



# General Assembly

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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights,  
civil, political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by the International Association of Democratic Lawyers (IADL), a non- governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[9 February 2010]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **Situation of Sahrawi human rights defenders**

Western Sahara, occupied by Morocco after the unilateral withdrawal of Spain in 1975, is a non self-governing territory which falls under Article 73 of the Charter and as such continues to be considered in accordance with international standards. In 2009, human rights defenders have been continuously confronted with multiple acts of reprisals because of their defence and promotion of human rights.

The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect universally recognized human rights and fundamental freedoms stipulates in its first article “Everyone has the right, individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels”<sup>1</sup>

Yet in the Western Sahara region administered by the Kingdom of Morocco, no association of human rights defenders has ever been recognized since the June 2003 dissolution of the Sahara section of the Forum for Truth and Justice.

On April 19, 2005, the Preparatory Committee of the Sahrawi Association of Victims of serious violations of Human Rights committed by the Moroccan State (ASVDH) completed all formalities in accordance with the Moroccan law on public associations (Section 3), despite the Moroccan administration having refused to recognize the date scheduled for the meeting of the founding congress. Notwithstanding these obstruction attempts, the founding congress was held in May 2005 and following this meeting, all necessary steps have been undertaken in accordance with Article 5 of the Moroccan law on public associations. The initial difficulties were related to the fact that the Moroccan authorities refused to examine the registration file of ASVDH. Consequently ASVDH filed a complaint with the administrative court of Agadir (Morocco), which upheld the right of the ASVDH to be registered. Notwithstanding, the Moroccan authorities continue to refuse recognition of this association.

Although ASVDH has never been engaged in illegal activities, Moroccan authorities have targeted the executive committee and the coordinating council of the association by resorting to arrests, physical violence and harassment in general. In the same way, CODESA<sup>2</sup> could not hold its founding congress on October 7, 2007, the local authorities in Laayoune having rejected the authorization request for a public meeting submitted by its members.”

In recent months, leaders of several associations have been systematically targeted by the Moroccan authorities. Thus, Mr. Mohamed Yayah Elhafed IAZZA member of CODESA<sup>3</sup> was arrested on 28, February 2008 with 8 other people, and sentenced to 15 years imprisonment in October of that same year.

“Mandated by the “Droit et Solidarité” NGO on 27, May 2009 at the trial before the Court of Appeal, Michele Decaster states that the lawyers reported the following “Yahia is incommunicado in an isolation cell and has been tortured; his wife has filed a complaint that has had, to date, no further judicial follow-up. Likewise, on 24, June 2009, Meriem Derkaoui confirmed “Some of them were not even present on the place of the manifestation” So it is with Yahya Mohamed who was, nevertheless, sentenced to 15 years imprisonment. They were all convicted solely on the basis of police reports they refute,

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<sup>1</sup> General Assembly Resolution 53/144 of 8 March 1999

<sup>2</sup> Collective of Sahrawi Human Rights Defenders.

They have all referred to the tortures, rapes and brutalities they suffered during their arrest, interrogation and detention”.

It may well be feared that Yahya, who is also member of the Tan-Tan branch of the Moroccan Association of Human Rights, was convicted for defending human rights and publicly supporting the right to self-determination for the people of Western Sahara and that he might be a prisoner of conscience imprisoned solely for expressing his ideas.

On 5 August 2009 at Agadir airport, authorities have prevented six Sahrawi students from boarding a flight to London though they were in possession of a passport and a valid visa to enter the United Kingdom<sup>4</sup>. All had been invited to attend an intercultural workshop, organized by the British NGO Talk Together in collaboration with other young people.

The police allegedly said they could not leave because they belonged to "Polisario" and they had received orders "from high above; when they staged an impromptu sit-in protest at the airport, the police forcibly expelled them before returning them to El-Aaiun, their place of residence.

Arrested on 14 August 2009, Mr. Naama Asfari was sentenced to four months imprisonment by the Court of First Instance of Tantan for “insulting a public official” following a heated exchange during which an officer of the police ordered Mr. Asfari to remove from his key ring a flag of the Sahrawi Arab Democratic Republic (SADR).<sup>5</sup> This conviction shows that Morocco continues to punish defenders peacefully displaying their support for the independence of this region, as maintained by international observers among whom A.Chanu from the NGO Droit et Solidarité.

On 6 October 2009, the police arrested five leading Sahrawi activists in Bir Guendouz at the border with Mauritania, detained them for about eight hours, then deported them after confiscating their passports, national ID cards and mobile phones<sup>6</sup>. The police forbade them to travel to attend a gathering of the Polisario Front in Mauritania. They filed a complaint with the court and sent protest letters to different ministries. Three months after this incident, the authorities had still not returned the documents and cell phones, no official reason was provided to justify the travel ban and the confiscation of their personal belongings.

On 8 October 2009, Moroccan authorities have arrested seven Sahrawi militant<sup>7</sup> returning from a visit to the refugee camps in Tindouf (Algeria), where they held meetings with leaders of the Polisario movement for the independence of Western Sahara. All seven remain in custody while awaiting trial and will be tried before a military court on charges of “undermining” the internal and external security of the state. The trial of civilians before a

<sup>4</sup> Ellassri Mohamed Fadel Mohamed Daânoun, Hayate Rguibi, Ngui al-Hawass, Mimouna Amidan and Shammad Razouk

<sup>5</sup> Based in Paris, Mr Asfari is co-chairman of the Committee for the respect of human rights in Western Sahara

<sup>6</sup> Daddach Sidi Mohamed, Chairman of the Committee for defence of self-determination for the people of Western Sahara (CODAPSO) Sbaï Ahmed, member of the Sahrawi Association of Victims of Serious Violations of Human Rights (ASVDH), Larbi Messaoud, a member of CODESA, Brahim Ismail, President of Forum for Protection of Memory Saharawi, Atik and Pitch Committee against Torture in Dakhla

<sup>7</sup> Degja Lachgar (Member of the Sahrawi Association of Victims of Human Rights), Ali Salem Tamek (Vice-Chairman of the Collective of Sahrawi Human Rights), Brahim Dahan (Chairman of the Association of Victims serious violations of human rights), Rachid Sghair (Member of the Committee against Torture in Dakhla City), Hammadi Nassiri (Chairman of the Defense of Human Rights in the city of Smara) Yahdih Tarruzi (Member of the Collective defenders Sahrawi human rights), Saleh Lubaihi (Member of the Collective of Sahrawi Human Rights).

military court is a new rare and disquieting procedure. Moreover their conditions of detention at the military prison of Salé are alarming, and their health is deteriorating.

Restrictions on travels abroad are part of a system of increased repression against the Sahrawi people who oppose the sovereignty claimed by Morocco on Western Sahara, and who advocate self-determination of the disputed territory. In a speech held on November 6, King Mohammed VI announced that the Government will now adopt a stronger stance against Sahrawi activists: "We affirm that there is no room for ambiguity and duplicity ... either the citizen is a Moroccan, or he is not ... either you are a patriot or you are a traitor ... You can not enjoy the rights and privileges of citizenship only to abuse them and conspire with the enemies of the homeland ...".

On 13 November, Moroccan authorities summarily expelled to Spain Aminatou Haidar, President of CODESA because at her arrival at the airport of El Ayoun she indicated "Western Sahara" as her place of residence; a designation that Morocco does not recognize. 33 days later, after a wide international campaign in her support, the authorities have allowed Ms. Haidar to return to her house in Western Sahara. It was the first time since 1991 that Morocco expelled a dissident citizen.

Similarly, the Sahrawi are blocked at airports, interrogated endlessly and their passports are confiscated. Others are denied the renewal or the granting of a passport<sup>8</sup>. Claiming a new law on the mandatory authorization to be obtained to receive foreign visitors, some Spanish, journalists and lawyers have been expelled from the homes of Sahrawi friends<sup>9</sup>. All this turns Western Sahara into a territory completely locked and controlled by the police and the military of Morocco.

The state of Morocco is party to the International Covenant on Civil and Political Rights (ICCPR), which provides in Article 12: "Everyone shall be free to leave any country, including his own". The Covenant prohibits states to impose restrictions on the exercise of that right "other than those which are provided by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others and are consistent with other rights recognized in the present Covenant."

The Moroccan government has made no effort to prove that the present increasing restrictions on travels abroad by committed activists complies with the provisions of the Covenant.

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<sup>8</sup> Among others Bougarfa Abderrahman El-Aaiun, Brahim Sabbar, Secretary General of the ASVDH Lefkhaoui Bashir, a member of the executive committee of the ASVDH Hmad Hammad, Vice-President CODAPSO, Ghalia Djimi, vice president of ASVDH and Moustapha Dah, her husband and member of ASVDH

<sup>9</sup> This was the case on 3 November 2009 for 2 Spanish lawyers who had to leave the house of Ghalia Djimi