

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Morocco/Western Sahara: Investigate allegations of torture of Sahrawi human rights defender

On the eve of the trial of Sahrawi human rights defender Yahya Mohamed El Hafed before the Court of Appeal of Agadir, Amnesty International is calling for a prompt and full investigation into torture allegations that marred his trial in first instance. In particular, Amnesty International urges that statements tainted by unexamined allegations of torture are disregarded.

Amnesty International fears that Yahya Mohamed El Hafed's conviction may have been linked to his human rights activities in Western Sahara and his public support for the right to self-determination for the people of Western Sahara and that he might be a prisoner of conscience imprisoned solely for expressing these views. He is a member of the Collective of Sahrawi Human Rights Defenders (CODESA) and the Tan Tan branch of the Moroccan Association of Human Rights. CODESA was prevented from holding its founding congress on 7 October 2007 because the local authorities in Laayoune refused to acknowledge its members' request for authorization of a public meeting.

Yahya Mohamed El Hafed, currently on hunger strike, was sentenced to 15 years' imprisonment on 9 October 2008, in relation to demonstrations held in Tan Tan against Moroccan administration of Western Sahara. Eight other defendants tried in relation to the same demonstrations were sentenced to up to four years' imprisonment. Yahya Mohamed El Hafed was arrested on 29 February 2008 at his shop in the city of Tan Tan. When brought to the judicial police headquarters in Tan Tan, he reported being tortured to extract "confessions" on the basis of which he was later convicted.

His arrest followed protests in Tan Tan two days earlier by Sahrawi members of the population calling for the right to self-determination for the people of Western Sahara, during which a police officer was hurt and subsequently died. Amnesty International does not condone any act of violence. However, independent and impartial investigations need to be conducted to identify the alleged perpetrators, who should be brought to justice in fair trial. This includes the prohibition of the use of evidence or statements extracted under torture and other ill-treatment in any proceedings.

Yahya Mohamed El Hafed stated that he did not participate in the protests, claims which were corroborated by testimonies produced by his defence. Furthermore, no evidence of his participation in the demonstrations was presented to the Court, including by the witnesses for the prosecution.

All the defendants alleged that they were tortured, which included being beaten, hung from the legs and subjected to sleep deprivation, during questioning to force them to sign "confessions". These allegations were ignored by the judge and had previously been dismissed by the investigative judge.

Amnesty International recalls that Article 15 of the United Nations Convention against Torture, to which Morocco is a State party, provides that "any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings". In line with their international obligations, the Moroccan authorities, which have submitted their

report on the implementation of the Convention against Torture to the United Nations committee overseeing its application in April 2009, should ensure that any allegation of torture is promptly and impartially examined.

At tomorrow's hearing, the Court of Appeal of Agadir should also look into more recent allegations that Yahya Mohamed El Hafed was subjected to torture and other ill-treatment in Inzegane Prison in Agadir on 3 April 2009 and into allegations that he has been detained in prolonged solitary confinement in a cold cell without bed or blanket and proper air ventilation since his transfer to Aït Melloul Prison on 4 April 2009.

The organization's concerns are heightened by reports from other detainees that Yahya Mohamed El Hafed's health is poor, as he suffers from asthma and rheumatism. He is said to be further weakened as a result of his ongoing hunger strike, which he began on 4 April 2009 to protest against the torture and ill-treatment he had suffered. The demand of the prison administration to bring an authorization from the Directorate of Prisons in Rabat, more than 600 km from Aït Melloul has effectively prevented his family from visiting him. As a result, Yahya Mohamed El Hafed has not seen his family since 4 April 2009.

Amnesty International calls on the Moroccan authorities to ensure that Yahya Mohamed El Hafed is granted a fair trial and that unless convincing evidence is produced in court to substantiate the charges, he should be released.

Background

The status of Western Sahara is a taboo subject in Morocco, and the authorities repress views which favour its independence. Sahrawi supporters of the right to self-determination and independence of the region, as well as human rights defenders and journalists who have monitored and reported on human rights violations committed by the Moroccan security forces in this context have face intimidation, harassment, prosecution and even imprisonment. Sahrawi activists continue to be hampered by politically-motivated administrative obstacles preventing them from legally registering their associations.

Since 2005, dozens of Sahrawis have been charged with violent conduct and detained after being arrested during or after demonstrations against Moroccan rule in Western Sahara. Many of those arrested allege that they were tortured or otherwise ill-treated to force them to sign "confessions", to intimidate them from protesting further or to punish them for demanding the right to self-determination. The Moroccan authorities continue to claim that those imprisoned were involved in criminal acts and are not being held for their views. Amnesty International has serious concerns about the fairness of their trials, including that some of the evidence was tainted on account of unexamined claims of torture or other ill-treatment and that defendants were not permitted to call defence witnesses.