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Joint written statement* submitted by American Association of Jurists, Asociación Española para el Derecho Internacional de los Derechos Humanos AEDIDH, Association Mauritanienne pour la promotion du droit, Association mauritanienne pour la transparence et le développement, Association Nationale des Echanges Entre Jeunes, December Twelfth Movement International Secretariat, Freehearts Africa Reach Out Foundation, Fundación Latinoamericana por los Derechos Humanos y el Desarrollo Social, Habitat International Coalition, International Association Against Torture, International Association of Democratic Lawyers (IADL), International Fellowship of Reconciliation, Paz y Cooperación, Plataforma Mulheres em Acção, Society for Threatened Peoples, World Barua Organization (WBO), non-governmental organizations in special consultative status, Indian Council of South America (CISA), International Educational Development, Inc., Liberation, Mouvement contre le racisme et pour l'amitié entre les peuples, World Peace Council, non-governmental organizations on the roster

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

[4 February 2022]

* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



Western Sahara: monitor the crimes committed against the Khaya family in the occupied town of Boujdour

The more than 300 member organizations of the Geneva Support Group for the Protection and Promotion of Human Rights in Western Sahara share the views expressed in this statement.

BACKGROUND

Since 1963, Western Sahara is considered by the UN General Assembly (UNGA) as a Non-Self-Governing Territory, pending self-determination in accordance with the UN Charter principles and UNGA resolution 1514 (XV).

Due to Morocco's persistent opposition to the decolonisation process and its illegal occupation since 1975 and subsequent illegal annexation of the majority of the Territory, the people of Western Sahara has not yet been able to freely exercise its inalienable right to self-determination.

Following the breakdown of the ceasefire in force since 1991 by Morocco, whose occupation forces entered the demilitarised zone of Guerguerat on 13 November 2020, the repression against Saharawi human rights defenders, journalists and political prisoners has dramatically increased.

Sultana Khaya is an internationally well known human rights defender, who has become a symbol of resistance to the cruelty used by Morocco against Sahrawis who claim the right to freely exercise their right to self-determination. She, her sister and her octogenarian mother have been arbitrarily detained in their home since the resumption of the conflict, they are victims of ill-treatment, torture, repeated rapes and they are exposed to toxic substances and possibly viruses.

Sultana Khaya's house arrest has received widespread international attention, with strong condemnation from amongst others Front Line Defenders(1), Human Rights Watch(2), Amnesty International(3), Robert F. Kennedy Foundation for Justice and Human Rights(4), and the Right Livelihood Foundation(5).

THE SITUATION OF SULTANA KHAYA'S FAMILY

The situation of the Khaya's family is a matter of serious concern for several HRC's Special Procedures. The SR on human rights defenders, Ms. Mary Lawlor, issued a first press release, on 1st July 2021, concerning the massive Moroccan crackdown on Sahrawi civil society in Western Sahara and the rape of the two Khaya sisters that occurred in May of 2021(6).

Serving as background to the press release was a joint communication issued by a total of six Special Procedures mandate holders(7). The second Lawlor's press release came on 23 December 2021, stressing the deterioration of Sultana Khaya situation when she was raped for the third time(8). Sultana also was commended by the Special Rapporteur on Human Rights Defenders on the International Day of Women Human Rights Defenders on November 29, 2021(9).

Ever since the beginning of the house arrest, Saharawi activists have attempted to visit the two sisters held under house arrest. On 11 November 2021, a group of 21 members(10) attempted to travel from the city of El Aaiun to Boujdour to show their support for Sultana and to witness her condition first-hand. As soon as they arrived at the checkpoint on the southern point of El Aaiun, two policemen stopped the first car, belonging to well known human rights defender Aminatou Haidar, and the group was informed by the police that a visit to Sultana Khaya was forbidden and ordered to return home.

As the activists headed back, police pelted several of the cars with stones and kicked and struck woman human rights defender El Ghalia Djimi's vehicle. According to El Ghalia "The Moroccan forces are making an example out of Sultana, trying to isolate her from the outside world and her own community. Even we as human rights defenders are being arbitrary

stopped, kicked and beaten just because we try to show our support, so imagine the ripple of fear it sends amongst Saharawi civilians”.

The Khaya family home, raided a total of seven times, is now completely destroyed and unliveable. Walls are covered with a foul-smelling substance that has been thrown repeatedly into the home, the electricity has been cut for months, the food supply has been ruined and the water tank was destroyed during the latest raid on 5 December 2021. The sisters rely on family members to bring them food, water and necessities to survive, depending on whether or not family and other visitors are allowed to cross the police blockade surrounding the house.

As living conditions continue to deteriorate for renowned Sahrawi human rights defender Sultana Khaya, held under house arrest for over one year with her family by Moroccan occupying forces in the city of Boujdour, Western Sahara, on 23 December 2021, UN Special Rapporteur on human rights defenders Mary Lawlor, after an online meeting with Khaya from her besieged home, released, a second statement expressing her alarm, saying that “Sultana appears to be in serious danger, in declining health and vulnerable to further attacks. She has been held like this for 400 days”(11).

Ms. Lawlor also stressed that "Sahrawi Woman Human Rights Defender Sultana Khaya told me she has been forcibly held under house arrest for over a year, unable to leave, or to have any other family, or anyone else – including medics – visit her, even when she is sick". She added "She told me that in recent months masked security agents have repeatedly raided the house during the night, tying her hands, blindfolding her and gagging her. She said during these raids she and her sister have been attacked, and that she has been raped... She also described how, during two of these raids, the attackers injected her with unknown substances, and that they have also thrown toxic liquids into the house... She says the poison has made her hair fall out and her teeth brittle."

On 27 January 2022, Sultana Khaya was again brutally attacked by Moroccan security forces, who seriously injured her left arm, which (the day of submission - 04/02/22) is swollen and extremely painful. In the same attack, her sister Luara was injured in her left eye. The Khaya family members, remaining under arbitrary house arrests, have no access to a doctor and their psychological state is seriously affected.

Neither Sultana nor Luara have been charged with any crime, and despite overwhelming evidence that the house is permanently under police siege and that agents violently prevent them from leaving or others from entering, including the hundreds of videos taken by the family and other eyewitnesses showing numerous uniformed and plain-clothed agents and vehicles, Moroccan authorities continues to deny it.

Sultana and her supporters believe that she has been targeted for her outspoken support for Sahrawis' right to self-determination and non-violent activism against the 46 year-old Moroccan occupation of Western Sahara, which she and her sister Luara continue to express through daily protests on their rooftop.

THE UNACCEPTABLE LOCKING OF THE TERRITORY TO INDEPENDENT SCRUTINY

In his last report to the Security Council(12), the UN Secretary-General noted that “OHCHR was unable to conduct any visits to the region for the sixth consecutive year. Lack of access by OHCHR to Western Sahara continued to result in substantial gaps in human rights monitoring in the Territory.”

Even the recently appointed UN Secretary-General Personal Envoy to Western Sahara, Staffan de Mistura, has not been able to visit the occupied Western Sahara during his first journey to the region end of January.

While the UN General Assembly constantly reaffirms the responsibility of the United Nations towards the people of Western Sahara(13), the members of the UN Security Council and those of the UN Human Rights Council continue to ensure impunity to Morocco's occupation

forces for all crimes committed in the only Non-Self-Governing Territory which has not an internationally recognized administering Power and which is under illegal occupation.

RECOMMENDATIONS

The more than 300 member organizations of the Geneva Support Group for the Protection and Promotion of Human Rights in Western Sahara call upon:

- the Moroccan authorities to immediately lift all measures violating the freedom of movement of the Khaya family in Boujdour;
- all High Contracting Parties to the Fourth Geneva Convention to ensure that Morocco fully respect the Convention in the occupied Non-Self-Governing Territory of Western Sahara;
- the UN High-Commissioner for Human Rights to urgently dispatch an investigative mission to the occupied Non-Self-Governing Territory of Western Sahara and to disclose publicly the findings of her Office remote surveillance;
- the UN Human Rights Council to create a mandate of Special Rapporteur on the situation in the occupied Non-Self-Governing Territory of Western Sahara.

(1) <https://www.frontlinedefenders.org/en/profile/sultana-khaya>

(2) <https://www.hrw.org/news/2021/03/05/western-sahara-harassment-independence-activist>

(3) <https://www.amnesty.org/en/documents/mde29/3815/2021/en/>

(4) <https://rfkhumanrights.org/in-the-news/concern-over-attacks-on-sultana-khaya>

(5) <https://rightlivelikelihood.org/advocacy-updates/concern-over-targeting-of-human-rights-defenders-in-western-sahara/>

(6) <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27244&LangID=E>

(7) <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26478>

(8) <https://srdefenders.org/information/sahrawi-whrd-reports-violent-attacks-under-house-arrest/>

(9) Tweet by UN Special Rapporteur on Human Rights Defenders Mary Lawlor (@MaryLawlorhrds), TWITTER, Nov. 29, 2021, 9:30 am, available at <https://twitter.com/MaryLawlorhrds/status/1465327238723866643?s=20>

(10) Female human rights defenders: Aminatou Haidar, Mina Baali, Mbarka Alina Baali, El Ghalia Djimi, Najat Khnabila, Mariam Dambar, Ildiha El Ballal, Degja Lachgar, Fatimatou El Hairach, Soukaina Ndour, Malika Ndour, Salha Boutanguiza (correspondent of TV-SADR). Male human rights defenders: Abderrahman Zayou, Bachir Lekhfaoui, Mustafa Dah, Lehsen Dalil, Abdelhay Toubali, Hama El Qoteb, Hmad Hammad, Brahim Ferrik, Abdelkarim Mbairkat and Abdelaziz Byay.

(11) <https://srdefenders.org/information/sahrawi-whrd-reports-violent-attacks-under-house-arrest/>

(12) S/2021/843 (par. 73)

(13) A/RES/75/106 (PP 11)