



19th July 2022

Disaster on the Moroccan-Spain border, killing of many African migrants

We, African Refugee and Migrants Aid (ARMA), condemn the deaths of the many African migrants at the Moroccan-Spanish border on 24 June, and request the international community to take serious action.

We, ARMA, are a South African NGO based in Port Elizabeth, fighting for the interests of refugees and migrants in South Africa, with a focus on the SADC region and the entire continent of Africa. Our mission is to restore the rights of migrants and refugees by providing legal and political assistance to those in need. We do this by giving legal advice, political advice, and conducting research where necessary. We collaborate with communities from different African countries, which are represented in the Eastern Cape. We try to represent their interests in South Africa as best we can. We consider it essential to continue to fight for the recognition and acknowledgement of the rights of refugees and migrants, because unfortunately too often refugees and migrants receive little protection from the country in which they arrive and stay, thus being reduced to lawless individuals.

We are concerned about how displaced persons, refugees and migrants are treated worldwide. How they are disenfranchised, completely dependent on the arbitrariness of other states and their governments. Unfortunately, the recent disaster at the Moroccan-Spanish border, in which between 23 and 37 refugees died, according to various official estimates, confirms this once again.

It is with great revulsion that we have heard from the inhumane actions of the Moroccan and Spanish authorities at the borders. The latter, in response to a flood of desperate refugees trying to reach the Melilla enclave via the Moroccan-Spanish border, and thus European territory, committed massive human rights violations. It is estimated that on that day, Friday 24 June, some 2000 African refugees tried to cross the Moroccan-Spanish border at Melilla. Riots ensued between the migrants and the Moroccan and Spanish authorities.¹ The Moroccan border guards, supported by the Spanish authorities, reacted with excessive force, immediately resorting to stone throwing and the use of tear gas at close range.² Video footage shows the authorities using excessive force in the heat of the moment, hitting the crowd and people already lying on the ground covered in blood with clubs. It is still unclear whether the immediate cause of death can be traced to the fall of a six-metre-high fence, suffocation or the consequences of the authorities' actions.³

¹ Aljazeera (13 July 2022)

² BBC (27 June 2022)

³ OHCHR (28 June 2022)

According to Moroccan authorities, the death toll stands at 23 refugees. Helen Maleno Garzón of the Walking Borders organisation said that several NGOs had estimated the number at least 37. Omar, a refugee from Sudan who attended the demonstration in Rabat in response to the disaster, speaks of a death toll of at least 70 refugees.⁴ However many there are, this should never have happened.

Forced to flee from the extreme poverty or life-threatening conflicts in their home countries, these thousands of refugees, who ended up in miserable conditions in Morocco, saw no other way out than to run across the border to Europe.⁵ These were predominantly (young) refugees from Sudan, especially from Darfur, according to various sources. All of them were fleeing the fierce conflict in the country, which has already caused hundreds of deaths, and an estimated 50,000 displaced people.⁶

During the attempt to stop the migrants, by using pushbacks, the human rights of the refugees in question were undeniably violated on a massive scale. Just think of the internationally agreed right to seek asylum elsewhere, enshrined in the 1951 Refugee Convention, to which both Spain and Morocco are parties. By carrying out these pushbacks, the refugees are violently deprived of the possibility to seek asylum. The excessive force used violates in every possible way the international agreements on physical integrity and the prohibition of violence and torture. Established in, among others, the 'Convention against Torture and Other Cruel, and the Inhuman or Degrading Treatment or Punishment of 1984' has been violated. Not to mention that the basic right to life has been violated.

On behalf of ARMA, I call for a thorough, large-scale independent investigation into the role of the Moroccan, Spanish and European authorities in this disaster. In addition, on behalf of ARMA, I would like to express my concerns about the independence of the investigations announced by the authorities. The Moroccan authorities seem intent on downgrading their role in the consequences of the disaster; the death toll is estimated to be lower than that of other international actors, an autopsy of the bodies has still not been carried out, and the finger-pointing at their neighbor Algeria has already begun. Algeria is said to be responsible for the mass attempt by the refugees to cross the border, because Algeria has a lax way of controlling its borders, according to the Moroccan authorities.⁷

The Spanish Prime Minister, Pedro Sánchez, immediately reacted by placing the responsibility for the consequences of the disaster on the migrants; according to Sánchez, it is the migrants who committed a violent attack on the territorial integrity of Spain.⁸ He also emphatically expressed his support for the work of the Spanish border guards and thanked the Moroccan police for their work. Sánchez blamed the smuggling mafia for the violence at the border.⁹ The Spanish prosecutor announced a large-scale investigation into the events of 24 June at the Moroccan-Spanish border. It emphasizes that the incident deserves serious

⁴ Africanews (29 June 2022)

⁵ Reliefweb (27 June 2022)

⁶ Africanews (29 June 2022)

⁷ Africanews (29 June 2022)

⁸ Guardian (26 June 2022)

⁹ BBC (27 June 2022)

attention, given the likelihood of large-scale human rights violations.¹⁰ The question is to what extent this investigation by the Spanish prosecutor will actually be independent, given the fact that the Spanish Government seems to want to take a completely different course.

Since a truly thorough and independent investigation in both countries is by no means certain, we would like to call for international intervention and control. As far as we are concerned, this can be done either in the form of a large-scale international independent investigation, or by allowing an independent international party to monitor the independence of the investigation to be carried out by both countries. In our opinion, the United Nations, or in other words the UNCHR, could play a role in this.

Several NGOs, including Walking Borders and the Moroccan Association of Human Rights, link the recently improved Morocco-Spain relationship to the events at the border on 24 June. After years of conflict between Morocco and Spain over the Western Sahara region, this now seems to have been resolved and turned into renewed cooperation on border protection.¹¹ Where previously the Moroccan authorities usually let the refugees flow towards the EU, their attitude seems to have changed into hard border control with firm pushbacks. This is in favour of the Spanish and European refugee policy, which aims to guard the European borders by entering into controversial partnerships with neighbouring countries, such as Morocco, Libya and Turkey. According to Judith Sunderland of Human Rights Watch, the renewed relationship and cooperation between the Moroccan and Spanish authorities is likely to lead to a recurrence of similar incidents, where violent pushback is not shunned, or even normalized.¹²

In the light of these developments, we consider it crucial that a large-scale independent investigation be carried out into the events of 24 June at the Moroccan-Spanish border. In this investigation, we would like to see a focus on the following key questions:

1. What exactly happened at the Moroccan-Spanish border on 24 June?

Which parties were involved in what way; how was violence used; and above all, what was the cause of death of the refugees who lost their lives that day? Only by answering these questions can justice be done for the victims and their relatives, by holding those responsible internationally responsible and accountable, or by sanctioning them. Those responsible must ensure that full reparation is made, or compensation is paid, for the violated human rights.

2. What situation do refugees in Morocco find themselves in?

How are refugees living in Morocco treated, are the human rights agreed upon at international level and at African level guaranteed? Since Morocco seems to be becoming more and more of a reception or transition country for African refugees, it is of great importance to gain insight into the situation of refugees who find themselves in Morocco.

¹⁰ Africanews (29 June 2022)

¹¹ Guardian (26 June 2022)

¹² Guardian (30 June 2022)

3. What does the alleged new cooperation between the Moroccan and Spanish authorities entail regarding the Spanish border surveillance?

Is there any cooperation with regard to Spain's border controls? If so, how was it established, and what agreements have been made? What guarantees are there that human rights conventions will be respected? How will a repetition of such incidents be prevented?

4. What is the European Union's role in Spain's border protection?

How does the EU monitor the Spanish borders, and what human rights guarantees does it seek to apply? To what extent can the EU be held responsible for the events at the Moroccan-Spanish border? What is the European Union's role in the alleged cooperation between Morocco and Spain on border protection? Transparency must be created with regard to the EU's role. In addition, the EU itself must know what is happening at its borders, for which it must also bear responsibility.

ARMA considers answers to all these questions of great importance for how we, the international community, deal with people fleeing their homeland in the future. We hope that the Moroccan-Spanish border will not become a second, disguised, Greece-Turkey border, where there is hardly any visibility and control on how the border guards deal with arriving migrants and refugees. To this end, it is important that the international community, and the African Union and the European Union in particular, have visibility and control over what is happening in Morocco and on its border with Spain.

That is why ARMA, as a South African NGO representing the interests of migrants and refugees in Africa, calls on the African Union to go beyond a mere condemnation of what happened at the Moroccan-Spanish border. We would like to see the African Union, alongside other international actors, ensuring a proper independent investigation, particularly into the role of the Moroccan authorities, which is, after all, one of its Member States. In addition, we call on the African Union to play an active role in monitoring the human rights of refugees at the African-European border. In so doing, it should monitor compliance with both international treaties and treaties in force within the African Union. After all, the African refugee who tries to reach Europe is a citizen of the African Union, and therefore deserves the full attention and protection of the African Union.

Once again, this horrific event highlights the awful fate that still awaits migrants and refugees all too often. It once again underlines the importance of further intensifying sound international cooperation and strategies on the regulation of migration flows.

Signed,

Maurits van Es
Legal consultant African Refugee and Migrants Aid

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