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Morocco/Western Sahara: Sahrawi human rights defender on trial

On the eve of the opening of the trial in Laayoune of Sahrawi human rights defender Brahim Dahane and 16 other detainees, Amnesty International calls on the Moroccan authorities to ensure that the proceedings meet international standards for fair trial. The organization's appeal is prompted by serious concerns about the fairness of trials of similar cases in recent months.

Brahim Dahane, who has been in detention since his arrest on 30 October 2005, is to be tried, along with his 16 co-accused, on various charges mainly related to participating in or inciting violent protest activities against the Moroccan administration of Western Sahara last year. Brahim Dahane is, in addition, charged with belonging to an unauthorized association, namely the Sahrawi Association of Victims of Grave Human Rights Violations Committed by the Moroccan State, of which he is the president. He and a number of activists have been seeking to register the association in recent months, but have been unable to complete the process due to a series of what appear to be politically motivated administrative obstacles.

Like other Sahrawi human rights defenders who have been detained in recent months, Brahim Dahane appears to have been targeted because of his leading role as a human rights defender and his exposure of abuses by Moroccan security forces during and after demonstrations which began in May 2005, as well as his public advocacy of self-determination for the people of Western Sahara. Amnesty International considers that Brahim Dahane is probably a prisoner of conscience.

Tomorrow's trial comes in the wake of the recent release of five Sahrawi human rights defenders, a positive development which has, however, been marred by further harassment of human rights defenders in Western Sahara.

The release of the five Sahrawi human rights defenders – H'mad Hammad, Houssein Lidri, Larbi Messaoud, Mohamed El-Moutaouakil and Brahim Noumria – followed a royal pardon on 25 March 2006 on the occasion of a visit by King Mohamed VI to Western Sahara. They belonged to a group of seven human rights defenders who had been convicted and sentenced in December 2005 and January 2006 to up to two years' imprisonment on various charges mainly related to participating in and inciting violent protest activities against the Moroccan administration of Western Sahara last year.

Of the remaining two human rights defenders, one, Aminatou Haidar, was released in January 2006 after serving a seven-month prison sentence. The other, Ali-Salem Tamek, was excluded from the pardon and remains imprisoned, reportedly because he is considered the leading spokesperson within Moroccan-administered territory of those advocating independence for Western Sahara. Amnesty International expressed serious concerns about the fairness of the trials of the seven defenders, who are

well known to the organization as long-term human rights activists, and considered that they were probably prisoners of conscience.

While welcoming the releases, Amnesty International is, by contrast, concerned that several Sahrawi human rights defenders were allegedly subjected to harassment or intimidation around the time of King Mohamed VI's visit to Western Sahara at the end of March 2006. Ghalia Djimi, vice-president of the Sahrawi Association for Victims of Gross Human Rights Violations Committed by the Moroccan State, and her husband Mustapha Dah, a member of the same association, were arrested in Laayoune at about 8pm on 24 March 2006 and held overnight in a police station, before being released without charge at around 3pm the following day. Ghalia Djimi said they were questioned about their attitude towards the King's visit, as well as their political beliefs and the activities of their association.

In a separate incident, Hamoud Iguilid, President of the Laayoune Section of the Moroccan Association for Human Rights, was arrested in Laayoune on 18 March 2006 and taken to a nearby police station. He told Amnesty International that he was beaten with batons on arrest and during the journey in the back of a police van. He was then detained for several hours, during which time he says he was threatened with imprisonment if he continued to spread "false information" about human rights abuses. He was released without charge.

During 2005, Amnesty International expressed its concern about the cases of several other human rights defenders in Western Sahara who were arrested, held for questioning and released. In some cases this was apparently a response to public criticism they had made of the conduct of the Moroccan security forces.

The vulnerability of the human rights community in Western Sahara is increased by the fact that neither the Sahrawi Association of Victims of Grave Human Rights Violations Committed by the Moroccan State, nor another association to which many defenders belong, the Forum for Truth and Justice – Sahara Branch, is authorized by the Moroccan authorities. The latter was dissolved by court order in June 2003 on the grounds that the organization had undertaken illegal activities likely to disturb public order and undermine the territorial integrity of Morocco. However, the activities described as illegal appeared to relate solely to members of the organization exercising their right to express their opinions on self-determination for the people of Western Sahara, and disseminating views on human rights issues to bodies such as international human rights organizations, including Amnesty International.

In the light of its ongoing concerns, Amnesty International calls on the Moroccan authorities to take concrete measures to ensure that human rights defenders in Western Sahara are not subject to harassment or intimidation and enjoy all the rights enshrined in international law, notably the International Covenant on Civil and Political Rights 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 (the Declaration on Human Rights Defenders), adopted by the UN General Assembly on 9 December 1998. In particular, the Moroccan authorities should comply fully with Articles 5 and 6 of the Declaration, which state:

"Article 5

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels: [...]

(b) To form, join and participate in non-governmental organizations, associations or groups; [...]

"Article 6

Everyone has the right, individually and in association with others: [...]

(b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms [...]."

Background

According to official statements, a total of 216 prisoners were pardoned by King Mohamed VI on 25 March 2006. Apart from the five human rights defenders, some 25 others who had been arrested during or after demonstrations in Laayoune and Smara last year and charged with offences such as criminal conspiracy, disturbing the public order, damage to public property, participation in an armed gathering and violence against security force officers were released. They had been convicted and sentenced to up to five years in prison in various trials conducted between June 2005 and January 2006.

The five Sahrawi human rights defenders who were pardoned had been detained in Laayoune Civil Prison for up to eight months. They, along with Aminatou Haidar and Ali-Salem Tamek, were arrested between June and August 2005 and then convicted and jailed by the Laayoune Court of Appeal on 14 December 2005. Aminatou Haidar was sentenced to seven months in prison, Ali-Salem Tamek to eight months, Houssein Lidri, Larbi Messaoud, Mohamed El-Moutaouakil and Brahim Noumria to 10 months each, and H'mad Hammad to two years. Aminatou Haidar was released at the end of her sentence on 16 January 2006. The other six had their cases reviewed by the appeal chamber of the Laayoune Court of Appeal on 24 January 2006. The sentence against Ali-Salem Tamek was increased from eight to 10 months in prison. The sentences pronounced at first instance against H'mad Hammad, Houssein Lidri, Larbi Messaoud, Mohamed El-Moutaouakil and Brahim Noumria were confirmed.

Amnesty International has campaigned on the cases of the human rights defenders since their arrests last year, raising its concerns with the Moroccan authorities and at the international level on a number of occasions. The organization also sent Tunisian human rights lawyer Samir Ben Amor to observe the first main session of the trial of seven of them in November 2005.

In response to its concerns, Amnesty International received two detailed letters, in July 2005 and February 2006, from the Moroccan Ministry of Justice. The Ministry stated that the human rights defenders had not been arrested and prosecuted on the basis of their views, but rather because of their involvement in criminal acts. It stressed that they had benefited from all the safeguards under Moroccan law during their arrest, detention and trial, and gave details regarding ongoing investigations into allegations of torture against Houssein Lidri and Brahim Noumria. It also refuted specific allegations of harassment and intimidation of other human rights defenders in Western Sahara.

Amnesty International welcomed these responses, as a sign of the Moroccan authorities' willingness to engage on human rights issues. It notes, however, that the authorities have not yet addressed its key concerns related to the fairness of the trials of the human rights defenders, such as the fact that the evidence was tainted with unexamined claims of torture or ill-treatment and that the defendants were not permitted to call defence witnesses.

For more information on the targeting of Sahrawi human rights defenders by the Moroccan authorities, please see the following documents, all available on Amnesty International's website at the addresses marked:

- *Morocco/Western Sahara: Sahrawi human rights defenders under attack* (AI Index: MDE 29/008/2005), a 13-page report released on 24 November 2005;

<http://web.amnesty.org/library/Index/ENGMDE290082005>

- *Morocco/Western Sahara: Human rights defenders on trial* (AI Index: MDE 29/009/2005), a public statement issued on 28 November 2005;

<http://web.amnesty.org/library/Index/ENGMDE290092005>

- *Morocco/Western Sahara: Human rights defenders jailed after questionable trial* (AI Index: MDE 29/010/2005), a public statement issued on 15 December 2005;

<http://web.amnesty.org/library/Index/ENGMDE290102005>

