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# amnesty international

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## Spain

# Spain and Morocco: Failure to protect the rights of migrants - one year on

Summary

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### Introduction

Amnesty International has documented and received reports of serious human rights violations against migrants and asylum-seekers trying to cross the border between Morocco and Spain at the Spanish enclaves of Ceuta and Melilla. Violations included killings of migrants and asylum-seekers trying to cross the border, the use of excessive force by law enforcement officials, collective expulsions, and violations of the principle of *non-refoulement*.

### Excessive Use of Force

In the latter half of 2005, 13 people were found dead at the border and many more were reportedly injured through ill-treatment. Many people who reported being injured either accidentally while crossing the two border fences or as a result of ill-treatment at the hands of the Spanish Civil Guard (*Guardia Civil*) were allegedly returned without first receiving medical treatment for their injuries. On 29 September 2005, at least four people died after being shot with firearms as they attempted to cross the fence from Morocco into Ceuta in an area known as Berrocal, near the frontier post of Tarajal. Dozens of others were injured during the incident and later treated in hospitals in both Ceuta and Tetouan, Morocco.

### Climate of Impunity

While the Spanish and Moroccan authorities have begun investigations into the deaths, no results of investigations have as of yet been made public, nor are there sufficient guarantees that investigations are thorough, independent and impartial. Amnesty International is not aware that any precautionary action was taken against those suspected to be responsible for the deaths and ill-treatment. On 3 July 2006

three more deaths occurred near the fences at Ceuta and Melilla in northern Morocco, while the victims were trying to enter Spain. While exact causes of these deaths is unknown, there have been reports of prolonged gunfire and at least one of the dead is believed to have died as a result of gunshot wounds.

## **Unlawful Expulsions**

In addition to the use of excessive force against people trying to cross the border, Amnesty International is concerned about the irregularities in the procedure used to expel people from Spain and Morocco. Many are expelled from the area between the two border fences, others are expelled from Spain to Morocco and some from Morocco to neighbouring North African countries. Although Morocco is a party to the Refugee Convention, it cannot be considered a safe third country. Morocco has not enacted domestic asylum procedures and has on various occasions in the past few years expelled asylum-seekers from its territory without considering their asylum claims. On other occasions, groups of asylum-seekers have been arbitrarily detained by the Moroccan authorities and not given access to the UNHCR. Expulsion to Morocco therefore contravenes the principle of *non-refoulement*.

None of those interviewed by Amnesty International had been informed of their rights, including their right to seek asylum, none were able to speak with a lawyer when the expulsion order was issued and none of them knew the name of their lawyer or had any contact information for them. Expulsions from Spain to Morocco were carried out without notifying the court and without proper judicial process.

Amnesty International received reports from people who, while in the Spanish enclaves, had been intercepted and then expelled while they were on their way to the local station of the National Police to obtain documents to prove that they had reached Spanish territory and thus protect them from unlawful expulsion. Some reported that members of the Spanish Civil Guard had unlawfully expelled people who had already been to the police station and been given a date for completion of their asylum application.

Following the incidents at the border between Morocco and Ceuta on 29 September 2005, Moroccan security forces rounded up hundreds of people they suspected of being in an irregular situation in the country, and subsequently expelled them from Morocco. Most were migrants in an irregular situation in Morocco who had not sought asylum. However, dozens of asylum-seekers and at least one person recognized as a refugee by UNHCR were also arrested. Several of them reported that when they were arrested, they had produced a UNHCR document confirming that they had claimed asylum, but were told by the security forces that this did not grant them any special protection. Some officers reportedly confiscated the document, saying either that it would be returned to them later or that it was of no use to them as it did not offer protection. Other officers reportedly tore up the document in front of its holder. In many cases, the officers explained that they had been given instructions from the competent authorities to take such actions.

Some of those arrested were reportedly not told that they were going to be expelled. Others were told, but were given no details of how it would be carried out or where they were going. To Amnesty International's knowledge, no one was given the right to appeal against the decision before an administrative court, to be assisted by a

translator, to examine the elements on which the decision was taken, to have access to a lawyer or to contact the consulate of their country of origin, despite the fact that these rights are guaranteed by Moroccan law.

Dozens were driven and left in desert areas on the border with Algeria. They were reportedly told by the security personnel who had transported them to walk across the border into Algeria and to head towards the nearest Algerian village. Some of them reported that they were given a bottle of water, a loaf of bread and several cans of sardines to help them survive. Others said that they were left without any food or water. Once abandoned, some said that they headed into Algeria before being stopped by Algerian military personnel, who told them to return to Morocco. Many said that they had become disoriented and fell ill as a result of the heat, sun and lack of food and water. One man told Amnesty International that he witnessed one of his travelling companions die of exhaustion as his group walked through the desert back into Morocco.

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