

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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UN MUST MONITOR HUMAN RIGHTS IN WESTERN SAHARA AND SAHRAWI REFUGEE CAMPS

Independent, impartial, comprehensive and sustained human rights monitoring must be a central element of the United Nations' future presence in Moroccan-controlled Western Sahara and Sahrawi refugee camps, Amnesty International said today, calling on the Security Council to strengthen the United Nations Mission for the Referendum in Western Sahara (MINURSO) by adding human rights monitoring and reporting to its mandate.

The Security Council is due to vote to renew MINURSO's mandate on 29 April. MINURSO is the only UN modern peacekeeping mission without a human rights mandate. Human rights violations and abuses have been committed by both sides - the Moroccan authorities and the pro-independence Polisario Front - in the 44-year dispute over the territory.

LACK OF AN INDEPENDENT MECHANISM TO MONITOR HUMAN RIGHTS

The Moroccan authorities which *de facto* administer the territory west of the berm – a 2700 km sand wall separating the Moroccan and Polisario-controlled areas of Western Sahara – have claimed that the Moroccan National Council of Human Rights (CNDH) plays a role in protecting human rights in the territory. The council has two regional commissions, the first covering Smara, Boujdour, Laayoune and Terfay (the latter of which is not in Western Sahara) and the second covering Aoussered and Dakhla-Oued Eddahab.

However, the direct appointment by the King of Morocco of CNDH's president and at least nine of its 27 members raises serious concerns about CNDH's independence and impartiality and therefore its ability to monitor and ensure respect for human rights. Since Western Sahara's final status has yet to be determined, a human rights component within the UN peacekeeping mission would be the only guarantee of independent, impartial, comprehensive and sustained monitoring and reporting on human rights abuses in both Western Sahara and refugee camps in Tindouf, southwestern Algeria.

In a report to the Security Council earlier this month¹, UN Secretary-General Antonio Guterres warned that gaps in reporting on the human rights situation in Western Sahara persist owing to the OHCHR's lack of access to the territory. In its resolution 2440 (2018)², the UN Security Council encouraged enhanced cooperation with OHCHR, including through the facilitation of visits to the region.

CONTINUOUS RESTRICTIONS ON FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY WEST OF THE BERM

Since the latest renewal of MINURSO's mandate in October 2018, Amnesty International has continued to document human rights violations in Western Sahara, including arbitrary restrictions on the rights to freedom of expression, peaceful assembly and association, particularly of individuals supporting self-determination for Western Sahara.

During this period, the Moroccan authorities continued to regularly disperse peaceful demonstrations, sometimes using unnecessary or excessive force. On three occasions - on 16 December 2018, 5 March 2019 and 23 March 2019 – the security forces dispersed peaceful sit-ins organized by the Saharawi association "Article 6" calling for the respect of the economic and social rights of the Saharawi people. The organization's former President, Sahrawi activist Mohamed Dihani has remained under close surveillance whenever he leaves his house, since his release from prison in June 2015 after five years of arbitrary detention.³ The Moroccan authorities continued to subject Sahrawi human rights defenders to intimidation, questioning, arrest and intense surveillance, sometimes amounting to harassment. In his April 2019 report to the Security Council⁴, UN Secretary-General Antonio Guterres stated that OHCHR continued to receive reports of

¹ Secretary General report to the Security Council, Situation concerning Western Sahara, UN Doc. S/2019/282, 1 April 2019.

² Security Council Resolution 2440 (2018), Authorizing Six-Month Extension for United Nations Mission for Referendum in Western Sahara, UN Doc. S/RES/2440 (2018).

³ WGAD, Opinion No. 19/2013 (Morocco), UN Doc. A/HRC/WGAD/2013/19 (2014).

⁴ Ibid, UN Doc. S/2019/282, 1 April 2019.

harassment, arbitrary arrests, confiscation of equipment and excessive surveillance of journalists, bloggers and human rights defenders covering human rights violations in the territory.

Saharawi human rights groups have continued to experience difficulties in carrying out their activities, as the Moroccan government routinely rejected their applications for registration and, therefore, legal recognition. As of April 2019, only the Sahrawi Association of Victims of Grave Human Rights Violations (ASVDH) has been granted recognition.⁵

In one case, ASVDH member, Saharawi human rights defender Brahim Dihani⁶ has faced judicial harassment because of his peaceful activism and his human rights work. He was arrested and detained twice for several hours in October and December 2018, while filming demonstrations organized by Saharawi human rights groups in Laayoune and monitoring violations committed by the security forces. In January 2019, the Court of First Instance in Laayoune charged him with breaching the right to privacy for publishing pictures and videos of Moroccan security forces without their consent, based on the reports prepared by the police during his two arrests. On 16 January, the first hearing in his trial was postponed at the request of his defense lawyer, after the Public Prosecutor added a charge of publishing and disseminating false news based on Article 72 of Law 88-13 on Press and Publishing. On 6 February 2019, the Court of First Instance acquitted and dropped all charges against him, ordering the return of ASVDH's cameras that had been confiscated.

On 11 April, the Moroccan authorities arrested Saharawi activists Ali Al Saadouni and Khaliehna Elfak after they published a video on social media showing them mounting flags of the Polisario authorities in a roundabout in Laayoune the day before. While Khaliehna Elfak was released after several hours, Ali Al Saadouni was kept in custody and was charged with drug possession and consumption and committing violence against a policeman. He went on hunger strike on 15 April to protest his detention. On 22 April, the Court of First Instance of Laayoune postponed the ruling on Ali Al Saadouni's case to 29 April. The same day, the Moroccan police prevented an ASVDH observer from attending the trial and dispersed women holding flags in solidarity with Al Saadouni in Laayoune.

The Moroccan authorities also continued to restrict international organizations' access to Morocco and Western Sahara, including Amnesty International, to conduct research on human rights violations. They also imposed restrictions on those attempting to enter Western Sahara to provide support to those affected by human rights violations. During the past 16 months, the Moroccan authorities have expelled or denied access to Western Sahara to at least 21 persons, according to ASVDH. This includes international observers, journalists and lawyers. In one such example, on 15 February 2019, Spanish lawyer Louise Magrane, was expelled from Laayoune airport upon arrival and returned to Spain via Casablanca. He was supposed to observe Brahim Dihani's trial in Laayoune on 16 January, together with two other international lawyers.

AN OPAQUE SITUATION IN THE TINDOUF CAMPS ADMINISTERED BY THE POLISARIO FRONT

Amnesty International stresses that sustained UN human rights monitoring is also needed in refugee camps in Tindouf, where access to information regarding the human rights situation on the ground is limited, leaving refugees at risk of abuse and without any avenues for redress. There have been credible reports of unrest among young residents frustrated at the slow progress towards a resolution of the more than 44-year-old dispute. The Polisario Front has failed to take any steps to hold to account those responsible for past human rights abuses committed in camps under its control.

RESTRICTIONS ON MINURSO

MINURSO was established in 1991 to operate in the territory annexed by Morocco in 1975 and the Saharawi refugee camps in Tindouf, Algeria. Its mandate since then has remained unchanged and focuses solely on the monitoring of a ceasefire between the Moroccan armed forces and the Polisario Front, as well as the implementation of a referendum to determine Western Sahara's final status.

In March 2016, the Moroccan authorities forced the UN to withdraw dozens of civilian staff and close a military liaison office of MINURSO after then-UN Secretary-General Ban Ki-moon referred to Morocco's "occupation" of Western Sahara during a visit to refugee camps in Tindouf. The 2016 Moroccan government's expulsion of MINURSO's staff, which gravely affected the functionality of the Mission, showed yet again the lack of cooperation of the parties with MINURSO's implementation of its mandate.

⁵ In 2015, Morocco finally granted ASVDH its registration, nine years after the organization first submitted its application and eight years after a positive ruling by an administrative court confirmed ASVDH's right to operate. However, the organization still faces many obstacles to document human rights violations in Western Sahara, including the repeated confiscation of its cameras and documenting equipment. See Amnesty International, *Submission to the United Nations Human Rights Committee 118th session* (Index: MDE 29/4858/2016)

⁶ Amnesty International, *Morocco/Western Sahara: Moroccan authorities must drop all charges against Saharawi activist and HRD Brahim Dihani* (Press release, 23 January 2019), www.amnesty.org/ar/latest/news/2019/01/morocco-authorities-must-drop-all-charges-against-saharawi-activist-and-hrd-brahim-dihani/