

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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TARGETED CRACKDOWN OF SAHRAWI ACTIVISTS

The Moroccan authorities have intensified their spate of violations against pro-independence Sahrawi activists through ill treatment, arrests, detentions and harassment in an attempt to silence or punish them for their peaceful activism against Morocco's push to further consolidate its control over the disputed territory of Western Sahara, Amnesty International said today.¹

Since November 2020 alone, Amnesty International has documented human rights violations by the Moroccan security forces against 22 Sahrawi activists and human rights defenders, including seven cases of torture or other ill-treatment, three house raids, two de facto house arrests and nine cases of arrests, detentions and harassment of individuals in relation to their peaceful exercise of their freedom of expression and assembly.

Those targeted include journalists, activists, human rights defenders and minors. The acts for which they faced repression included Facebook posts and journalistic articles critical of the Moroccan authorities and particularly the king, waving the Sahrawi flag in their own homes and participating in peaceful protests.

This latest round of violations come in the wake of clashes in November 2020 between Morocco and the Polisario Front, a Sahrawi pro-independence movement, after Moroccan army forces dismantled a Sahrawi peaceful protest camp in the village of Al Guerguerat, a buffer zone under the observation of the Mission for the Referendum in Western Sahara (MINURSO). Amnesty International reported at the time that between 13 and 21 November 2020, Moroccan police surrounded and kept close surveillance on the houses of several Sahrawi activists and journalists and also increased numbers of house raids and arrests.²

Most of Western Sahara has been under Morocco's *de facto* control since it seized it after Spain, its former colonial administrator, withdrew in 1975. The Moroccan government considers it Moroccan territory and rejects demands for a vote on self-determination. That option was included in the referendum that Morocco and the Polisario, agreed to in a 1991 UN-brokered ceasefire agreement. The international community does not recognize Morocco's *de facto* annexation and the United Nations considers Western Sahara a non-self-governing territory. Yet, in December 2020, the US recognized Morocco's sovereignty over Western Sahara in exchange of Morocco's normalization of its relations with Israel.³

In January 2021, several UN special rapporteurs issued a joint statement denouncing abuses against eight human rights defenders in Western Sahara, in which they cited violations including threats of arrest, violence and death, physical surveillance, arbitrary detention, ill-treatment in detention, and threats to the right to health due to the torture they suffered at the hands of Moroccan security forces.⁴ The statement called on the Moroccan government to take all necessary measures to ensure the protection of the rights and freedoms of the activists, to investigate the violations committed and to adopt all necessary measures to prevent repetition of such violations.

The Moroccan authorities have limited monitoring bodies and independent journalists' access to Western Sahara, meaning that the repression has gone largely undocumented. On 25 and 28 February 2020, the Moroccan authorities

¹ Western Sahara is a former Spanish colony on the Atlantic coast between Morocco and Mauritania. The UN considers Western Sahara a "non-self-governing territory" since Spain withdrew in 1975. In 1991, a ceasefire between Morocco and the Polisario Front, which was fighting for Western Sahara to be an independent state, was signed and a UN peacekeeping mission (MINURSO) was set up to prepare Western Sahara for a referendum on its status. Today, the territory is divided by a 2700 Km sand berm built by Morocco, which de-facto administers its western part. East of the berm is the part of Western Sahara controlled by the Polisario Front, whose headquarters are in the Sahrawi refugee camps hosted by Algeria in the city of Tindouf since 1973.

² See Amnesty International, *Human rights monitoring needed more than ever in Western Sahara*, 30 November 2020, available at www.amnesty.org/en/latest/news/2020/11/human-rights-monitoring-needed-more-than-ever-in-western-sahara/

³ See Amnesty International, *Morocco and Western Sahara Annual Report 2020*, available at www.amnesty.org/en/countries/middle-east-and-north-africa/morocco-and-western-sahara/morocco-and-western-sahara/

⁴ Special Procedures Joint Letter, OHCHR, 7 January 2021, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25731>

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 Khatri Dada, a human rights activist. For the past decade, Amnesty International has been calling on the UN Security Council to add a human rights component to the UN Mission for the Referendum in Western Sahara (MINURSO), which would allow for monitoring and reporting on human rights abuses, as is done by the vast majority of comparable UN missions around the world. The latest developments are a stark reminder of the urgent need for an independent, impartial and effective human rights monitoring mechanism in the territory.

Amnesty International calls on the Moroccan authorities to uphold their obligations under international human rights law to respect the rights to freedom of expression, peaceful assembly, and freedom from arbitrary detention, freedom from torture and other ill-treatment and the right to a fair trial, and to:

- Lift all arbitrary house arrests and conduct independent investigations into the arbitrary and abusive use of force in raids on the houses of Sahrawi activists.
- Ensure prompt, impartial, independent and effective investigations into all allegations of torture and other ill-treatment at the hands of Moroccan police officers and prison guards, make the results of the investigations public and ensure that perpetrators are held to account.
- Provide an effective remedy to peaceful protesters, journalists and activists who have been arbitrary arrested or detained for exercising their human rights.
- Ensure all rights to a fair trial are respected in all courts across the country and anyone imprisoned as a result of an unfair trial should be granted a fair retrial, which excludes torture-tainted statements, or be released.
- Remove provisions criminalizing peaceful free expression from the Penal Code.
- Respect the right to peaceful protest and refrain from forcibly dispersing peaceful protests.
- End restrictions on the access to Morocco and Western Sahara for journalists, peaceful activists and human rights defenders and allow for impartial and independent UN human rights monitoring and reporting in Western Sahara.

JOURNALIST ESSABI YAHDIH

At midnight on 27 May, Moroccan police officers arrested Sahrawi blogger and director of Al-Gargarat media network Essabi Yahdih, 40, at his workplace in La Marsa, a city about 72 kilometres west of Laayoune. Essabi Yahdih's wife Fatima Birama told Amnesty International that the police held her husband in custody in the Laayoune police headquarters for two days.⁵ She said that on the morning of 28 May, she went to visit her husband and saw him being marched away in handcuffs. He told her that they were taking him to the Laayoune court and then to the city of Dakhla. The police officers shouted at Essabi Yahdih to stop talking, pushed him over and one of the officers pushed his head into the ground with his foot.

According to the Collective of Sahrawi Human Rights Defenders (CODESA), the investigative judge at the Appeals court in Laayoune ruled that the court lacked jurisdiction and referred it to a court in the city of Dakhla.⁶ On 29 May, Fatima Birama was able to see her husband in Dakhla police station for around 20 minutes with police officers around them at all times. He told her that police officers in Dakhla interrogated him about his journalistic work and accused him of filming military barracks in Dakhla. He also told her during this visit that he had suffered mental and physical torture and had not eaten anything since his arrest. She said that he was unable to go into details because of the police presence and that he struggled to sit up straight because he was so weak.

Fatima Birama told Amnesty International that, on 30 May, Essabi Yahdih was taken to the Dakhla court and then Tawarta prison in Dakhla, where he remains. She said that police officers told her that she can only visit her husband twice per week and she cannot bring him food, but can send him money. But her husband later told her that the money she sent never reached him. The authorities have not told his family what charges he faces nor given them access to any of the legal documents concerning his case. Fatima Birama said that both their house and the house of Essabi Yahdih's family are under surveillance and Moroccan police officers have tried to enter to search both houses without showing them a warrant but the families did not let them in.

⁵ Interview with Fatima Birama, Essabi Yahdih's wife, on 7 June 2021.

⁶ Email from the Executive Office of the Collective of Sahrawi Defenders on Human Rights in the Western Sahara (CODESA) on 6 June 2021.

In July 2020, police officers in Laayoune arbitrarily detained Essabi Yahdih as he went into the police station to get an administrative certificate.⁷ He told Amnesty International at the time that that police interrogated him for at least 10 hours about the editorial line of his media, its staff and funding as well as his personal online posts and specifically about a post published on 28 June where he commented mockingly on a post by a Moroccan parliamentarian about King Mohamed VI. In the days leading up to his arrest, Essabi Yahdih had also posted on Facebook about the recent issue of clandestine immigrants in Ceuta, denouncing the Moroccan security forces' sovereignty over the Western Sahara, and expressing solidarity with detained journalist Maati Monjib.⁸

Essabi Yahdih told Amnesty International that police had insulted and threatened him with "arrest, rape and murder" and prosecution for "offending" the King, a charge often used in Morocco/Western Sahara to prosecute activists and journalists who voice critical stances online. He was later released without being prosecuted.

MINA BAALI, EMBARKA ALINA BAALI, SALHA BOUTENGIZA AND LAHCEN DALIL

On 9 May 2021, police broke into and damaged Sahrawi activist Mina Baali's house in Laayoune, Western Sahara, where she lives with her husband, human rights defender Hassanna Douihi, and their son. Mina Baali was waving Western Sahara flags and chanting independence slogans on her rooftop with her sister Embarka Alina, who is a founding member of the Sahrawi Body against the Moroccan occupation (l'Instance Sahraouie Contre l'Occupation Marocaine, ISACOM), and with journalist for Sahrawi television and the Nushatta Foundation, Salha Boutengiza. At 7pm, around dozen plain-clothed police officers forced entry into the house through the garage and the front door. Embarka Alina told Amnesty International that one officer removed her *melehfa* (a traditional Sahrawi scarf) and punched her repeatedly, leaving her with bruises on her left arm, on her hand, ribs and stomach.⁹ The officers did not show a warrant to enter the house. They destroyed the electricity meter and broke doors and other objects in the house. The police officers took the activists' flags, phones, laptops, money and journalistic equipment such as microphones and cameras. Salha Boutengiza told Amnesty International that the officers verbally abused them and threatened them with death and detention. She said that Embarka Alina had hidden her phone inside her bra and, in order to take it, two police officers held Embarka's hands down to prevent her struggling while a third officer took her phone from inside her bra. The three women continued chanting independence slogans throughout the raid, which lasted around 20 minutes.

Later that evening, around 9pm, Lahcen Dalil, human rights defender and founding member of the international campaign Western Sahara is Not For Sale, arrived at Mina Baali's house to check on them after the police raid. He and Mina Baali went outside the house to find police officers letting the air out of his car tires. A group of around 20 masked police officers in black civilian clothes chased Lahcen Dalil into Mina's house and attacked him. He told Amnesty International that the police officers beat him on the face and body, mostly around the eyes, before taking him away in a blue police car.¹⁰ He said that the officers drove him to a dark, empty area less than 1km away, where around eight masked police in civilian clothes severely beat him with batons and fists, punching and slapping him on the head, face, chest, abdomen, hips, arms and legs. Lahcen Dalil said that the officers then drove him about 7km into the desert and left him. He said that he walked barefoot to the city until he reached one of the eastern neighborhoods of the city and took a taxi home.

The Moroccan authorities put Mina Baali, her husband and child under police surveillance on 28 September 2020. Embarka Alina told Amnesty International in an interview on 19 May that the police presence around the house increased on 26 April 2021, with 10 police cars constantly surveying their house and officers forbidding them to leave.¹¹ She also said that the raid on 9 May was the sixth time police officers raided the house since they were put under police surveillance in September 2020.

SULTANA KHAYA

At 5 am on 10 May, security forces raided the house in Boujdour of Sahrawi activist Sultana Khaya, where she and her family have been held under *de facto* house arrest since 19 November 2020 because of her activism. The security forces cuffed Sultana Khaya's sister's arms and legs and stole valuables including Sultana Khaya's phone and computer. On 12

⁷ See Amnesty International, *Morocco: Drop charges against Ibrahim Amrikli and cease arbitrary arrests of journalists and activists in Western Sahara*, (Index: MDE 29/3111/2020), 25 September 2020, available at www.amnesty.org/download/Documents/MDE2931112020ENGLISH.pdf

⁸ Essabi Yahdih's Facebook page, available at www.facebook.com/sahara.gargarat

⁹ Interview with Embarka Alina on 19 May 2021.

¹⁰ Interview with Lahcen Dalil on 12 May 2021.

¹¹ Interview with Embarka Baali on 19 May 2021.

May, on the eve of the Muslim celebration of Eid-al-Fitr, dozens of masked members of the security forces entered Sultana Khaya's house again, this time from the roof. They dragged her on the floor, twisted her arms and tied them behind her back, beat her and tried to rape her with batons. Sultana Khaya told Amnesty International in an interview on 17 May that her sister Waraa Khaya was also attacked and some of the masked men raped her by forcing a baton between her legs and beat her.¹² She said that security forces also had broken windows and spilled a foul-smelling substance on the house floor, purposefully making the house uninhabitable.

Since 19 November 2020, security forces have been stationed outside Sultana Khaya's house preventing her and her family from leaving.¹³ The security forces have often blocked supporters and friends from entering their street, sometimes using arbitrary and abusive force. Relatives were allowed only on a few limited occasions to bring food and medical supplies. Security forces forcibly removed the electricity meter leaving Sultana Khaya and her family with no electricity in an apparent attempt to further isolate the family from the outside world. In February 2021, Sultana Khaya's sister, Waraa Khaya, told Amnesty International that four security forces beat her by throwing her against a big iron door.¹⁴ The assaults left Sultana Khaya and Waraa Khaya with wounds and bruises all over their bodies. Amnesty International made the assessment that these physical assaults, rape and attempted rape violate the prohibition of torture and other ill-treatment in the International Covenant on Civil and Political Rights and the UN Convention against Torture, to which Morocco is a state party.

From the start of her house arrest, the authorities have failed to present Sultana Khaya with an arrest warrant or a court order, or to inform her of the reason for her arrest. She was only told verbally, by the head of the police forces in Boujdour, that she was forbidden from leaving her house. She and her family's prolonged house arrest amounts to arbitrary detention, and it imposes arbitrary restrictions on their rights to freedom of movement and association.

On 12 March 2021 Amnesty International sent a letter to the Moroccan authorities asking for details on the conditions and reasons behind Sultana Khaya's house arrest. The Moroccan authorities replied on 19 March 2021 denying that she is under house arrest. On 18 March and 26 May 2021 Amnesty International issued two Urgent Actions calling on Moroccan authorities to end the arbitrary house arrest and harassment against Sultana Khaya and her family, and to respect their right to freedom of movement, expression and association.¹⁵ On 26 May the Moroccan embassy in Canada responded with a letter denying that Sultana Khaya was subjected to any aggression, harassment or surveillance by the security forces. The letter also said that Sultana Khaya was being tried, for common crimes unrelated to her activities as a human rights defender, without further specification as to the nature of the trial. Neither Sultana Khaya nor her lawyers were informed of this trial.

BABOUZID LABHI, SALEK BABER AND KHALED BOUFRAYA

During the raid on Sultana Khaya's house on the morning of 10 May, security force agents also arrested and tortured three activists who were staying with Sultana Khaya at the time - Babouزيد Labhi, president of the Collective of the Saharawi Human Rights Defenders (CODESA), Salek Baber and Khaled Boufraya. The three activists had managed to sneak past the security forces stationed outside the house weeks earlier on separate occasions to support Sultana Khaya and her family and document the violations they are subjected to.

Salek Baber told Amnesty International that the three activists would alternate night shifts of guarding the house from any attacks while Sultana Khaya and her family could sleep.¹⁶ On 10 May, it was Salek Baber's turn to watch over the house. At dawn, he saw from the house rooftop that the security officials surrounding Sultana Khaya's house were slowly retreating. This was an unusual move that made him suspicious. A few minutes later, dozens of masked officers in plain clothes stormed the house from the rooftop, using ladders to climb to the roof, and made their way through the windows of the second floor into the house. According to the three men's testimonies, the officers covered their eyes, put adhesives over their mouths and started beating them on their faces and bodies.¹⁷ The three men told Amnesty International that

¹² Interview with Sultana Khaya on 17 May 2021.

¹³ See Amnesty International Urgent Action, *Sahrawi Activist Abused Under House Arrest*, MDE: 29/3815/2021, 18 March 2021, available www.amnesty.org/download/Documents/MDE2938152021ENGLISH.pdf

¹⁴ Interview with Waraa Khaya on 3 March 2021.

¹⁵ See Amnesty International Urgent Action, *Sahrawi Activist Abused Under House Arrest*, MDE: 29/3815/2021, 18 March 2021, available www.amnesty.org/download/Documents/MDE2938152021ENGLISH.pdf

And

Amnesty International Urgent Action Update, *Further Information: Sahrawi Activist at Risk of Further Assault: Sultana Khaya*, MDE 29/4198/2021, 26 May 2021, available www.amnesty.org/en/documents/mde29/4198/2021/en/

¹⁶ Interview with Salek Baber on 27 May 2021.

¹⁷ Interviews with Salek Baber, Babouزيد Mohammed Saeed Labhi, and Khaled Boufraya on 26 and 27 May 2021.

they could hear muffled screaming coming from Sultana Khaya and her sister. Babouزيد Labhi told Amnesty International that he could hear Sultana Khaya's mother screaming and yelling "I'm your grandmother's age, you are a savage".¹⁸ The three activists reported hearing a rustling of objects and officers carrying objects out of the house to vehicle. The three activists later learned that the officers took printers, computers, phones, Saharawi flags, and posters from the house.

The three men told Amnesty International that they were conducted one by one to a car outside the house. They were handcuffed and blindfolded and driven for approximately 10 minutes before it stopped in an unknown location. Babouزيد Labhi reported that they were taken out of the car and made to kneel on a concrete floor. He told Amnesty International that the space felt cold and smelled moldy, as if it were underground. He said that he could see from under his blindfold cars parked around which made him assume it was a parking lot of one of the security buildings in the area. The three activists told Amnesty International that they were severely beaten with kicks and slaps, while handcuffed and blindfolded and kneeling. They were also insulted and cursed and threatened with rape. Babouزيد Labhi said that he lost consciousness briefly from the severity of the beating. After what felt like hours of beating, the three also reported that someone changed their clothes and wiped blood off of their faces then conducted them blindfolded to a car which they said drove very fast for what felt like three hours. The car stopped in different locations in the open desert and dropped each one of them alone. Khaled Boufraya told Amnesty International that he managed to hail a passing car.¹⁹ The driver drove him around until they found the other two. They used the driver's phone to call for help. A family member eventually came to rescue them and drove them back to Laayoune. Babouزيد Labhi and Salek Baber said they tried to get a medical examination and certificates but no doctor agreed to provide that service for fear of retaliation from the authorities.

INDEPENDENCE ACTIVIST GHALI BOUHLA

Ghali Bouhla, 33, is a Sahrawi independence activist from Laayoune. Ghali has been involved in activism since 2005 and is a member of a new youth organization called Sahrawi Youth. He participates in peaceful protests against the Moroccan occupation, makes and distributes Sahrawi flags and goes to Rabat to support political prisoners in front of the courts. Ghali's sister, Maryam Bouhla, told Amnesty International that on 11 February 2021, Moroccan police officers arrested her brother at his workplace in the local mosque.²⁰ The officers then took him to his house and tortured and humiliated him in front of his mother and sister. Maryam Bouhla told Amnesty International that she and her mother did not want to open the door because they saw about 10 police cars outside. The police officers broke down the door with a 1m metal pole and forced their way into the house, bringing with them Ghali Bouhla, whose hands were cuffed behind his back and who had a black bag over his head. Three officers took Maryam Bouhla into a separate room and threatened to put her in prison, to beat her and to taser her if she did not give them her mobile phone. They took both Maryam Bouhla and her mother's phones. She told Amnesty International that some officers found a towel with the Western Sahara flag on it and used it to choke Ghali Bouhla, while several other officers held him by the elbows to stop him from moving and beat him.

Maryam Bouhla told Amnesty International that her brother told her in a phone call in February that the officers then took him to the police station in Laayoune where they wrote and re-wrote different accusations for him three times. Ghali Bouhla told his sister that they eventually accused him of drug dealing and told him they had found drugs upstairs in his house. Maryam Bouhla said that the officers did not appear to be searching for anything while in the house and did not take anything from it. Ghali Bouhla told his sister that they held him in custody for 72 hours, where they beat him, before taking him to Ait Melloul I prison in Agadir, southern Morocco. On 8 March the First Instance Court in Laayoune sentenced Ghali Bouhla to one year in prison under charges of drug trafficking and drug possession, based on police interrogation reports that Ghali Bouhla refused to sign. On 29 April the appeals court extended this sentence to one and a half years in prison and a fine of 5000 Moroccan Dirhams (around \$567). There has never been a full investigation into the charges against Ghali. Nor has there been an investigation into his allegations of torture or ill-treatment against him, despite Ghali having talked in court about the violence he suffered. Ghali remains in Ait Melloul I prison in Agadir.

HUMAN RIGHTS DEFENDER HASSANNA ABBA

On 8 May 2021, human rights defender Hassanna Abba, 38, was walking in the Hay el Amal neighbourhood of Laayoune when a police car with four police officers in civilian clothes pulled up next to him and the officers insulted him. Hassanna Abba told Amnesty International that, when he told them they have no right to talk to him like that, three of the officers got

¹⁸ Interview with Babouزيد Mohammed Saeed Labhi on 26 May 2021.

¹⁹ Interview with Khaled Boufraya on 26 May 2021.

²⁰ Interview with Maryam on 1 June 2021.

out of the car and punched him on his face and body for five minutes.²¹ He did not go to a hospital for fear of being arrested by the police. He told Amnesty International that he suspected the Moroccan authorities targeted him this time because of his and his organizations' campaigning in support of Sultana Khaya.

Hassanna Abba is a member of the CODESA, the Saharawi Commission against Moroccan Occupation (ISACOM), and the Sahrawi Association of Victims of Grave Violations of Human Rights Committed by the Moroccan State (ASVDH). He told Amnesty International that he has been harassed and beaten by Moroccan security forces once or twice per year since he became involved in Sahrawi activism in 2008. Hassanna Abba said that often when the police stop him they threaten him saying that he will never get a job unless he stops his activism. For example, in a protest march in 2018 organized by Sahrawi Unemployed Graduates, a police officer told Hassanna Abba, "If you're here in this march, you'll never get a job".²² He told Amnesty International that he had also been abducted and tortured several times by Moroccan security forces, most recently in 2015 when Christopher Ross, the then UN special envoy for the Western Sahara, visited the region. Hassanna Abba complained several times to the Moroccan judiciary about his ill-treatment at the hands of the Moroccan authorities but they have never been followed up with investigations. He has since made several complaints to the UN Special Rapporteur on the situation of human rights defenders.

MUSTAPHA RAZOUK

On 23 March, 15-year-old boy Mustapha Razouk was taking part in a peaceful protest in the Mati Allah neighbourhood of Laayoune with around 14 other young people in solidarity with Sultana Khaya. He told Amnesty International in an interview that two police cars drove into the crowd to disperse the protesters.²³ One police car followed Mustapha Razouk as he walked away and he began to run when he saw he was being followed. One of the officers in the car opened a car door which hit him and knocked him over. Mustapha Razouk said that the officers then beat him in the street with iron and plastic sticks before arresting him with no explanation or accusation.

Mustapha Razouk was held in custody in the Laayoune police headquarters for three nights, where he was subjected to torture. He said that on his first day in custody, police officers handcuffed him and dripped boiling hot melted plastic onto his legs and feet and beat him with iron sticks. He lost consciousness several times and fell to the floor. He was not given access to a doctor in the three days he spent in custody. During this time, police officers interrogated Mustapha Razouk and threatened him with jail and a jobless future if he didn't tell them which activist groups he worked for. They accused him of inciting protest and being paid to protest. They forced him to sign a police report without letting him read it.

On 25 March the judge from the court of first instance in Laayoune called him to his office and asked him why he had thrown stones at police officers. This was the first time Mustapha Razouk had heard of this accusation and he denied it. The judge told him that if he "settles down" he would have more opportunities in his future in Morocco. One week later, Mustapha Razouk was sentenced to one month in prison. He told Amnesty International that his first 15 days in prison were very tough. He was detained in a small cell holding 20 people and was beaten every day with sticks while suspended from the ceiling by a rope around his hands. There were two other Sahrawi political prisoners in the cell with Mustapha Razouk who he said were treated as badly as him. He witnessed one Sahrawi political prisoner being forced to crawl on the ground in front of the other prisoners and guards to humiliate him. After 15 days Mustapha Razouk's treatment improved, though he was kept in the same cell. The Nushatta Foundation say the improved treatment was probably in order to ensure that when he left prison, he would not have visible signs of torture. On 23 April Mustapha Razouk was released from prison.

MOROCCO'S INTERNATIONAL OBLIGATIONS

Morocco is party to several international human right treaties which oblige it to respect, protect and fulfill the rights to freedom of expression and peaceful assembly, and the rights to liberty and security of person and to a fair trial, and which prohibit torture and other ill-treatment. While Moroccan national law at times upholds these same obligations, it is not always enforced, and some articles of the Moroccan Penal Code are contrary to Morocco's international human rights obligations.

Torture and other ill treatment are prohibited by the International Covenant on Civil and Political Rights (ICCPR, Article 7) and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Article 2), both of which have been ratified by Morocco. The prohibition of torture is considered a peremptory norm of international

²¹ Interview with Hassanna Abba on 7 June 2021.

²² Interview with Hassanna Abba on 7 June 2021.

²³ Interview with Mustapha Razouk on 19 May 2021.

law (*jus cogens*) binding on all states regardless of which treaties they have ratified. The Moroccan Constitution prohibits torture, stating in Article 22 that: "The physical or moral integrity of anyone may not be infringed, in any circumstance whatsoever and by any person, private or public. No one shall inflict on another, under any pretext whatsoever, cruel, inhuman, degrading or undermining treatment. The practice of torture, in all its forms and by anyone, is a crime punishable by law." According to article 231-1 of the Moroccan Penal Code, "the term torture refers to any act which causes severe pain or suffering, whether physical or mental, committed intentionally by a public official or at his instigation or with his express or tacit consent, inflicted on a person for the purposes of intimidating him or putting pressure on him or putting pressure on a third person, to obtain information or indications or a confession, to punish him for an act that he or a third person has committed or is suspected of having committed or when such pain or suffering is inflicted on any other ground based on any form of discrimination whatsoever." Article 231-2 of the same code provides that: "Without prejudice to more serious penalties, is punished with imprisonment of five to fifteen years and a fine of 10,000 to 30,000 dirhams any public official who has practiced the torture provided for in article 231-1 above."

Under international human rights law, house arrest is considered as a form of detention and requires certain safeguards to be considered lawful. According to the UN Human Rights Committee's General Comment 35 on Article 9 of the ICCPR, which Morocco has ratified, liberty-depriving measures, including house arrest, must not be arbitrary and must be carried out with respect for the rule of law and allow a meaningful and prompt judicial review of detention. Deprivation of liberty, including in the form of house arrest, is arbitrary when it results from the exercise of human rights, including the rights to freedom of expression, association and peaceful assembly. According to the UN Human Rights Committee, "arbitrariness" must be interpreted broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law.

The right to a fair trial is enshrined in Article 14 of the ICCPR which defines a fair trial as taking place in an independent and impartial tribunal, where the case is properly examined, in which the defendant is informed promptly and is not compelled to confess guilt. Article 23 of the Moroccan Constitution guarantees the presumption of innocence and fair trial.

As activists in the Western Sahara continue to mobilise for their independence and for the respect of their rights, Moroccan authorities are responding with increasingly repressive practices, targeting activists, journalists and protesters for their peaceful expression and assembly, subjecting them to torture and other ill-treatment and arbitrarily arresting and detaining them.

In these circumstances independent, impartial monitoring of human rights is more important than ever. Amnesty International reiterates its calls on the UN Security Council to add a human rights component to MINURSO to allow for monitoring and reporting on human rights abuses in the Western Sahara.