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Morocco/Western Sahara: Eight new prisoners of conscience in October

The detention of eight individuals in October, apparently for crossing red lines on the “taboo” issues of the monarchy and the status of Western Sahara, represents a serious attack on freedom of expression by the Moroccan authorities, Amnesty International said today.

Idriss Chahtane, publisher of the *Almichaal* weekly newspaper, was detained after publishing a story about the King. The other seven are Sahrawi activists arrested after visiting the Tindouf camps run by the Polisario Front in south-western Algeria. All are currently held in Salé Civil Prison.

Amnesty International considers all of them to be prisoners of conscience, detained solely for exercising their right to peaceful expression and calls for their immediate and unconditional release.

Idriss Chahtane has been detained at Salé Civil Prison since 15 October, following the decision of the Court of First Instance of Rabat to sentence him to one year in prison. Idriss Chahtane was found guilty under Article 42 of the Moroccan Press Code of spreading false information with “malicious intent” in relation to an article published in a September edition of the *Almichaal* (issue 226), where he has worked for nearly six years, on the health of King Mohamed VI. In addition to the prison sentence, he was ordered to pay a fine of 10,000 dirhams (about US\$1,300).

The court ordered Idriss Chahtane to be imprisoned immediately following the request by the general prosecution, even though the ruling was appealed by the defence. Law enforcement officials came to the offices of *Almichaal* at 3.30pm on 15 October to carry out the arrest. Idriss was then reportedly brought in front of the judicial police in Casablanca, before being transferred to Salé Civil Prison near the capital Rabat on the same day.

Amnesty International is also concerned that Idriss Chahtane seems to face punitive treatment inside Salé Civil Prison: he is held in solitary confinement, is forced to sleep on the floor with only blankets as cushioning and was allowed to spend less time than other prisoners in the open-air prison yard on several occasions. He reports that other prisoners have insulted him because they see him as being “against the King”. He launched a three-day hunger strike on 30 October in protest at his prison conditions. Additionally, on at least one occasion, his wife, Siham Mekouar, who comes to visit him weekly with their two-year-old daughter and who is expecting another child, was not allowed to bring him food by prison officials. Siham says he has lost a significant amount of weight since his incarceration.

Two other *Almichaal* journalists, Rachid Mahamid and Ali Mustafa Hiran, were also convicted for participation in the publication of the article in the newspaper (Article 68 of the Press Code) and sentenced to three-month prison terms and fined 5,000 dirhams (about US\$653). They remain at liberty pending the conclusion of an appeal on their case. Amnesty International calls for their sentences to be overturned.

The seven Sahrawi prisoners of conscience have been held at Salé Civil Prison since 16 October. They had been arrested on 8 October immediately after disembarking from a plane from Algeria at Mohamed V Airport in Casablanca. Ahmed Alnasiri, Brahim Dahane, Yahdih Ettarouzi, Saleh Labihi, Dakja Lashgar, Rachid Sghir and Ali Salem Tamek belong to a number of human rights organizations and other civil society groups, including the Western Saharan branch of the Moroccan Association of Human Rights (Association Marocaine des Droits Humains, AMDH), the Sahrawi Association of Victims of Grave Human Rights Violations Committed by the Moroccan State (Association sahraouie des victimes des graves violations des droits de l'homme commises par l'état du Maroc, ASVDH) and the Collective of Sahrawi Human Rights Defenders (Collectif des défenseurs sahraouis des droits de l'homme, CODESA). Several have long track records of monitoring and reporting on human rights violations in Western Sahara.

On 15 October, the General Crown Prosecutor at the Court of Appeal of Casablanca ordered their transfer to a military court, the Permanent Court of the Royal Armed Forces in Rabat, where an investigating judge is pursuing the investigation. The seven are facing a number of charges related to undermining the external and internal security of the state, including attacking its "territorial integrity" on the basis of Articles 190, 191, 206 and 207 of the Penal Code. Those convicted under Article 191 can be sentenced to death in time of war. There are indications that the Moroccan authorities are arguing that Morocco is at war with the Polisario Front and that this penalty would therefore potentially apply. If so, Amnesty International would disagree on the grounds that a ceasefire between the Polisario Front and Morocco has been in place since 1991.

Amnesty International unequivocally opposes the trial of civilians in military courts and furthermore fears that the charges are a result of the seven activists' legitimate activities in support of the self-determination of the Sahrawi people. It believes that the activities that the seven are reported to have undertaken during their visit to Algeria, including the Tindouf camps, between 26 September and 8 October, such as meeting with Polisario representatives and attending festivals and other events organized in their honour, amount merely to the peaceful and legitimate exercise of their rights to freedom of expression, association and assembly as guaranteed in international law and standards.

Amnesty International is concerned that the Moroccan authorities are treating peaceful political activities challenging Morocco's "territorial integrity" as a national security issue. Amnesty International believes that activities in support of self-determination and the financing of such activities, as long as they do not involve the use or advocacy of violence, should not be interpreted by the Moroccan state as threats to "national security". The organization stresses that a political non-violent threat to territorial integrity cannot be used by a government to justify severe restrictions on freedom of expression, as stipulated in the Johannesburg Principles adopted in 1995, and endorsed by the UN Special Rapporteur on Freedom of Opinion and Expression in his report to the 1996 session of the UN Commission on Human Rights:

"A restriction sought to be justified on the ground of national security is not legitimate unless its genuine purpose and demonstrable effect is to protect a country's existence or its territorial integrity *against the use or threat of force* [italics added], or its capacity to respond to the use or threat of force, whether from an external source, such as a military threat, or an internal source, such as incitement to violent overthrow of the government."

Amnesty International calls on the Moroccan authorities to act in conformity with Article 9 of the Moroccan Constitution and its obligations under Article 19 of the International Covenant on Civil and Political Rights by respecting freedom of expression and immediately releasing the eight prisoners of conscience.

Background

Offences against the monarchy

In recent years, several people, including journalists, political activists and human rights defenders, have been prosecuted and in some cases sentenced to prison terms, after peacefully expressing criticism of the monarchy.

Independent media publishing information deemed offensive to the King or the royal family was dealt several severe blows during the month of October. The same court that sentenced Idriss Chahtane, on 26 October found the publisher of and a journalist in the daily *Jarida Al-Oula*, which also published an article on the King's health, guilty on similar charges. They received suspended prison terms and were fined. A few days later, on 30 October, the Court of First Instance of Casablanca convicted the director of and a cartoonist in the daily *Akhbar Al-Youm* in two separate criminal lawsuits. In one, brought against them by Prince Ismail, who had been depicted by the newspaper in a cartoon against the backdrop of the Moroccan flag, the two were convicted on a number of charges under the Press Code to three-year suspended prison terms and fined for offending a member of the royal family. They were also ordered by the court to pay three million dirhams (about US\$391,550) in damages. In the other, they were convicted to suspended one-year prison terms and heavily fined for "offending the national flag" under Article 267(1) of the Penal Code. *Akhbar Al-Youm* remained closed following an order by the Prime Minister in late September after the cartoon was published. Idriss Chahtane himself, along with Mustafa Addari, head of the Khenifra branch of the AMDH, were convicted on 27 October of defaming a powerful local family. The accusations were based on an interview with Mustafa Addari published in an *Almichaal* issue of November 2008 under the title "Scandals of the King's Aunts". They were sentenced on 27 October to three-month suspended prison sentences and ordered to pay heavy fines and damages to the plaintiff. Moroccan legislation contains a number of provisions in both the Penal Code and the Press Code that carry sentences of up to five years and heavy fines for any "offences" against the person of the King or his family or for "undermining the monarchy". Amnesty International has repeatedly called on the Moroccan authorities to lift all such impediments to freedom of expression.

The status of Western Sahara

The status of Western Sahara, a territory Morocco annexed in 1975, remains a "taboo" subject in the eyes of the Moroccan authorities, which show little tolerance for those publicly expressing views in favour of the independence of Western Sahara. Family visits between Western Sahara and the Tindouf camps in south-western Algeria have taken place under the auspices of the UNHCR and Sahrawi activists have previously visited Algeria. The visit by the seven Sahrawi activists to the Tindouf camps in late September and early October was, however, the first of its kind.

Since the visit to the Tindouf camps, there has been a proliferation of reports of harassment of Sahrawi human rights defenders and activists including violations to their freedom of movement, verbal intimidation and threats, increased surveillance, the prevention of activists from meetings with foreign observers, and the confiscation of travel documents.

Amnesty International continues to urge the Moroccan authorities to take concrete measures to ensure that the rights of all Sahrawis to freedom of expression, association and assembly are fully respected and that Sahrawi human rights defenders, in particular, can collect and disseminate information and views on human rights issues without fear of prosecution, harassment or intimidation. Such rights are enshrined in international law, notably the International Covenant on Civil and Political Rights, to which Morocco is a state party, and the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the UN General Assembly on 9 December 1998.

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