

AMNESTY INTERNATIONAL

PRESS RELEASE

AI Index: EUR 41/016/2005 (Public)
News Service No: 288
26 October 2005

Spain/Morocco: The authorities must be held accountable for the violation of migrants' rights

"You are nothing but Negroes. You must not ask questions." - C. M. from Mali told Amnesty International that he was addressed in this way by a law enforcement official in a police station in Melilla, Spain.

"It's a prison, not a centre. They don't let us out and it's dirty, they don't clean. There's 17 of us and only one soap. At night we only eat a little bowl of milk with some dates. We normally only eat at 1.00 pm and 18.00. It's because you (Amnesty International) are here that they're feeding us now." A. L. from Mali in a detention centre in Tangier, Morocco.

(Madrid, Spain) Amnesty International delegates found numerous irregularities in the treatment of migrants, including possible asylum-seekers, during a 10-day mission to Spain and Morocco including the towns of Ceuta, Melilla, Oujda, Nador and Tangier. The delegates took testimonies from people fleeing poverty and repression mostly from central and west Africa who were trying to get into the cities of Ceuta and Melilla, either by sea or by climbing the barbed and razor wire protected fence around them.

In the face of the substantial and repeated human rights violations detected by the organization in Melilla and in Ceuta as well as in Morocco, Amnesty International urges both governments to immediately stop all expulsions and refoulement of all migrants and asylum-seekers of sub-Saharan origin.

In the past few weeks, as acknowledged by the authorities of both countries, scores of people have been injured and at least 11 killed while trying to cross into the Spanish enclaves of Ceuta and Melilla when they were confronted by the law enforcement officials of both countries. Amnesty International is investigating other disputed cases. Hundreds more, including possible asylum-seekers, have been rounded up by the Moroccan authorities and placed in detention or forcibly removed.

"The evidence we saw showed that law enforcement officials used force which is both unlawful and disproportionate, including lethal weapons. They injured and killed people trying to cross the fence. Many of those seriously injured inside Spanish territory were pushed back through fence doors without any legal formality or medical assistance," said Javier Zúñiga, head of Amnesty International's delegation and Senior Advisor to Regional Programmes at the International Secretariat in London.

The rights of migrants and asylum-seekers, guaranteed under the Spanish law, are not respected between the two fences, even when they are effectively in the custody of Spanish

law enforcement officials.

Dr. Francisco Etxebarria, a Spanish forensic expert and a member of Amnesty International's delegation, was able to examine injured people as well as photographic and other evidence which, he said, strongly pointed to the inappropriate use of crowd control measures and equipment. He said the law enforcement officials obviously lacked training on how to deal with the particular circumstances when people try *en masse* to cross the fences around Ceuta and Melilla.

Given the gravity and the frequency of the lesions suffered by the people who have tried to cross the fences, Amnesty International urges the authorities of both countries to establish and implement a specific protocol on the use of force for the law enforcement officials operating in this area. The provisions of this protocol must be made public.

Amnesty International also urges the authorities of both countries to ensure that the investigations conducted into the aforementioned events are thorough, prompt, independent and impartial, and that the results are made public. The onus of the proof, in conformity with international standards, must lay on the authorities of both countries and not on the victims nor on the non-governmental organizations working on their behalf.

Both the Spanish and Moroccan governments assured Amnesty International that their respective judicial authorities were investigating the deaths of people whose bodies were found on their own side of the border. However, Amnesty International noted that the authorities of both countries sought to apportion blame to the deaths of the other, or at least to deny that their security forces were criminally responsible. In the case of the at least four deaths which occurred at the border between Ceuta and Morocco on 29 September 2005, both governments told Amnesty International that the other was responsible for all of them.

"Spain and Morocco must investigate independently all deaths and injuries which occurred in the context of these events, including those at or near the Ceuta and Melilla fences, as well as others which may have occurred as the result of mistreatment of migrants and asylum-seekers forcibly removed from the area by Moroccan forces. The full results of those investigations should be made public and any officials found to have used unnecessary or excessive force should be held to account," Javier Zúñiga said.

"Unless the culture of impunity and denial is tackled, more people will be seriously injured, killed or expelled illegally and clandestinely."

To prevent further human rights violations, all the CCTV cameras placed on the fences should be put under judicial control and systematically monitored in order to detect possible human rights violations. Any person reasonably suspected of being responsible for such violations should be brought to justice, in conformity with international standards.

Amnesty International also gathered first-hand information about the hundreds of migrants, reportedly including dozens of asylum-seekers from west and central African countries who were rounded up by the Moroccan security forces in recent days and weeks and detained first in police or *gendarmerie* stations and then in military bases. The organization received numerous reports indicating that those held had been given no information regarding the possible length of their detention, nor had they been afforded the right to a lawyer and to appeal against their custody.

Amnesty International's delegates collected evidence confirming reports that hundreds of migrants, including possible asylum-seekers, were transported in buses, trucks and other vehicles to remote desert regions near the border with Algeria, and then ordered to walk across the frontier towards towns inside Algeria. People from west and central African countries told Amnesty International that they had been left with little or no supplies of food and water. One of them described how a man he travelled with had died of exhaustion as his group walked through the desert back into Morocco.

In its meeting with Moroccan authorities, Amnesty International made known its serious concern about the number of reports it had received of migrants and asylum-seekers being beaten on arrest and having documents issued by the Office of the UN High Commissioner for Refugees (UNHCR) confiscated or destroyed by Moroccan security forces. The recent European Commission technical mission to Morocco found that "there are doubts as to whether Morocco is able to offer in practice effective protection to all those seeking protection inside its territory."

"Refugees have clear and established rights. Both Spain and Morocco must respect their obligations under international standards on the protection of refugees, asylum-seekers and migrants. They must provide them with information about their rights, including access to a legal counsel, to seek asylum, and to appeal against a negative asylum decision as well as related administrative and judicial procedures and safeguards," Javier Zúñiga said.

"The Spanish and Moroccan authorities in particular must allow the UNHCR to play a full role in the protection of asylum-seekers, and must also respect the personal documents issued by this organization to them by UNHCR."

The European Union's (EU) response to the latest crisis is almost exclusively centred on controlling illegal immigration. The report of the recent EU technical mission acknowledges the lack of adequate refugee protection in Morocco. However, the EU's recommendations are wholly inadequate in terms of ensuring the level of refugee protection that EU countries are obliged to offer under international law, ending labour exploitation of undocumented migrants and in helping poorer countries to address the root causes of irregular migration. Amnesty International is particularly concerned by recommendations put forward by the European Union aiming at enhancing migration controls in countries, such as RDC Congo or Côte d'Ivoire, where there are massive human rights abuses.

The EU's approach is also clearly not ensuring the safety and dignity of migrants who may not qualify as refugees under the Geneva Convention criteria but whose human rights nevertheless deserve to be protected.

"Europe must find collective solutions to a problem to which it has contributed, ones that ensure that people are not killed or injured at EU borders, and that those wishing to claim asylum can do so freely," Javier Zúñiga said.

Cases

- J.P., a man in his twenties, fled extreme poverty in Cameroon over a year ago. He made his way to Morocco through Nigeria, Niger and Algeria to Melilla. The first time he entered the Spanish enclave, he made it to the Commissariat where migrants can register and get legal assistance. However, J.P. was expelled immediately to Morocco. The second time he managed to enter Melilla, the Spanish Guardia Civil beat him and shot at him with rubber

bullets from about two metres distance before turning him back. The third time he stormed the fence of the enclave with other migrants, but was expelled again back to Morocco from where the Moroccan authorities expelled him to an area at the border between Morocco and Algeria near the town of Oujda. While in the wilderness, migrants are often beaten and robbed by the Moroccan Auxiliary Forces. At the moment, J.P. is in hiding in Oujda and planning to go back to Melilla and try, once more, to gain entry.

- X and Y are among 500 other West Africans detained at a military compound in Northern Morocco. Six to seven men share each tent while new arrivals are brought in every day. They are given food and water, but there is no medication available on the compound. Both men say they have not been given access to legal counsel, nor have been informed of the reasons or length of their detention. They say they are willing to be repatriated but demand to be released immediately.

- Twenty-three-year old T. S. fled his native Côte d'Ivoire in 2003 after gunmen killed his father and brother in their home. He received refugee status in neighbouring Mali in June 2004. After several months in Mali, he travelled overland to Algeria and then to the Moroccan capital of Rabat. A week later he was arrested in a police raid on the house where he was renting a room. He was taken with dozens of West African migrants to the border and told to walk into Algeria. The policemen refused to acknowledge his refugee status. In Algeria, the group he was with was intercepted and searched by the Algeria military and told to go back to Morocco. The Office of the UN High Commissioner for Refugees in Casablanca confirmed T. S.'s refugee status in November 2004. After being unable to find work, he attempted to climb the fence at Melilla on 9 September 2005 with about 30 other people but, he says, he was the only one who succeeded in crossing into the Spanish enclave. On 19 September 2005 he applied for asylum. At the moment he is in a centre for migrants and asylum-seekers administered by the Spanish authorities.

Public Document

For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5566

Amnesty International, 1 Easton St., London WC1X 0DW. web: <http://www.amnesty.org>

For latest human rights news view <http://news.amnesty.org>