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AMNESTY INTERNATIONAL

Public Statement

AI Index: EUR 41/005/2006 (Public)

News Service No: 174

5 July 2006

Spain/Morocco: No impunity for killing

Amnesty International calls on the governments of Spain and Morocco to fully investigate the circumstances of the deaths of three migrants at the Spanish border enclave of Melilla in northern Morocco on 3 July 2006


Amnesty International is concerned about the deaths of three men who were trying to reach the Spanish enclave of Melilla in northern Morocco on Monday in an attempt to cross the border into Spain. In particular, the organization is concerned about the apparent excessive use of force by border patrol officers which, in this incident, appears to have resulted in the death of a migrant from gunshot wounds. The deaths of the other two men appear to have been caused by injuries sustained when they fell from the border fence, although the reason they fell is not presently known.

The organization calls on Spanish and Moroccan authorities to conduct impartial, thorough and independent investigations into the causes of death for the three men and the allegations of excessive use of force at the border. The organization urges the Spanish and Moroccan authorities to cooperate with each other in the course of these investigations and to make the results of such investigations public. Those responsible for abuses should be brought to justice.

Amnesty International is further concerned at the lack of results of any official investigations into the deaths of at least 13 people in Ceuta and Melilla in 2005, although such investigations have been underway for more than nine months. The organization is not aware of any disciplinary or criminal sanctions taken against those allegedly responsible for the deaths or of excessive use of force, resulting in a climate of *de facto* impunity for border patrol officials.

Amnesty International raised its concern about the situation at the borders of Ceuta and Melilla at a meeting on 4 July 2005 with the Spanish Minister of the Interior Alfredo Pérez Rubalcaba. The Minister agreed to provide the organization with updated information on the investigation into the circumstances of the death that happened on the Spanish side of the border. He also agreed to look into the status of the area between the fences and the legislation to be applied to people found in that area, and to consider the organization's recommendations for ensuring that the rules on the use of force are consistent with international laws and standards. Amnesty International is encouraged by the Minister's promise to take into account Amnesty International's recommendations.

What happened on the morning of 3 July 2006

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Sometime after 5am on Monday morning, 3 July 2006, three men were killed at the border of the Spanish enclave of Melilla in northern Morocco while trying to enter Spain. The three men -- one of whom fell on the Spanish side, the other two in Moroccan territory -- were the latest victims of incidents at the Spanish border enclaves in northern Morocco, including the deaths of at least 13 migrants during the months of August, September and October 2005.

One of the men, identified as being of sub-Saharan origin, appears to have died from a gunshot wound. Spanish officials are conducting an autopsy into the cause of death, but according to Jose Fernandez Chacon, the local delegate of the Spanish government in Melilla, Spanish authorities suspect that he died from shots fired by a gun.

The other two fatalities occurred on the Moroccan side of the border. Two men fell from the top of the fence -- a height of approximately six meters (20 feet) -- apparently sustaining fatal injuries from their fall. One man reportedly died while en route to the hospital. Moroccan officials have opened an enquiry into the deaths.

Witnesses interviewed by PRODEIN, a local non-governmental organization (NGO), said they heard gunfire begin around 5:30am and continue for a prolonged time. There are allegations that Moroccan officials fired warning shots at the migrants as they attempted to cross. Spanish authorities have denied that their border patrols carry firearms, however Amnesty International has obtained credible testimony from one migrant who alleges he was shot and severely injured by a bullet fired by a Spanish Civil Guard during 2005. At present, the organization is unaware of whether any fatal shots were fired on 3 July 2006 from either side of the border.

Press reports say that official sources have estimated the group to be between 50 and 70 people, but, according to a local newspaper, *El Faro Ceuta Melilla*, migrants themselves said the group was comprised of 32 people. Five people managed to make it over the fences into Spain. At least seven people were reportedly injured, including one who was allegedly left bleeding for about an hour between the two fences. At least seven people have been arrested.

Amnesty International urges the Spanish and Moroccan governments to:

- ensure that the rules on the use of force and firearms by law enforcement officials reflect the principles in the UN Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. In particular, the use of firearms should be a measure of last resort when life is at risk. Further, they should establish regulations requiring the classification of all weapons from which objects can be shot or launched as firearms, and restricting their use to those officers who have been specially trained in their use; and,
- institute a code of conduct governing border patrol activities that provides for the immediate reporting of incidents where injury or death is caused by the use of force or firearms by a law enforcement officer, and to ensure there are prompt, thorough, independent and impartial investigations into any allegations of the use of force or firearms by law enforcement officials. The results of investigations should be made public and the persons reasonably suspected of being responsible for abuses should be brought to justice in conformity with international laws and standards.

Amnesty International also calls on the Spanish and Moroccan governments to:

- ensure that victims and the families of the deceased have access to legal representation at all stages of any investigation and/or criminal proceedings, and have access to and the ability to participate in an independent judicial process;
- provide reparations in the form of compensation, rehabilitation, satisfaction and guarantees of non-repetition for the victims and families of the deceased where unlawful conduct by officials caused or contributed to death or injury of the victim; and,
- ensure that all asylum-seekers have guaranteed access to a fair and satisfactory asylum procedures, including provision of legal assistance and interpretation services, in order to ensure that they are protected against immediate expulsion. The principle of *non-refoulement* prohibits the return in any manner whatsoever of a person to a situation where they would be at risk of torture or other grave abuses.

Background

In October 2005, an Amnesty International delegation visited the cities of Ceuta and Melilla in Spain, and Nador, Oujda, Rabat and Tangiers in Morocco to look into allegations of serious

human rights violations committed by the Spanish and Moroccan authorities against refugees, asylum-seekers and migrants when they try to reach Spanish territory through the borders around Ceuta and Melilla. These violations reported included the excessive use of force and ill-treatment by both the Spanish and Moroccan security forces, the unlawful expulsion of migrants, refugees and asylum-seekers, and inadequate medical help for the injured. Many of those injured were returned to Morocco without first receiving medical treatment for their injuries, an act which constitutes cruel, inhuman and degrading treatment prohibited under the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, and the European Convention on Human Rights and Fundamental Freedoms. In addition, Amnesty International found a systematic pattern of immediate expulsions and accelerated returns without access to a fair asylum procedure, legal counsel or an interpreter, which violates the obligation of *non-refoulement* in Article 33 of the Refugee Convention, the procedural guarantees under Article 13 of the International Covenant on Civil and Political Rights, and domestic Spanish law.

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