting protestors and depriving prisoners of their rights, the Moroccan government is in direct violation of Article 19 and Article 20 of the Universal Declaration of Human Rights (UDHR), as well as the United Nations Standard Minimum Rules for the Treatment of Prisoners, which establish guidelines for the

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<sup>1</sup> *What’s Behind Morocco’s Street Protests?* AL JAZEERA (May 19, 2017, 5:11 PM), <https://www.aljazeera.com/programmes/insidestory/2017/05/morocco-street-protests-170519194032194.html>.

<sup>2</sup> *World Report: Morocco/Western Sahara*, HUM. RTS. WATCH, <https://www.hrw.org/world-report/2019/country-chapters/morocco-western-sahara> (last visited Oct. 8, 2020).

<sup>3</sup> *Protests in Morocco Demanding Improvement of Social and Human Rights Conditions*, MIDDLE EAST MONITOR (Feb. 24, 2020 3:19 AM), <https://www.middleeastmonitor.com/20200224-protests-in-morocco-demanding-improvement-of-social-and-human-rights-conditions/>.

<sup>19</sup> CETA, *supra* note 16; *International Investment Agreements Navigator*, U.N. CONF. ON TRADE & DEV.: INV. POL’Y HUB, <https://investmentpolicy.unctad.org/international-investment-agreements> (last visited Sept. 22, 2020).

treatment of all prisoners to honor their humanity.<sup>4</sup> Fikr's death and the movement that followed has brought greater global awareness to the Moroccan government's suppression of freedom of speech, systemic discrimination, and corrupt criminal justice system.

While the Rif Hirak protests started because of one man's death, they grew out of a larger sense of discrimination in the Rif region, which is inhabited primarily by Berber communities.<sup>5</sup> The Rif-region Berbers claimed that the Moroccan government, led by King Mohammed VI, discriminated against them and provided them with fewer resources in comparison to their Arab counterparts.<sup>6</sup> Citizens in the Rif region protested for more jobs in the region, the construction of a hospital, and a highway to provide them with access to job opportunities outside of their region.<sup>7</sup> In September 2019, the Moroccan coastguard fired on a boat in the Mediterranean, killing a law student, Hayat Belkacem, who was fleeing from the Rif region to Europe because of increasing police violence, poverty, and limited opportunities in the area.<sup>8</sup> Further, in October 2019, a Tetouan trial court in northern Morocco sentenced activist Soufian al-Nguad to two years in prison for alleged incitement of insurrection, insulting Morocco's flag and symbols, and spreading

anti-government sentiment after he publicly criticized the murder of Belkacem on social media.<sup>9</sup>

In 2018, Human Rights Watch also reported that the Moroccan government attempted to bar freedom of assembly, sanction excessive police violence, and perpetuate a corrupt criminal justice system throughout the Rif protests.<sup>10</sup> The Moroccan government initiated mass arrests in the Rif Region as part of its work to quell the protests by the Berber minority.<sup>11</sup> The Berber community is now waiting for justice to be served for all the political activists. Community members continue to organize protests to demand better resources for their communities in Morocco.

Throughout these protests, the Moroccan government has violated numerous international human rights laws. The Moroccan government has an obligation to protect the right to freedom of opinion and expression without discrimination, enshrined in Article 19 of the UDHR and Article 19 of the International Covenant on Civil and Political Rights (ICCPR).<sup>12</sup> Morocco violated international legal norms under Article 2 of the UDHR, which guarantees the right to be protected from discrimination. It also breached its obligations under Article 7 of the ICCPR, which protects individuals from excessive amounts of violence and Article 20 of the ICCPR, which protects the right to peaceful assembly.<sup>13</sup>

First, the Moroccan government violated Article 2 of the UDHR by discriminating against individuals in the Rif region by providing them with minimal acces-

<sup>4</sup> See G.A. Res. 217 (III) A, Universal Declaration on Human Rights, arts. 19, 20 (Dec. 10, 1948) [hereinafter UDHR]; United Nations Standard Minimum Rules for the Treatment of Prisoners, U.N. Doc. A/CONF/611 (Aug. 30, 1955).

<sup>5</sup> See Evelyn Nieves, *Fighting for Basic Rights in Morocco*, N.Y. TIMES (Jul. 27, 2017, 4:00 AM), <https://lens.blogs.nytimes.com/2017/07/27/fighting-for-basic-rights-in-morocco/>.

<sup>6</sup> Paul Adrian Raymond, *Morocco's Berbers Urge Broader Reforms*, AL JAZEERA (May 6, 2014, 7:56 AM), <https://www.aljazeera.com/indepth/features/2014/03/moroccos-berbers-urge-broader-reforms-2014357321228806.html>.

<sup>7</sup> Ursula Lindsey, *In Morocco, Protesters Organize Against Repression with New and Traditional Tactics*, MOBILIZATION LAB (Oct. 6, 2017, 12:12 PM), <https://mobilisationlab.org/stories/morocco-tactics-counter-repression/>.

<sup>8</sup> Samia Errazzouki, *A Young Woman Embodied Morocco's Future. Instead She was Shot While Trying to Emigrate*, WASH. POST (Oct. 2, 2018, 7:01 AM), <https://www.washingtonpost.com/news/democracy-post/wp/2018/10/02/a-young-woman-embodied-moroccos-future-instead-she-was-shot-while-trying-to-emigrate/>.

<sup>9</sup> *Morocco: Free Facebook Commentator*, HUM. RTS. WATCH (Feb. 8, 2019), <https://www.hrw.org/news/2019/02/08/morocco-free-facebook-commentator>.

<sup>10</sup> *World Report: Morocco/Western Sahara*, *supra* note 3.

<sup>11</sup> *Moroccan Human Rights Defenders Targeted Using Malicious NSO Israeli Spyware*, AMNESTY INT'L (Oct. 9, 2019, 8:01 PM), <https://www.amnesty.org/en/latest/news/2019/10/moroccan-human-rights-defenders-targeted-using-malicious-nso-israeli-spyware/>.

<sup>12</sup> UDHR, *supra* note 4, art. 19.

<sup>13</sup> See UDHR, *supra* note 4, art. 2; International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 105, art. 7, 20 [hereinafter ICCPR].

to job opportunities.<sup>14</sup> The Rif region was deliberately separated by the Moroccan government in the past to develop drug farms, and King Mohammed VI has failed to integrate the Rif region into greater Moroccan society.<sup>15</sup> The Rif region remains unstable due to drug trafficking and the subsequent heavy policing of the region. The government also failed to provide the promised proper highway access from the Rif region to the rest of the country and failed to construct the hospital that was promised in the 2015 development plan for the region.<sup>16</sup> Meanwhile, the Arab majority in the west of Morocco is steadily increasing its economic presence.<sup>17</sup>

Second, the government violated Article 7 of the ICCPR when five police trucks drove into a group of peaceful protestors in the Jerada region, ultimately dispersing the protestors.<sup>18</sup> This level of force was unjustified and put the lives of the protestors at extreme risk. This violated their right to freedom of opinion and expression guaranteed by Article 19 of the ICCPR.<sup>19</sup> Lastly, the government violated Article 20 of the ICCPR by preventing and interfering with the peaceful assembly of the protesters.<sup>20</sup> The government dispersed protestors through mass arrests in an attempt to quell activists' call for the government to respect human rights in the Rif region. The government hindered the citizens' right to speech by impos-

<sup>14</sup> See UDHR, *supra* note 4, art. 2; Ahmed Eljechimi, *Tens of Thousands Protest in Morocco Over Jailed Rif Activists*, Reuters (Jul. 15, 2018, 11:36 AM), <https://www.reuters.com/article/us-morocco-protests/tens-of-thousands-protest-in-morocco-over-jailed-rif-activists-idUSKBN1K50R0>.

<sup>15</sup> Abdelkader Abderrahmane, *Drug Trafficking in Northwest Africa: The Moroccan Gateway*, Jadaliyya (Dec. 9, 2013), <https://www.jadaliyya.com/Details/29918>.

<sup>16</sup> Sarah Feuer, *Morocco's Escalating Protests Call for a Careful Response*, WASH. INT. FOR NEAR EAST POL'Y (June 6, 2017), <https://www.washingtoninstitute.org/policy-analysis/view/moroccos-escalating-protests-call-for-a-careful-response>.

<sup>17</sup> Fahd Iraqi, *Morocco: The Rif — The Paradox of the North*, AFR. REP. (Aug. 1, 2018), <https://www.theafricareport.com/559/morocco-the-rif-the-paradox-of-the-north/>.

<sup>18</sup> See ICCPR, *supra* note 13, art. 7; *Morocco/Western Sahara: Crackdown Against Activists for Criticizing the King, Public Institutions and Officials*, AMNESTY INT'L (Feb. 11, 2020), <https://www.amnesty.org/en/latest/news/2020/02/morocco-western-sahara-crackdown-against-activists-for-criticizing-the-king-public-institutions-and-officials/>.

<sup>19</sup> See ICCPR, *supra* note 13, art. 19.

<sup>20</sup> See *id.*, art. 20.

ing large fines and arresting individuals, like YouTuber Omar Ben Boudouh, for allegedly offending public officials and inciting hatred. Moroccan officials heavily police political speech both online and in person, in direct violation of Article 20 rights.<sup>21</sup> The Royal Moroccan navy shot the law student, Hayat Belkacem, and her death is another example of the violent over-policing tactics the Moroccan government is using.<sup>22</sup> The Moroccan government has an obligation to protect all of its citizens' rights without discrimination based on their ethnic origin.<sup>23</sup>

In order to regain the trust of the people in the region, the government must release political activists like Soufian al-Nguad.<sup>24</sup> The government can develop a forum to assess the needs of the community members in a safe manner. The Moroccan government can address the majority of the protestors' grievances by complying with its international obligations, which include guaranteeing freedom of expression and the right to peaceful assembly, while protecting against excessive force for all of its citizens. The region's development plans need to meet consistent annual benchmarks of growth to assure the Riffians that the central government is invested in economic growth and stability in the region. The government also needs to develop a system to dissipate the drug trafficking in the region by providing alternative employment opportunities and rehabilitation services for drug users. Riffians have minimal job opportunities, causing them to flee or engage in drug trafficking; the government must also invest in re-integration programs for those incarcerated due to drug offenses in the region. Riffians must be at the forefront of all of these programs to develop a system of transparency and trust between them and the central Moroccan government.

The Moroccan government should take these protests as an opportunity to allow for the safe assembly of citizens, promote freedom of expression, provide access to equal resources to all ethnic groups in the country, and protect protestors' freedom of expression. King Mohammed VI's pardon of 1,178 detainees in July

<sup>21</sup> See *id.*; AMNESTY INT'L, *supra* note 19.

<sup>22</sup> See Errazzouki, *supra* note 8.

<sup>23</sup> See UDHR, *supra* note 4, art. 2.

<sup>24</sup> See *Morocco Protests: Thousands Demand Release of Activists*, BBC (Apr. 22, 2019, 1:08 AM), <https://www.bbc.com/news/world-africa-48008463>.

2017 was one step towards redressing the government's human rights violations.<sup>25</sup> He repeated this in August 2018 and in July 2019 when he again pardoned political activists who were critical of the Moroccan government.<sup>26</sup> However, there has been minimal progress in fulfilling the Rif protestors' demands since Mouhcine Fikr's death catalyzed the movement three years ago.<sup>27</sup> The Moroccan government has an international obligation to ensure that its citizens can safely advocate for their needs without the threat of violence or imprisonment. These protests continue to reveal how the Moroccan government has engaged in human rights violations to maintain the status quo and ignore the needs of its ethnic minorities.

## SPORTING INSTITUTIONS TURNED A BLIND EYE TO CHINA'S HUMAN RIGHTS ABUSES, BUT THEY HAVE POTENTIAL TO DRIVE GLOBAL CHANGE *by Hailey Ferguson\**

Foreign sports, such as basketball and soccer, enjoy a gargantuan cultural and commercial market in China. Basketball has been wildly popular for decades.<sup>1</sup> The love for the American sport has only continued to grow since then with over eighteen percent of Chinese athletes playing basketball today.<sup>2</sup> The foremost governing bodies representing soccer and basketball, FIFA and the NBA, have found commercial success in the Chinese market.<sup>3</sup> 187 million soccer fans hope to enjoy the 2021 FIFA Club World Cup on their home soil, now that FIFA has awarded China the hosting opportunity following a 2015 government edict that made soccer a national priority worth billions.<sup>4</sup> Last year, a conflict between the Houston Rockets general manager, Daryl Morey, and the Chinese government tested the strong partnership between the NBA and

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<sup>1</sup> Claudia Klingelhöfer, *These Are the Most Popular Sports in China*, ISPO (Jul. 6, 2017, 12:02 PM), [https://www.ispo.com/en/markets/id\\_79708806/these-are-the-most-popular-sports-in-china.html](https://www.ispo.com/en/markets/id_79708806/these-are-the-most-popular-sports-in-china.html) (explaining that China boasts the highest number of soccer fans worldwide at 187 million).

<sup>2</sup> *Id.*

<sup>3</sup> See Daniel Victor, *Hong Kong Protests Put N.B.A. on Edge in China*, N.Y. TIMES (Oct. 7, 2019, 12:15 PM), <https://www.nytimes.com/2019/10/07/sports/basketball/nba-china-hong-kong.html>.

<sup>4</sup> Tariq Panja, *FIFA Set to Reward China With World Cup for Clubs*, N.Y. TIMES (Oct. 20, 2019), <https://www.nytimes.com/2019/10/20/sports/fifa-china-world-cup-expanded.html>.

<sup>25</sup> *Moroccan King Pardons More than 1,000 Protesters*, AL JAZEERA (Jul. 29, 2017, 7:49 PM), <https://www.aljazeera.com/news/2017/07/moroccan-king-pardons-thousand-protesters-170729233326493.html>.

<sup>26</sup> *Moroccan King Pardons Thousands, Including 'Hirak' Protesters*, AL JAZEERA (Jul. 30, 2019, 4:50 AM), <https://www.aljazeera.com/news/2019/07/moroccan-king-pardons-thousands-including-hirak-protesters-190730063730436.html>; *World Report: Morocco/Western Sahara*, *supra* note 2.

<sup>27</sup> See *Morocco Protests*, *supra* note 25.