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

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

The UN Security Council is due to vote on the renewal of the mandate of MINURSO on 28 October three days ahead of its expiry. MINURSO is one of the only modern UN peacekeeping missions without a human rights mandate. Human rights violations and abuses have been committed by both sides - the Moroccan authorities and pro-independence movement the Polisario Front - in the more than 40-year dispute over the territory.

On 14 September, in her global human rights update during the 45th session of the Human Rights Council, UN High Commissioner for Human Rights stated that the Office of the High Commissioner for Human Rights "continue remote monitoring of the situation in Western Sahara," where technical missions were last conducted five years ago.

Lack of an independent mechanism to monitor human rights

Restrictions on access for independent human rights organizations and journalists remained in place which have curtailed monitoring of human rights abuses in Western Sahara and the refugee camps in Tindouf in Algeria. Early this year on 25 and 28 February, the Moroccan authorities expelled at least nine people upon their arrival at Laayoune airport, including several Spanish parliamentarians and a Spanish lawyer, who had planned to observe the trial of a human rights activist (Khatri Dada, mentioned below).

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 "protection of human rights in the territory" is already covered by the role of the Moroccan National Council of Human Rights (CNDH).

However, the CNDH's president and at least nine of its 27 members are appointed by the King of Morocco, undermining its independence and impartiality, and in any case the CNDH cannot access the Tindouf camps.

What is urgently needed is a fully independent and impartial mechanism within the UN peacekeeping mission, with the mandate and resources to effectively and consistently monitor human rights abuses in both Western Sahara and the Tindouf camps, Amnesty International said.

In his report published in September, the UN Secretary-General reminded the Security Council that in its latest resolution 2494 of October 2019 it strongly encouraged enhancing cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR) including by facilitating visits to the region. The report also notes that "lack of access by OHCHR to Western Sahara continues to result in substantial gaps in human rights monitoring in the Territory. Human rights defenders, researchers, lawyers and representatives of international non-governmental organizations also continue to experience similar constraints."

Ongoing human rights violations and abuses in Western Sahara in 2020

Amnesty International continues to document human rights violations and abuses in Western Sahara. In January, Moroccan police banned a meeting at the premises of the Sahrawi Association of Victims of Grave Violations of Human Rights Committed by the Moroccan State (ASVDH) celebrating Aminatou Haidar, human rights defender and recipient of the 2019

alternative Nobel peace prize.

On 4 March 2020, after an unfair trial, a Court in Laayoune convicted and sentenced 21-year old Sahrawi activist Khatri Dada, to 20 years in prison for his involvement in acts of vandalism, a charge he denies, and for "offending public officials" based on Penal Code Articles 580-2 and 263-267 bis. The charges are related to the events that happened on 19 April 2017 in the city of Smara where a police car was attacked by a group of 15 individuals. During his trial, Dada denied that he had been present during the events and told the judge that the "confessions" used against him as evidence had been coerced from him under duress during his interrogation at his arrest for an administrative formality on 26 December 2019, more than two and half years after the events. The sentence against the activist was confirmed on appeal on 12 May 2020.

On 15 May, police arrested Ibrahim Amrikli, a citizen-journalist and human rights activist with the Nushatta Foundation and accused him of "breaching the health emergency law." He was released on bail after 48 hours; he reported to Amnesty International that he had been ill-treated in custody. While the health emergency due to COVID-19 might warrant some state imposition of restrictive measures, the circumstances of Ibrahim Amrikli's arrest, interrogation and charges indicate that he was targeted for his work as a citizen-journalist and human rights activist. His next hearing is scheduled on 16 November.

On 17 June, Moroccan authorities used unnecessary force to disperse a gathering commemorating the 50th anniversary of the Zmala protests against the Spanish occupation. The gathering was supposed to take place at 7pm on Smara street in Laayoune; but as soon as 10 women activists arrived, the police started to disperse them. A video documenting the dispersal shows at least 20 policemen pushing, slapping in the face and taking the veil off activists Mina Baali and Salha Boutenguiza.

On 1 July, police officers in Laayoune arbitrarily detained for at least 10 hours Algargagrat Media's founder Essabi Yahdih as he went into the police station to get an administrative certificate, interrogating him about his journalistic activities.

On 29 September, the Prosecutor of the Appeal Court of Laayoune announced that an investigation had been opened into the "the Saharawi Organ Against Moroccan Occupation," an association founded 9 days earlier which calls for "defending the Saharawi people's rights to freedom, independence and dignity through legitimate non-violent means." That same day, police banned a meeting of the association's members. According to three of its founding members, Aminatou Haidar, Mina Baali and Elghalia Djimi, police cars were parked next to each of their houses from 30 September until 7 or 8 October, to prevent any new gathering and to intimidate them. The activists told Amnesty that throughout the year, their houses were under surveillance with the regular presence of marked or unmarked police cars and plainclothes officers following them and their families whenever they were out.

The Moroccan authorities continued to hold 19 Sahrawi men in prisons far away from their place of residence, rendering it more difficult for their families to visit them regularly. They had been convicted in unfair trials in 2013 and 2017 marred by a failure to adequately investigate torture claims. The defendants were convicted of responsibility for the deaths of 11 security force members during clashes that erupted when the forces dismantled a large protest encampment in Gdeim Izik, in Western Sahara in 2010.

An opaque situation in the Tindouf camps administrated by the Polisario Front

Sustained UN human rights monitoring is also needed in the Tindouf camps, where access to information regarding the human rights situation on the ground is limited, leaving residents at risk of abuse and lacking avenues for accountability. 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.

On 8 August, police in the Polisario camps in Tindouf held citizen-journalist Mahmoud Zeidan for 24 hours, interrogating him about posts he published online where he criticized the way authorities handled COVID-19 aid distribution.

Background information

Western Sahara is the subject of a territorial dispute between Morocco, which annexed the territory in 1975 and claims sovereignty over it, and the Polisario Front, which calls for an independent state in the territory and has set up a self-proclaimed government-in-exile in the refugee camps in Tindouf, southwestern of Algeria. A UN settlement in 1991 which ended fighting between Morocco and the Polisario calls for the organization of a referendum for the people of Western Sahara to exercise their right to self-determination by choosing independence or integration into Morocco. The referendum has not been held amid ongoing disputes about the process of identifying who may vote in the referendum.

In 1991, MINURSO was established to operate in the territory annexed by Morocco in 1975 and Sahrawi refugee camps in Tindouf, in south-western Algeria. Its mandate since then has remained the monitoring of a ceasefire between the Moroccan armed forces and the Polisario Front, and the implementation of a referendum to determine Western Sahara's final status.

On 23 May 2019, former German President Horst Köhler resigned as Personal Envoy of the UN Secretary-General for Western Sahara. He has not been replaced until now.

On 22 January 2020, the Moroccan House of Representative adopted two laws which added part of the territorial waters of the non-autonomous territory of Western Sahara to its maritime territory.