

# Remarks about the Torture Claims Appeal Board's Decision

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## Remarks

### **1. Errors in the Board's decision**

The Board's decision (**Exhibit A**) contained the following errors:

- i. In page 4, second paragraph, and seventh line, when reproducing my handwritten letter that I had submitted to the Board prior to the hearing, the Board reports me saying "*my then girlfriend [...] invited me for lunch.*" She invited me for dinner, not for lunch. It was in July 2011 which coincided with the Islamic holy month of Ramadan when Muslims fast from sunrise to sunset; restaurants are then closed during the day and start opening around 4 or 5 pm. Also, working hours in both the public and private sectors are modified to remove the lunch break and to allow employees to leave earlier, around 5pm.

When I took the train around 7 pm to go to Rabat and meet her for dinner, most people were at home breaking the fast, and there were very few people on the train. Car circulation in the streets would also be almost non-existent around that time. I was not fasting and my ex-girlfriend knew that.

- ii. In page 4, third paragraph, and fourth line, the Board reports me saying “[*she*] asked me to go with her for lunch.” She did not ask me to go with her for lunch. What I wrote in the letter was: “*she asked me not to go anywhere for lunch*” because she was going to bring me lunch.
- iii. In the same previous paragraph continued on page 5, seventh line, the Board reports me saying “*After that, I went home.*” I was already at home in my kitchen. What I wrote was: “*After that, I went out to have lunch.*”
- iv. In page 6, third paragraph, the name of the journalist who gave a testimony to Human Rights Watch (HRW) is “*Afaf Bernani*” not “*Aziz Bennar*”. Afaf Bernani is a woman, Aziz is a male name, and I do not know who “*Aziz Bennar*” is. In her testimony to HRW, in the third line of the fourth paragraph, she says: “*and makes them pariahs in their own communities,*” not “*and makes them parents in their own communities.*”
- v. In page 15, paragraph 34, the Board states “*He then returned to Morocco and purchased an apartment in Kenitra in July of that year.*” I did not purchase an apartment in Kenitra. I have never owned an apartment in my life. In July 2011, I only rented an apartment in Kenitra.
- vi. In page 20, paragraph 58, the Board states “*The Appellant provided a detailed account [...] in which his girlfriend invited him for lunch in Rabat.*” She invited me for dinner, not for lunch. As explained in point *i* above, that was during Ramadan.
- vii. In page 38, paragraph 122, the Board states “[...] causing him to run down the stairs to the psychiatrist’s office where he had seen a sign.” I did not say at hearing that I saw “*a sign.*” I said that I remembered having seen “*the sign*” of the psychiatrist’s office, and I meant the psychiatrist’s nameplate.

## **2. Failure to consult with my treating psychiatrist to ensure a correct diagnosis and a fair decision**

After the psychiatric examination that I had with Dr LIU in October 2022 at Castle Peak Hospital, she provided me with a referral letter and advised me to book an outpatient psychiatric appointment as soon as possible. I booked an appointment with Kowloon Hospital and started psychiatric treatment in November 2022.

In her February 2023 report (**Exhibit D**), in answering a question from the Board whether I was undergoing psychiatric treatment, Dr LIU wrote in part IV of the report: “*the undersigned [Dr LIU] had made the suggestion in Part V of my first report that “the Torture Claims Appeal Board/Non-Refoulement Claims Petition Office is recommended*

*to follow-up on the progress of treatment by obtaining updated report from the treating psychiatrist.” The undersigned is NOT the “treating psychiatrist” and in order to follow-up on the process of treatment, the Board would likely need to obtain a psychiatric report from the treating psychiatrist, if any, through the appellant.”*

In March 2023, I submitted a letter (**Exhibit E**) to the Board in which I explained that I was undergoing psychiatric treatment and detailed the medication I was being prescribed and my impressions about the medication and the treatment. I expected the Board to contact me and ask for details about the hospital where I was undergoing treatment and the name of my treatment psychiatrist, but it did not do that.

Without seeking proper medical advice, the Board considered one of my claims, the bar incident, to reveal paranoia. In paragraph 109 of its decision, the Board states that *“the Board finds the Appellant’s account of the bar incident reveals severe paranoia, rather than a risk of being subjected to proscribed harm.”* However, the examining psychiatrist Dr LIU did not mention paranoia at all in her reports. To guarantee a fair decision, the Board should have sought proper medical advice before making that diagnosis.

I consider this hasty diagnosis of paranoia by the Board to be a part of an ad hominem argument where I am labeled as a sick person who suffers from psychosis and paranoia, and where all my claims are consequently concluded to be delusions and are summarily dismissed without scrutinizing them individually and finding inconsistencies in them.

3. **Failure to meet the legitimate expectation to consider relevant Country of Origin Information**

In page 27, paragraph 89 of its decision, the Board states that *“The Appellant has never claimed that simply residing in Morocco might expose him to a risk of being subjected to proscribed harm, nor do the materials before the Board suggest that there is a consistent pattern of gross, flagrant or mass violations of human rights in Morocco.”*

It is because I spoke out against the propaganda and lies of the Moroccan regime that I will be subjected to proscribed harm, not because of simply residing in Morocco. I explained to the Board at the hearing that the king had lied about the new constitution that was adopted in July 2011 after the Arab Spring, making the Moroccan people believe that he was going to give away his powers to an elected government and parliament. I was the first one to expose that lie in May 2015 when I read the new Moroccan constitution online on YouTube; that video had a huge impact, and since 2015, there has been more dissent in Morocco. In particular, the Hirak protests in the northern Rif region erupted in 2016 and continued throughout 2017, and the protesters’ main motivation for continuing to protest for that long was that they wanted the king to negotiate directly with them; they refused to negotiate with any official figure, including government ministers,

because they considered them to be mere puppets and that the main power resided in the hands of the king.

Before I read the constitution online on YouTube in May 2015, the general public in Morocco believed that the elected government and parliament were the ones responsible for the economic and social problems, and that was exactly what the king wanted the Moroccan people to believe. The gap of more than three years between the adoption of the new constitution in July 2011 and my exposition of it in May 2015 reveals the extent of the propaganda of the Moroccan regime and its effectiveness in making the Moroccan people ignorant and misinformed; it also tells about the climate of fear that reigns among intellectuals who knew the true content of the new constitution but could not expose it to the general public for fear of retribution by the regime.

I had shared with the Board, at hearing, a web link to Human Rights Watch's report "They'll Get You No Matter What: Morocco's Playbook to Crush Dissent" (<https://www.hrw.org/report/2022/07/28/theyll-get-you-no-matter-what/morocco-s-playbook-crush-dissent>) as a form of Country of Origin Information (COI). The summary of that report is submitted along with this application as **Exhibit F**. The Board did not take that COI into consideration in its decision, nor did it provide any COI other than the state of mental health care in Morocco in paragraphs 112 to 120 of the decision, and that does not align with the Board's own mission statement in paragraph 13 of the decision that *"The Board is mindful that it must apply "high standards of fairness" in determining the Appellant's claims because life and limb may be in jeopardy and the Appellant's fundamental human right not to be subjected to torture is involved. Exactly what is required, however, depends on the circumstance of each case. At a minimum, it is clear that it does not involve adopting an attitude of sitting back and putting the Appellant to strict proof of his claim."*

There was a legitimate expectation, engendered by the Board's own mission statement of not *"sitting back and putting the Appellant to strict proof of his claim,"* to consider relevant COI, especially in relation to the treatment of outspoken critics like me.

In the aforementioned report, Human Rights Watch (HRW) documents a *"range of tactics that, when used together, form an ecosystem of repression, aiming not only to muzzle dissenting voices but to scare off all potential critics."*

Lamia Fakih, Middle East and North Africa director at Human Rights Watch said (<https://www.hrw.org/news/2022/07/28/morocco-playbook-mask-worsening-repression>): *"Authorities use a playbook of underhanded tactics to repress dissenters while striving to keep intact Morocco's image as a rights-respecting country. The international community should open its eyes, see the repression for what it is, and demand that it stops. What at first appears to be regular instances of law enforcement and scattered acts of harassment and media smears, turns out, when you connect the dots, to be a full-fledged playbook to crush dissent."*

HRW's report treated particularly the case of Afaf Bernani which showcases clearly how the Judiciary system in Morocco is a toy used by the government to crush dissent:

*"In one case, a court convicted Afaf Bernani of "defaming the police," after she accused them of forging a statement in which she appeared to affirm to being sexually assaulted by her former boss, Taoufik Bouachrine, editor of the last critical daily print newspaper in Morocco. Bernani strongly denied ever making such an accusation. Bouachrine was later sentenced to 15 years in prison in 2019 on multiple accounts of sexual assault; Bernani has fled into exile."*

Journalist Hicham Mansouri who obtained asylum in France after spending 10 months in prison in Morocco for adultery, told HRW *"There is a climate of inquisition. [...] Sex, drugs, alcohol ... if they can't find anything, they'll fabricate accusations [against you]."*

In covering the case of journalist Hanane Bakour (<https://www.amnesty.org/en/latest/news/2023/04/morocco-journalist-faces-three-years-in-jail-for-facebook-post/>), Amnesty International concludes that *"Muzzling online and offline expression is part of an ongoing crackdown on dissent in Morocco. In 2022 alone, Moroccan authorities investigated, prosecuted and imprisoned at least seven journalists and activists for criticizing the government, as well as people who spoke online about religion or expressed solidarity with activists."*

The US Department of State (<https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/morocco>) reported that *"Significant human rights issues included credible reports of: torture or cruel, inhuman, or degrading treatment by some members of the security forces; political prisoners; serious problems with the independence of the judiciary; arbitrary or unlawful interference with privacy; serious restrictions on free expression and media, including unjustified arrests or prosecutions of journalists; censorship and enforcement of or threat to enforce criminal libel to limit expression; substantial interference with the freedom of assembly and freedom of association; serious government corruption; lack of investigation of and accountability for gender-based violence; crimes involving violence or threats of violence targeting lesbian, gay, bisexual, transgender, queer, or intersex persons; and the enforcement of laws criminalizing consensual same-sex sexual conduct between adults."*

COI constitutes evidence in the procedure of determining international protection and supports decision-makers and legal advisors in the assessment of an individual claim. Not considering relevant COI led the Board to completely overlook and not address at all my claim that my ex-girlfriend conspired with state agents, members of the National Brigade of Judiciary Police (*Brigade Nationale de la Police Judiciaire*, BNPJ), to set me up to be charged with rape as I explained in the letter that I submitted to the Board prior to the hearing and that was reproduced in pages 3 to 6 of the Board's decision. Historian and free speech activist Maati Monjib, who was jailed for three months in 2021 on

money-laundering charges, told HRW: *“the political trials of the past gave prestige to [Moroccan] dissidents, made them heroes, mobilized public opinion around them. Designating them as traitors, thieves, and rapists – that’s a better way to silence them.”*

Camera surveillance and trumped-up charges of rape and sex related crimes are among the tactics in Morocco’s playbook to crush dissent. I was not going to be the first, nor the last, person to face a trumped-up rape charge that was supported by video evidence.

4. **Failure to give the benefit of the doubt to the torture claimant**

In page 28, paragraph 90 of its decision, the Board states that “*many*” of my claims of past persecution “*appeared to be grounded elsewhere than in reality.*” The use of the words “*many*” and “*appeared*” suggests doubt more than certainty because the same sentence could have been written “His claims of past persecution are grounded elsewhere than in reality” to convey a sense of certainty. The same paragraph ends with the sentence “*the Board has significant doubts as to whether or not they align with objective fact.*” Even though significant, the Board’s doubts cannot amount to certainty. Similarly, Dr LIU’s reports also suggest doubt when describing my psychological state and my allegations of persecution, e.g. in part V of her October 2022 report (**Exhibit C**), Dr LIU states that “*Mr EL BOURICHI is impressed to be suffering from psychosis.*” The use of the word “*impressed*” suggests doubt since she could have stated instead “Mr EL BOURICHI suffers from psychosis.” In part VII of Dr LIU’s February 2023 report (**Exhibit D**), she states that “*some of his allegations of persecution are opined to be directly related to the psychotic illness.*” The use of the words “*some*” and “*opined*” suggest doubt and uncertainty because the same sentence could have been written “his allegations of persecution are directly related to the psychotic illness.” Also, Dr LIU considered “*some*” only of my allegations to be “*opined*” to be delusions while the Board considered that “*many*” of my allegations “*appeared to be grounded elsewhere than in reality.*” Dr LIU’s report did not specify which allegations were opined to be delusions and which were not, neither did the Board. The word “*many*” refers to a larger number than “*some*” refers to, which could imply that some allegations that were not found by Dr LIU to be delusions were thought to be so by the Board, but those allegations were not specified. Both words “*some,*” used by Dr LIU, and “*many,*” used by the Board, surely do not mean “all,” and therefore, not all of my allegations are delusions according to both Dr LIU and the Board, and my non-refoulement claim could have been evaluated based on those allegations that were not considered to be delusions.

Also, in part VII of her February 2023 report, Dr LIU states that “*treatment of the psychotic illness, to optimize the mental condition of Mr. EL BOURICHI, would be most important. Because, only by doing so, could help us seeing the clear picture of allegations of persecution, without the interference of the psychotic illness.*”

Dr LIU therefore acknowledges the lack of a “clear picture” of my “*allegations of persecution*,” and that also suggests doubt as to the nature of these allegations being delusions. It also makes sense that diagnosis of a serious condition like psychosis would need time, probably months, and would be difficult to do after only one meeting.

In the famous *Rosenham Experiment* (**Exhibit G**, <http://www.bonkersinstitute.org/rosenhan.html>), eight sane people, including psychologist David Rosenhan who conducted the experiment and seven mentally healthy associates, termed “*pseudopatients*,” feigned having auditory hallucinations and gained admission to 12 different psychiatric hospitals, without informing the medical staff about the experiment. Once admitted, the pseudopatients acted normally and reported to the treating psychiatrists that they felt fine and no longer heard voices. Despite openly and frequently taking extensive notes on the behavior of the staff and other patients, none of the pseudopatients were identified as impostors by the hospital staff, although many of the other psychiatric patients seemed to be able to correctly identify them as impostors. In the first three hospitalizations, 35 of the total of 118 patients expressed a suspicion that the pseudopatients were sane, with some suggesting that the patients were researchers or journalists investigating the hospital. Hospital notes indicated that staff interpreted much of the pseudopatients' behavior in terms of mental illness. For example, one nurse labeled the note-taking of one pseudopatient as “writing behavior” and considered it pathological. The patients' normal biographies were described in hospital records consistent with what was expected of schizophrenics by the then-dominant theories of its cause. Once admitted and diagnosed, the pseudopatients were not able to obtain their release until they agreed with the psychiatrists that they were mentally ill and began taking antipsychotic medications, which they flushed down a toilet.

In a subsequent experiment (*the non-existent impostor experiment*), Rosenhan used a well-known research and teaching hospital, the staff of which had learned of the results of the initial study but claimed that similar errors could not be made at their institution. Rosenhan arranged with them that during a three-month period, one or more pseudopatients would attempt to gain admission and the staff would rate every incoming patient as to the likelihood they were an impostor. Of 193 patients, 41 were considered to be impostors and a further 42 were considered suspect. In reality, Rosenhan had sent no pseudopatients; all patients suspected as impostors by the hospital staff were ordinary patients. Rosenhan concluded (fifth paragraph of page 4 of **Exhibit G**) that “*any diagnostic process that lends itself too readily to massive errors of this sort cannot be a very reliable one.*”

In part VI of Dr LIU’s February 2023 report, quoted by the Board in paragraph 105 of its decision, she presents a definition of a delusion as a “*false, unshakable belief, that is out of keeping with the patient’s social and cultural background, and not amenable to change in light of conflicting evidence.*” First, even though I had never personally believed in witchcraft before October 2021 when I finally realized what had

happened to me in November 2011, the belief in witchcraft is very common in my social and cultural backgrounds in Morocco; even the late Moroccan king Hassan II, father of the current king, used to believe in sorcery and witchcraft, and I am submitting my translation of an online article that relates that in **Exhibit H**. Second, neither Dr LIU nor the Board presented me with any “*conflicting evidence*” to change my “*belief*,” they did not even make simple remarks like “*but you know that witchcraft is not real*” or “*there are no spirits*.” They just assumed that I was mentally ill and concluded that all my claims were delusions by applying circular reasoning where my claims were found to be delusions because I was thought to be suffering from psychosis, and I was thought so because my claims were thought to be delusions in the first place, and that is a logical fallacy.

I asked a psychiatrist, who practices in Hong Kong, to have a look at the Board’s decision and at Dr LIU’s reports. After reading them, he told me that he could neither prove nor disprove that my claims were delusions. He refused, however, to provide me with a written statement of his opinion because he did not want to be involved in judicial proceedings.

The UNHCR Handbook (<https://www.unhcr.org/media/handbook-procedures-and-criteria-determining-refugee-status-under-1951-convention-and-1967>) states that “*while the duty rests with the claimant to establish their case, there is a shared duty between the claimant and the decision-maker to identify supporting corroborative evidence and it is then the responsibility of the decision-maker to evaluate all the relevant facts.*”

Paragraphs [195]- [196] of the Handbook state:

“195. *The relevant facts of the individual case will have to be furnished in the first place by the applicant himself. It will then be up to the person charged with determining his status (the examiner) to assess the validity of any evidence and the credibility of the applicant's statements.*

“196. *It is a general legal principle that the burden of proof lies on the person submitting a claim. Often, however, an applicant may not be able to support his statements by documentary or other proof, and cases in which an applicant can provide evidence of all his statements will be the exception rather than the rule. In most cases a person fleeing from persecution will have arrived with the barest necessities and very frequently even without personal documents. Thus, while the burden of proof in principle rests on the applicant, the duty to ascertain and evaluate all the relevant facts is shared between the applicant and the examiner. Indeed, in some cases, it may be for the examiner to use all the means at his disposal to produce the necessary evidence in support of the application. Even such independent research may not, however, always be successful and there may also be statements that are not susceptible of proof. In such cases, if the applicant's account appears credible, he should, unless there are good reasons to the contrary, be given the benefit of the doubt.*”



The UNHC Handbook states that “*the duty to ascertain and evaluate all the relevant facts is shared between the applicant and the examiner.*” To ascertain a fact is to be 100% sure of it; being “*quite sure*” or 99% sure is not ascertaining. It happened to me here in Hong Kong that I would be going to the public library and some local person would tell me that the library would be closed because that day was a public holiday, and when I asked them if they were a 100% sure, they replied that they were “*quite sure*” that the library was closed, but when I went to the library, I found that it was open and that only the closing time of the library had changed from 8pm or 9pm to 5pm because of the holiday. In this particular example of going to the library on a public holiday, it would be wrong to follow the advice of a local person even if they were “*quite sure*” and if I was a foreigner who did not know about local public holidays. As the remarks in this document show, throughout its decision, the Board did not seem at all to be concerned about ascertaining that my claims were facts or delusions.

In page 30, paragraph 100 of its decision, the Board states that “*The Board finds the evolving nature of the claims made by the Appellant undermine his reliability as a witness.*”

The “*evolving nature*” of a story does not necessarily undermine its reliability or the reliability of the people telling it because science, for example, has an “*evolving nature*” due to the fact that new data are found, and new theories are reviewed and adjusted constantly, and that does not undermine its reliability or the reliability of scientists or of their results. The field of psychiatry itself has evolved significantly over the last two centuries and therefore, by applying the same logic, the reliability of Dr LIU’s findings would be undermined because the reliability of psychiatry itself would be undermined because it has an evolving nature. Furthermore, I gave an explanation to the Board of why my story evolved over time; it was because I had a “memory lock” due to the effects of the food I ate in November 2011. This phenomenon of a possible “memory lock” due to a food or poison was not at all addressed by Dr LIU in her reports. Whether there is a scientific explanation for such phenomenon or not, the aim of the Convention Against Torture is to prevent torture and cruel, inhuman and degrading treatment or punishment, and the guidance provided by UNHCR in its Handbook for the determination of refugee status, which provides a useful reference for dealing with claims relating to torture, clearly urges the decision maker to give the benefit of the doubt to the torture claimant when there is doubt.

In page 33, paragraph 110 of its decision, the Board states that “*The difficulty with the Appellant’s evidence is that it changed fundamentally over time.*”

The Board did not specify the parts of my evidence that changed fundamentally over time. If it meant my motives to join the protest, i.e. whether I joined it to protest against the royal pardon or to make a coup, then I am saying that I joined the protest for both motives. I wanted to use the momentum to try and make a coup and I was also angry at the royal pardon. I will comment on this point in detail in remark 9 below.

Other than paragraphs 100 and 110 that failed, in my opinion, to discredit my testimony, nowhere else in the Board's decision suggests that my credibility is questionable. On the contrary, the following excerpts from the Board's decision suggest that I presented as a credible witness:

- Page 6, paragraph 9: [The Appellant was] *"providing coherent, clear and logical responses to the Board's preliminary questions."*
- Page 28, paragraph 90: *"The Appellant presented as an intelligent witness [...] the Board has no doubts that many of the events described by the Appellant believed by him to be real, [...]"*
- Page 31, paragraph 104: *"While the Board accepts that he may have believed that he was being monitored at the time [...]"*
- Page 31, paragraph 105: *"[...] the Board finds that each of the Appellant's claims in relation to these incidents, while real for, and believed by, the Appellant [...]"*

Since no substantial doubts have been raised about my credibility, and since my claims of past persecution have not been found without doubt to be delusions by either the Board or Dr LIU, then high standards of fairness, and the United Nations principle outlined above, suggest that I should have been given the benefit of the doubt regarding the veracity of my claims. Since I was not given the benefit of the doubt, I consider that the Board's decision was unfair. In particular, my claim of being set up by my ex-girlfriend and secret state agents to be accused of rape and unjustly imprisoned was not addressed at all in the Board's decision; it is not clear whether the Board considers that claim to be a delusion or not, especially that it is consistent with HRW's report as to the existence of a playbook to crush dissent used by the Moroccan state that includes camera surveillance and trumped-up charges of sex related crimes. If that claim turns out to be real and not a delusion, then I risk to be unjustly imprisoned, and that is a reasonable ground to believe that I would be subjected to cruel, inhuman and degrading treatment or punishment if I was returned to Morocco.

In summary, the probability that my persecution claims are delusions, according to the Board, to psychiatrists and to any reasonable person, is not 100% while the probability that I will be unjustly imprisoned, disappeared, tortured or killed if I am sent back to Morocco is 100%, according to me and to any Moroccan who knows my past history of being a harsh critic of the Moroccan regime. No reasonable person would conclude that I may be sent back to Morocco without being subjected to proscribed harm.

## **5. An illogical approach and an unreasonable decision**

I could identify at least two logical fallacies in the Board's decision: circular reasoning and an ad hominem argument. The circular reasoning logical fallacy consists of the fact that I was *thought* to suffer from psychosis based solely on the unusualness of my claims that were *thought* to be delusions, and then these same claims were *found* to be delusions

because I was *thought* to suffer from psychosis. The ad hominem argument consists of summarily dismissing all my claims by considering them to be delusions just because I was labeled as a sick person suffering from psychosis and “*severe paranoia*” (paragraph 109 of the Board’s decision and remark 2 above), without evaluating the veracity of each claim.

While I certainly understand that some of my claims, especially those related to the use of witchcraft by the Moroccan regime to harm me, are hard to believe because the Board is not familiar with Moroccan culture and history, the use of circular reasoning to label me as a sick person and of a consequent ad hominem argument to deny the existence of a real and obvious risk for me to suffer torture and prison if I was returned to Morocco, makes the Board’s approach illogical and its decision unreasonable. If there was not a video showing my participation in the August 2013 protest against the royal pardon, the Board would have certainly considered my participation in the protest to be a delusion as well. Even with the existence of the video, the Board considered my participation to be “*peripheral at best*” (paragraph 98 of the Board’s decision) when the video showed me clearly at the centre of the protest.

**6. Unjustified denial of the obvious lack of freedom of expression in Morocco and of the persecution of free voices**

In page 28, Paragraph 93 of its decision, the Board states that “*The Board accepts the Appellant has no online presence and this is for the reason that he believes that he has achieved his goals and not out of any fear that he might hold related to expressing those beliefs.*”

When I was active online, especially on YouTube, in the years 2015 and 2016, I was living outside of Morocco, and therefore, I was feeling safe to express my views online. I find it illogical that I would not feel safe to even report my stolen salary to the police in 2001 for fear of retribution, knowing that Morocco is a dictatorship and that I could be easily charged with trumped-up charges and put in prison, and yet at the same time, I would feel free to express my political views online, including views that are critical to the king and to the regime, when I am residing in Morocco, without fear of persecution.

Serious restrictions on free expression and media have been documented and reported by Amnesty International, Human Rights Watch and the US Department of State, as already quoted in remark 3 above. HRW (**Exhibit F**) noted in its 2022 report that

*“Trials for speech-related charges that clearly violate the right to freedom of expression are still commonly used to punish critical journalists, internet commentators, and protestors throughout the Middle East and North Africa. Morocco is no exception. In 2021 and 2022, social media commentators like Chafik Omerani, Mustapha Semlali, Jamila Saadane, Ikram Nazih, Saida El Alami and Rabie al-Ablaq, and protester Nouredine Aouaj were sentenced to prison terms for peacefully criticizing public figures.”*

In the same paragraph, the Board states that *“The Board finds the Appellant has never been harmed as a result of his online expression of his political beliefs in the past.”*

The food I was given in November 2011 can be considered as a case of poisoning if we take into account the psychological and physical distress it caused me. Other than the psychological symptoms I described at the hearing, I also had physical symptoms that included:

- a. Constant stomach pain,
- b. Bone pain. This was a strange and acute pain coming from inside the bones all over my body. It made even movement very difficult at times, and all I could do then was to lie down on my back and feel the tremendous pain inside the bones all over my body and a force pulling me downward towards the ground. Another Moroccan dissident, who lives in Brazil, reported on his YouTube channel having similar symptoms, and that every time he went to a Brazilian hospital to treat the pain, they injected him with morphine. I do not know him personally. This is the link to his YouTube channel: <https://www.youtube.com/@jerommu1>. He also reported about having a Moroccan ex-girlfriend who had ties with Moroccan intelligence services.
- c. Constant and daily coughing and vomiting.
- d. Insomnia and inability to wake up early.

All of the above four symptoms disappeared overnight in October 2021. I got up at 7 am on the morning following the night when I had the dream about fighting the spirit. I was not able to get up before noon for years before that. Since that day in October 2021 and until now, I am able to sleep early at night and to get up early in the morning. Stomach pain, bone pain and the constant coughing and vomiting have also ceased.

My meeting with Dr LIU happened in October 2022, only one year later and I was still psychologically recovering from the effects. I did not tell Dr LIU about all of the above physical symptoms. I told her however about coughing and vomiting, and when I explained to her that I used to cough badly every morning and to vomit after coughing, she misheard me and reported it as *“vomit whenever he had caffeine.”*

**7. Use of contradictory comments to forcefully bias the decision towards rejection**

In page 29, paragraph 95 of its decision, the Board states that *“In the capital Rabat, riot police forcefully dispersed **hundreds** of protesters attempting to gather in front of the parliament [...].”* Then, in page 30, paragraph 98 it writes: *“His knowledge of the protest was inconsistent with country information insofar as he estimated that **hundreds** of people attended the protest instead of **thousands**.”*

It is not clear which estimate of the number of protesters is the correct one, according to the Board: hundreds or thousands. I do not remember saying that I knew how many protesters there were. I consider this as a part of the ad hominem argument

where the Board is raising doubt about my credibility as a person, to summarily dismiss my claims, without examining them individually and assessing their plausibility.

**8. Failure to consider the shortcomings of my interview with the Immigration officer**

My interview with the Immigration officer had two main shortcomings:

- a- The interpreter did not have a good mastery of the English language:** When I told the Immigration officer at the interview that the Moroccan system was based on making people ignorant and misinformed, and that when it found out that somebody was aware of its tactics, then that person would become a “*target*” of the state, the interpreter did not know how to translate the word *target* and paused for some time before mistranslating it as “*enemy*.” I told the Board at hearing about that mistake and explained that there was an important difference between being a *target* of the state and being an *enemy* of the state.
- b- My psychological state did not allow for a productive interview:** As I explained to the Board at hearing, I was emotionally disconnected and even unaware of the gravity of the situation that I was in and that I was at risk of being deported to Morocco where I would certainly face prison, torture and death. These psychological shortcomings were a direct result of the food that I ate in November 2011, which can be considered as a case of poisoning.

The Director’s decision was full of passages that did not have a clear meaning, and the Board’s Adjudicator asked me, at hearing, about the meaning of those passages, and I gave him the correct meaning. Therefore, I am surprised that the Board kept referring to the Director’s decision when it was clear at hearing that there were so many misunderstandings at the interview because of the interpreter’s lack of proficiency in English. Before the interview with the Immigration officer, I had told every Immigration employee whom I communicated with that I did not need an interpreter for the interview and that I could communicate well enough in English, but they said that they were continuing to assign me an interpreter because that was the way it was done since the start of my case. Prior to the hearing, I told the employee at the Board again that I did not need an interpreter and she asked me to write a letter to the Board specifying that, which I did, and the hearing was conducted in English without an interpreter and without any communication problem.

I had also made the Board aware at hearing about my psychological state at the interview with the Immigration officer, and that I was cold and emotionally distant and did not have hold of all my memories. Yet, the Board’s decision kept referring to my claim during the interview that I *organized* the main protest in Rabat in August 2013 instead of only responding to the call for it and participating in it. In page 30, paragraph 99 of its decision, the Board states that “*More critically, the Appellant’s account of his involvement in the protest evolved significantly over time. Whereas the Appellant had*

*claimed in his NCF to have organized a protest against the decision made by the king of Morocco, he recanted those claims at hearing emphasizing that he participated but did not organize any protests.” I do not remember saying that I organized the main protest, but if the Director’s decision suggests that I did, then it must have been either due to the interpreter misinterpreting my words or to my lack of focus because of my psychological state that was due to the effects of the food that I ate in November 2011.*

9. **Taking a narrow point of view instead of taking all relevant facts into account**

*In page 30, paragraph 100 of its decision, the Board writes: “He provided instead an account at hearing in which he decided to conduct a coup after having attended the protests. The Appellant went on to claim that the king must have seen him, realized that there would have been a coup attempt, and decided to issue his statement retracting his pardon. Asked how the Appellant formed the belief that the king had seen him, he referred to a video of him speaking and claimed that he had been targeted since 2011.”*

The video I referred to is the video that was recorded secretly at my manager’s office at Alcatel in October 2000. In that video, I predicted the 9/11 attacks, the invasion of Iraq, the Arab Spring and the fall of the Moroccan monarchy. It is logical that the Moroccan security services would be interested in me after my predictions about the 9/11 attacks came true; the least to expect from them is to try and find out how I knew about it and, in particular, if I had any sources that were providing me with secret information. The truth is that nobody provided me with any secret information; I arrived at that prediction using plain and simple logic as I explain in remark 11 below, but I wanted the government to think that I had connections that provided me with secret information because that served my political ambition in the following way: my academic background is in mathematics and computer science, and although I have always had an interest in history, philosophy, law and social sciences, I could not study those fields because I knew that Morocco was a dictatorship and I was well aware of my nature as someone who talked freely, and working in a field related to law or politics would have certainly created me problems, and hence, I chose to study the exact sciences to be somehow safe; yet, I needed to keep in touch with the political field in order to stay informed about what was going on socially and politically in order to serve my political ambition. An interest of the government, especially of the intelligence services, in me would achieve that goal because it would provide me with constant external stimuli that would keep me alert, asking questions and learning things that I would not have learnt if I had stayed focused only on my personal life and scientific interests.

I explained to the Board at the hearing that the royal pardon and the resulting protest in August 2013 happened during a time of “counter-revolutions,” the most prominent of which was the military coup that was conducted in Egypt in July 2013 by General Abdel Fattah el-Sisi who was then the Egyptian minister of defense and who became the president of Egypt in 2014. Prior to the coup, there was the creation of

Tamarod (*rebellion*) in April 2013, a movement funded by the Egyptian General Intelligence Service and the United Arab Emirates (UAE) to overthrow the first democratically elected Egyptian president Morsi. The nominal aim of Tamarod was to register opposition to, and force President Morsi to call for early presidential elections. The goal was to collect 15 million signatures by 30 June 2013, the one-year anniversary of Morsi's inauguration. On 29 June 2013, the movement claimed to have collected more than 22 million signatures. The movement helped launch the June 2013 Egyptian protests which paved the way to the Egyptian coup d'état in July 2013. Similarly in Morocco, a movement with the same name Tamarod was created in July 2013. Prior to that, in May 2013, the conservative Istiqlal Party left the governmental coalition, which resulted in the government not having a majority of seats in parliament anymore and being therefore susceptible to being removed after a vote of confidence in parliament. The government was led by the moderate Islamist party Justice and Development Party (*Parti de la Justice et du Développement, PJD*) that had won a relative majority of seats in the Moroccan parliament in the November 2011 elections, the first parliamentary elections to be held after the Arab Spring and the adoption of a new constitution in July 2011. Without the Arab Spring, it would have been impossible for the PJD to win a majority of seats at the parliament because the elections in Morocco are not free and the 2011 elections were an exception because of the Arab Spring. Indeed, in 2002, many indicators indicated that it was the PJD who won the majority of seats in the 2002 parliamentary elections, but the announcement of election results was unusually delayed for days, and another party, the USFP (Union Socialiste des Forces Populaires, *The Socialist Union of Popular Forces*) was declared to have won the majority of seats. The king ended up appointing a non-partisan technocrat to lead the government, and the USFP still participated in the government.

The USFP was founded in 1975 during a time of relative political opening of the country after a decade of brutal repression and human rights atrocities committed by the Moroccan regime. The USFP was formed as a breakaway from the National Union of Popular Forces (UNFP), a socialist opposition party which had split from the conservative Istiqlal Party in 1959. Soon after Hassan II became king in 1961, he clearly showed his dictatorial tendencies and his intent to rule alone without sharing power with anyone. In June 1965, Hassan II suspended the 1962 constitution, dismissed the parliament, and declared a state of exception. On October 29, 1965, Mehdi Ben Barka, the founder and leader of the UNFP, was abducted and assassinated in Paris. The Moroccan regime denied any involvement in his assassination; however, a former member of the Moroccan secret service, Ahmed Boukhari, claimed in 2001 that Ben Barka had died during interrogation in a villa south of Paris and that his body was then secretly taken back to Morocco and destroyed in a vat of acid. To this day however, the Moroccan regime has not revealed the truth of what happened to Ben Barka and to others like Houcine EL MANOUZI, a militant of the UNFP, who in 1972, disappeared in

Tunisia where he was spending holidays, when he was residing in France. Houcine EL MANOUZI was then taken to a secret prison in Morocco, from which he could escape at one point and make his case known, but he was soon recaptured and taken back to the secret prison; his fate remains unknown to this day. Even after the current king Mohamed VI came to power in 1999 and promised a “*new age*,” those responsible for torture and human rights abuses in the seventies and eighties continued to enjoy privileges and were never prosecuted; that created a feeling of impunity among the security forces, and kidnappings, torture and human rights abuses are continuing to exist under the reign of the current king. The Moroccan regime was quite successful at polishing its image, but it has never changed its core, and that is the reason for which I do not trust institutions like the National Council of Human Rights (*Conseil National des Droits de l’Homme*, CNDH) or the Mediator Institution because those are merely tools used by the regime to polish its image internationally, in the same way that it uses the existence of political parties and parliamentary elections to give the Moroccan people the false impression that they live in a democracy.

I felt very angry after the Istiqlal party left the government in May 2013 because I saw it as a coup attempt directed by the king, and probably the UAE, against the will of the Moroccan people who voted for the PJD. I also saw it as an unacceptable foreign interference in internal affairs.

I participated in the protest because I was angry at both the royal pardon and at the coup that was being prepared to remove the elected government. That I had two motives to join the protest does not make my story untrustworthy because it had an “*evolving nature*” (paragraph 100 of the Board’s decision) or because it “*changed fundamentally over time*” (paragraph 110 of the Board’s decision). I wanted to use the momentum and the public indignation against the king to try a coup. Even if the chances of success were small, someone in a desperate and miserable situation (the inability to speak freely and to say the truth about the dictatorship in this case), would do anything to get out of that situation. The coup I was trying to do was going to be a “coup against the coup,” or a “counter-coup,” and that made it legitimate in my opinion. My plan was to use the momentum created by the protest against the royal pardon against the coup that was being prepared against democracy. Right after the August 2<sup>nd</sup> protest against the royal pardon, I contacted the organizers of the planned August 17<sup>th</sup> Tamarod protest against the government, but they told me that they had cancelled the protest. That meant to me that they were worried that the August 17<sup>th</sup> protest would have turned against the king himself instead of against the elected government because the image of the king had been hurt and tarnished by the pardon and by the subsequent August 2<sup>nd</sup> protest.

#### **10. False conclusions due to the lack of a sufficient COI knowledge**

In page 30, paragraph 101 of its decision, the Board states that “*the evidence before the Board establishes that the king revoked the pardon and claimed that he had been*



*unaware of the gravity of Galvan's crimes. Rather than suggest that the king disagreed with the protesters, such an outcome suggest that he in fact had some sympathy for their position."*

In 2011, the king allowed the opposition to win the parliamentary elections and to lead the government just to avoid any possible unrest due to the Arab Spring protests. We can certainly qualify the king as a shrewd and calculated politician because of this move, but we cannot qualify him of being a democrat, because if he was a true democrat, then he would have allowed free and transparent elections even before the Arab Spring and that did not happen. That the king "*had some sympathy for*" the protesters' position implies that he is an honest person, and this contradicts the fact that he allowed the manipulation of the results of the 2002 elections. He also lied about the new constitution, and therefore, it would not come as a surprise if he lied again and pretended that he "*had been unaware of the gravity of Galvan's crimes.*" This point shows clearly how the lack of a sufficient COI knowledge can lead to false conclusions.

Another point that I mentioned to the Board at hearing, and that was not taken into account in the decision, is that when I was in Hawaii, I had a constant idea of going to Tunisia. I also told the Board that a cousin of the Moroccan King was deported from Tunisia. Indeed, Prince Moulay Hicham, a first cousin of the Moroccan King who is a pro-democracy academic and a sympathetic to the Arab Spring protests, was deported from Tunisia in September 2017 while scheduled to speak at an academic conference. Taking into consideration the disappearance of Houcine EL MANOUZI in Tunisia in 1972, the deportation of the pro-democracy king's cousin from Tunisia in 2017, and the constant urge that I had to go to Tunisia, can lead to believe that there was a plot by the Moroccan regime to make me go to Tunisia, to kidnap me there, and to secretly send me to Morocco where I would be tortured and probably killed. Because I had lived in Asia when I was a student in Japan, and visited Hong Kong, China and South Korea, I preferred to come to Asia first and spend some time here to reconnect with my past memories and then go to Tunisia. I finally ended up in Hong Kong and initiated a non-refoulement claim.

#### **11. Lack of a deeper understanding of my claims**

In page 33, paragraph 104 of its decision, the Board states that "*the Board does not accept the Appellant account of having predicted the September 11 terrorist attack or the Arab Spring.*"

If I was given the chance at the hearing, I could have explained how I arrived at my predictions. I could easily predict the 9/11 events using the following reasoning:

- The United States needed a pretext to invade Iraq. I had personally read an article in a Moroccan newspaper in 1999 that said exactly that.
- A known case when the United States used a pretext to get into war was the Japanese attack on Pearl Harbor that led the US to enter World War II.

Therefore, a similar attack would provide the sought pretext. It made sense to me that the attack would happen by air and would target New York. I did not know that the Pentagon would be attacked or that there would be multiple attacks. Also, I did not know that it would involve hijacked airplanes; I thought instead that rockets would be used, and that was part of the reason why I spoke about it, because I thought that some evildoers had installed rocket launching equipment on the Moroccan Atlantic coast, and I wanted the Moroccan government to know about it and to do whatever was necessary to stop it.

I predicted the Arab Spring using “*Reason of History*” thinking:

- Arabic culture failed to embrace modern values and stayed entrenched in the past. According to the way History operates, when a culture resists change, then something, probably bad, will happen to make it accept change. A big event such as the Arab Spring had to happen to destabilize the established traditional order, especially in politics, and to prepare the terrain for more modern political systems.

## **12. Use of vague language when assessing the veracity of my claims**

In page 31, paragraph 105 of its decision, the Board states that “*the Board rejects the Appellant’s account of the train delay incident, the magic food incident of November 2011 and of the bar incident of 2014. Having regard to the evidence as a whole, and in particular the findings of Dr LIU, the Board finds that each of the Appellant’s claims in relation to these incidents, while real for, and truly believed by, the Appellant, constitute delusional beliefs arising from his psychotic illness.*”

The expressions “*real for*” and “*truly believed by*” are vague because they make it unclear if the Board means that the way I described the incident to have happened physically is what was nonfactual but real for me and truly believed by me, or if my interpretation of the incident was what was nonfactual but real for me and truly believed by me. Indeed, any of my claims can be split into two parts:

- Part 1: the physical part, i.e. the way it happened in space and time,
- Part 2: my interpretation of it.

Part 2 is, by definition, a product of the imagination. Therefore, if the Board considers me to be psychotic and delusional, then it can consider anything that I have ever imagined or that I will ever imagine to be a delusion. This gives the Board complete freedom to consider any of my claims to be a delusion even if it finds no inconsistency in the physical or space-time part of the claim and no illogicality or contradiction in the interpretation, and even if it completely ignores if that claim is factually true or not.

If we take the bar incident for example, then it is not clear if the Board considers the whole incident to be a delusion, i.e. that I was never in a bar with two colleagues and

that there was never a man in that bar who seemed to be a secret police officer who was watching me closely, or if it considers my interpretation of the incident as a kidnapping attempt to be delusional and paranoid (Paragraph 109 of the Board's decision and remark 2 above). The same is equally true for all the claims that were found to be delusions by the Board.

### **13. Futility of considering psychiatric treatment in Morocco**

In page 34, paragraph 111 of its decision, the Board states: *"Given the Board's findings regarding the Appellant's mental health, the Board has gone to consider the state of Morocco's mental health system and whether returning the Appellant to Morocco now or in the reasonably foreseeable future might result in a risk of him being subjected to proscribed harm."*

While the Board does not explicitly recommend that I undergo psychiatric treatment in Morocco, its conclusion in paragraph 125 of the decision that *"the Board does not consider that he would face a real risk of suffering proscribed harm should he return to Morocco,"* suggests that the Board finds that I can undergo psychiatric treatment in Morocco without problems. However, since I completely mistrust the Moroccan regime, qualifying it of being a *"satanic dictatorship"* (paragraph 71 of the Board's decision), it does not make any sense that I would trust Moroccan psychiatric doctors and nurses to provide me with treatment and medications. There may be Moroccan secret state agents in Moroccan hospitals, who pretend to be psychiatric staff, and who would inject patients suspected to be political dissidents with some poison or some harmful combination of chemicals. Therefore, I will never consent to being medically treated by Moroccan psychiatrists in Morocco, and the only way to undergo psychiatric treatment in Morocco for me would be to be forcibly and involuntarily admitted to a psychiatric institution and that would be a violation of my human rights.

When the examining psychiatrist Dr LIU recommended the Board to follow-up on the progress of my treatment in Part (V) of her October 2022 report (**Exhibit C**), she certainly did not expect the Board to be following up on my treatment in Morocco. Because of her lack of knowledge of non-refoulement laws, she may have thought that I could be granted lawful residence in Hong Kong to be able to undergo psychiatric treatment in Hong Kong. It does not make any sense that she would recommend that I undergo psychiatric treatment in Morocco, the place that was the source of my problems, because that would be counterproductive and harmful to my mental health.

The Board's neglect of the possibility that I may be forcibly placed in a psychiatric hospital in Morocco and mistreated there is consistent with its nonchalant attitude that showed, throughout its decision, in failing to consult with my treating psychiatrist, completely overlooking important claims, neglecting to ascertain that my claims were facts or delusions, and in many other irregularities.

I attribute this neglect and these irregularities to the difficulty and unusualness of my case, not to a possible pressure exercised on the Board by some corrupt official who received money or other benefits from the Moroccan regime in exchange for allowing that I would be sent back to Morocco and forcibly placed in a mental institution, using an apparently legal process. The Moroccan regime has a history of corrupting officials, including European parliament members (point 3 in page 6 of **Exhibit E**).

I told the Board at hearing that I stopped talking to my father when he suggested, during a conversation on Facebook, that I go back to Morocco. I was shocked that he would suggest that when he knew very well the revengeful nature of the Moroccan regime and how harsh I was in criticizing it on YouTube and Facebook. The only explanation that I can think of, for why he suggested that, is that the Moroccan secret police has some compromising evidence about him, which could be videos of him engaging in homosexual or pedophile acts, and using that evidence, they pressured him to convince me to go back to Morocco. While my father was not active politically as far as I know, he was working in the education sector during the sixties, seventies and eighties, when teachers unions were very active and confrontational with the regime, which explains why security services would be interested in holding compromising evidence against teachers. It is also possible that the security agents who have probably contacted my father and asked him to tell me to go back to Morocco, have promised him that I would be placed in a mental hospital instead of a prison, and that he would be able to visit me there. If I was at my father's position and was promised by Moroccan state agents that they would not torture my son if I helped them capture him, then I would not trust that they would keep their promises.

#### **14. Failure to consider important details that I provided at the hearing**

In page 39, paragraph 127 of its decision, the Board states that *"the Appellant has neither established that he has been persecuted in the past, nor that he would be of sufficient interest to be persecuted in the future."*

As I have pointed out in remark 4 above, the Board cited a definition of a delusion as a *"false, unshakable belief [...] not amenable to change in light of conflicting evidence,"* and then proceeded to consider my claims to be delusions without facing me with any conflicting evidence. Therefore, even with the availability of a clear definition of a delusion, the Board failed to correctly apply it and hastily concluded that my claims were delusions. It is therefore logical to expect that the Board will not find my claims to be persecutions, considering the unavailability of a clear definition of a persecution in the first place (Paragraphs 17, 18 and 19 of the Board's decision).

I was fired from my job in 2001 on the payday with my salary being stolen by my employer, and I could not even report to the police about my stolen salary for fear of retribution. I could not get a job after that and suffered psychologically for two years. All of that happened because of the political views I expressed in October 2000 that were

secretly recorded by secret government agents using a hidden camera. I was poisoned in November 2011, and that caused me tremendous psychological and physical suffering for years. Secret state agents conspired with my ex-girlfriend to set me up to be charged with rape and to be unjustly imprisoned. That is persecution.