

Observations on the State of Indigenous Human Rights in Light of the UN Declaration on the Rights of Indigenous Peoples

Morocco

Prepared for

United Nations Human Rights Council: Universal Periodic Review

November 20, 2007

CULTURAL SURVIVAL

Cultural Survival is an international non-governmental organization that defends indigenous rights. It has a global indigenous leadership and consultative status with ECOSOC. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of indigenous peoples' rights in countries throughout the world and publishes its findings in its magazine, the Cultural Survival Quarterly; in a newspaper, Voices, that educates indigenous peoples about their rights; and on its website: www.cs.org. In preparation for this report, Cultural Survival collaborated with researchers from Harvard College Student Advocates for Human Rights (HCS Advocates). Researchers consulted with a broad range of indigenous and human rights organizations, advocates, and other sources of verifiable information on Morocco.

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EXECUTIVE SUMMARY

Since the ascent of King Mohammed VI in 1999, Morocco has made strides to recognize the rights of its Amazigh (Berber) population. But the pace of progress is far too slow. One significant problem is the government's unwillingness to recognize the Amazigh as an indigenous people, which in turn undermines the Amazigh's ability to participate in government or to determine their own futures in accordance with their customs and traditions. Although Amazigh land rights have received some legal recognition, the government tends to respect these rights only in cases where there is no competing outside interest, and ignores them completely when they compete with such activities as oil exploration. Discriminatory governmental attitudes further impede the Amazigh from taking effective action to protest violations of their rights. Despite promises to the contrary, the government has yet to ensure that all Amazigh primary-school-age children receive adequate education in their language, or that the country's courts have adequate capacity to provide translation into Amazigh. The government also needs to ensure that the country's civil registries recognize and register Amazigh names.

BACKGROUND

Imazighen, or Berbers, live throughout North Africa, but particularly in Morocco, Algeria, Tunisia and Libya. An estimated 60% of the country's population of 31 million people is of Amazigh descent. Yet Imazighen (the plural form) have faced a long history of marginalization and discrimination by Arab and French governments. Since 1999, there have been some improvements, but Imazighen still lack official recognition as an indigenous people under the Moroccan Constitution. Many Imazighen have assimilated into Arab culture as a shield against discrimination. But traditional Amazigh populations residing in the remote Rif and High Atlas mountains still face barriers to access to educational, health, and political representation. Since Morocco's independence, several Amazigh political and cultural organizations have formed to advocate for the rights of Imazighen as an indigenous people. In addition, the government has taken positive steps towards protecting their cultural rights by establishing the Royal Institute for Amazigh Culture, recognizing Tamzight as one of the country's national languages (though not an "official" language for governmental business), and

providing education in Tamazight. But for these rights to become meaningful, the government must pair legislation with effective implementation.

RIGHT TO SELF-GOVERNANCE AND CONSULTATION

The Declaration on the Rights of Indigenous Peoples guarantees Imazighen the right to self-governance and to representation within the national government, as well as to consultation with regard to issues that affect their population. The Moroccan government should immediately recognize and promote these rights, not only for their own sake, but because they are the means by which the Imazighen can protest other rights violations and can promote the development of their social and economic rights.

One barrier to Imazighen self-governance and representation is the government's failure to officially recognize Imazighen as an indigenous people. When King Mohammed VI acknowledged the importance of Amazigh culture, he also said that Amazigh “cannot be used to serve political designs of whatever nature.”¹ This effectively denied Imazighen the right to be defined as an indigenous political group.

Language is a second barrier to effective Imazighen political participation. Tamazight is still an unofficial language and as such cannot be used in government affairs. Imazighen must learn Arabic or French to participate in government.² The language barrier has also traditionally contributed to high illiteracy rates, as Tamazight speakers drop out when faced with Arabic-speaking teachers.³ The introduction of Tamzight into the public education system should contribute to addressing this situation, provided that Arabic is introduced in an appropriate manner in the course of children's education. In the interim, the government needs to enable Tamazight speakers to communicate with governmental authorities in Tamazight.

The lack of Tamzight media also makes it difficult for speakers to be informed about government policies; radio news broadcasts in Tamzight have occurred daily since 1994, but the first Tamazight television programs were not broadcast until 2006.⁴ The Committee on the Elimination of Racial Discrimination has recommended more Tamzight-language programs in the public media.

A third barrier is the government's de facto limit on the right of Imazighen to free assembly and protest. Article 21 in the International Convention on Civil and Political Rights⁵ and Article 5 of the International Convention on the Elimination of all Forms of Racial

Discrimination⁶ guarantee the right to peaceful assembly. In addition, Article 9 of Morocco's Constitution guarantees freedom of assembly, but the government has retained for itself the right to disperse any gathering it chooses. The Ministry of Interior requires permission for public assemblies.⁷ The Indigenous Peoples of Africa Coordinating Committee and the Amazigh League for Human Rights, among others, have alleged that the government racially discriminates against Amazigh organizations when granting permission,⁸ even though the law purportedly makes an exception for assemblies for cultural purposes.⁹ In the spring of 2007, Amazigh and Arab students at several universities clashed, and though Arab students allegedly started the violence, it was mainly Amazigh students who were arrested. As a result, the Amazigh Cultural Association in America and the Tazzla Institute for Cultural Diversity, among other Amazigh organizations, have alleged ethnic discrimination by the police and the judicial system.¹⁰ In its concluding comments on Morocco in its 2004 report, the CERD Committee notes that these practices and others are worrisome in their suggestion of discrimination and of a lack of government intervention to enforce the right to free assembly.¹¹

Amazigh self-governance and representation at the national level also would contribute to eliminating socioeconomic disparities between the Amazigh and Arab populations, as required by Article 15.2 of the Declaration on the Rights of Indigenous Peoples.¹² Although government statistics do not measure Amazigh socioeconomic status relative to Arab status, there are gross economic and social disparities in Morocco between urban areas and the rural areas where traditional Amazigh populations live.¹³ Granting these Amazigh populations their right to self-governance and representation in the national government is a necessary step towards addressing these inequalities.

LAND RIGHTS

A 1912 French colonial government decree that allowed the government to seize communal lands from indigenous peoples is still on the books, although a 1919 decree made room for limited collective ownership rights under government tutelage, and a 1951 decree recognized Amazigh mining rights.¹⁴ However, these rights are upheld in name only, except in areas where land interests are uncontested or the land is valueless. Imazighen have no effective means of enforcing their rights, and the government frequently makes decisions about these lands to accommodate the economic or political interests of the state without involving

Imazighen. The Amazigh League for Human Rights has accused the government of collaborating with “real-estate mafias” to exploit Amazigh lands and resources.¹⁵

Faced with heavy reliance on foreign oil, the Moroccan government has disregarded Amazigh claims to land in favor of exploiting Morocco’s newly found oil reserves.¹⁶ In 2000, Lone Star Energy signed several contracts with the Moroccan government to exploit oil fields on Amazigh lands near Talsinnt, in the High Atlas Mountains. Estimates were originally as high as 20 billion barrels of oil, with revenue estimates upwards of \$800 million a year, but the numbers quickly fell, and as of 2003 Lone Star had only proven reserves of 10 million barrels or less.¹⁷ Since drilling began, the local Amazigh population has been denied access to areas near the oil rigs. Moreover, it has been offered no compensation for land occupied by the drilling company, nor does it receive a share in the profits. These practices violate Art.1 of the International Covenant on Civil and Political Rights; and Articles 10, 11.2, 26, 27, 28, and 32 of the Declaration on the Rights of Indigenous Peoples, which guarantees to indigenous peoples the right to autonomy, including the right to be involved in decisions concerning their land. The government has thus far shown little interest in protests and concerns voiced by Amazigh people in relation to use of their land. As the UN Permanent Forum on Indigenous Issues has stressed, prior consultation with tribal leaders and participation of indigenous people in the implementation of drilling plans and revenue distribution are important benchmarks for projects on indigenous land.¹⁸ These benchmarks should guide the Moroccan government.

Adequate protection of land rights and the ability of indigenous peoples to freely pursue their economic and cultural development, and to protect their cultural heritage and identity, are directly linked. The relative poverty of the Amazigh, the continuing loss of their language and high rate of assimilation are partially explained by a lack of access to their traditional lands and by their inability to exploit the resources (both surface and subsurface) of these territories.

While structural and financial problems in rural Morocco would create hurdles for even the most energetic governmental efforts to improve conditions for rural Amazigh, it is essential that Morocco expand opportunities for Amazigh participation in decision-making in matters related to their lands, resources, and economic and social development. Morocco also should put in place accessible administrative or judicial procedures to enable its indigenous people to seek remedies and enforce legal guarantees.

CULTURAL RIGHTS - LANGUAGE

The right of indigenous peoples to speak their native languages is recognized in Article 13 of the Declaration on the Rights of Indigenous Peoples.¹⁹ This right includes the rights of indigenous peoples to have education in their languages, to use their languages in political and legal settings, and to be free from discrimination on account of their use of their languages. In a 2001 speech, King Mohammed VI recognized the importance of the Tamzight language, established the Royal Institute for Amazigh Culture (IRCAM) to integrate Tamzight into public education, and ruled that translators must be available at trials of Amazigh speakers.²⁰ He did not, however, make Tamazight an official language on par with Arabic. Six years later, Tamzight is still not fully integrated into the educational system.

Article 14 of the Declaration on the Rights of Indigenous Peoples,²¹ Article 30 of the International Convention on the Rights of the Child,²² and Article 27 of the International Covenant on Civil and Political Rights,²³ guarantee indigenous peoples the right to an education in their own language. 2003 was the first year that Tamazight was officially taught in Moroccan primary schools, but lack of organization and funding has prevented effective implementation. In 2003, Tamazight was taught in 317 schools.²⁴ In 2006 this number had only increased to 350 schools, which provide education for less than 1 percent of the students enrolled nationally in primary school.²⁵ In 2007, the UN Special Rapporteur on the Right to Education recommended the systematic and adequate training of teachers in addition to increased funding in order to provide effective education.²⁶ In June, 2007, IRCAM proposed 88 new cultural projects to promote Tamazight and Amazigh culture, including, among other things, writing workshops, literacy programs, conferences, and dialect courses.²⁷

Article 14 of the International Covenant on Civil and Political Rights provides that, "In the determination of any criminal charge against him, everyone shall be entitled ... to have the free assistance of an interpreter if he cannot understand or speak the language used in court." Article 13.2 of the Declaration on the Rights of Indigenous Peoples guarantees to indigenous peoples the right to use their languages in political and legal settings.²⁸ While Moroccan law requires interpreters to aid Tamazight speakers in legal settings, the government has not protected Tamzight speakers against discrimination by interpreters and judges. Accusations of false translations and discriminatory behavior are regularly reported.²⁹

Imazighen also have raised accusations of discrimination with respect to their ability to give their children Amazigh first names. The Committee on the Elimination of All Forms of Racial Discrimination concluded that many local registry officers were continuing to prohibit the registration of Amazigh first names, despite the lifting of the official ban, and recommended that the government take swift action to end this discrimination.³⁰

REFERENCES

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- ¹ *Consideration of Reports Submitted by States parties Under Article 40 of the International Covenant on Civil and Political Rights, Fifth Periodic report on Morocco, submitted to UN Human Rights Committee.* CCPR/C/MAR/2004/5 (Mar 10, 2004).
[http://www.unhchr.ch/tbs/doc.nsf/0/5c407dda7e25037ec1256f09004956d1/\\$FILE/G0440939.pdf](http://www.unhchr.ch/tbs/doc.nsf/0/5c407dda7e25037ec1256f09004956d1/$FILE/G0440939.pdf).
- ² Committee on Economic Social and Cultural Rights, *Consideration of Reports Submitted by States Under Articles 16 and 17 of the Covenant: Concluding Observations of the Committee – Morocco*, para. 32, E/C.12/MAR/CO/3 (Sept. 4, 2006).
- ³ Ennaji, Moha, *Multilingualism, Cultural Identity, and Education in Morocco*, Springer, 2005.
- ⁴ United States Department of State, “Human Rights Report: Morocco,” 2006.
<http://www.state.gov/g/drl/rls/hrrpt/2006/78859.htm>
- ⁵ International Covenant on Civil and Political Rights, art. 27, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (Dec. 16, 1966), “Article 21: The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.”
- ⁶ International Convention on the Elimination of All Forms of Racial Discrimination, art. 5, G.A. Res. 2106 (XX), Annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (Dec. 21, 1965). “States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law.”
- ⁷ United States Department of State, “Human Rights Report: Morocco,” 2006.
<http://www.state.gov/g/drl/rls/hrrpt/2006/78859.htm>
- ⁸ See e.g. Indigenous Peoples of Africa Coordinating Committee, *Regional Report: North Africa*, 2007, http://www.ipacc.org.za/eng/regional_northafrica.asp. (IPACC reports that the Moroccan government is “openly hostile” to Amazigh demonstrations and organizations.); Yazdani, Laili, “The Amazigh movement of Morocco advocates for the recognition of its rights,” *STAGES*, Nov. 3, 2006, <http://www.stages.alternatives.ca/article181.html>.; Amazigh League for Human Rights in Morocco, *Communique of the 2006 National Council*, Dec. 12, 2006, http://www.amazighworld.org/human_rights/morocco/index_show.php?Id=706.
- ⁹ *Supra*, note 1.
- ¹⁰ Amazigh Cultural Association in America and Tazzla Institute for Cultural Diversity, “The Amazigh Cultural Movement of Morocco under Attack,” *North of Africa*, Oct. 9, 2007, http://www.north-of-africa.com/article.php3?id_article=443.
- ¹¹ *Consideration of Reports Submitted by States parties Under Article 40 of the International Covenant on Civil and Political Rights, Fifth Periodic report on Morocco, submitted to UN Human Rights Committee.* CCPR/C/MAR/2004/5 (Mar 10, 2004), para. 16.
- ¹² Declaration on the Rights of Indigenous Peoples, arts. 2 & 7, G.A. Res. 61/68, U.N. Doc. A/RES/61/295 (Sep. 13, 2007), art. 15.2. “Article 15.2: States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.”
- ¹³ See e.g. Programme des Nations Unies pour le Développement, (2003). *Maroc: Rapport de développement humain, gouvernance et acceleration du developpement humain* [Morocco: Report on human development, governance, and acceleration of human development] (reports a 12% poverty rate in urban areas and a 27.2% poverty rate in rural areas). See also Commission of the European Communities, (2004). *European Neighbourhood Policy Country Report: Morocco*, SEC(2004) 569 (reports a 12% urban poverty rate and a 25% rural poverty rate and notes similar trends in literacy rates in urban and rural areas). See also, Special Rapporteur, *Report of the Special Rapporteur on the Right to Education, Addendum: Mission to Morocco, delivered to the Right to Education Commission*, U.N. Doc. A/HRC/4/29/Add.2 (Feb. 7, 2007). (“[I]nfrastructure in secondary and high schools, the lack of canteens and boarding facilities, coupled with a prevailing lack of sanitation, water and electricity supply in various rural areas, have a direct negative impact on the realization of the right to education.” He recommends the government “address the lack of infrastructure in rural areas, particularly in those that have been excluded from investment and assistance in the past, such as Khenifra in the Atlas Mountains and the Rif region.”).

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- ¹⁴ Minority Rights Group International, “State of the World’s Minorities: Events of 2005,” 2006, p 59. Available at www.minorityrights.org/download.php?id=119; Idbalkassm, Hassan. *Collective Rights of Ownership of Lands and Resources or Indigenous Communes in Africa from the Sovereignty to the Protectorate: Morocco as a case study, submitted to the Expert Seminar On Indigenous Peoples’ Permanent Sovereignty Over Natural Resources And On Their Relationship To Land*, HR/GENEVA/IP/SEM/2006/BP.3 Jan. 2006, <http://www.ohchr.org/english/issues/indigenous/docs/sovereignty/BP.3e.doc>.
- ¹⁵ Amazigh League for Human Rights in Morocco, *Communique of the 2006 National Council*, Dec. 12, 2006. http://www.amazighworld.org/human_rights/morocco/index_show.php?Id=706.
- ¹⁶ “Keeping an eye on Morocco’s “Black Gold,” *Washington Times*, Nov. 27, 2000, <http://www.internationalspecialreports.com/africa/00/morocco/11.html>.
- ¹⁷ Shelley, Toby, “Black gold or another black eye in Morocco?” *The Daily Star*, Oct. 13, 2003, <http://www.zawya.com/story.cfm/sidZAWYA20031013091346>. See also “Big Oil Deposits Discovered in Morocco,” *British Broadcasting News*, Aug. 21, 2000, <http://news.bbc.co.uk/1/hi/world/americas/838311.stm>
- ¹⁸ UN Permanent Forum on Indigenous Issues, Press Release: “Indigenous Rights to land resources basis for collective survival, inextricably linked to self-determination, forum told,” May 15, 2007, <http://www.un.org/News/Press/docs/2007/hr4918.doc.htm>.
- ¹⁹ Declaration on the Rights of Indigenous Peoples, art. 13.1, *supra* note 12.
“Article 13.1: Indigenous peoples have the right to revitalize, use, develop, and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.”
- ²⁰ See e.g. “Morocco Considers Berber Rights,” *British Broadcasting News*, July 31, 2001. <http://news.bbc.co.uk/2/hi/africa/1466347.stm>
- ²¹ Declaration Indigenous Rights, *supra* note 12, art. 14. “Article 14: 1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.”
- ²² Convention on the Rights of the Child, art. 30, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (Nov. 20, 1989), “Article 30: In those States in which ethnic, religious, or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.”
- ²³ International Covenant on Civil and Political Rights, *supra* note 5. “Article 27: In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”
- ²⁴ Yazdani, Laili. “The Amazigh movement of Morocco advocates for the recognition of its rights,” *STAGES* (Nov. 3, 2006), <http://www.stages.alternatives.ca/article181.html>.
- ²⁵ United States Department of State, “Human Rights Report: Morocco,” 2006. <http://www.state.gov/g/drl/rls/hrrpt/2006/78859.htm>
- ²⁶ Special Rapporteur, *Report of the Special Rapporteur on the Right to Education, Addendum: Mission to Morocco, delivered to the Right to Education Commission*, U.N. Doc. A/HRC/4/29/Add.2 (Feb. 7, 2007).
- ²⁷ “Morocco’s IRCAM to fund 88 Amazigh Culture Projects,” *Magharebia*, June 21, 2007, http://www.magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/newsbriefs/general/2007/06/21/newsbrief-02. IRCAM selected 88 projects which will provide dialect courses, writing workshops, literacy programs, conferences and other activities designed to promote Amazigh culture. September 2007 also marked another expansion in Tamazight education – the first year using Tamzight in the 5th year of primary school. Touahri, Sarah, “Morocco’s New Academic Year Begins with New Tools and Objectives,” *Magharebia*, Sept. 16, 2007, http://www.magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2007/09/16/feature-02.
- ²⁸ Declaration Indigenous Rights, *supra* note 12, art. 13.2. “Article 13.2: States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.”
- ²⁹ African Commission on Human and Peoples’ Rights (ACHPR) and International Work Group for Indigenous Affairs, *Report on the African Commission’s Working Group On Indigenous Populations/ Communities*, p.40, Copenhagen, Denmark: EKs/Skolens Trykkeri, 2005.

Taylor, Jeffrey. "Among the Berbers," *National Geographic*, Jan. 2005, <http://magma.nationalgeographic.com/ngm/0501/feature4/fulltext.html>. [It's not clear whether this Taylor citation is part of footnote 29 or 30, or whether it should be a separate footnote altogether.]

³⁰ Committee on the Elimination of all forms of Racial Discrimination, *Consideration of Reports Submitted by State Parties under Article 9 of the Convention. Concluding Observations on Morocco*. CERD/C/SR.1579 (Mar. 20, 2003).