

**Human Rights Council  
Working Group on Arbitrary Detention****Opinions adopted by the Working Group on Arbitrary  
Detention at its seventy-third session (31 August-4 September  
2015)****No. 34/2015 concerning Rachid Ghribi Laroussi (Morocco)**

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the former Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. The Human Rights Council assumed the mandate in its decision 1/102 and extended it for a three-year period in its resolution 15/18 of 30 September 2010. The mandate was extended for a further three years in resolution 24/7 of 26 September 2013.

2. In accordance with its methods of work (A/HRC/30/69), on 9 March 2015 the Working Group transmitted to the Government of Morocco a communication concerning Rachid Ghribi Laroussi. The Government responded to the communication on 2 July 2015. The State has been a party to the International Covenant on Civil and Political Rights since 3 May 1979. It has also been a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment since 21 June 1993 and to the International Convention for the Protection of All Persons from Enforced Disappearance since 14 May 2013.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to the detainee) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);



(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law for reasons of discrimination based on birth; national, ethnic or social origin; language; religion; economic condition; political or other opinion; gender; sexual orientation; or disability or other status, and which aims towards or can result in ignoring the equality of human rights (category V).

## **Submissions**

### *Communication from the source*

4. Mr. Laroussi was born on 19 December 1971 in Tangiers, Morocco. He is married and works as a salesman in a shop selling computer equipment.

5. According to the source, Mr. Laroussi was arrested on 2 June 2003 as he left his work in Tangiers. He was immobilized by several men in civilian clothes and bundled into an unmarked police vehicle. He saw police officers enter his shop and seize or destroy items in the shop. He was not informed of the grounds for his arrest nor was he shown a warrant of arrest.

6. According to the information received, he was taken to the police headquarters in Tangiers, where he was imprisoned for 3 days without being able to inform his family or to contact a lawyer. When he was questioned about a phone call allegedly received a few hours earlier from a certain Pierre Robert, whom the police suspected of having participated in the attacks in Casablanca on 16 May 2003, Mr. Laroussi told the investigators that the person in question was indeed a customer who had recently bought a computer from him, but that he was unaware that he was involved in criminal acts.

7. According to the source, in the night of 5 to 6 June 2003, Mr. Laroussi was transferred, blindfolded, together with several other persons from the Tangiers police headquarters to the clandestine detention centre in Témara, where he was held for some 10 days.

8. In the night of 6 June 2003, Mr. Laroussi began to be interrogated. He says that he was completely undressed, violently beaten about the body and several times threatened with death and rape. Since then, he has had a major visual disorder. His torturers also threatened to rape his wife and to hold him incommunicado until he died.

9. Mr. Laroussi also says that he was deprived of sleep by blinding light and subjected nightly to very loud noise caused by deafening blows on metal doors. He also says that he was constantly insulted and humiliated, prevented from lying down or sitting for long periods and forced to snatch short naps on the floor. He also testifies that his hands were permanently bound behind his back, even when he was eating. When he was not being tortured himself, from his cell he could hear the cries and moans of other tortured prisoners as well as the sounds of blows and of bodies being dragged along the corridor.

10. The source alleges that after 10 days of ceaseless questioning and torture, Mr. Laroussi, who was completely traumatized and terrorized, was forced to sign documents without even being allowed to read them. On 17 June 2003, he was brought before a judge in Casablanca, and again compelled to sign a statement without even being allowed to acquaint himself with it and still without having been allowed to be assisted by a lawyer.

11. On the same day, Mr. Laroussi was transferred to the prison in Salé where the warders allegedly received him with a beating and insults. He remained there incommunicado until 27 August 2003, without being able to see a lawyer or to inform his family of his arrest. According to the source, during his period of incommunicado detention Mr. Laroussi's shoulder was broken. The prison authorities refused to allow him to be admitted to hospital for surgery. He still suffers from the sequelae of this lack of proper medical care.

12. During the period of detention, Mr. Laroussi was on several occasions brought before a judge, whom he believes to have been an investigating judge. The judge merely had him sign further documents, without letting him read them or even allowing him to speak, and in the absence of a lawyer. At his fifth appearance before the judge, on 27 August 2003, he was for the first time allowed to be assisted by a lawyer.

13. For the whole of this time the victim's family was completely unaware of his fate. When he first disappeared, his wife made numerous inquiries to hospitals and police stations in the region. She was able to visit him in the prison in Salé only after she had been informed that he was being held there.

14. At his trial on 18 September 2003, Mr. Laroussi was charged with forming an organized gang to carry out terrorist acts, possession of weapons and explosives, unauthorized meeting and activities in connection with an unauthorized association. When the trial opened, before the judges Mr. Laroussi denied all the charges against him and claimed that he was innocent and that he had been tortured and forced to sign statements without having been able to see what they contained. The source has informed that despite the allegations of torture, and in the absence of any material evidence to confirm the police reports in the case file, the court did not deem it necessary to open an investigation.

15. According to the source, Mr. Laroussi was sentenced to an immediate sentence of 20 years' prison by the criminal chamber of the Rabat court of appeal, after a summary trial and solely on the basis of the police reports containing statements he had signed under torture and coercion while he was held incommunicado.

16. In November 2003, after his conviction, Mr. Laroussi was transferred to Kénitra prison, where he remained until 2006, when he was finally transferred to the local prison in Tangiers where he is still being held.

17. As no appeal is possible against the sentence handed down by the criminal chamber of the Rabat court, Mr. Laroussi has lodged an appeal for judicial review before the criminal chamber of the court of cassation. According to the source, this supreme body, which rules on substantive issues of law, is competent only to review the lawfulness of the proceedings and does not re-examine the facts. As a result, Mr. Laroussi has never been able to have his case reviewed by a higher court. On 31 May 2006, the court of cassation turned down his application on the grounds that the decision he was disputing was not tainted by procedural defects and that the decision by the first court depended on its own discretionary authority.

18. The source alleges that there were serious irregularities in the procedure of Mr. Laroussi's trial and that he had not been entitled to the legal guarantees of a fair trial, in particular because he had been arrested without a warrant and without being informed of the grounds for his arrest, he had been convicted solely on the grounds of a confession made under torture during a long period of incommunicado detention, he had not been assisted by a lawyer either during his detention by the police or when he had first been questioned by the investigating judge and he had been unable to have his case reviewed on appeal by a higher court.

19. The source maintains that he was prevented from contacting his family and was brought before a judge only after a very long period. He was held incommunicado until 27 August 2003, and was not allowed any legal remedy to challenge the lawfulness of his detention and was deliberately denied the protection of the law. He was unable to receive assistance from a lawyer both during the period of incommunicado detention and during his first 2 months of imprisonment in Salé, where he had no contact with the outside world.

20. In the light of the above, the source submits that the detention of Mr. Laroussi is arbitrary under categories I and III of the criteria applicable to the consideration of cases submitted to the Working Group, in that it is contrary to articles 9 and 10 of the Universal Declaration of Human Rights, articles 9 and 14 of the International Covenant on Civil and Political Rights and article 15 of the Convention against Torture.

*Response from the Government*

21. The Government responded on 2 July 2015, in other words more than 2 months after the expiry of the 60-day deadline. The Government mentioned difficulties connected with its fax, and in the light of the quality of its recent cooperation with Morocco, the Working Group accepts this explanation for the late response.

22. In its response, Morocco asserts that Mr. Laroussi is a fundamentalist whose extremist views on the jihad are well known. The State party also affirms that Mr. Laroussi was arrested *flagrante delicto* for being a member of the terrorist group led by a certain Robert Richard Pierre Antoine. The State party also asserts that Mr. Laroussi's rights, including the charges against him, were read out to him at the time of his arrest and that his trial, at which he was sentenced to 20 years rigorous imprisonment, could not have been more regular. Lastly, Morocco denies that Mr. Laroussi was subjected to any form of ill-treatment, especially since the Témara detention centre allegedly does not exist.

*Further comments from the source*

23. The source submitted its comments on the response by Morocco on 3 September 2015.

24. With regard to the factual discrepancies, including those concerning the date of arrest and other facts, the source advances that they may easily be accounted for by referring to the report of the Working Group on its mission to Morocco, in which the Working Group noted serious irregularities in the records (see, A/HRC/27/48/Add.5, para. 51), and to the concluding observations of the Committee against Torture on the fourth periodic report of Morocco, in which the Committee refers to cases of prisoners who have been tortured (see, CAT/C/MAR/CO/4, para. 14).

25. As far as the trial, the trial proceedings and the evidence against Mr. Laroussi are concerned, the source challenges the State party to provide the case file as a whole in order for the Working Group to evaluate it. As to the allegations of torture, the source disputes the version provided by the State party and points out, firstly that all the accused in this case have described such treatment and secondly that the Supreme Court has even referred to the written conclusions of Mr. Laroussi, which refer to "confessions obtained through violence". The source also indicates that in the past, special procedures mandate holders have expressed their concerns about the allegations of torture in Morocco (see, A/HRC/22/53/Add.2, paras. 17 and 18, and A/HRC/27/48/Add.5, paras. 21 to 26).

**Discussion**

26. The Working Group welcomes the continuing cooperation by Morocco. The Working Group has visited the country and reported on its visit to the Human Rights Council. The Government has provided a prompt explanation for the technical problems which prevented it from consulting the initial communication and subsequently submitted its response with due diligence. It constitutes an example which the Working Group cannot but welcome.

27. The Working Group notes that the response from Morocco is very brief, and that it disputes the factual allegations without putting forward any evidence in support of its arguments. If Mr. Laroussi was brought before a judge immediately upon his arrest, there should be some trace of it in the judicial records in Morocco. If he indeed was assisted by a lawyer, that too should appear in the records. Moreover, if the case file contains evidence other than confessions, the judgement by which he was convicted should allow an objective assessment to be made. However, in the absence of any evidence in support of the challenge against his allegations, it is impossible for the Working Group to evaluate the challenge and it can only be inclined to believe the victim and to accept a story which is thoroughly consistent. The allegations are all the more credible because they are in part corroborated by the concluding observations of the Committee against Torture in respect of Morocco. Furthermore, the additional explanations provided by the source, after having taken cognizance of the response by Morocco, are convincing because the shortcomings in the records of places of detention are well known to the Working Group.

28. The Working Group concludes that it has been established that Mr. Laroussi, on suspicion of having participated in a terrorist activity, was detained incommunicado and tortured, without the assistance of a lawyer and that he signed a confession which he was unable to read and which was then used to convict him. Even if other evidence was put forward, it has to be recognized that the circumstances described are the very opposite of fair and equitable justice consistent with human rights, and in particular those set forth in article 14, paragraph 3 of the International Covenant on Civil and Political Rights.

29. The Working Group can only conclude as to the arbitrary nature of the arrest and continuing detention. Although Morocco asserts that at the time of the arrest the charges were read out to the suspect, this assertion is not sufficient to convince the Working Group. It would have been necessary for it to be substantiated by material evidence in support of it. Moreover, the source gives a different date of arrest, some three months earlier, and the Working Group considers this version of the facts to be the most probable on account of the characteristics of the version provided by the source, which are described above. Furthermore, the trial was flawed by the continuing absence of legal assistance during the first weeks of detention and by the evidence obtained under torture and inhuman treatment, in violation of international law. In the opinion of the Working Group, the peremptory norm of the right to a fair trial has not been respected. Both of these circumstances correspond to categories I and III of arbitrary detention, as defined in the methods of work of the Working Group.

30. In addition, and in accordance with its established practice, the Working Group considers it appropriate to refer the serious allegations of torture to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

**Disposition**

31. In consideration of the above, the Working Group renders the following opinion:

The continuing deprivation of liberty of Mr. Laroussi is arbitrary because it is without legal foundation and because the right to a fair trial was not respected. Consequently, the detention falls within categories I and III of the criteria applicable to cases submitted to the Working Group.

32. Consequently, the Working Group requests the Government of Morocco to release Mr. Laroussi without delay and to take all the measures necessary to remedy the serious material and moral harm he has suffered by providing comprehensive compensation, in accordance with article 9, paragraph 5 of the International Covenant on Civil and Political Rights. Moreover, the Government should initiate an investigation into the circumstances of this violation of human rights in order to determine responsibility and ensure that any offences are punished.

33. Finally, the Working Group refers the serious allegations of torture to the Special Rapporteur on torture for a thorough investigation and the adoption of all the appropriate measures.

*[Adopted on 4 September 2015]*

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