



Morocco (Western Sahara) – Researched and compiled by the Refugee Documentation Centre of Ireland on 5 November 2015

Question 1

Do the Moroccan authorities consider a Sahrawi born in the Tindouf refugee camp in Algeria, and whose parents were also born in this camp, to be a Moroccan national?

Answer to question 1

A report published by the Institute on Statelessness and Inclusion states:

“While the so-called Polisario Front, which has established itself as a government-in-exile, has proclaimed the independent statehood of the Sahrawi Arab Democratic Republic (SADR), this has only been recognised by a few dozen governments and it is not apparent that a Sahrawi nationality exists at present. Morocco has meanwhile recognised the residents of the territory of Western Sahara as Moroccan nationals, but this status may not extend to those Sahrawi who live in exile. When asked to consider the question of the Sahrawi’s legal status, Spanish courts (including the Supreme Court) have determined that Moroccan nationality has not been imposed on those who fled immediately after Morocco took control of Western Sahara in the 1970s; nor has Algerian nationality been extended to Sahrawi refugees in the camps. Thus, the Spanish court considered Sahrawi who have lived as refugees since the 1970s as stateless and any children born in exile to have also not acquired a nationality. This is only the position of one national jurisdiction, however, and further research is evidently needed to better understand the situation of the Sahrawi refugees. It remains difficult to conclude exactly how many Sahrawi are stateless today, but it is likely that a significant proportion of the over 115,000 – 190,000 persons living as refugees Algeria and Mauritania are stateless.” (Institute on Statelessness and Inclusion (3 December 2014) *The World’s Stateless* [Sahrawi excerpt])

In an article published on the European Network on Statelessness website the author Valeriia Cherednichenko states:

“On the 5th of September 2013, for the first time, a person of Sahrawi origin was recognised as stateless by the Spanish Minister of Interior upon the proposal of the General Directorate of the Internal Policy.” (European Network on Statelessness (22 October 2013) *A ray of hope for stateless Sahrawis in Spain?*)

In a paragraph headed “Establishing statelessness” this article states:

“The applicant was born in the territory of Western Sahara in 1967. After 1975, when Spain relinquished the administrative control of the territory to a joint administration by Morocco and Mauritania, she moved to the refugee camps of Tindouf in Algeria. With regards to the status of Sahrawis who live

in the refugee camps of Algeria, this administrative decision quotes the numerous decisions of the Supreme Court,] where the Court states that Algeria has never expressed, explicitly or implicitly the recognition or concession of Algerian nationality to stateless Sahrawis resident in the camps of Tindouf. (ibid)

This paragraph also states:

“Secondly, the Court developed a doctrine concerning the possible attribution of Moroccan nationality to Sahrawi applicants born in the territories occupied by the Kingdom of Morocco since 1975. In the case of the applicant under discussion, her family and she moved from Western Sahara to the camps of Tindouf immediately after Morocco took the administration of the territory under its control. By moving to the refugee camp, applicant’s family and consequently the applicant herself have implicitly not accepted Moroccan nationality.” (ibid)

A 2010 article from the Washington Post

“People living in the Polisario camps in southwestern Algeria cannot seek citizenship, work permits or refugee status. Escapees tell of abuse, lack of basic services and infiltration by traffickers. Even as they settle in new Moroccan-built housing and receive Moroccan citizenship, they fear for relatives left behind. Moulay Ismaili, 85, lives in Smaara on the Moroccan side and traveled to the United Nations in October to plead for the release of his son, Polisario police chief inspector Mustapha Salma Ould Sidi Mouloud. The Polisario had let Mouloud visit his father in August, and after 31 years of being away, he liked what he saw in Morocco and said so publicly,’ Ismaili said. ‘People in the camps are brainwashed to hate Morocco, and Mustapha saw that the Moroccan Sahara is a nice place to live.’ After Mouloud announced his support of Morocco’s proposal of semiautonomy for Western Sahara, the Polisario jailed him for treason. Polisario spokesman Emhamed Khadad said by phone from the camps that the Polisario is a peaceful, pro-independence movement. Yet more than 1,500 people have left the camps this year and traveled to the Moroccan side of Western Sahara, say Moroccan officials.” (Washington Post (4 December 2010) *As dispute over Western Sahara wears on, growing numbers of refugees journey back home*)

Question 2

Do the Moroccans give nationality to those Sahrawis who do not accept Morocco’s sovereignty over Western Sahara?

Answer to question 2

A report on a joint Swiss-Swedish fact-finding mission, in a section titled “Western Sahara”, states:

“All Sahrawis (living in Western Sahara and Morocco) can get Moroccan National passports, even the activists.²⁷ Morocco regards the Sahrawis as Moroccan citizens – also those Sahrawis who don’t want to be citizens of the country they de facto live in. According to the UN Western Sahara is a “non self ruling” territory. Thus, according to a European interlocutor, from the perspective of international law you cannot say that the Sahrawis are citizens

of Morocco – even though they in practice are under the jurisdiction of Morocco.” (Federal Department of Justice and Police (FDJP) of Switzerland & Swedish Migration Board (15 December 2011) *The Development in Morocco in the Shade of the Arabic Spring and its Consequences on Migration: Report from a Swedish-Swiss fact finding mission to Morocco June 17 - 22, 2011*, p.17)

A response to an ad-hoc query compiled by the European Migration Network , in reply to the question “Is it considered *possible* for a person born in Western Sahara to obtain Moroccan citizenship in practice?” quotes an answer from France as follows:

“The Sahrawi people born and living in Western Sahara under Moroccan administration (in Laayoune for example) are de facto Moroccan citizens. For those born on the other side of the separating wall on the territory under SADR administration, it is possible that the Moroccan authorities refuse to recognize them as Moroccan nationals for imputed political motive (origin from a territory under enemy administration, connection with the Polisario Front).” (European Migration Network (9 June 2015) *Ad-Hoc Query on Citizenship status of persons from Western Sahara (Sahrawi citizens)*)

This response also quotes the answer from France to the question “Is it considered reasonable to expect that a person born in Western Sahara obtains Moroccan citizenship?” as follows:

“It is reasonable to expect that a Sahrawi obtains the Moroccan nationality, if he/she is born or if he/she is living on the Sahrawi territory under Moroccan administration. It is not reasonable to demand that a Sahrawi obtains the Moroccan nationality, if he/she is born or if he/she is living on the Sahrawi territory under the administration of authorities that are de facto of the Polisario Front.” (ibid)

A public statement issued by Amnesty International in 2009 states:

“Aminatou Haidar, President of the Collective of Sahrawi Human Rights Defenders, was intercepted by security officials when she arrived at Laayoune airport on 13 November 2009 after a month long trip abroad during which she received a prestigious human rights award in the USA. Officials took exception to her stating on her landing card that her home is in Western Sahara, rather than 'Moroccan Sahara', and she was taken aside and questioned in the presence of the General Crown Prosecutor of Laayoune by a group of some 15 judicial police and security officials. She was questioned about her political beliefs and human rights activities, what she had done during her travel abroad and who had paid for her travel, and about medical treatment she had received in Spain. After some hours, while still held at the airport, she was confronted with one of her relatives and other Sahrawi people who sought to dissuade her from continuing to advocate self-determination for the people of Western Sahara; after she declined to do so, she was asked to sign a police statement and her passport and identification documents, issued by the Moroccan authorities, were confiscated. Next morning, officials said they would release her if she were to publicly acknowledge Moroccan sovereignty over Western Sahara. She refused to do so and then several hours later, security officials put her on a flight to

Lanzarote in the Canary Islands and expelled her from Western Sahara.”
(Amnesty International (17 November 2009) *Morocco/Western Sahara:
Expulsion of human rights defender reflects growing intolerance*)

This document also states:

“The expulsion of Aminatou Haidar, who received the Robert F. Kennedy Human Rights Award in 2008, is the latest of a series of measures taken by the Moroccan authorities against Sahrawi human rights defenders and advocates of self-determination for the people of Western Sahara. In October 2009, the Moroccan authorities confiscated the travel documents of six Sahrawi activists - Sidi Mohamed Daddach, Ahmed Sbai, Laarbi Massoud, Atig Brai, Ibrahim Ismaili and Sultana Khaya - to prevent them from travelling to Mauritania and Spain. On 6 November, in a speech marking the anniversary of the ‘Green March’, when Morocco took possession of the former Spanish territory of Western Sahara in 1975, King Mohamed VI said that challenges to Morocco's ‘territorial integrity’ - a reference to Western Sahara's incorporation - will not be tolerated. ‘It is not possible to enjoy citizenship rights and to renounce them at the same time as plotting with enemies of the homeland’, the King warned, suggesting that Sahrawis who advocate self-determination may be stripped of their Moroccan citizenship for expressing their opinions.” (ibid)

See also article from Le Monde Diplomatique which states:

“Aminatou Haidar told of how, going on holidays with her children to the Moroccan resort of Agadir, she was stopped at checkpoints 13 times. Yet despite this petty intimidation, it seemed that there was official recognition that Haidar was too well known to be overtly harassed. Earlier this month, however, that changed, when Morocco’s King Mohammed VI signalled a new, tougher line in a major speech. ‘It is time to stop outlaws taking advantage of [Morocco’s] civic freedoms to agitate from within,’ he said. ‘You are either a patriot or a traitor.’ Then, returning from the US, via the Canaries, on November 13, Haidar signalled her response when, filling out the landing card at the airport in Laayoune, she refused to write her nationality as ‘Moroccan’. Deciding that she had thereby waived her citizenship, the Moroccan authorities duly confiscated her passport, and threw her out, putting her on a plane back to Lanzarote.” (Le Monde Diplomatique (English Edition) (November 2009) *Western Sahara conflict goes on*)

An article published on the Morocco News Board website states:

“Ever since her arrival at the Lanzarote airport, Haider, who was unknown outside of human rights advocacy circles, garnered spontaneous international support for her cause from world-renowned entertainment icons, intellectuals, and commoners who dubbed her the ‘Sahrawi Ghandi’. The decision to expel Haider from Morocco provided her with an international springboard to project her ideas to a wider audience. This ill-advised decision is the mark of an incompetent, short-sighted, injudicious political corps. It proved exacerbating to the country’s already damaged human rights image; the backlash is increasingly painting Morocco in darker hues in the eyes of the world. Morocco’s actions against Haider gave credence to her claims of abuse against the Sahrawi; claims that were partially discredited on account of the fact that she lived in Morocco and was free of her movement and expression.

The United States, France, and the Arab governments (minus Algeria,) thus far, bask in a stolid insularity. Could Morocco have handled Haidar's issue internally? Absolutely yes! She is, after all, Moroccan. The removal of a Moroccan's citizenship is by Royal decree (there are exceptions and Haidar's case is not one.) That authority is not delegated to the King's prosecutor. The Moroccan legal system has established a set procedure to be adhered to. A Moroccan cannot just surrender her passport, and renounce her citizenship, nor should the government deprive a Moroccan of her citizenship without due process. If Aminatou Haidar decided to submit a request to the King to forfeit her Moroccan citizenship, and such request was approved, only then could she be handed over to MINURSO officials for transport to the refugee camps in Tindouf." (Morocco News Board (2009) *Could Morocco have handled Haidar Differently?*)

Question 3

Does Morocco claim sovereignty over all of Western Sahara, or just the territory of Western Sahara that does not include the territory controlled by the SADR (bearing in mind the SADR claim sovereignty over all of Western Sahara)? Hence, are Sahrawis born in the SADR considered Moroccan by the Moroccan authorities?

Answer to question 3

A report published by the US Congressional Research Service states:

"Morocco controls roughly 85% of the disputed territory and considers the whole area part of its sovereign territory." (Congressional Research Service (8 October 2014) *Western Sahara*)

The Executive Summary of the most recent US Department of State country report on the Western Sahara states:

"The Kingdom of Morocco claims the Western Sahara territory and administers Moroccan law through Moroccan institutions in the estimated 85 percent of the territory it controls." (US Department of State (25 June 2015) *2014 Country Reports on Human Rights Practices – Western Sahara*, p.1)

Footnote 268 of a report published by the New York City Bar Association states:

"This Committee has heard evidence that despite the position it has adopted at the United Nations, in which it has acquiesced in the position of the international community that Western Sahara has retained the status of a Non-Self-Governing Territory entitled to self-determination, the Moroccan government has for some period of time declared to its citizens that Western Sahara is a provincell of Morocco, and considers any expression denying the sovereignty of Morocco over Western Sahara or acknowledging the right of the peoples of Western Sahara to establish an independent state a criminal offense, whether expressed by citizens of Morocco or inhabitants of Western Sahara." (New York City Bar Association (June 2012) *The Legal Issues Involved In The Western Sahara Dispute: The Principle of Self-Determination and the Legal Claims of Morocco*, p.92)

In an article published on the Atlantic International Studies Organization website the author Susan Humphrey states:

“Morocco’s claims to the territory of Spanish Sahara extend as far back as to the time of its independence; ‘Our independence will only be complete with the Sahara!’ shouted Allal el-Fassi, leader of the Istiqlal Party, in 1956 (Hodges, 1983: 85). Leaders of the newly independent Moroccan state claimed that Western Sahara had historically been a part of ‘Greater Morocco’ and that they would fight to restore the true boundaries of Morocco, which included Western Sahara. It was not until 1973, however, that Morocco’s King Hassan began to emphasize nationalist ideals by campaigning for the return of the Sahara to ‘the motherland’ through government newspapers” (Atlantic International Studies Organization (undated) *The Western Sahara Conflict*)

An article from the Moroccan American Center for Policy states:

“Today, control over that territory, variously referred to as the Western Sahara, the southern provinces, or just the Sahara, remains a contentious issue now squarely in the lap of the UN Security Council, which annually decides the fate of its observers in the region. While negotiations have not succeeded in closing the gaps between the protagonists, Morocco and its friends on the one hand, and the Polisario Front and Algeria on the other, the King reaffirmed that the outcome was already clear to him - that the southern provinces were then and will always be part of Morocco.” (Moroccan American Center for Policy (7 November 2014) *Morocco: King of Morocco Spells Out Future for Western Sahara*)

A report published by Human Rights Watch, in a section titled “Freedom of Movement”, states:

“Moroccan officials, and pro-Moroccan media and organizations, habitually describe the Sahrawi refugees as captives (*séquestrés*) whom the Polisario Front holds in the Tindouf camps against their will. Polisario officials insist that the refugees are free to come and go as they please, including to Moroccan-controlled Western Sahara. Already, a minority of the refugees, some of whom were interviewed for this report, have left the camps over the years to resettle there.” (Human Rights Watch (18 October 2014) *Off the Radar: Human Rights in the Tindouf Refugee Camps*, p.24)

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