

THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

INDIVIDUAL
INTERNATIONAL
COMPLAINTS AND
COMMUNICATIONS:
ALGERIA, EGYPT,
JORDAN, MOROCCO,
AND TUNISIA

STÉPHANIE
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فرحات، توفيق، كمال، نورالدين،

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The cover of this report reproduces the first names of victims and complainants from the five countries in Arabic.

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ABBREVIATIONS

ACHPR	African Commission on Human and Peoples' Rights
AU	African Union
CAT	Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CED	Committee on Enforced Disappearances
CEDAW	Committee on the Elimination of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CMW	Committee on the Protection of Migrant Workers and Members of their Families
CRC	Committee on the Rights of the Child
CRPD	Committee on the Rights of Persons with Disabilities
CSO	Civil Society Organization
DIDH	Inter-Ministerial Delegation for Human Rights (Morocco)
DIHR	Danish Institute for Human Rights
GHRFPs	Governmental human rights focal points (GHRFPs)
GID	General Intelligence Directorate (Jordan)
HRC	Human Rights Council
HR Committee	Human Rights Committee
HRDs	Human Rights Defenders
LAS	League of Arab States
LGBTQI	Lesbian, Gay, Bisexual, Transgender, Queer, Intersex
MENA	Middle East and North Africa
NGO	Non-Governmental Organization
NHRI	National Human Rights Institution
NMRFs	National Mechanisms for Implementation, Reporting and Follow-up
OHCHR	Office of the High Commissioner for Human Rights
OP-CAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
SP	Special Procedure (of the HRC)
SPT	Subcommittee on Prevention of Torture
UNTBs	United Nations Treaty bodies
WGAD	Working Group on Arbitrary Detention
WGEID	Working Group on Enforced or Involuntary Disappearances

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EXECUTIVE SUMMARY

The Danish Institute for Human Rights supports domestic institutional processes in view of better implementing human rights. The DIHR wants to base its possible future work on the handling of individual international cases (complaints and communications) by governmental human rights focal points (GHRFPs) and other actors of the national human rights system, on a good understanding of the situation, including an inventory of individual cases concerning relevant MENA states (Algeria, Egypt, Jordan, Morocco and Tunisia) and a preliminary analysis of the governments' responses to these complaints and communication procedures.

THE HUMAN RIGHTS MECHANISMS AVAILABLE

- Only the three North African countries have given limited access to the UN treaty bodies.
- The individual communication procedure before the Human Rights Council (HRC) is confidential: it is not possible to get an overview of what is handled there.
- All five countries have received individual communications from the HRC special procedures: Egypt and Algeria are concerned by many individual communications and the high number of outstanding cases before the UN Working Group on enforced or involuntary disappearances. On the contrary, smaller countries such as Jordan or Tunisia have fewer cases before the HRC special procedures.
- The African human rights system is, in principle, relevant to Algeria, Egypt and Tunisia, which are all state parties to the African Charter on Human and Peoples' rights. Only very few cases have been handled by the Commission (23 for the three countries) or are pending before the Court (seven Tunisian cases). Morocco is not a party to the Charter.
- The League of Arab States' human rights mechanism does not appear so far to impact the situation of individual communications in the five MENA countries chosen for this analysis.

CONTENTS OF THE INDIVIDUAL COMMUNICATIONS AND COMPLAINTS

- Only the Human Rights Committee and the CAT have handled individual cases from Algeria, Morocco and Tunisia. They mostly include cases of very serious human rights violations such as torture, arbitrary detention, or disappearances. These cases often include elements of fair trial and access to remedy. The individual communications by the HRC special procedures cover the same types of violations, including patterns of gross and mass violations of human rights in Morocco during the previous regime, in Algeria in the 1990s, and more recently in Egypt following the 2013 military coup.
- The individual cases concerning Tunisia do not cluster around large-scale gross human rights violations like in Algeria or Egypt, or violations involving intelligence and security services like in Jordan. They cover a larger field of less systematic violations even though they are pointing at some structural issues regarding ill-treatment by the police, freedom of expression and the functioning of the justice system.
- The majority of the five countries' individual cases concern journalists, protesters, NGOs activists, HRDs, and individuals suspected of terrorism.

Responses from the respective governments: The responses from the respective governments vary very much according to the country concerned, the period in time and the matter of the case. However, governmental responses to individual complaints to the UN treaty bodies always display hardcore defence of the state's position by the authorities, including contestation of the facts, combatting the admissibility of the applications and the merits of the case.

Some problems can be identified:

- Repetitive cases trigger formal copy paste answers from states and sometimes a state's failure to cooperate (Algerian disappearance cases).
- The numerous cases regarding arbitrary detentions and torture by intelligence and security forces, sometimes including disappearances, often provoke no response or short dismissive explanation of facts and reference to legislative provisions (Egypt and Algeria).
- Political cases trigger political declarations from states (Algerian and Moroccan cases concerning Sahrawi HRDs, journalists or refugees).

Some positive evolution can be observed as states are, in some cases, willing and able to provide detailed information to respond to allegations of arbitrary detention, torture and/or disappearance.

- In 2020, the Algerian Government responded to seven joint communications dealing with the arrest, detention and sentencing of persons (HRD, journalists and NGO activists) who have participated in the Hirak.
- Since 2017, the Moroccan authorities have been answering all communications from the HRC special procedures, with only two exceptions concerning law bills.
- In recent years, the Tunisian authorities have answered the individual communications that they get in most cases.

The way forward: Individual communications and complaints are an important and detailed, though not exhaustive, source of information about the human rights violations taking place at the domestic level. They record the names of the victims of human rights violations, hold the governments accountable for the violations and try to provide redress and some guarantees of non-repetition.

Individual communications and complaints create an interface between domestic and supranational compliance actors where all actors can share information, knowledge, interpretations of standards, assess violations and redress options.

Competent GHRFPs in the MENA region and globally can support the development of well-equipped, fact and knowledge-based and context-aware international and regional human rights mechanisms.

- Give **access to all individual communication and complaint procedures** before the UNTBs to increase possible avenues for redress.
- **Answer all communications** from all UN organs straightforwardly and genuinely. All member states of the UN have an international obligation to cooperate with the UN.
- **Increase knowledge of the procedures and cases** before international and regional human rights mechanisms both within relevant governmental organs and in dialogue with NGOs and academia.
- **Draw on the experiences and good practices** from relevant governmental organs, possibly with support from the OHCHR and other actors.

1. INTRODUCTION

1.1 BACKGROUND

For many years, the Danish Institute for Human Rights (DIHR) has been working with governmental human rights focal points (ministries, National Mechanisms for Implementation, Reporting and Follow-up, etc.) in several countries: Serbia, Montenegro, Burkina, Mali, Niger, Yemen, Kyrgyzstan, Nepal, China, Honduras, Libya, Tunisia and Morocco.¹ Our activities have supported engagement with international and regional systems (reporting and follow-up) and nationally driven processes (law review, strategic planning, national human rights action plans, fact-based dialogue).

The DIHR can recommend states how to enhance institutional processes in view of better implementing human rights. The DIHR has, for instance, a long-standing experience supporting the UN reporting work of governmental human rights focal points (GHRFPs) and their implication in law review or fact-based dialogue.² In the same way, the DIHR is interested in gathering experiences between GHRFPs in the field of international individual communications and complaints and facilitating exchange with other actors involved (treaty body representatives, NHRIs, civil society) and with researchers. Ultimately, the DIHR could produce generic guidance for all its governmental partners.

However, advising state authorities on their handling of individual communications or complaints both during the supranational proceedings and regarding the provision of remedies and reparations necessitates some reflection on what the DIHR can offer as a National Human Rights Institution (NHRI). Individual complaint proceedings before the UN Treaty bodies have a quasi-judicial nature, which implies that the state concerned always argues to defend itself against allegations of human rights violations. Other proceedings, such as individual communications by the UN Special procedures, may have a more dialogue-oriented approach. In any case, it is central to remind partners of the DIHR's inherent protective mandate – and, therefore, its limits in providing such support. This limit is especially true when the DIHR carries out capacity building activities in the context of countries facing situations where numerous serious human rights violations are occurring.

To reflect upon and carry out this work, the DIHR can draw on internal and external research efforts that have focused on the role of GHRFPs within the national human rights system and in its interactions with supra-national levels of human rights protection.

1 see: [concept note, methods documents and examples from projects](#) (internal resource for DIHR staff).

2 see: [methods documents and examples from projects](#) (internal resource for DIHR staff).

BOX 1. RESEARCH PUBLICATIONS ON GOVERNMENTAL HUMAN RIGHTS FOCAL POINTS

2021 [Special Issue](#) for the Netherland Quarterly of Human Rights on Governmental focal points, including Sébastien Lorion and Stéphanie Lagoutte's [introduction](#).

Sébastien Lorion's [2020 PhD](#) and [DIHR 2021 Working Paper](#)

Research project carried out by the human rights implementation centre of the University of Bristol Law School: [2020 Special Issue of the Journal of Human Rights Practice and Guide on providing reparation for human rights cases](#).

See also: Basak Cali: UN treaty body views: a distinct pathway to UN human rights treaty impact? In 2022 [Essays in honour of the lives and legacies of Christof Heyns](#)

In addition, the DIHR wants to base its possible future work on the handling of individual international complaints by GHRFPs on a basic understanding of the situation, including an inventory of individual cases in MENA states and a preliminary analysis of state observations in these individual communications.

1.2 OBJECTIVES

This analysis aims to inventory supranational individual communications and complaints concerning five MENA states (Algeria, Egypt, Jordan, Morocco and Tunisia) and a preliminary analysis of state observations and responses to these procedures.

A preliminary inquiry shows that the five countries are in different situations. For instance, Egypt and Jordan do not allow any access to individual complaints before UN Treaty bodies. At the same time, the three Maghreb countries have accepted the jurisdiction of the Human Rights Committee (Algeria and Tunisia), the Committee against torture, and the Committee on the Elimination of Racial Discrimination (Algeria and Morocco). While all are members of the League of Arab States (LAS), only Algeria and Jordan seem to have ratified the Arab Charter on Human Rights. Finally, Algeria and Tunisia are active members of the African human rights mechanisms.

In addition to individual complaints to the UN treaty bodies and regional mechanisms, GHRFPs may also have to deal with individual communications before the Human Rights Council and before Special Procedures (UN Charter's human rights mechanisms). Here, there is a variety of mechanisms used in all countries, to a larger or lesser extent, by individuals and NGOs. These mechanisms always give the authorities of the state concerned the possibility to give their version of the facts at stake.

This variety in the legal commitments of the states, the kind of mechanisms available and the actual use made of these mechanisms calls for a mapping of the actual situation of these countries regarding individual communications and complaints and an inventory of the individual cases concerned. Therefore, the analysis covers the following elements:

- Status on the avenues offered to individuals in the five countries
- Status of ratifications of the relevant UN treaties, Optional Protocols and declarations regarding individual complaint procedures
- Analysis of the communications and complaints by countries
- Preliminary analysis of the contents and quality of the observations presented by states

The analysis should be supplemented later with an overview and a study of the MENA states' follow-up on decisions of supranational organs, including follow up on redress and reparation. Research work has already been carried out on follow-up (see Bristol University project in the example box above). An analysis showcasing follow-up on individual cases in the MENA region would require a closer look at the follow-up mechanisms of the various international and regional human rights mechanisms and interviews with the relevant GHRFPs to understand the processes in place and their actual functioning in each country.

2. OVERVIEW OF THE HUMAN RIGHTS MECHANISMS AVAILABLE TO INDIVIDUALS

This section gives an overview of the supranational communication and complaint mechanisms available to individuals in the five MENA countries concerned by this analysis: Algeria, Egypt, Jordan, Morocco and Tunisia. In theory, a variety of both regional and international individual communication or complaint mechanisms are available through the nine core UN human rights treaties, the individual complaint procedure under the Human Rights Council, the communication and complaint procedures before the UN Special procedures as well as the regional instruments such as the African Charter on Human and People's rights or the Arab Charter on human rights. The situation, in reality, is very different as many individual complaint mechanisms have not been accepted by the states concerned.

The section looks at the UN human rights treaty-based mechanisms, the UN Charter-based mechanisms, the African Charter on Human and People's Rights and the Arab Charter.

2.1 THE NINE CORE UN HUMAN RIGHTS TREATIES, OPTIONAL PROTOCOLS AND DECLARATIONS

Table 1 presents an overview of the ratification of the nine core UN human rights treaties³ by the five countries concerned by this analysis and the ratification of relevant Optional Protocols on individual complaints or the declarations regarding individual complaints. The table does not include optional protocols adding rights or other mechanisms.⁴

Individuals can claim that they are victims of a violation of human rights in the nine core UN human rights treaties (see Annex A). The nine UN Treaty bodies (CCPR, CERD, CAT, CEDAW, CRPD, CED, CMW⁵, CESC and CRC) may, under certain conditions, consider individual complaints from individuals. While some procedural variations exist between the nine mechanisms, their design and operation are very similar.⁶

The main condition is that the state concerned has recognised the competence of the UNTB through a declaration (CAT, CERD, CMW and CED) or the ratification/accession to the relevant optional protocol (CCPR, CEDAW, CRPD, CESC, and CRC).

3 See links to [the nine core UN human rights treaties](#), OHCHR, 2022.

4 Such as the the 2002 OP-CAT, in force for Tunisia (2011) and Morocco (2014) which creates the SPT and provide for an international mechanism of visits to places of detention.

5 The individual complaint mechanism under the Committee on Migrant Workers (CMW) will become operative when 10 states parties have made the necessary declaration under Article 77 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which is not the case yet.

6 See: [the procedure for complaints by individuals under the human rights treaties](#) on the OHCHR website.

Table 1: Overview of the ratification of the 9 core UN human rights treaties, optional protocols and declarations regarding individual complaints (Algeria, Egypt, Jordan, Morocco, Tunisia) (March 2022)

Treaty	CERD 1965	CCPR 1966	CESCR 1966	DEDAW 1979	CAT 1984	CRC 1989	CMW 1990	CRPD 2006	CED 2006
Individual complaints	Art. 14	OP 1966	OP 2008	OP 1999	Art. 22	OP 2011	Art. 77	OP 2006	Art. 31
ALGERIA									
Ratification	1972	1989	1996a	1996a	1989	1993	2005a	2009	no
Individual complaints	1989	1989	no	no	1989	no	no	no	-
No. of cases	0	54	-	0	7	-	-	-	-
EGYPT									
Ratification	1967	1982	1982	1981	1986a	1990	1993a	2008	no
Individual complaints	no	no	no	no	no	no	no	no	-
JORDAN									
Ratification	1974a	1975	1975	1992	1991a	1991	no	2008	no
Individual complaints	no	no	no	no	no	no	-	no	-
MOROCCO									
Ratification	1970	1979	1979	1993a	1993	1993	1993	2009	2013
Individual complaints	2006	2022	no	2022	2006	no	no	2009	no
No. of cases	0	0	-	0	16	-	-	0	-
TUNESIA									
Ratification	1967	1969	1969	1985	1988	1992	no	2008	2011
Individual complaints	no	2011	no	2008	1988	2018a	-	2008	no
No. of cases	-	1	-	0	10	0	-	0	-
(a) means Accession and not Ratification									

The table above gives a somewhat contrasted picture of the situation. While all states have ratified eight of the nine core UN human rights treaties (Morocco has ratified all of them), only the three North African states have recognised the competence of UNTBs to receive individual complaints.

- Algeria has accepted the competence of three UNTBs: CERD, Human Rights Committee and CAT.
- Tunisia has accepted the competence of five UNTBs: Human Rights Committee, CEDAW, CAT, CRC and CRPD.
- Morocco has accepted the competence of five UNTBs: CERD, CAT, CRPD and since April 2022, the Human Rights Committee and the CEDAW.

However, the number of individual complaints received by the relevant UNTBs is extremely low. The CAT is the Committee receiving relatively the most complaints (the 44 Algerian communications to the Human Right Committee concerned in their large majority cases of enforced disappearances in the '90s).⁷

Egypt and Jordan have not allowed persons under their jurisdiction to present human rights claims before any UNTB.

2.2 INDIVIDUAL COMMUNICATIONS TO THE HUMAN RIGHTS COUNCIL

On 18 June 2007, the Human Rights Council (HRC) adopted resolution 5/1 entitled "Institution-Building of the United Nations Human Rights Council", by which a new complaint procedure was established to address consistent patterns of gross and reliably attested violations of all human rights and all fundamental freedoms occurring in any part of the world and under any circumstances.⁸

The individual communication procedure addresses communications submitted by individuals, groups, or non-governmental organisations claiming to be victims of human rights violations or having direct, reliable knowledge of such violations. It does not require any preliminary acceptance of the procedure by the state concerned. It must be noted that the procedure addresses consistent patterns of gross and reliably attested violations of human rights, not isolated individual cases treated by other UN special procedures and treaty bodies.

These individual communications are dealt with by the HRC Working Group on Communications, which examines the individual written communications, and the Working Group on Situations, which brings the consistent patterns of gross and reliably attested violations of human rights to the attention of the HRC. The States Members of the HRC examine, in a confidential manner, the situations referred to it by the Working Group on Situations. They may decide to discontinue considering the situation when further consideration or action is not warranted or keep the situation under review and request the State concerned to provide further information within a reasonable period. They may also decide to keep the situation under review and appoint an independent and highly qualified expert to monitor the situation and report back to the Council or recommend the OHCHR to provide technical cooperation, capacity-building assistance or advisory services to the State

7 See below.

8 <https://www.ohchr.org/en/hrbodies/hrc/complaintprocedure/pages/hrccomplaintprocedureindex.aspx>

concerned. Finally, they may also decide to discontinue reviewing the matter under the confidential complaint procedure to take up public consideration of the same.⁹

All the material provided by individuals and governments and the decisions taken at the various stages of the procedure remain confidential and are therefore not made public. The confidentiality of the procedure purports to enhance cooperation with the State concerned. Therefore, no database offers access to the individual communications treated by the Human Rights Council. However, a document presents an overview of the history of situations 2006-2014 where the five countries concerned by this analysis do not figure. It has not been possible to find other overviews by other methods, including contacting the Individual complaint unit of the HRC.

2.3 INDIVIDUAL COMMUNICATIONS OF THE HUMAN RIGHTS COUNCIL'S SPECIAL PROCEDURES

The five countries cooperate with the Human Rights Council's special procedures to various extents. Jordan and Tunisia have extended a standing invitation to all special thematic procedures, respectively, in 2006 and 2011. Morocco has invited and been visited by several special procedures mandate holders working on various issues.¹⁰ Algeria¹¹ and Egypt¹² have done so to a lesser extent.

For the purpose of this analysis, it is interesting to focus on the communication mechanism of the Human Rights Council's special procedures. All Special Procedures can send individual communications to governments (as well as other actors such as intergovernmental organisations or businesses, including military or security companies). In these communications, the mandate holders can, among other things, request clarifications on allegations of past or ongoing human rights violations they have received. Based on applicable human rights provisions, they may request that the concerned authorities take action to prevent or stop the violation, investigate it, bring to justice those responsible and make sure that remedies are available to the victim(s) or their families.

These communications by the mandate holders are not an individual complaint procedure as such. Their purpose is to raise the awareness of both states and the Human Rights Council on alleged human rights violations in a country and ask the state concerned that the violations are prevented, stopped, investigated, or that remedies are provided to the victims. These communications are not a quasi-judicial procedure opposing an individual to the state (such as the procedure before the UNTBs). The mandate holder decides whether to act or not on credible and detailed information submitted by any individual, NHRI, civil society organisation or an intergovernmental entity.

9 This happens very rarely, see situation of human rights in Eritrea A/HRC/RES/21/1.

10 Note verbale of 6 May 2013

11 Note verbale of 2 July 2013

12 Note verbale of 10 August 2016

The state concerned is expected to answer these communications by responding to the measures taken to stop, investigate the violations, punish those responsible and provide remedies to victims. *Compilations of communications* sent and responses received are published in a report prepared for each session of the Human Rights Council.

BOX 2. COMMUNICATIONS OF THE HUMAN RIGHTS COUNCIL'S SPECIAL PROCEDURES

A check in the [Communications Reports](#) database for communications sent and replies received provides the following information for the period 2010-2022:

Algeria	58 communications	Egypt	179 communications
Jordan	20 communications	Morocco	61 communications
Tunisia	44 communications		

(April 2022)

In addition, two special procedures - the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances - receive and handle actual individual communications. They apply other procedures and methods of work.¹³

2.3.1 COMMUNICATION PROCEDURE AND URGENT APPEALS TO THE UN WORKING GROUP ON ARBITRARY DETENTION

The Working Group on Arbitrary Detention (WGAD) investigates alleged cases of arbitrary detention by sending urgent appeals and communications to governments to clarify and/or bring their attention to these cases. The WGAD also considers individual cases under its regular communication procedure, leading to the adoption of opinions as to the arbitrariness of the detention. The WGAD is a Charter-based human rights mechanism under the Human Rights Council. It may receive the petition of any individual anywhere in the world without prior recognition of its jurisdiction by the states concerned.

According to its [methods of work of the Working Group on Arbitrary Detention](#), the WGAD follows two procedures:

1. Investigation of individual cases: The WGAD acts on communications regarding alleged cases of arbitrary detention that it receives. The communications may be submitted by the individuals concerned, their families, their representatives, non-governmental organisations or inter-governmental organisations.
2. Urgent action procedure: the WGAD has developed an 'urgent action' procedure

¹³ [Methods of work of the Working Group on Arbitrary Detention and Methods of work of the Working Group on Enforced or Involuntary Disappearances](#)

for time-sensitive cases in which there are sufficiently reliable allegations that a person may be detained arbitrarily and that the continuation of the detention may constitute a serious danger to that person's health or life. In this case, the state must immediately take all necessary measures to ensure that the person's human rights are protected. Such communications are often sent jointly with other Special Procedures.

Regarding individual cases, the WGAD transmits the allegation(s) to the state concerned through diplomatic channels with an invitation to reply to the Working Group within 60 days with its comments and observations on the allegations made. It should respond to the facts presented, any relevant legislation and the progress/outcome of any investigations that may have been initiated. The authorities' reply to the working group is sent to the source for any final comments or observations. The whole procedure is a written procedure. It will then trigger the adoption of an opinion of the WGAD regarding the arbitrariness of the detention.

BOX 3. OPINIONS OF THE WORKING GROUP ON ARBITRARY DETENTION (SOURCE: OHCHR WEBSITE)

1. If the person has been released, for whatever reason, following the reference of the case to the Working Group the case may be filed; the Group, however, reserves the right to render an opinion, on a case-by-case basis, about whether or not the deprivation of liberty was arbitrary, notwithstanding the release of the person concerned;
2. If the Group considers that the case is not one of the arbitrary deprivation of liberty, it shall render an opinion to this effect;
3. If the Group considers that further information is required from the Government or the source, it may keep the case pending until that information is received;
4. If the Group considers that it is unable to obtain sufficient information on the case, it may file the case provisionally or definitively;
5. If the Group decides that the arbitrary nature of the deprivation of liberty is established, it shall render an opinion to that effect and make recommendations to the Government.

The opinion then recommends that the State take appropriate actions (usually the release of the individual) and may also ask for reparations (e.g. compensation) as well as guarantees of non-repetition.

Each opinion entails a follow-up section where the Government and the source are asked to respond within six months on the steps taken regarding the implementation of its recommendations. The WGAD may also invite other parties, such as civil society organizations, to provide further relevant information and documentation on the situation.

The WGAD issues approximately 70-90 opinions per year, all adopted during its sessions. Once adopted, each opinion is a public document. Basic information on the opinions adopted is included in the annual report of the WGAD, and all opinions are published in the WGAD database.¹⁴

BOX 4. OPINIONS OF THE WORKING GROUP ON ARBITRARY DETENTION (PERIOD 1992-2022)

Algeria	16 opinions	Egypt	50 opinions
Jordan	7 opinions	Morocco	23 opinions
Tunisia	17 opinions		

(source: WGAD opinions database, March 2022)

2.3.2 INDIVIDUAL CASES BEFORE THE UN WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES¹⁵

The primary task of the UN Working Group on Enforced or Involuntary Disappearances (WGEID) is to assist families in determining the fate or whereabouts of their family members who have disappeared. The WGEID receives, examines and transmits to states the reports of enforced disappearances submitted by relatives of disappeared persons or human rights organisations acting on their behalf. The WGEID can request states to conduct investigations and inform the working group of the results. The WGEID follows up on those requests for information periodically. Those cases remain open in the Working Group's database until the fate or whereabouts of the person is determined. Contrary to the WGAD, the WGEID does not adopt opinions on the situations presented before it.

This Working Group exists side by side with the UN Committee on Enforced Disappearances, established by the 2010 International Convention for the Protection of all Persons from Enforced Disappearances. This collaboration considers that while the competence of the Committee will be limited to those states that have ratified the Convention, the WGEID can consider the situations that took place before the entry into force of the Convention or the situation in all countries without prior recognition of its jurisdiction by the states concerned.

The WGEID follows an urgent procedure for recent cases and a standard procedure to handle these and other cases. These procedures are described in the Methods of work of the Working Group on Enforced or Involuntary Disappearances. In addition, cases of intimidation, persecution or reprisal against relatives of disappeared persons, witnesses to disappearances or their families, members of organisations of relatives and other

¹⁴ To access the opinions in all six UN languages, please use the Official Document System of the United Nations

¹⁵ <https://www.ohchr.org/EN/Issues/Disappearances/Pages/DisappearancesIndex.aspx>

non-governmental organisations, human rights defenders or individuals concerned with disappearances are transmitted to the pertinent States, with the appeal that they take steps to protect all the fundamental rights of the persons affected. In all cases, the responding states are expected to investigate and report back to the WGEID on the fate or the whereabouts of the persons concerned by the case.

In addition, the WGEID regularly transmits to States a summary of allegations received or gathered from States, reliable sources, such as relatives of disappeared persons, or credible non-governmental organisations concerning obstacles encountered in the implementation of the Declaration in any State, and requests the State to comment thereon if it so wishes. General allegations will be reflected in the post-sessional documents and the annual report of the Working Group.

The WGEID may adopt any follow-up measures that it considers appropriate. All replies received from States concerning urgent appeals, general allegations, prompt interventions and other communications are examined by the WGEID and summarised in its post-sessional documents and the annual report submitted to the Human Rights Council. When pertinent, any information provided by the state on those communications is forwarded to the sources, who are invited to make observations thereon or to provide additional details.

Since its inception in 1980, the WGEID has transmitted a total of 59,212 cases to 110 States. The number of cases under active consideration that have not yet been clarified, closed or discontinued stands at 46,490 in a total of 95 States.¹⁶ During the last reporting period (May 2020 to May 2021), 376 cases were clarified.¹⁷

2.4 THE AFRICAN COMMISSION AND COURT OF HUMAN AND PEOPLES' RIGHTS

This section contains an overview of the ratification and declaration of the African Charter on Human and Peoples' Rights and its Protocol establishing the African Court. It also contains an overview of the individual applications before the African Commission and the Tunisian cases before the African Court.

The African Charter on Human and Peoples' Rights was adopted in June 1981 and entered into force on 21 October 1986. Tunisia ratified in 1983, Egypt in 1984 and Algeria in 1987 (see table below). The African Commission has automatic jurisdiction over the rights set out in the African Charter. Its duties include examining national reports on the human rights situation that each State is required to submit every other year, adopting resolutions and declarations, country visits, and adjudicating communications (complaints) submitted by the Member States, individuals, and NGOs. There is no system of prior declaration.

The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights was adopted on 10 June 1998 and entered into force on 25 January 2004. Article 34 of the Protocol

¹⁶ [Report of the Working Group on Enforced or Involuntary Disappearances to the Human Rights Council, October 2020, A/HRC/48/57.](#)

¹⁷ *Idem.*

BOX 5. GENERAL ALLEGATIONS TRANSMITTED TO STATES BY THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCE

- [Algeria 2020](#) and [Algeria 2018](#): enforced disappearances of Sahrawi refugees by the Polisario Front in Algerian refugee camps (Tindouf). However, the bulk of the Algerian cases concerns the large-scale disappearances which took place during the civil war in the 90's.
- [Egypt 2017](#): Disappearance cases of several individuals, after a terrorist attacks: no warrants for arrests carried out by the State Security and Police Forces, followed by secret or incommunicado detentions which placed arrested individuals outside the protection of the law, for days and weeks. During their detention, all victims were subjected to severe forms of torture and ill-treatment.
- [Egypt 2016](#): patterns of short-term enforced disappearances of young men by State Security Forces, poor conditions of detention and repeated torture and ill-treatment.
- Historical cases concerning Morocco: massive enforced disappearances under the former regime (1956 to 1990) and truth and reconciliation process ([Morocco 2020](#)) and over 400 cases of disappearance on the Territory of Western Sahara attributable to Moroccan security forces from 1975 to 1993 ([Morocco 2013](#)).

(see also below section 5 which gives an overview of individual communications and cases country by country)

stipulates that "at the time of ratification of this Protocol or any time thereafter, the State shall make a declaration accepting the competence of the Court to receive cases under Article 5(3) of this Protocol. The Court shall not receive any petition under Article 5(3) involving a State which has not made such a declaration." Article 5(3) states as follows: "The Court may entitle relevant Non-Governmental Organisations (NGOs) with observer status before the Commission, and individuals to institute cases directly before it, in accordance with Article 34(6) of this Protocol".

- Thirty-one states have ratified the protocol: **Algeria**, Benin, Burkina Faso, Burundi, Cameroon, Chad, Côte d'Ivoire, Comoros, Democratic Republic of Congo, Republic of the Congo, Gabon, Gambia, Ghana, Kenya, Libya, Lesotho, Mali, Malawi, Mozambique, Mauritania, Mauritius, Nigeria, Niger, Rwanda, Sahrawi Arab Democratic Republic, South Africa, Senegal, Tanzania, The Gambia, Togo, **Tunisia**, and Uganda (as of April 2021).
- Six state parties to the protocol have made a declaration recognising the competence of the Court to receive cases from non-government organisations (NGOs) and individuals. The nine states are Burkina Faso, Ghana, Mali, Malawi, the Gambia and **Tunisia**. Four states have withdrawn from the declaration originally made: Benin (2020), Côte d'Ivoire (2020), Rwanda (2016) and Tanzania (2019) (as of April 2021).

BOX 6. NUMBER OF OUTSTANDING CASES BEFORE THE WGEID AT THE END OF THE LAST REPORTING PERIOD (OCTOBER 2020)

Algeria	3253 cases	Egypt	289 cases
Jordan	2 cases	Morocco	153 cases
Tunisia	13 cases		

(source: Report of the Working Group on Enforced or Involuntary Disappearances to the Human Rights Council, October 2020, A/HRC/48/57)

THE SITUATION REGARDING THE THREE MENA COUNTRIES: ALGERIA, EGYPT AND TUNISIA

NB: **Morocco** has not yet signed the African Charter on human and peoples' rights. Morocco was a member of the African Union (AU)'s predecessor, the Organisation of African Unity (OAU), from 1963 to 1984. Morocco withdrew from the OAU in 1984 when a majority of member states supported the admission of the Sahrawi Arab Democratic Republic, proclaimed by the Polisario Front in 1976, claiming representation of Western Sahara, which Morocco claims as an AU member. Morocco is now a member of the AU since 2017

Table 2: African human rights mechanisms: overview of ratifications, declarations, individual applications and cases (March 2022)¹⁸

	African Charter on Human and People's Rights 1981/1986 African Commission	Protocol African Court 1998/2004
Algeria		
treaty & OP	1 March 1987	Ratification 3 March 2003
Jurisdiction	Yes	No declaration
Number of cases	2	-
Egypt		
Treaty & OP	20 March 1984	No ratification
Jurisdiction	Yes	No ratification
Number of cases	20	-
Tunisia		
Treaty & OP	16 March 1983	Ratification 21 August 2007
Jurisdiction	Yes	Declaration Art 34(6) 13 April 2017
Number of cases	1	7

¹⁸ For an updated status of the three countries before the African Commission Human and Peoples' Rights, check the country pages on the website of the African Commission (ACHPR homepage): [Algeria](#), [Tunisia](#), and [Egypt](#).

In addition, it can be noted that the African Commission has also adopted resolutions concerning human rights issues in the three countries, which all are reactions to serious and numerous violations at some points in time, for instance, during the Hirak and the presidential election in Algeria in 2019,¹⁹ concerning the human rights situation after the Arab Spring, the election and the coup in Egypt,²⁰ concerning the situation of HRD in Tunisia under president Ben Ali²¹ or the violent events in Kabylia in 2001.²²

2.5 THE ARAB CHARTER ON HUMAN RIGHTS

The five states are members of the League of Arab States (LAS). The Council of the League of Arab States, a political organ composed of the Ministers of Foreign Affairs, adopted the Arab Charter on Human Rights on 22 May 2004. An earlier version of this Charter was adopted in 1994 but never ratified. The 2004 Charter provides for a seven-person Committee of Experts on Human Rights to consider states' reports. The Charter entered into force in 2008 after seven of the members of the LAS had ratified it. Even though the Arab Charter affirms many principles contained in the Universal Declaration of Human Rights and the 9 UN core treaties, including the right to liberty and security of persons, equality of persons before the law, protection of persons from torture, or the right to own private property), it has been criticised to be incompatible with the UN's understanding of human rights, including with respect to women's and children's rights.²³

In 2014 the Council of the League of Arab States adopted the Statute of the Arab Court of Human Rights (Resolution n° 7790, E.A (142) C 3, 07/09/2014). The Statute of the Arab Court is neither attached to the 2004 Charter nor adopted as a protocol to the LAS Charter but conceived as a separate juridical organ having a (not appropriately described) affiliation to the LAS.²⁴ The Statute allows inter-state litigation concerning violations of the Charter: "The State Party whose citizen claims to be a victim of a human rights violation has the right to access the Court, provided that both the claimant State and the Defendant State are party to this Statute, or they have accepted the jurisdiction of the Court as determined by Article 20 of the Statute" (Art. 19.1). In addition, the Statute allows accredited NGOs to access the Court: "State Parties can accept, when ratifying or acceding to the Statute or at any time later, that

19 [ACHPR/Res.414\(LXIV\)2019 #414](#)

20 [ACHPR/Res.297\(EXT.OS/XVII\)2015 #297](#) (Deteriorating Human Rights Situation in Egypt); [ACHPR/Res.287\(EXT.OS/XVI\)201 #287](#) (Human Rights Abuses); [ACHPR/Res.288\(EXT.OS/XVI\)201 #288](#) (Sexual Assault and Violence) ; [ACHPR/Res.240\(EXT.OS/XIV\)2013 #240](#) (Human Rights Situation)

21 [ACHPR/Res.56\(XXIX\)01 #56](#)

22 [ACHPR/Res.57\(XXIX\)01 #57](#)

23 Armis Sadri, The Arab human rights system: achievements and challenges, *The International Journal of Human Rights* 2019 Volume 23:7; Fabienne Quilleré-Majzoub, Tarek Majzoub, Le préambule de la Charte arabe des droit de l'homme: vers un «aggiornamento» des droits de l'homme dans les États arabes? *Revue trimestrielle des droits de l'homme*, 2018 Vol. 29 : 114.

24 It must be noted that the lack of available official public records of the LAS creates some confusion as to formal affiliations or ratifications of instruments, see Konstantinos D. Magliveras, Completing the Institutional Mechanism of the Arab Human Rights System The Arab Court of Human Rights, *International Human Rights Law Review*, 2017 Vol. 6: 1.

one or more NGOs that are accredited and working in the field of human rights in the State whose subject claims to be a victim of a human rights violation has access to the Court” (art. 19.2). Finally, Article 21 allows the Arab Court to issue advisory opinions, under restrictive conditions. Most importantly, the Statute does not open for individual cases to be brought to the Court. As of today, 13 (out of 22) states have ratified the Arab Charter on Human Rights.²⁵

Only Algeria and Jordan have ratified the Arab Charter among the states this analysis concerns. The Statute of the Arab Court of Human Rights has not entered into force as only one country, Saudi Arabia, has ratified the Statute in 2016. As it is now, the League of Arab States’ human rights mechanism does not appear to impact the situation of individual communications in the five MENA countries chosen for this analysis.

25 Algeria, Bahrain, Iraq, Jordan, Kuwait, Lebanon, Libya, Palestine, Qatar, Saudi Arabia, Syria, UAE and Yemen

3. ANALYSIS OF INDIVIDUAL COMMUNICATIONS AND COMPLAINTS

This section gives a picture and an analysis of supranational individual communications and complaints by country. The purpose here is to get an overview of which mechanisms individuals have used, in which circumstances, and the overall response of the state concerned.

As the procedure for individual communication to the Human Rights Council is confidential, and the Arab human rights system is not fully functioning, the rest of this analysis focuses on individual cases before the UN treaty bodies, the individual communication received by HRC special procedures and the African human rights system. The situation varies from country to country, as presented in section 2.

3.1 ALGERIA

Algeria has had to deal with individual cases and communications before the UNTBs and the UN HRC special procedures. Most individual cases concern serious and multiple human rights violations, including many enforced disappearances cases from the 90s that are still coming through the UN human rights mechanisms and arbitrary arrest, detention and sentencing of HRDs, journalists, and NGOs activists. A few cases concern ill-treatment, torture, and extra-judicial killings.

3.1.1 THE UN TREATY BODIES

Table 3: Algeria and the nine core UN human rights treaties (ratification and individual complaints) (March 2022)

ALGERIA	ICERD 1965	ICCPR 1966	ICESCR 1966	CEDAW 1979	CAT 1984	CRC 1989	ICMW 1990	CRPD 2006	CED 2006
Ratification/ accession	1972	1989	1989	1996a	1989	1993	2005a	2009	N/A
Individual communications	Art. 14 Decl. 1989	1989	OP not signed	OP not signed	Art. 22 Decl. 1989	OP not signed	No decl. (Art. 77)	OP not signed	-
Number of cases	0	54	54	-	7	-	-	-	-

In 1989, Algeria accepted the competence of three UNTBs: the Committee on the Elimination of Racial Discrimination (CERD), the Human Rights Committee (HR Committee) and the Committee against Torture (CAT). This acceptance happened in the aftermath of the 1988 October riots and the adoption of a new Constitution in February 1989, which introduced a multi-party system and proclaimed several rights.

The statistics presented in Table 1 show that the HR Committee has handled 44 cases while the CAT received six communications. Almost all complainants are represented by the NGOs Collectif des familles de disparus, the Track Impunity Always (TRIAL) or the Fondation Alkarama.

Most of these cases concern the allegations of violations (abductions and enforced disappearances) committed by the Algerian security forces in the context of the ten-year civil war known as the black decade (*décennie noire*). Violence and mass atrocities occurred following the annulation of the national election of 1991 due to a terror campaign by Islamist armed groups and large-scale violent repression by security forces. For instance, in 2011, the CAT found violations of Articles 1, 2, paragraphs 1, 11, 12, 13 and 14 of the Convention in the Fatiha Sahli case that concerns the abduction and the disappearance of the victim by the police in 1998.²⁶ The HR Committee has also concluded multiple violations of the ICCPR in many similar cases.²⁷

In all cases before the Human Rights Committee, the Algerian state argues that the applications should be declared inadmissible because the 2006 Charter for Peace and National Reconciliation handles the issue of disappearances from the period 1993 to 1998²⁸. The State party explains the political and security context surrounding the relevant period. It explains that it was in this context, and in conformity with articles 87 and 91 of the Constitution, that the Government implemented precautionary measures and informed the United Nations Secretariat of its declaration of a state of emergency, in accordance with Article 4 (3) of the Covenant.²⁹

The main legal issue in these cases concerns the impunity of members of armed groups and state officials after the adoption of Order No. 06-01 establishing the Charter for Peace and National Reconciliation which provides for an amnesty for members of armed groups and state officials. The HR Committee and CAT views on the cases mentioned above³⁰ and the HR Committee and CAT concluding observations in their latest review of Algeria³¹ concur. The Charter for Peace and

26 Fatiha Sahli v. Algeria, CAT Views of 3 June 2011, CAT/C/46/D/341/2008

27 For recent cases see the HR Committee Views of 19 October 2020 in the cases of Tassadit Berkaoui (CCPR/C/130/D/2639/2015), Mohammed Dafar (CCPR/C/130/D/2580/2015) and Fatima Rsiwi (CCPR/C/130/D/2843/2016) and HR Committee Views of 27 March 2020 in the cases of Rachid Braih (CCPR/C/128/D/2924/2016), Ahmed Souaiene and Aïcha Souaiene (CCPR/C/128/D/3082/2017) and Djegdjiagua Cherguit (CCPR/C/128/D/2828/2016). See also: communications 2398/2014 Arab Millis, Views of 6 April 2018; 2283/2013 Abdelkader Boudjema, Views of 30 October 2017; 2267/2013 Lounis Khelifati, Views of views of 28 July 2017; 2259/2013 Malika El Boathi, Views of 17 March 2017; 2157/2012 Rafik Belamrania, Views of 27 October 2016.

28 Order No. 06-01 establishing the Charter for Peace and National Reconciliation, 27 February 2006, JORADP n°11, 28 February 2021.

29 Boudjema v. Algeria, HR Committee Views of 30 October 2017, (CCPR/C/121/D/2283/2013), para. 5.3 ff.

30 See previous footnote.

31 2018 CCPR Concluding observations on the fourth periodic report of Algeria, CCPR/C/DZA/CO/4 and 2008 CAT Concluding observations on the third periodic report of Algeria, CAT/C/DZA/CO/3.

National Reconciliation's Article 45 provides that "no proceedings may be instituted individually or collectively against any of the components of the defence and security forces of the Republic for actions taken to protect persons and property, safeguard the nation and preserve the institutions of the Republic of Algeria", without excepting international crimes such as torture or enforced disappearance. The CAT and the ICCPR have repeatedly reminded the Algerian state that prosecution may not be waived under any circumstances for international crimes such as torture, including rape, or enforced disappearance, which are crimes to which the statute of limitations does not apply.

In addition, both Committees consider that the provisions of the Charter are not consistent with the obligation of every State party to conduct an impartial investigation wherever there is reasonable ground to believe that an act of torture or enforced disappearance has been committed in any territory under its jurisdiction, to prosecute the perpetrators of such acts and to compensate the victims. Both Committees require that the Algerian state "immediately take all necessary steps to guarantee that past or recent cases of torture, including cases of rape, and enforced disappearance, are investigated systematically and impartially, the perpetrators of such acts are prosecuted and punished in a manner commensurate with the gravity of the acts committed and the victims are adequately compensated".

The Algerian state considers that the human rights committee has no reason to consider the merits of the case and, consequently, refuses to cooperate with the Human Rights Committee on the examination of the merits of the case once it has been declared admissible.³² Both Committees have been underlying the lack of cooperation of the Algerian state in all of these cases. It must be noted here that the bulk of the 3253 outstanding Algerian cases before the Working Group on Enforced or Involuntary disappearances deals with similar allegations.³³

This lack of cooperation of the Algerian authorities is also deplored in most of the remaining cases concerned with arbitrary arrest and detention, including allegations of torture in some cases in more recent years. These cases concern arrest and arbitrary detention by intelligence or security forces more

recently, including one concerning a POLISARIO member³⁴ or torture in custody resulting in the death of the victim. The most recent case submitted to the HR Committee concerns the arrestation of Mr Abderrahmand Labreche on 29 June 2012 by agents of the Department of Research and Security (DRS) at Algiers International Airport. It is alleged that he was secretly detained and subjected to torture and other ill-treatment until his release on 14 July 2012.³⁵ In several of these cases, the Committees underline and regrets the Algerian state's failure to cooperate. The state did not send information nor comments on the admissibility and the merits of

32 Ahmed Souaiene and Aïcha Souaiene (CCPR/C/128/D/3082/2017), para. 6; Mezine

33 See above section 4.3.3. and below section 5.1.2

34 Rachid Braïh v. Algeria, HR Committee Views of 27 March 2020, CCPR/C/128/D/2924/2016, para. 9.

35 <https://www.alkarama.org/en/articles/algeria-un-human-rights-committee-seized-abderrahmane-labreche-case>

the complainants or sent them passed the deadline, despite several invitations from the Committees.³⁶

There are a couple of isolated cases before both Committees. The most recent case before the CAT concerns the failure of the Algerian State to investigate a case concerning intimidations and threats against a judge carrying out his functions, in which the CAT found a violation of Article 13.³⁷ In 2016, the HR Committee found multiple violations of the ICCPR in a case of a criminal conviction for reporting acts of corruption.³⁸ Here again, the HR Committee underlines the total failure of the Algerian State to cooperate.³⁹

3.1.2 THE UN HUMAN RIGHTS COUNCIL'S SPECIAL PROCEDURES

The Communications Reports database for communications sent by HRC Special procedures and replies lists 55 communications concerning Algeria from 2010 to 2021. Most of the communications concern the arbitrary arrest and detentions of HRDs, journalists and NGOs activists, and freedom of expression and freedom of associations. The Algerian Government replies to two-thirds of the communications giving its detailed version of the situation in most cases. The Government did not reply to 17 communications out of 46 for 2010-2021. An overview of recent cases is presented below.

The most recent case in 2021 is a joint communication from 15 HRC Special procedures on the alleged situation of Algerian citizens in the Syrian camps of Al Hoz and Roj (700 victims). This joint communication concerns many European and MENA states. The Algerian authorities are communicating with the HRC special procedures on this case.⁴⁰

In 2020, the Algerian Government responded to seven joint communications dealing with the arrest, detention and sentencing of persons who have participated in the Hirak (HRD, journalists and NGO activists).

36 See for instance concerning the CAT: Djamila Bendib v. Algeria, CAT Views of 3 June 2011, CAT/C/51/D/376/2009 §4; Nouar Abdelmalek v. Algeria, CAT Views of 23 May 2014, CAT/C/52/D/402/2009 §10

37 L. A. v. Algeria, CAT Views of 12 May 2016, CAT/C/57/D/531/2012

38 Kouider Kerrouche v. Algeria, Views of 3 November 2016, CCPR/C/118/D/2128/2012.

39 Idem, para. 6.

40 Communication 16 January 2021: DZA 1 2021 joint communication Al Hoz and Roj (27 pages); reply #1 18 January 2021: DZA 1 2021 Reply 1 from the government (1 page); and reply #2 19 March 2021: DZA 1 2021 Reply 2 from the government (3 pages)

BOX 7. EXAMPLES OF RESPONSES OF THE ALGERIAN GOVERNMENT TO INDIVIDUAL COMMUNICATIONS (2020)

M. Yacine Mebarki: [DZA 6/2020](#) and [reply from the Algerian government](#)
 M. Mohamed Khaled Drareni: [DZA 4/2020](#) and (formal) [reply from the Algerian government](#)
 M. Karim Tabbou: [DZA 3/2020](#) and [reply # 1](#) , [reply #2](#) and [reply #3 from the Algerian government](#).
 M. Slimane Hamitouche: [DZA 1/2020](#) and [reply from the Algerian government](#).

In addition, two 2020 cases concerned Sahrawi refugees. The first one, to which the Algerian Government has replied, concerns information about the extra-judicial killing of two Sahrawi refugees by the Algerian security forces on a mining site near the Dakhla camp. The situation potentially further concerned 16 alleged victims.⁴¹ The other case concerns the violation of a Sahrawi woman's private life and dignity following her cooperation with UN human rights mechanisms, including the public diffusion of intimate pictures taken from her husband's phone ([DZA 2/2020](#)). The Algerian Government did not reply to this communication.

In the period 2017-2019, most of the communications concern the arbitrary arrest and detention and harassment of journalists, bloggers, lawyers, HRDs and other NGOs activists. The Algerian Government replies to most of this case by stating its own facts to dismiss the allegations presented in the communications.⁴²

In 2016, a communication ([DZA 6/2016](#)) was sent to the Algerian Government regarding information received on the collective and arbitrary expulsion of about 1400 Sub-Saharan migrants towards Niger.⁴³ In its [reply](#), the Algerian Government mentions the role played by the then National Commission for human rights in supporting the effort of the Algerian state in its work on migration. The five other communications concerned HRDs, arbitrary detention and freedom of expression and demonstration.⁴⁴

Several communications deal directly or indirectly with the enforced disappearances during the 1990's civil war: [DZA 8/2013](#) looks into the lack of investigations by the authorities after discovering a mass grave. [DZA 2/2013](#), [DZA 4/2013](#) and [DZA](#)

41 [DZA 7/2020](#); and [reply from the Algerian government](#). This situation is also mentioned in the report of the UN Secretary-General to the Human Rights Council on the situation concerning West Sahara, October 2021, S/2021/843, para. 78.

42 The communications concern M. Fadel Breika and M. Moulay Abba Bouzaid ([DZA 2/2019](#)); M. Salah Dabouz, M. Fekhar, M. Hadj Ibrahim Aouf and M. Kamal Eddine ([DZA 3/2019](#) and [reply from the Algerian government](#)); M. Amine Fadha and M. Nouredine Ahmine ([DZA 1/2018](#); and [reply from the Algerian government](#)); six alleged victims: journalists, HRDs and their family ([DZA 5/2018](#) and [reply from the Algerian government](#)), M. Fekhar [DZA 1/2017](#) See also: et 2/2017.

43 See also [DZA 3/2018](#); and [reply from the Algerian government](#).

44 [Reply from the government \(2016\)](#).

[6/2013](#) look into the use of force during demonstrations organised by NGOs working on enforced disappearances. In 2019, the Algerian government did not reply to a communication regarding excessive use of force during a demonstration ([DZA 1/2019](#)).

To get a full picture, it must be added that a few communications concern:

- the harassment of members on the Algerian human rights NGO, Ligue Algérienne de Défense des Droits de l'Homme (LADDH) ([DZA/4/2017](#)).
- the legal situation of women and the discriminatory rules found in the Algerian Family Code. The Government did not reply to this communication ([DZA 2/2015](#)).
- the freedom of religion of Christian minorities, especially the Protestant Church of Algeria⁴⁵ and the Ahmadiyya community in Algeria.⁴⁶

The procedure of the UN Working Group on Arbitrary Detention (WGAD)

The WGAD has produced 16 opinions concerning Algeria. The cases can be accessed through the [WGAD opinions database](#).⁴⁷ In their large majority, they mostly concern cases of arbitrary arrest by intelligence or security services and detention, sometimes secret/incommunicado detention of persons eventually charged (or not) with crimes related to terrorism. Most of the cases are from the period 2000-2017, for instance:

- Mr Kamel Eddine Fekhar, doctor and human rights defender, was arrested in 2015 and detained on the grounds that he planned to establish a “harmful” organisation seeking to divide the country under the pretext of exercising his freedom of expression ([34/2017](#)).
- Mr Saber Saidi was arrested in 2012 without a warrant and charged with terrorism and was held in secret detention, incommunicado, and detained for expressing an opinion ([49/2012](#)).
- Mr Mohamed Rahmouni was arrested in 2007 without a warrant and detained incommunicado and in solitary confinement for more than six months. An official alleged that the detainee was arrested for acting against state security, although no formal charges had been brought against him ([33/2008](#)).
- Mr M'hamed Benyamina and Mourad Ikhlef, two Algerian nationals residing in France and Canada, respectively, were arrested on arrival at the airport and detained in Algeria on accusations of terrorism in 2003 and 2005 ([38/2006](#)).

In these cases, the WGAD recommends that the Algerian Government arrange for the immediate and unconditional release of the victims and that adequate and reasonable reparation be provided to them for the damages and harm caused by his arbitrary detention.

45 [DZA 5/2020](#); and [reply #1](#) and [reply #2](#) from the Algerian government and [DZA 4/2018](#): to which the Algerian authorities did not respond to.

46 [DZA 3/2017](#) and [reply from the government](#).

47 Two of the decisions [6/1995](#) and [35/1994](#) are not accessible.

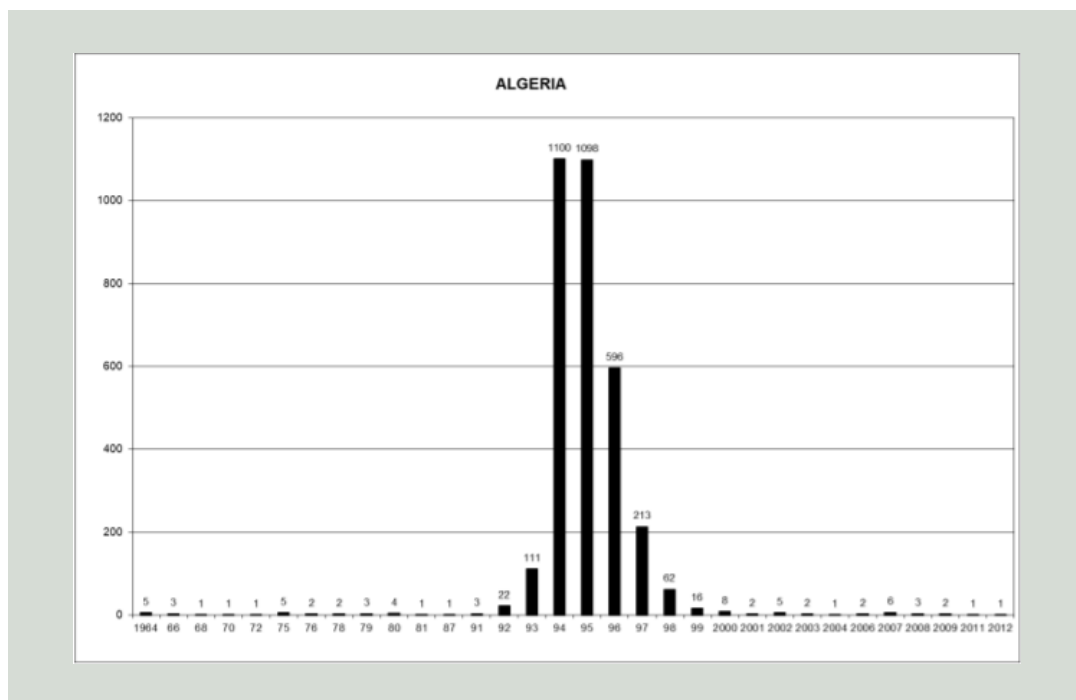
In addition, three cases ([28/2001](#), [22/2003](#) and [17/2014](#)) concern events linked to the civil war, one of them concerning the situation of the president of the Front Islamique du Salut party, Mr Abassi Madani, who was charged with jeopardising state security, tried by a military tribunal, released and then held in house arrest ([28/2001](#)).

When the Algerian Government did not respond to communicated cases, the WGAD had to render its opinion based on the information and claims submitted by the source ([17/2014](#), [49/2012](#), and [33/2008](#)). In six of the cases, the Algerian Government released the detainees so the WGAD did not make any decision ([28/2007](#), [10/2006](#), [23/2004](#), [4/2003](#), [7/2000](#), and [20/1999](#)).

The procedure of the UN Working Group on Enforced or Involuntary Disappearances (WGEID)

The graph below⁴⁸ shows that the bulk of the Algerian cases before the WGEID concern the large-scale disappearances during the civil war in the '90s.

Graph 1: Algeria and the UN Working Group on Enforced and Involuntary Disappearances



Some more recent cases ([Algeria 2020](#) and [Algeria 2018](#)) concern the enforced disappearances of Sahrawi refugees by the Polisario Front in Algerian refugee camps (Tindouf).

48 Algeria: graph showing the number of cases of enforced disappearance by year according to the cases transmitted by the Working Group between 1980 and 21 May 2021 (source: A/HRC/48/57, Annex III).

3.1.3 THE AFRICAN COMMISSION AND COURT OF HUMAN AND PEOPLES' RIGHTS

Algeria has had only two cases before the African Commission on Human and Peoples' Rights. They are concerned slow judicial process⁴⁹ and harassment and persecution of judges and lawyers.⁵⁰ They were both declared inadmissible. Algeria has ratified the protocol establishing the African Court of Human Rights but has not made the declaration under Article 34(6) of the protocol allowing for individual complaints.

3.2 EGYPT

Egypt has no case before the UN treaty bodies as the country has not accepted their competence to handle individual complaints. Therefore, the two main avenues offered to individuals living on the Egyptian territory are the UN HRC and its special procedures.

Table 4: Egypt and the nine core UN human rights treaties (ratification and individual complaints) (March 2022)

EGYPT	ICERD 1965	ICCPR 1966	ICESCR 1966	CEDAW 1979	CAT 1984	CRC 1989	ICMW 1990	CRPD 2006	CED 2006
Ratification/ accession	1967	1982	1982	1981	1986a	1990	1993a	2008	N/A
Individual communications	No decl. (Art. 14)	OP not signed	OP not signed	OP not signed	No decl. (Art. 22)	OP not signed	-	OP not signed	-
Number of cases	-	-	-	-	-	-	-	-	-

3.2.1 THE UN HUMAN RIGHTS COUNCIL'S SPECIAL PROCEDURES

A check in the [Communications Reports](#) database for communications sent by HRC special procedures and replies lists 174 communications concerning Egypt for 2010-2021. The large majority of the communications are joint communications concerning the arbitrary detention, torture, including rape, sentencing, and execution of human rights activists, HRDs, journalists, trade unionists and persons charged with terrorism-related offences. Most cases concern several victims. The information provided in these cases discloses serious and brutal acts and violations committed by Egyptian intelligence services, police and security forces, including abductions and disappearances.

49 [13/88 Hadjali Mohamad v. Algérie](#) : inadmissible, July 13, 2017 (15th ordinary session)

50 [104/94-109/94-126/94 Centre of The Independence of Judges And Lawyers v. Algeria](#): inadmissible, July 13, 2017 (15th ordinary session)

In most of these cases, the Egyptian Government does not send any response to the special procedures on the communications. In some cases, the Egyptian authorities send a standard response, including topics such as the legal guarantees concerning detention and torture in Egypt and their compliance with international standards, the work of the judicial power and procedural guarantees.⁵¹ Several communications also deal with the situation of NGOs in Egypt. A recent communication from 2021 deals with the 2019 NGO law (Law 149/2019) and related regulations ([EGY 6/2021](#)). A few years earlier, another communication concerned the intervention and closure of an NGO (El Nadeem Center for Rehabilitation of Victims of Violence and Torture) despite a pending judicial appeal and the adoption by the Egyptian Parliament of severely restrictive legislation on civil associations ([EGY 3/2017](#)). Information on alleged raids on several NGOs' offices is also communicated to the Egyptian Government ([EGY 1/2012](#)). In addition, several communications deal with harassment against HRDs and human rights activists on travel bans ([EGY 15/2016](#) and [EGY 13/2016](#)), freezing of assets ([EGY 1/2017](#)) or intimidation and reprisal for cooperation with the UN, especially the WGEID on enforced disappearances ([EGY 12/2019](#) and [EGY 14/2018](#)).

More isolated communications concern foreign fighters in Syria ([EGY 1/2021](#)), the situation of migrants from Eritrea ([EGY 11/2021](#)), arbitrary arrest and detention of LGBTQI HRDs ([EGY 14/2019](#), [EGY 4/2019](#), and [EGY 17/2017](#)) or assault of the security forces on terrorists and investigation in the death of several tourists in this connection ([EGY 5/2020](#)). The latter case was answered in a detailed manner by the Egyptian authorities. In contrast, other cases, for instance, the ones communicated by the Independent Expert on Sexual orientation and gender identity, do not get any answer.

The procedure of the UN Working Group on Arbitrary Detention (WGAD)

The working group has produced 51 opinions concerning Egypt. The cases can be accessed through the [WGAD opinions database](#).

In their large majority, the opinions concern cases of arbitrary arrest by intelligence or security services and detention, sometimes secret/incommunicado detention, of persons eventually charged (or not) with crimes related to terrorism. Most of the persons arrested are political activists, journalists or HRDs; some are artists or academics. Some of the cases concern several victims and relate to the situation of mass arrestation and detention after demonstrations ([28/2018](#)) or arrests because they belong to 'banned groups' ([78/2017](#)). These cases involved the ill-treatment of the persons arrested.

The Egyptian Government responds to the requests of the WGAD in about half of the cases⁵² and sends an explanation on the legality of the arrest and the detention and

51 See for instance: arbitrary detention and torture, conviction to five years of imprisonment of 4 journalists ([EGY 7/2017](#)), arbitrary detention and death sentence of 6 persons ([EGY 8/2017](#)), arbitrary detention of human rights defenders ([EGY 9/2017](#))

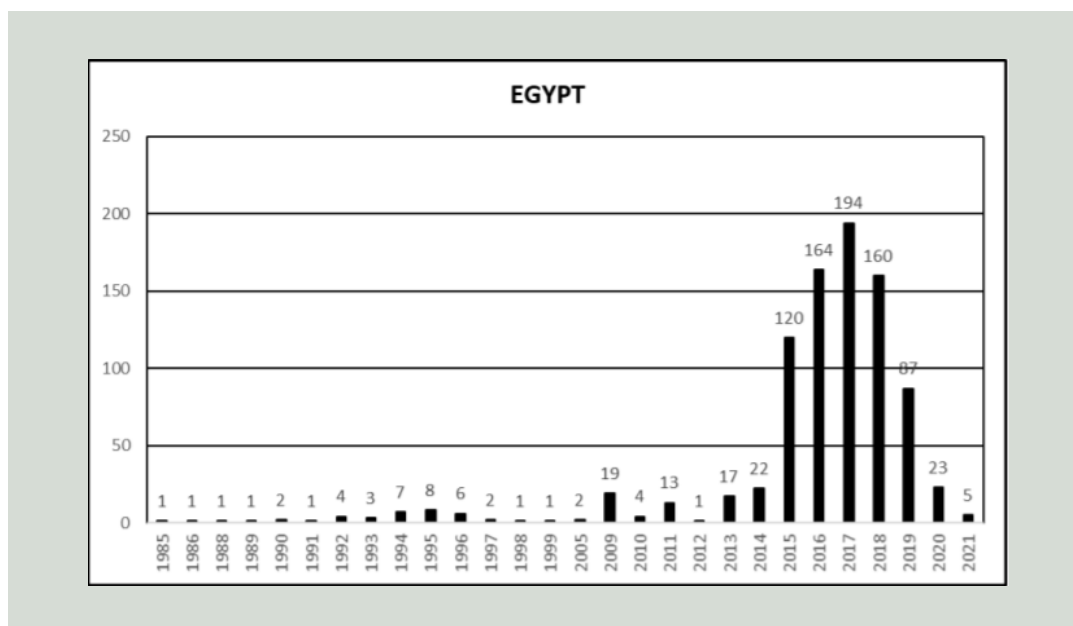
52 Sample of the latest 20 opinions of the WGAD accessed through the [WGAD opinions data base](#) (January 2022).

the access of the victim(s) to a fair trial. In a few cases, the Government sends a formal standard answer (49/2015) or a copy of the judgment (7/2016) to respond to the WGAD.

The procedures of the UN Working Group on Enforced or Involuntary Disappearances (WGEID)

The graph below⁵³ shows that the bulk of the Egyptian cases before the WGEID on enforced disappearances concerns the large-scale repression and disappearances after the military coup of 2013. For instance, following a terrorist attack in 2015, nine men and one woman were forcibly disappeared and later killed or sentenced to death. In this case, there were no warrants for arrests carried out by the State Security and police forces, followed by secret or incommunicado detentions that placed arrested individuals outside the protection of the law for weeks. During their detention, all victims were subjected to severe forms of torture and ill-treatment (Egypt 2017).

Graph 2: Egypt and the UN Working Group on Enforced and Involuntary Disappearances



Other cases show patterns of short-term enforced disappearances of young men by State Security Forces, poor detention conditions, and repeated torture and ill-treatment (Egypt 2016). The latest case received by the WGEID concerns information received concerning the continued renewal (since 2014 for one of them) of the pretrial detention of several journalists and HRDs (three men and two women); in all cases, this detention exceeds the legal limit for which an individual can be held in

53 Egypt: graph showing the number of cases of enforced disappearance by year according to the cases transmitted by the Working Group between 1980 and 21 May 2021 (source: A/HRC/48/57, Annex III).

pretrial detention under Egyptian law. The information also concerns their physical and psychological integrity and their trials ([EGY 12/2021](#)).

3.2.2 THE AFRICAN COMMISSION AND COURT FOR HUMAN AND PEOPLES' RIGHTS

Egypt has had 20 cases before the African Commission on Human and People's rights. Most of them were struck out⁵⁴, withdrawn⁵⁵ or declared inadmissible⁵⁶ by the Commission. They concern:

- Arrests by security forces
- Conditions of detention and torture by the security police for journalists, members of the Freedom and Justice Party (Muslim brotherhood) or persons detained on national security charges or other individuals
- Lack of diligent prosecution (8 cases examined in 2018 by the Commission at its 23rd extraordinary session)
- Miscarriage of justice by both ordinary and military courts and supreme courts

The Commission examined three cases on their merits. The Commission found multi-violations in each case:

- In 2018, the Commission found violations of Articles 2, 3 and 8 of the African Charter in a case concerning discrimination against persons belonging to the Baha'i faith (a.o. impossibility to register their faith on official documents).⁵⁷
- In 2013, the Commission found violations of Article 1, 2, 3, 5, 9(2), 16(1), 18(3) and 26 of the African Charter in a case concerning the lack of protection by the police of four female journalists during a demonstration and against assault by political opponents and by State security intelligence officers, including sexual assaults.⁵⁸

54 [637/16 And 639/16 Mr. Mohammed Abdel Hay Faramawy And 2 Others \(Represented By Dr. Abdel Hay Faramawy And 4 Ors\) V Arab Republic Of Egypt \(2020\)](#); [658/17 Shereen Said Hamd Bakhet V. Arab Republic Of Egypt \(2019\)](#); [656/17 Anas Ahmed Khalifa v. Egypt \(2018\)](#); [615/16 Medhat Mohammed Bahieddin Ahmed \(represented by the Organisation of European Alliance for Human Rights and Ors\) v. Egypt \(2018\)](#); [625/16 Basem Kamali Mohammed Odeh \(represented by AED and 4 ors\) v. Arab Republic of Egypt \(2018\)](#); [544/15 European Alliance for Human Rights \(AED\) and 3 Others v. Egypt \(2018\)](#); [592/15 Hesham Hamid Elshenna \(represented by Prof. Mostafa Metwaly\) v. Arab Republic of Egypt \(2018\)](#); [614/16 Mr. Eid Mohammed Ismil Dahrooj amd two others \(represented by AED and 4 others\) v. Arab Republic of Egypt \(2018\)](#); [543/15 European Alliance for Human Rights \(AED\) and 3 Others v. Egypt \(2018\)](#); [640/16 Mr Sharif Hassan Jalal Samak v. The Arab Republic of Egypt \(2018\)](#); [661/17 Amir Fam & 141 Others v The Arab Republic of Egypt \(2018\)](#); [612/16 Ahmed Mohammed Aly Subaie v. Arab Republic of Egypt \(2018\)](#).

55 [603/16 Mrs. Ayatulla Alaa Hosny \(Represented By Dalia Lotfy\) V. Arab Republic Of Egypt: Withdrawn, June 10, 2019 \(24th extraordinary session\)](#); [244/01 Arab Organisation for Human Rights v Arab Republic of Egypt: Withdrawn, May 29, 2003 \(33rd ordinary session\)](#); [261/02 Interights et al v Arab Republic of Egypt: Withdrawn, May 29, 2003 \(33rd ordinary session\)](#).

56 [670/17 Fadhl Al Mawla Husni Ahmed Ismail And 19 Others \(Represented By Freedom And Justice Party Of Egypt\) V Arab Republic Of Egypt: inadmissible, September 10, 2020 \(65th ordinary session\)](#); [201/97 Egyptian Organisation for Human Rights v Arab Republic of Egypt: Ruled inadmissible, May 11, 2000 \(27th ordinary session\)](#).

57 [355/07 Hossam Ezzat & Rania Enayet \(represented by Egyptian Initiative for Personal Rights & INTERIGHTS\) v The Arab Republic of Egypt: Decided on merits, April 28, 2018 \(19th extraordinary session\)](#).

58 [323/06 Egyptian Initiative for Personal Rights and INTERIGHTS v Arab Republic of Egypt: Decided on merits, October 12, 2013 \(10th extraordinary session\)](#).

- In 2011, the Commission found violations of Article 5, 7 (1) (a), (d) and 26 of the African Charter in a case concerning the death penalty following the conviction of several persons for terrorist crimes and the lack of independence of courts.⁵⁹

Egypt has not had any case before the African Court for human and peoples' rights as the state has not ratified the protocol establishing the Court.

All in all, for the past ten years, the main part of the international cases and communications concerning Egypt have disclosed the same type of large-scale and serious human rights violations, which involve assaults, arbitrary arrest and detentions, and torture and ill-treatment of various persons, including HRDs, journalists, trade unionists, political opponents to the regime in place and other human rights activists.

3.3 JORDAN

Jordan has no case before the UN treaty bodies as the country has not accepted their competence to handle individual communications.

Table 5: Jordan and the nine core UN human rights treaties (ratification and individual complaints) (March 2022)

JORDAN	ICERD 1965	ICCPR 1966	ICESCR 1966	CEDAW 1979	CAT 1984	CRC 1989	ICMW 1990	CRPD 2006	CED 2006
Ratification/ accession	1974a	1975	1975	1992	1991a	1991	N/A	2008	N/A
Individual communications	No decl. (Art. 14)	OP not signed	OP not signed	OP not signed	No decl. (Art. 22)	OP not signed	-	OP not signed	-
Number of cases	-	-	-	-	-	-	-	-	-

Therefore, the only avenue offered to individuals living on the Jordanian territory is the UN HRC and its special procedures. The situation of Jordan is different from the two previous countries in the report for two main reasons: first, Jordan is a much smaller country and second, the country has not been through the same tumultuous events as Algeria and Egypt in the past 30 years.

Jordan has ratified the Arab Charter. However, as it is now, the League of Arab States' human rights mechanism is not functioning in a way that allows individuals to access it (see above section 2.5).

⁵⁹ [334/06 Egyptian Initiative for Personal Rights and Interights v Arab Republic of Egypt](#): Decided on merits, March 1, 2011 (9th extraordinary session).

3.3.1 THE UN HUMAN RIGHTS COUNCIL'S SPECIAL PROCEDURES

For the past ten years, Jordan has only received 19 communications from the HRC special procedures. The Jordanian authorities respond to about 50 % of the communication by providing factual information and analysis of legislation.

Half of the communications concerns harassment against HRDs and CSOs in the form of shutting down of trade union (JOR 2/2020) or NGOs (JOR 3/2017) or closing of the website of HRDs (JOR 1/2017). Most of these cases include allegations of arbitrary arrest and detention, for instance, of human rights defenders (JOR 1/2020, JOR 1/2019), writers and journalists (JOR 3/2016), or environmental human rights activists (JOR 2/2016). An earlier one from 2012 concerned the alleged arbitrary rejection of a human rights association's application to receive foreign funding (JOR 1/2012). In 2018 a communication concerned new amendments to Cybercrime Law (JOR 3/2018), affecting NGOs and HRDs.

Several communications concern allegations of arbitrary detention and torture by the General Intelligence Department (GID) or the police (JOR 2/2018), sometimes including allegations of torture (JOR 1/2016). In 2018, a communication concerned the detention without charge of the leader of the religious movement Hizb ut tahrir (JOR 1/2018). Another one concerned the alleged arbitrary arrest and detention of a Palestinian activist and arbitrary prosecution under anti-terrorism law in 2014 (JOR 1/2014). Finally, in 2011 and 2012, two cases concerned the arrest, torture and secret detention/disappearance of a person either expelled to Jordan (JOR 2/2012) in the context of countering terrorism (JOR 1/2011).

More isolated communications deal with the criminalisation of adultery under the 1960 Penal Code (JOR 2/2017), the discriminatory provisions against women in nationality legislation (JOR 2/2014), the closing a SOGI website (JOR 4/2017) or the deportation of members of the Free Evangelical Church, providing humanitarian assistance to Iraqi and Syrian refugees (JOR 3/2014).

The procedure of the UN Working Group on Arbitrary Detention (WGAD) According to the WGAD opinions database, the Working Group on Arbitrary Detention has issued seven opinions concerning individuals arbitrarily detained in Jordan. The working group's opinions concern mostly (political) activists and protesters. These cases also include issues of torture and ill-treatment in prisons and a lack of investigation into these allegations. Most of the arrests reported to the WGAD are carried out by the Jordanian intelligence service (GID).

The Jordanian Government provides rather short answers (17/2017, 9/2016 and 60/2011) or no answers (39/2016 and 53/2013) to the UN WGAD.

Jordan only has two outstanding issues with the UN Working Group on Enforced or Involuntary Disappearances (WGEID).

3.4 MOROCCO

Morocco has ratified the UN nine core human rights treaties and gives individuals in its jurisdiction access to five UN Treaty bodies: CERD, CAT, CRPD and, since April 2022, the Human Rights Committee and the CEDAW. Only the CAT has examined individual complaints regarding Morocco. There are also many individual complaints concerning Morocco before the Human Rights Council's Special Procedures. The African human rights mechanism is not relevant so far concerning Morocco.

Table 6: Morocco and the nine core UN human rights treaties (ratification and individual complaints) (March 2022)

MOROCCO	ICERD 1965	ICCPR 1966	ICESCR 1966	CEDAW 1979	CAT 1984	CRC 1989	ICMW 1990	CRPD 2006	CED 2006
Ratification/ accession	1970	1979	1979	1993a	1993	1993	1993	2009	2013
Individual communications	Art. 14 Decl. 2006	OP 2022	OP not signed	OP 2022	Art. 22 Decl. 2006	OP not ratif (2012)	OP decl. (Art. 77)	OP not signed	No decl. (Art. 31)
Number of cases	0	-	-	-	16	-	-	0	-

3.4.1 INDIVIDUAL COMMUNICATIONS BEFORE THE COMMITTEE AGAINST TORTURE

Only three of the 15 cases concern torture and ill-treatment in custody or prison in Morocco, two of them concerning the same person⁶⁰ and one concerning forced confession through torture and the absence of a prompt and impartial investigation by the relevant authorities.⁶¹ In addition, two cases concern the expulsion of Sub-Saharan migrants who were abandoned in the desert close to the border of Algeria⁶² or Mauritania⁶³.

The bulk of the cases before the CAT concern the extraditions of individuals to countries where they risk persecution. The CAT found violations of the Convention in several recent cases concerning the extradition to Turkey of persons affiliated to the Hizmet movement deemed responsible for the attempted coup d'état in Turkey

60 Ali Aarrass, views of 25 November 2019, CAT/C/68/D/817/2017 and earlier views of 19 May 2014, communication, CAT/C/52/D/477/2011. The HRC special procedures have also transmitted several communications to the Moroccan authorities concerning this person, see the most recent one: [MAR 7/2015](#).

61 Ennaâma Asfari, views of 15 November 2016, CAT/C/59/D/606/2014

62 Kwami Mopongo and others (34 complainants), views of 7 November 2014, CAT/C/53/D/321/2007

63 Diory Barry, views of 19 May 2014, CAT/C/52/D/372/2009

in 2016⁶⁴ and other political reasons.⁶⁵ Other cases concern extradition to Algeria,⁶⁶ Egypt,⁶⁷ the Russian Federation⁶⁸ or Saudi Arabia.⁶⁹

The CAT found violations of the Convention in all cases but two.⁷⁰

3.4.2 THE UN HUMAN RIGHTS COUNCIL'S SPECIAL PROCEDURES

A check in the Communications Reports database for communications sent by HRC Special procedures and replies received⁷¹ lists 61 communications concerning Morocco for 2010-2022.

Most of the communications concern HRDs or the arbitrary arrests and detentions of HRDs, journalists (MAR 4/2019) or activists. For instance, in 2021, four of the six communications transmitted to the Moroccan authorities concern HRDs (MAR 7/2021, MAR 6/2021, MAR 4/2021 and MAR 5/2021). Several communications also concern measures directed at human rights organisations (MAR 2/2015 or MAR 6/2014) and the Sahrawi association (MAR 8/2011).

Overall, 21 communications have been forwarded by the special procedure on arbitrary detention, often as joint communications with other special procedures. It must be noted that many communications concern the arbitrary detention of HRDs and activists from Western Sahara.⁷² Some communications also include allegations of torture and ill-treatment (MAR 7/2014). In addition to these communications, the WGAD has rendered 23 opinions on individual cases (see below).

In general, the Moroccan authorities have acknowledged and answered the communications of the HRC special procedures. It is remarkable that since 2017, the Moroccan authorities are answering all communications from the HRC special procedures, with two exceptions: in 2017, the Moroccan government did not reply to two communications of the Working Group on discrimination against women in law and in practice which concerned criminalisation of adultery (MAR 3/2017) and the new bill on violence against women (MAR 2/2017).

The procedure of the UN Working Group on Arbitrary Detention (WGAD)

According to the WGAD opinions database, the WGAD has issued 23 opinions concerning individuals arbitrarily detained in Morocco. However, the database is not

64 Ferhat Erdogan, views of 10 May 2019, CAT/C/66/D/827/2017; Mustafa Onder, views of 10 May 2019, CAT/C/66/D/845/2017 and Elmas Ayden, views of 10 May 2019, CAT/C/66/D/846/2017

65 Ismet Bakay, views of 4 December 2019, CAT/C/68/D/826/2017

66 Yousri Ktiti, views of 14 April 2010, CAT/C/46/D/419/2010

67 Hany Khater, views of 22 November 2019, CAT/C/68/D/782/2016

68 Kalinichenko, views of 25 November 2011, CAT/C/47/D/428/2010

69 Rouba Alhaj Ali, views of 3 August 2016, CAT/C/58/D/682/2015

70 R. A. Y., views of 16 mai 2014, CAT/C/52/D/525/2012 and Naouel Gharsallah, views of 3 Aug 2018, CAT/C/64/D/810/2017, which concerns the extradition to Tunisia of a former President Ben Ali's support accused of corruption.

71 See section 4.5 above

72 MAR 1/2019 and MAR 2/2019; MAR 5/2019; MAR 2/2020; MAR 3/2020; MAR 5/2020; MAR 3/2017; MAR 5/2014; MAR 2/2014 and MAR 6/2011

updated for 2020 et 2021 as some more recent opinions cannot be found there, such as [opinion 23/2019 concerning Laaroussi Ndor](#), a Sahrawi journalist, [opinion No. 85/2018 concerning Toufik Bouachrine](#), a journalist and publisher, and co-founder of the Moroccan daily newspaper Akhbar al-Youm, and [opinion No. 60/2018 concerning Mbarek Daoudi](#), a Sahrawi political activist and human rights defender.⁷³

From 2011 to 2016, all the opinions of the WGAD concerned persons charged and sometimes convicted of terrorism-related crimes ([26/2016](#), [27/2016](#), [34/2015](#), [54/2013](#), [25/2013](#), [19/2013](#), [3/2013](#), [68/2012](#), [40/2012](#), and [35/2011](#)). Two cases of 1996 concern the arbitrary detention of Sahrawis ([39/1996](#) and [4/1996](#)) and a newer case of 2019 ([58/2018](#)). The remaining

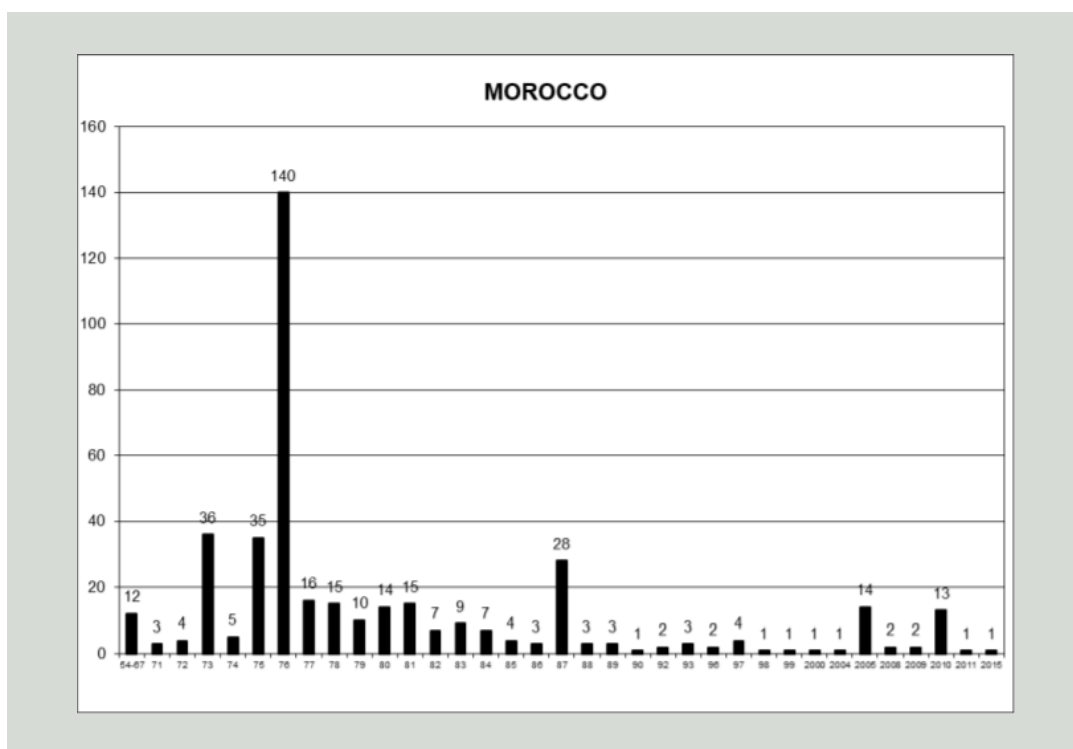
cases concern more isolated situations of journalists ([31/2018](#) and [11/2017](#)), a whistle-blower in the Moroccan army ([27/2001](#)), a teacher ([3/1994](#)), the founder of an Islamic association ([41/1993](#)) or a person charged with defamation of members of the Government ([21/1993](#)). Finally, the first case rendered by the WGAD concerned the incommunicado detention since 1973 of 61 soldiers sentenced to prison terms in connection with the 1972 attempt on the life of King Hassan II ([38/1992](#)). The majority of these cases include serious allegations of torture and ill-treatment in custody and detention.

The procedure of the Working Group on Enforced or Involuntary Disappearances (WGEID)

As the graph below shows,⁷⁴ the WGEID has been very active in documenting the massive enforced disappearances under the former regime (1956 to 1990) and attempted to communicate with the Moroccan authorities. Just as in the case of Algeria, this situation still has repercussions in more recent cases where the WGEID questions the Moroccan truth and reconciliation process ([Morocco 2020](#)) or the over 400 cases of disappearances on the Territory of Western Sahara attributable to Moroccan security forces from 1975 to 1993 ([Morocco 2013](#)).

73 See: [A/HRC/WGAD/2019/23](#), [A/HRC/WGAD/2018/85](#) and [A/HRC/WGAD/2018/60](#)

74 Source: [A/HRC/48/57](#), Annex III.

Graph 3: Morocco and the UN working group on Enforced and Involuntary Disappearances

3.5 TUNISIA

In Tunisia, individuals have access to several international human rights redress procedures through the UN treaty bodies, the special procedures of the Human Rights Council and the African Commission and Court of Human and People's Rights. It is interesting to observe that the individual communications and complaints concerning Tunisia do not cluster around a few large-scale gross human rights violations issues as in Algeria or Egypt. They do cover a larger field of less systematic violations even though they are pointing at some structural issues regarding ill-treatment by the police, freedom of expression and the functioning of the justice system.

Table 7: Tunisia and the nine core UN human rights treaties (ratification and individual complaints) (March 2022)

TUNISIA	ICERD 1965	ICCPR 1966	ICESCR 1966	CEDAW 1979	CAT 1984	CRC 1989	ICMW 1990	CRPD 2006	CED 2006
Ratification/ accession	1967	1969	1969	1985	1988	1992	N/A	2008	2011
Individual communications	No decl. (Art. 14)	OP 2011	OP not signed	OP 2008	Art. 22 Decl. 1988	OP 2018a	-	OP 2008	No decl. (Art. 31)
Number of cases	-	1	-	0	10	0	-	0	-

3.5.1 THE UN TREATY BODIES

Tunisia is the MENA country that allows individual complaints to the largest number of treaty bodies: the CAT since 1988, the CEDAW and the CRPD since 2008, the Human Rights Committee since 2011 and the CRC since 2018. So far, only the CAT and the Human Rights Committee have handled cases concerning Tunisia: ten and five, respectively.

The two most recent cases before the CAT are from 2017⁷⁵ and 2016⁷⁶, covering facts dating from 1993 and 2009. In both cases, the victims were represented by Track Impunity Always (TRIAL) and Action des chrétiens pour l'abolition de la torture (ACAT-France). The cases concern the arrest, torture and detention of two individuals by security forces, the lack of existing measures to prevent the commission of acts of torture, and the treatment of

detained persons. They also concern the obligation of the state to ensure that the competent authorities proceed to a prompt and impartial investigation, the right to complain and the right to redress as well as the prohibition on the use of statements made as a result of torture. Multiple violations of the Convention against Torture were found in both cases.

As far as the Human Rights Committee, the only case presented to this date was the case of former President Ben Ali against the state of Tunisia on the ground that his trial in absentia violated several rights protected by the ICCPR.⁷⁷ The Human Rights Committee found the complaint inadmissible on the ground that it did not have temporal jurisdiction to examine the case as the judgements and measures contested in the case were taken prior to Tunisia's ratification of the Optional Protocol to the ICCPR.

3.5.2 THE UN HUMAN RIGHTS COUNCIL'S SPECIAL PROCEDURES

In the period 2010-2022, 43 individual communications were communicated to the Tunisian state by Special procedures of the Human Rights Council. These cases are characterised by the fact that a large proportion of the communications by the special procedures are not individual communication per se but concern law reforms that have been undertaken since the revolution in 2011 and especially after 2014, for instance, the criminalisation of adultery ([TUN 1/2017](#)), fighting against terrorism ([TUN 1/2015](#)) or the new 2014 Constitution and the situation of the Tunisian reservation to the CEDAW ([TUN 1/2014](#), [TUN 2/2011](#), [TUN 3/2012](#)). In addition, several joint communications concern the slow pace of the transitional justice process defined by the 2013 and 2014 laws, especially in terms of accountability and

75 Rached Jaïdane v. Tunisia, CAT Decision of 11 August 2017, CAT/C/61/D/654/2015

76 Taoufik Elaïba v. Tunisia, CAT Decision of 6 May 2016, CAT/C/57/D/551/2013

77 Zine EL Abidine Ben Ali v. Tunisia, HRC Decision adopted on 2 November 2015, CCPR/C/115/D/2130/2012

concerning the work of the Truth and Dignity Instance (IVD).⁷⁸ The Tunisian authorities do not always answer this type of general communication.

Individual communications concerns a broad range of issues, from ill-treatment in police custody or detention to freedom of association or expression ([TUN 1/2020](#)). A few cases concern freedom of religion ([TUN 2/2020](#), [TUN 3/2015](#)) and, more recently, the situation of migrants ([TUN 8/2021](#)).

The Tunisian authorities answer the individual communications that they get in most cases. For instance, looking at the joint individual communications

that involved the Independent Expert on SOGI and concerned the harassment of SOGI HRDs, the Tunisian Government did not answer the first one ([TUN 3/2016](#)) but has since responded to all his communications ([TUN 2/2019](#), [TUN 6/2019](#), [TUN 4/2018](#) and [TUN 3/2021](#)).

The procedure of the UN Working Group on Arbitrary Detention (WGAD)

According to the [WGAD opinions database](#), the Working Group on Arbitrary Detention has issued 17 opinions concerning individuals arbitrarily detained in Tunisia. All these cases but three date back from before the 2011 revolution. It is remarkable that the WGAD only found a violation in eight of the 17 cases. In five of the cases, the WGAD did not issue any opinion as the individual(s) concerned had been released, and in the remaining cases, the WGAD did not find any violation. Here again, the cases presented to the WGAD do not cluster around one or two main issues but cover a variety of situations, for instance, the detention of human rights activists of the Tunisian Human Rights League ([11/1994](#) and [5/1999](#)) or the sentencing of journalists by a military court ([51/1992](#)).

Finally, it must be noted that the UN Working Group on Enforced or Involuntary Disappearances has received 13 cases.

3.5.3 THE AFRICAN COMMISSION AND COURT OF HUMAN AND PEOPLES' RIGHTS

Before the African Commission on Human and Peoples' Rights, the only case concerning Tunisia was communication on alleged wrongful detention and torture. It was declared inadmissible because another international human right mechanism had already examined it.⁷⁹

Tunisia has accepted the jurisdiction of the African Court on Human and Peoples' Rights since 2017. An earlier case was struck out in 2012 for lack of jurisdiction of the Court as Tunisia had not made the declaration required under Article 34(6) of the Protocol.⁸⁰ To this date, six Tunisian cases are pending before the African Court:

78 See for instance the joint communication of the mandates on truth, justice, reparation and guarantees of non-recurrence, disappearances, executions, independence of judges and lawyers and torture: [TUN 2/2021](#), and the previous communications: [TUN 3/2019](#); [TUN 1/2018](#); [TUN 2/2016](#)

79 [69/92 Amnesty International / Tunisia](#).

80 [Baghdadi Ali Mahmoudi \(032/2018\)](#), registered 1 June 2012: struck out, 26 June 2012.

3. ANALYSIS OF INDIVIDUAL COMMUNICATIONS AND COMPLAINTS

Ahmad Ben Mohamed Ben Brahim Belgheith (005/2021), registered 25 February 2021; Mohammed Ali Alammari Orf Djaddi (030/2020), registered 8 September 2020; Elyssa (061/2019), registered 8 September 2020; Brahim Ayed (008/2019), registered 9 October 2019; Alie Ben Hassen Ben Abd Lhafiq (033/2018), registered 12 October 2018; Alasad Milaad (032/2018), registered 11 September 2018.

The cases are not accessible on the database of the Court.

4. CONCLUSION

Analysing supranational communications and complaints gives a somehow random picture of the human rights situation in the MENA countries, which, at the same time, reflects the main human rights issues facing the five countries.

The picture given is random as there is a large discrepancy between the five countries regarding the access to individual human rights mechanisms when optional and the use made of these mechanisms when available. This latter element seems to depend very much on the mobilisation of domestic NGOs on given topics, as shown by the Algerian civil war's disappearances cases, which have been brought to the attention of the UNTBs and the HRC special procedures supported by a few NGOs. NGOs also promote the cases communicated to the WGAD and the WGEID.

At the same time, the individual communications analysed here to give an accurate picture of the seriousness of the issues at stake in the region and, especially, of a pattern of gross and massive human rights abuses committed by intelligence and security forces in all countries (except Tunisia) as well as a pattern of wide-ranging harassment of CSOs and HRDs in all countries.

The conclusion of the report focuses on the human rights mechanisms available, the contents of the complaints, and the reaction of the respective governments. It reflects on avenues for future work to strengthen the handling of individual communications at the domestic level.

4.1 THE HUMAN RIGHTS MECHANISMS AVAILABLE

The UN human rights mechanisms, especially the HRC special procedures, are the main avenue for complainants to bring individual cases to supranational bodies. The three North African countries have given limited access to UN treaty bodies. In the three countries, this happened several years after the ratification of the UN treaty and connected with some domestic political events and reforms (the democratic upraise in Algeria in 1988-1989, the change of regime in Morocco in 1999 and the 2011 revolution in Tunisia). The situation is slightly different regarding the CRPD, which individual complaint procedure was accepted by Morocco and Tunisia when they joined the treaty.

Access to the UN Charter-based procedures (individual communications to the HRC and by the HRC special procedures) does not require any acceptance of the procedure by the state. They are open to everyone. The HRC special procedures act on any individual information that they deem relevant and communicate individual cases to all member states of the U.N. Egypt, which does not allow access to any UNTB, is concerned by many individual communications to the HRC by the HRC special procedure. Due to its civil war in the '90s, Algeria had many outstanding cases

before the UN working group on enforced or involuntary disappearances. On the contrary, smaller countries such as Jordan and Tunisia have fewer cases before the UN HRC and its special procedures.

The African human rights system is in principle relevant to Algeria, Egypt, Morocco, and Tunisia, all member states of the African Union. Algeria and Tunisia have ratified the African Charter on Human and People's Rights and the Protocol on the African Court. Egypt is the only party to the ACHPR. Only very few cases have been handled by the Commission (23 for the three countries) or are pending before the Court (seven Tunisian cases).

Finally, the League of Arab States' human rights mechanism does not appear to impact the situation of individual communications in the five MENA countries chosen for this analysis. Only Algeria and Jordan have ratified the Arab Charter among the states this analysis is concerned about. The Statute of the Arab Court of Human Rights has not entered into force as only one country, Saudi Arabia, has ratified the Statute in 2016.

4.2 CONTENTS OF THE INDIVIDUAL COMMUNICATIONS AND COMPLAINTS

Only the Human Rights Committee and the CAT have handled individual cases from Algeria, Morocco and Tunisia. They include most cases of very serious human rights violations such as torture, arbitrary detention, or disappearances. The large majority of the individual communications by the HRC special procedures deal with similar cases to the one before the two treaty bodies. It must be noted that most of these cases concern journalists, protesters, NGOs activists, HRDs, and individuals suspected of terrorism. Some cases concerning Algeria and Morocco are linked to the situation in the West Sahara. A few additional cases are connected to the fact that these two countries are on the migration roads to Europe.

The individual communications of the HRC special procedures disclose patterns of gross and mass violations of human rights in Morocco during the previous regime, in Algeria in the 1990s, and more recently in Egypt following the 2013 military coup. In these cases, it is clear that all UN mechanisms have tried to play a role to alert, documenting, and, to some extent, monitoring the three countries' dramatic situations at points in recent history. It also shows that some historical events, such as the Algerian civil war or the repression of political opponents during King Hassan II's reign in Morocco, have repercussions several decades before the UN organs are asked to assess reconciliation processes, including potentially problematic amnesty provisions.

As mentioned above, the case of Tunisia is different. The analysis shows that the individual communications concerning Tunisia do not cluster around a few issues of large-scale gross human rights violations as in Algeria or Egypt, or violations involving intelligence and security services (as in Jordan). They do cover a broader field of less systematic violations even though they are pointing at some structural issues regarding ill-treatment by the police, freedom of expression and the functioning of the justice system.

4.3 RESPONSES FROM THE RESPECTIVE GOVERNMENTS

The responses from the respective governments to this variety of individual communications and complaints vary very much according to the country concerned, the period in time and the matter of the case. It can be observed that while states do respond to requests from UNTBs and special procedures during some periods, they may stop doing it for a while at other points in time.

The quasi-judicial nature of the individual complaint procedure before the UN treaty bodies leads to governmental responses always displaying hardcore defence of the Government's position, including contestation of the facts, combatting the admissibility of the applications and the merits of the case. Governments participating in individual complaint proceedings defend themselves. They are not in the process of interacting constructively or dialoguing with the UN treaty bodies.

Looking at both complaints and communications, one may observe more specifically that:

- Repetitive cases trigger formal copy paste answers from states, as is the case concerning the thousands of Algerian disappearance cases. The total failure of the Algerian state to cooperate has been denounced repeatedly by the Human Rights Committee and the CAT in these or similar cases.
- The numerous cases regarding arbitrary detentions and torture by intelligence and security forces, sometimes including disappearances, often provoke no response or short dismissive explanation of facts and reference to legislative provisions by the Algerian and Egyptian authorities.
- More political sensitive cases such as the cases concerning Sahrawi HRDs, journalists or refugees trigger political declarations from states such as Algeria and Morocco.
- Individual communications by the Independent Expert on Sexual orientation and gender identity to the Egyptian authorities do not get any answer.

At the same time, some positive evolution can be observed:

- In some cases, before the WGAD and the WGEID, states were willing and able to provide detailed information on the situation of persons to respond to allegations of arbitrary detention, torture and/or disappearance.
- In 2020, the Algerian Government responded to seven joint communications dealing with the arrest, detention and sentencing of persons (HRD, journalists and NGO activists) who have participated in the Hirak.
- Since 2017, the Moroccan authorities are answering all communications from the HRC special procedures, with two exceptions: in 2017, the Moroccan government did not reply to two communications of the Working Group on discrimination against women in law and in practice which concerned bills on the criminalisation of adultery and violence against women.
- In recent years, the Tunisian authorities have answered the individual communications that they receive from the HRC special procedures in most cases. For instance, looking at the joint individual communications that involved the Independent Expert on SOGI and concerned the harassment of SOGI HRDs,

the Tunisian Government did not answer the first one but has since responded to all his communications. On the contrary, and similarly to what happens concerning Morocco, the Tunisian authorities do not always answer general communications on the slow pace of the transitional justice process defined by the 2013 and 2014 laws, especially in terms of accountability and concerning the work of the Truth and Dignity Instance (IVD).

4.4 THE WAY FORWARD

It is not the purpose of this analysis to dig into the impact of individual communications and complaints at the domestic level. That analysis requires a completely different research setup, including extensive fieldwork with domestic authorities tasked with following up and implementing opinions and views from the UNTBs and special procedures.⁸¹

This extensive presentation of the access to supranational mechanisms and of the communications and views produced by their organs (UNTBs, HRC, UN special procedures, African Commission) and the so-far limited insight they can give us into the responses of Government to the various human rights mechanisms allow for several preliminary recommendations as to how the competent domestic authorities can do their work optimally when handling communications from the UN human rights organs and other supranational mechanisms:

- Give access to all individual communication and complaint procedures before the UNTBs to increase possible avenues for redress. This recommendation is recurrent from the UPR and the UNTBs. As for the MENA region, the North African countries are leading the way, especially Tunisia and Morocco, which have now given individuals access to more than half of the UNTBs individual complaint procedures. In April 2022, the ratification by Morocco of the optional protocol to the ICCPR (more than 40 years after ratifying the Covenant) and of the optional protocol to the CEDAW (almost 30 years after ratifying the Convention) show that positive developments are possible.
- Answer all communications from all UN organs (UNTBs, WG of the HRC and special procedures, including the WGAD and the WGEID) straightforwardly and genuinely. All member states of the UN have an international obligation to cooperate with the UN.
- Increase knowledge of the procedures and cases before international and regional human rights mechanisms both within relevant governmental organs and in dialogue with NGOs and academia.
- Draw on experience from relevant governmental organs and exchange good practices, possibly with support from the OHCHR and other actors.

Individual communications and complaints are an important and detailed, but not exhaustive, source of information about the human rights violations taking place at the domestic level. They record the names of the victims of, in some cases, massive human rights violations, hold the states and the involved domestic authorities

81 See references to publications in box 1.

accountable for the violations and try to provide redress and some guarantee of non-repetition. Although some complaint procedures will, by nature, put the states in a rather defensive and unconstructive position, it seems that some of the individual communication procedures of the HRC special procedures may provide a place for dialogue on some individual cases. Finally, these individual cases form an international and regional human rights jurisprudence that is either legally binding or gives the authoritative interpretation of how to implement human rights standards in context and actual cases.

Individual communications and complaints create an interface between domestic and supranational compliance actors where all actors can share information, knowledge, interpretation of standards and assess violations and redress options. All relevant actors of the NHRS, and in this case especially GHRFPs, have an interest in participating and contributing in an informed and constructive manner to these processes. Competent GHRFPs in the MENA region and globally can contribute to defend the position of their own state and support the development of well-equipped, fact and knowledge-based, context-aware international and regional human rights mechanism.

فتيحة، محمد، فاطمة،
رشيد، شيرين، سعيد، أحمد،
عائشة، علي، شريف، حسن،
عبد القادر، الوناس، مليكة، إبراهيم،
رفيق، رانيا، يسرى، هاني، روي،
فرحات، توفيق، كمال، نورالدين،
أمين، عزة، أنس، باسم، حسام،
رانيا، عبد الرحمان، يوسف، ناهد