

Response on the issue of long term detention of human rights defenders
March 2021

THE OCCUPIED TERRITORIES OF WESTERN SAHARA AND LONG TERM DETENTION OF SAHARAWI HUMAN RIGHTS DEFENDERS

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1. Introduction

This joint submission is prepared by human rights organizations concerned with the current human rights and humanitarian situation in the occupied territories of Western Sahara.

The aim of this joint submission is to provide the Special Rapporteur on the situation of human rights defenders, Ms. Mary Lawlor, with an overview of the long term detention of Saharawi human rights defenders. The objective of this report is thus to provide the Special Rapporteur with a deeper understanding of the humanitarian crisis currently taking place in the occupied part of the Non-Self-Governing Territory of Western Sahara. This is done by submitting joint responses to the questions posed in the Questionnaire (section 2.1.), with the highlighting of the continued long term detention of the so-called “Gdeim Izik group”, the “Student Group”, Yahya Mohamed Elhafed Iaazza, Khatri Dadda, Salek Laassiri, Imperik Shkrad, Ibrahim Ahmed Elaraby Fartat and Nouredine Moulay Abdel Fattah Qais, in addition to providing an overview over all imprisoned Saharawi human rights defenders in the annex of this present submission.

For the purpose of the present submission, it is underlined that in the occupied territories of Western Sahara, long term arbitrary detention is used as a systematic tool in order to silence the voices of the Saharawi human rights defender in question, but also to spread fear in the Saharawi community living under Moroccan occupation. The usage of arbitrary detention intended to silence the voices of Saharawi human rights defenders have been carefully documented in the jurisprudence of the UN Working Group on Arbitrary Detention.¹

¹ Reference is made to Opinion No. 39/1996, Opinion No. 4/1996, in Opinion no. 11/2017 concerning Salah Eddin Bassir, in Opinion No. 31/2018 concerning Mohamed Al-Bambara, in Opinion No. 58/2018 concerning Ahmed Aliouat, in Opinion No. 60/2018 concerning Mbarek Daoudi, Opinion No. 23/2019 concerning Laaroussi Ndour, in Opinion No. 67/2019 concerning the Student Group, in Opinion No. 52/2020 concerning Ali Saadouni and latest in Opinion No. 68/2020 concerning Walid Salek El Batal.

The opinions rendered by the UN Working Group document how Sahrawis are subjected to arbitrary arrest and detention in response to their opinions and their support for the right to self-determination; in breach of the equality of human rights with the persecution of Sahrawis constituting racial discrimination. In this sense, it is underlined that the mentioned Saharawi human rights defenders have been arrested and imprisoned solely in response and as punishment for their advocacy for the implementation of the right to self-determination and independence for the people of Western Sahara. It is reminded that the right to self-determination is regarded as a human right.

The undersigned organizations wish to underline that a part of Western Sahara has been placed under occupation by the Kingdom of Morocco since 1975 and subsequently illegally annexed. To this day, the situation in the territory remains a humanitarian crisis with systematic, gross human rights violations and breaches of international humanitarian law being committed as direct consequence of the prolonged illegal military occupation. The Kingdom of Morocco has, as the Occupying Power, the *de facto* control, both over most of the territory *and over the Saharawi people living on the occupied land*, who are deprived of their civil, political, economic, social and cultural rights.

The undersigned organizations of this submission agree to the publication of the present submission.

2. The long term detention of Saharawi human rights defenders

2.1. Responses to the questions posed in the Questionnaire

Answers are provided to question 1 and 5 of the Questionnaire as the authors of the present report are not in a position to provide examples to the remaining questions.

Our joint response to question 1 and 5 is as follows:

1)

Whilst limiting the overview to include prisoners serving more than 10 years, the authors find reason to highlight the following cases, as detailed accordingly below:

1. The “Gdeim Izik Group”
2. The “Student Group” / “Group of El Wali”
3. Yahya Mohamed Elhafed Iaazza
4. Khatri Dadda
5. Salek Laassiri, Imperik Shkrad, Ibrahim Ahmed Elaraby Fartat and Noureddine Moulay Abdel Fattah Qais

The “Gdeim Izik Group”

The “Gdeim Izik group” refers to a group of Saharawi activists, journalists, human rights defenders, political activists and jurists whom was arrested prior to and following the violent dismantlement of the protest camp Gdeim Izik in November 2010. Currently, 19 of the members of the Gdeim Izik group remain in prison serving 20 years to life. This includes: Sidi Abdallah Abhah, Naâma Asfari, Mohamed Kouna Babait, Cheikh Banga, Mohamed Bani, Mohamed Bourial, Mohamed El Bachir Boutinguiza, Hassan Dah, Mohamed Lamine Haddi, Brahim Ismaili, El Bachir Khadda, Abdeljalil Laaroussi, Abdallah Lakhfawni, Sid Ahmed Lamjayed, Mohamed Embarek Lefkir, Ahmed Sbaï, Mohamed Thalil, Abdallah Toubali and Houssin Zaoui.

The Gdeim Izik prisoners have been held under arbitrary detention for over 10 years under alarming prison conditions; with all of them having been tortured at the time of their initial arrest, conducted multiple hunger strikes and been subjected to medical neglect for a prolonged period of time.

The prisoners were first brought in front of a Military Court in 2013 before their case was brought in front a civilian court in 2016/2017. The different members of the group were accused of participation in and aiding a criminal organization after article 293 or accused for violence against public forces with the cause of death after article 267 or accused for participation in violence against public forces with the cause of death after article 129 in relation to article 267 of the Moroccan Penal Code.² With confessions signed under torture serving as the main piece of evidence against them and with the proceedings not upholding the right to due process, the Gdeim Izik group were sentenced to prison ranging from 20 years to life in prison on 19 July 2017 by the Appeals court.³

On 25 November 2020, the Moroccan Court of Cassation confirmed the decision rendered by the Court of Appeals in Salé in July 2019 against the Gdeim Izik prisoners, thus upholding the lengthy prison sentences for the prisoners.⁴ The latest judgement against the Gdeim Izik prisoners indicates the lack of independence and impartiality on the Moroccan judiciary when dealing with cases of Saharawi activists, with the court basing its decision on confessions signed under torture.⁵

Most recently, one of the Gdeim Izik prisoners Mohammed Lamin Haddi, entered into an open hunger strike on 13 January 2021. The hunger strike came in response to continued ill-treatment, arbitrary punishment and isolation ever since his appeal trial in 2017 where he advocated for the right to self-determination and independence and called upon the UN to intervene. On 25 January 2021, Mohammed Lamin contacted his family and stated that he had received death threats from the prison director in Tifelt 2 prison. He was not heard from until 22 March 2021 when Mohammed Lamin called his mother in an alarming health condition and informed that he had been force feed. During the entire hunger strike, the Moroccan authorities denied the hunger strike from taking place⁶ and the family never received any news into his condition, despite letters sent and attempts to visit.⁷

The torture of the Gdeim Izik prisoners and their alarming prison conditions was witnessed and documented by the UN Working Group on Arbitrary Detention during their country visit in 2013.⁸ The case of the Gdeim Izik prisoners has also been treated in a joint communication issued by the UN Special Procedures in July 2017 (AL Mar 3/2017)⁹ with the Special Rapporteurs expressing their concern over the violation of the right to due process and evidence showing that the activists had solely been arrested and imprisoned in response to their human rights activism and participation in the peaceful Gdeim Izik protest camp.

The “Student Group” / ”Group of El Wali”

The case of the Student Group or the “Group of El Wali” has been treated by the UN Working Group on Arbitrary Detention in Opinion No. 67/2019,¹⁰ holding that their detention is arbitrary and that the students should be released. The Working Group underlined that the students had been imprisoned simply in response to their student activism and their support for the right to self-determination and independence for the people of Western Sahara, with confessions signed under torture being used as the main evidence against them. Still, The Kingdom of Morocco has not

² For details on each of the prisoners in addition to the charges they faced and sentence rendered against them, see: https://porunsaharalibre.org/contenido-blog/uploads/2017/09/Tone_Published-report-Gdeim-Izik-group.pdf

³ Reference is made to the foreword written in the trial observation report: https://porunsaharalibre.org/contenido-blog/uploads/2017/09/Tone_Published-report-Gdeim-Izik-group.pdf

⁴ <https://wsrw.org/en/news/life-sentences-confirmed-for-political-prisoners>

⁵ This notion was confirmed by the UN Working Group on Arbitrary Detention in their decision relating to the case of Walid Salek El Batal (Opinion No. 68/2020).

⁶ Article describing statements made by the Moroccan minister to the United Nations wherein the minister denies the hunger strike: <https://ar.le360.ma/politique/175767#.YDes3BVolkQ.whatsapp>

⁷ See video of the family trying to visit here: <https://www.youtube.com/watch?v=jZAxrDSJMuA&feature=youtu.be>

⁸ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/100/00/PDF/G1410000.pdf?OpenElement>

⁹ https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23226&fbclid=IwAR1_-DNy-asBo74awPowBXYmPPUKEPuNWAfSb_oevB3VVJ_Ke7RGmo6KVBU

¹⁰ https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session86/A_HRC_WGAD_2019_67_AdvanceEditedVersion.pdf

implemented the decision. On the contrary, the young students have been subjected to acts of reprisals¹¹ in response to their appeal made to the UN (see A/HRC/45/16).¹²

Four of the members of the Student Group remain imprisoned serving 10 years prison sentences. This includes Abdelmoula El Hafidi, Aziz El Ouahidi, Elkantawi Elbeur and Mohammed Dadda.

The students were all charged with violence resulting in death, with the intent of causing it, pursuant to Articles 392, 393, 400, 401, 303 and 441 of the Moroccan Criminal Code and were first brought in front of the first instance which rendered its judgement on 6 July 2017 before the sentence was confirmed by the Appeal courts on 10 April 2018; sentencing four of the students to 10 years in prison and the remaining 11 students to three years in prison.¹³

On 17 January 2019, the young Saharawi student Al-Hussein Al-Bachir Ibrahim was also arrested after having been deported from Spain without having his asylum application treated. He would later be charged with the act of having incited the “Student Group” to violence. The case of Al-Hussein is thus closely linked to the case of the Student Group, with the confessions signed under torture by the Student Group being used as evidence against Hussein; in addition to his own unsigned confessions.

On 21 October 2020, Al-Hussein Al-Bachir Ibrahim was sentenced to 12 years in prison by the Appeal courts. Prior to this, his case had been treated in a joint communication issued 7 July 2020 by the UN Special Procedures (Jal Mar 2/2020),¹⁴ expressing serious concerns into the lack of evidence, the use of confessions signed under torture as evidence, and evidence that Hussein had solely been imprisoned due to his activism. The case of Al-Hussein was latest treated in a joint communication issued on 7 January 2021 (Al Mar 5/2020) with the UN Special Rapporteurs once again expressing their serious concerns.¹⁵

The case of Yahya Mohamed Elhafed Iaaza

Yahya Mohamed Elhafed Iaazza was arrested 29 February 2008 in Tan Tan following a demonstration held on 27 February 2008 in conjunction with the celebration of the national day of Western Sahara. Yahya Mohamed did not attend the demonstration himself and his arrest came in direct response to his human rights activism as a Saharawi supporting the right to self-determination for the people of Western Sahara. Yahya Mohamed was one of the most prominent activists in the town of Tan Tan; serving as the president of the branch of the local human rights group CODESA.

Yahya Mohamed was charged with being responsible for having organized the demonstration held on 27 February 2008, in which had led to the death of a Moroccan police officer. He was however not present at the demonstration held and the criminal evidence used against him consisted of confessions signed under torture with the deprivation of the right to present exonerating evidence. He was sentenced to 15 years in prison by the first instance on 9 October 2008. On 24 June 2009, the verdict rendered against Yahya Mohamed was confirmed by the Appeals court.

During the fall of 2020 - from 13 October until 9 December – Yahya Mohammed “disappeared” after having been exposed to a prisoner suffering from active COVID-19 on 13 October and was deprived of all contact with the outside world for over 8 weeks. The ill treatment of Yahya Mohamed has continued ever since, including isolation and medical negligence.¹⁶ The latest disappearance of

¹¹ <https://vest-sahara.no/en/news/the-un-calls-on-morocco-to-release-imprisoned-saharawis>

¹² https://vest-sahara.s3.amazonaws.com/skvs/feature-images/File/187/5f67a5f0c0aa9_WGAD2020.pdf

¹³ For more information about the case of the Student Group / Group of El Wali see published report, «Imprisoned Students», here: https://vest-sahara.s3.amazonaws.com/skvs/feature-images/File/145/5ee0c8eb666bd_ImprisonedStudents_10.06.2020.pdf

¹⁴ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25422>

¹⁵ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25731>

¹⁶ <https://www.frontlinedefenders.org/en/case/whereabouts-imprisoned-human-rights-defender-yahya-mohamed-el-hafed-aaza-unknown>

Yahya Mohamed and his continued arbitrary detention of 13 years was also the subject of a joint communication issued by the UN Special Procedures on 7 January 2021 (AI Mar 5/2020).¹⁷

The case of Khatri Dadda

The case of the young Saharawi journalist Khatri Dadda – a 22-year old Saharawi activist and journalist recently sentenced to a total of 20 years in prison – was treated in a joint communication issued 21 July 2020 by the UN Special Procedures (JAL Mar 3/2020).¹⁸ In the communication, the UN Special Procedures expressed serious concerns into the violation of the right to due process.

On 24 December, Khatri was - when applying for an identity card - arrested by five police officers from within the premises of the police station in Smara, Western Sahara, being charged with having set fire to a Moroccan police vehicle and violence against public officials by throwing stones.

On the basis of confessions signed under coercion and without being able to confront other pieces of evidence in the case file, Khatri was on 4 March 2020 sentenced to a total of 20 years in prison. The verdict was confirmed by the Appeals court on 12 May 2020. Ever since the judgement fell, Khatri has suffered greatly behind the bars of the Moroccan jail Ait Melloul having been held in an overcrowded cell, deprived of family visit and without means of necessity, whilst being increasingly held isolated from the outside world.

The cases of Salek Laassiri, Imperik Shkrad, Ibrahim Ahmed Elaraby Fartat and Nouredine Moulay Abdel Fattah Qais

Salek Lassiri is a human rights defender who was arrested on 15 October 2004 in the city of Tan Tan after having attended a demonstration. Salek is a well-known Sahrawi activist and he was instrumental in the Sahrawi uprising, leading to the Sahrawi Intifada in May 2005. This is the reason for his arrest and the background for his sentence of life imprisonment as rendered by the Military Court in Rabat on 5 December 2005.

Imperik Shkrad, Ibrahim Ahmed Elaraby Fartat and Nouredine Moulay Abdel Fattah Qais are all Saharawi activists from the town of Assa who were arrested following a manifestation in Assa in September 2013. Both Imperik and Nouredine were sentenced to 10 years in prison whilst Ibrahim was sentenced to 15 years in prison.

5)

With regard to the actions that the Special Rapporteur can take to ensure the release of the above-mentioned Saharawi human rights defenders, it is underscored that **public actions** is needed more than ever on the part of the UN experts. Public actions by the Special Rapporteurs must be followed by adequate follow up actions once decisions are rendered and communications are sent.

The need for adequate public and follow up actions by the Special Rapporteurs is aggravated by the fact that the Kingdom of Morocco has taken no actions to implement neither decisions rendered nor communications sent by the UN human rights mechanisms. This means that despite international decisions being rendered, Saharawi human rights defenders remain under arbitrary detention with claims not being investigated whilst perpetrators of grave human rights violations are not being prosecuted. We are under the understanding that impunity is the norm.

¹⁷ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25731>

¹⁸ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25448&fbclid=IwAR0TJPYdV1yiH-KPlqLJNkOJQxAGOCuXN0zmgXONvGkIdcWdBt1-TxE0sV0>

Compounding this lack of implementation is also a systematic pattern of acts of reprisals being carried out against the prisoners as punishment for their cooperation with the United Nations and international attention received. Clear evidence of this is traceable in the cases of amongst other Naama Asfari with the decision of the UN Committee Against Torture, the cases of Aminatou Haidar and Naziha El Khalidi following joint communications by the UN Special Procedures in addition to the case of the “Student Group” following the decision rendered by the Working Group.

It is underscored that, following the end of the ceasefire between the Kingdom of Morocco and Front Polisario on 13 November and the subsequent resumption of war, the situation for imprisoned Saharawi activists has dramatically worsened. The prisoners inform that they are experiencing extremely limited possibility of contact with their families, increased isolation (some amounting to solitary confinement), increased threats and intimidations and ill-treatment.

ANNEX**LIST OF SAHARAWI POLITICAL PRISONERS AS OF MARCH 2021 BY THE LEAGUE FOR THE PROTECTION OF SAHARAWI
POLITICAL PRISONERS HELD WITHIN MOROCCAN JAILS**

	Nom	Numéro De Détenion	Prison	Les Peines	Date Ares	Date Du Procès	Date De Liberation
1.	Mohame D Bani	6330	La Prison Local Eit Melloule 2	Perpétuité	08/11/2010	19/07/2017
2.	Abdellah I Abhah	2447	La Prison Local Tifelte 2	Perpétuité	19/11/2010	19/07/2017
3.	Boutang Iza Mohame D Elbachir	29794	La Prison Central De Kenitra	Perpétuité	19-11-2010	19-07-2017	
4.	Brahim Ismaili	8801	La Prison Locale Eit Melloul 2	Perpétuité	2010-11-09	2017-07-19
5.	Abdalahi Lakhfao Uni	29791	La Prison Centrale Kenitra	Perpétuité	2010-11-12	2017-07-19
6.	Sidi Ahmed Lamjayed	6328	La Prison Locale Eit Melloule 2 L	Perpétuité	26-12-2010	2017-07-19
7.	Laarousi Abdeljali L	779	La Prison Locale Laarjat 1	Perpétuité	2010-11-12	2017-07-19
8.	Ahmed Sbai	29794	La Prison Centrale Kenitra	Perpétuité	2010-12-08	2017-07-19
9.	Naama Assfari	30035	La Prison Centrale Kenitra	30 Ans	07-11-2010	2017-07-19	06-11-2040

THE OCCUPIED TERRITORIES OF WESTERN SAHARA AND LONG TERM DETENTION OF SAHARAWI HRD

10.	Banga Chikh	3767	La Prison Locale Bouzakern	30 Ans	08-11-2010	2017-07-19	2040-11-07
11.	Bourial Mohame D	2446	La Prison Locale Tifelte 2	30 Ans	08-11-2010	2017-07-19	2040-107
12.	Babit Mohame D Khouna	3538	La Prison Locale Bouzakern	25 Ans	08-11-2010	2017-07-19	2036-08-14
13.	Hassan Dah	29882	La Prison Centrale De Kenitra	25 Ans	15-08-2011	2017-07-19	2035-12-04
14.	Zaoui Lhoussei N	29792	La Prison Locale Kenetra	25ans	03-12-2010	2017-07-19	2035-12-02
15.	Hadi Mohame D Lamin	1896	La Prison Locale Tifelte 2	25ans	23-11-2010	2017-07-19	2035-11-22
16.	Lafkir Mohame D Embarek	6329	La Prison Locale Eit Melloule 2	25 Ans	12-12-2010	2017-07-19	2035-12-11
17.	Khada Elbachir	1897	La Prison Locale Tifelte 2	20 Ans	05-12-2010	2017-07-19	2030-12-04
18.	Mohame D Tahlil	3331	La Prison Locale Bouzakaren	20 Ans	05-12-2010	2017-07-19	2030-12-04
19.	Toubali Abdellah	3768	La Prison Locale Bouzakern	20 Ans	02-12-2010	2017-07-19	2030-12-01
20.	Laasiri Salek	4037	La Prison Locale Asfi	Perpétuité	15/10/2004

THE OCCUPIED TERRITORIES OF WESTERN SAHARA AND LONG TERM DETENTION OF SAHARAWI HRD

21.	Yahdih Mbairik Chakrad		La Prison Locale Eitmelloule1	10 Ans	29/09/2013	12/06/2014	
22.	Bambari Mohame D		La Prison Locale Eit Melloule2	6 Ans	26/08/2015	31/08/2015	-25/08/2021
23.	Yahia Ehafed I3aza	2711	La Prison Locale Bouzakaren	15 Ans	01/03/2008		
24.	Dada Mohammed	68531	La Prison Locale Eitmelloule1	10 Ans	29/02/2016	10/04/2018	28-02-2026
25.	Abdelmoula Hafidi		La Prison Locale Eitmelloule1	10 Ans	26/06/2016	10/04/2018	25-06-2026
26.	Elkantawoui Elbar	4158	La Prison Locale Bouzakaren	10 Ans	24-01-2016	10/04/2018	23-01-2026
27.	Elwahidi Aziz	4239	La Prison Locale Bouzakaren	10 Ans	24-01-2016	10/04/2018	23-01-2026
28.	Lhoussine Lbachir Amaadour		La Prison Locale Loudaya	12 Ans	19/01/2019	26/11/2019	
29.	Walid Salek Elbatal		La Prison Locale Bouzakaren	2 Ans	07 /06/2019	09/10/2019	
30.	Esalek Abdi Mbarek		La Prison Locale Bouzakaren	5 Ans	07 /06 /2019	26/11/2019	

THE OCCUPIED TERRITORIES OF WESTERN SAHARA AND LONG TERM DETENTION OF SAHARAWI HRD

31.	Brahim Ahmed El Aarbi Fartat	La Prison Bouizakaren	15 Ans	28/03/2014	20/06/2014
32.	Nourinne Mly Abdelfatta H Kaiss	Loudaya Marrakech	10 Ans	10/02/2014	20/06/2014
33.	Khatri Boujamaa Dadda	La Prison Locale Eit Melloule2	20 Ans	25/12/2019	04 Mars 2020
34	Ahmed Elgargar		10 Mois	09/ 12/ 2020	
35	Nasrallah Elgarhi		10 Mois	09/ 12/ 2020	
36	Ali Wadan		10 Mois	09/ 12/ 2020	
37	Ghali Bouhala	Prison Lakhel/Elaaiun	1 Ans	11/ 02/2021	
38	Mohamed Nafaa Boutasoufra	Prison Lakhel/Elaaiun	8 Mois	11/02/2021	
39	Zakaria Ergaybi	Prison Lakhel/Elaaiun		14/02/2021	

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Mohamed Bamba
Salouki

Prison Lakhel/Elaaiun

29/01/2021