

Front Line Western Sahara Mission report

In spite of the release of human rights defenders and others from detention in March and April 2006, the Moroccan authorities continue to try to repress any independent human rights work in Western Sahara. Human rights organizations are denied legal registration and human rights defenders are subjected to heavy surveillance, threats and harassment.

A Front Line mission visited Morocco and Western Sahara between the 3rd and 10th of May 2006. The delegates visited Rabat, Casablanca, Laâyoune and Smara and met with human rights defenders (including several of those released from detention in March and April), journalists and representatives of civil society. The delegates also met with the Director of Penal Reform and Amnesties at the Ministry of Justice and the Procureur General of the Court of Appeal in Laâyoune to discuss reports of torture against detained human rights defenders. At the end of the mission delegates also met in Rabat with a group of diplomats from EU member states to discuss the findings of the mission.

Legal Registration

Independent human rights organizations in Western Sahara have been denied legal registration by the Moroccan authorities. Some human rights defenders have been prosecuted for membership of an illegal organization because they have continued to operate in defiance of the denial of registration.

The Forum Vérité et Justice is a Moroccan organization of victims of human rights violations and their families which was established in 1999 to establish the truth about human rights violations, put an end to impunity and pursue redress and rehabilitation for the victims. A Sahara branch of the organization was initially legally registered, but it was dissolved by court order in June 2003, following a complaint made against the branch by the Moroccan authorities. The complaint included “conspiring with international bodies and organisations which are hostile to Morocco, with the aim of causing the diplomatic position of the Kingdom to deteriorate,” and “being responsible for slogans hostile to territorial integrity.” The evidence suggests that action was taken against the Sahara Branch of the Forum because they had been publicising evidence of human rights violations, including through cooperation with international human rights organizations and the United Nations, and because they have insisted that the right to self determination is a basic human right.¹

On 20 February 2006, the Executive Committee of the Forum Vérité et Justice (Sahara Branch) applied for a new registration under the same name but have not yet received the outcome of this application.

The Association sahraouie de victimes de violations graves des droits humains commises par l'état marocain, (the Saharawi Association of Victims of Grave Human Rights Violations Committed by the Moroccan State) has been denied legal registration by the Moroccan authorities. The Association has made a formal

¹ Article 1 of the International Convention on Civil and Political Rights (ICCPR), ratified by Morocco in 1979, states: “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”

complaint in relation to the fact that their request to register was turned down on 31 March 2006. The Association's Executive Committee has reported that their initial request was authorized by a Juge d'instruction in Agadir, but that decision was appealed by the Moroccan authorities and reversed for what they believe to be politically motivated reasons.

The Association Marocaine des Droits Humains (Moroccan Association for Human Rights, (AMDH), is a Moroccan human rights organization established in 1979. It established a Branch in Western Sahara in 1997. However, although the AMDH Sahara Branch is legally registered the organization was forced to shut its office down in 2003, after it was not granted a second licence to rent.

All three organizations continue to be active in promoting human rights and monitoring and documenting human rights violations. However, the denial of legal registration and other legal measures against them severely hampers their work. There are also a number of informal committees, which operate to work, for example, on behalf of the families of the disappeared. These committees also work in a vulnerable situation because they have not sought nor obtained legal registration.

All human rights defenders interviewed reported that operating illegally without an office where members can meet is a serious obstacle to the growth of civil society in Western Sahara. Human rights defenders spoke of the threat of losing their human rights reports and testimonies during raids made by the Moroccan security force on their homes.

Article 1 of the UN Declaration on Human Rights Defenders² states that "everyone has the right, individually and 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."

Article 5 states that "for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

(a) To meet or assemble peacefully;

(b) To form, join and participate in non-governmental organizations, associations or groups;

Detention of human rights defenders

During 2005 and 2006 a number of Saharawi human rights defenders were arrested and detained because of their human rights work. Some of them were convicted after unfair trials on charges, which included participating in or inciting violent activities. The arrests occurred in the context of efforts to monitor an upsurge in human rights violations arising from the repression of demonstrations. The human rights defenders and others were released in March and April 2006 following royal pardons.

² Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

In May 2005 there began a series of demonstrations in Western Sahara protesting about aspects of Moroccan rule and calling for independence. The protesters claim that these demonstrations were peaceful until violently broken up by the police. The Moroccan authorities claim that the protesters burned Moroccan flags and through stones and petrol bombs at police. Amnesty International expressed concern about excessive use of force by the police when dispersing protesters.

Seemingly as a result of international publicity and concern about the human rights situation the Moroccan authorities intensified the arrests, assaults and general harassment of human rights defenders. Many human rights defenders, who had been interviewing protesters beaten by the police and documenting reports of assault and torture, were arbitrarily detained and interrogated for 24 or 48 hours. Some human rights defenders were detained on several occasions.

At least seven human rights defenders who had been arrested between June and August 2005 were brought to court on charges relating to participating in or inciting violent activities. Those charged included human rights defenders Aminatou Haidar, Ali-Salem Tamek, Mohamed El-Moutaouakil, Houssein Lidri, Brahim Noumria, Larbi Messaoud and H'mad Hammad. Some of those arrested were not in Western Sahara at the time of the protests and Ali-Salem Tamek was arrested on his return to Morocco from Europe where he had been speaking out about human rights violations in Western Sahara.

An eighth human rights defender, Brahim Dahane, was arrested on 30 October 2005, seemingly as a result of activities he had organised in protest at the detention of the other human rights defenders. He was charged with participating in or inciting violent activities as well as with belonging to an unauthorized association, the Saharawi Association of Victims of Grave Human Rights Violations. He is the president of the Association.

The initial seven human rights defenders and 7 other defendants were convicted and jailed by the Laâyoune Court of Appeal on 14 December 2005 after a trial which international observers reported was unfair for a number of reasons including the fact that none of the defendants were permitted to call witnesses in their own defence. Aminatou Haidar was sentenced to seven months in prison. Ali-Salem Tamek received an eight months prison sentence, which was subsequently extended to 10 months. Mohamed El-Moutaouakil, Houssein Lidri, Brahim Noumria and Larbi Messaoud were sentenced to 10 months each, and H'mad Hammad to two years.

Five of the seven, Mohamed El-Moutaouakil, Houssein Lidri, Brahim Noumria, Larbi Messaoud and H'mad Hammad were released following a royal pardon on 25 March 2006, on the occasion of the visit of King Mohamed VI to Western Sahara. Aminatou Haidar, had been released in January 2006, after completing her seven month sentence.

Ali-Salem Tamek and Brahim Dahane were released on 22 April 2006, following a second royal pardon. As a consequence of the pardon, the trial proceedings of Brahim Dahane and 16 other released detainees, which were due to resume on 25 April 2006, were cancelled.

Torture

Front Line is seriously concerned about the reported torture of two human rights defenders, Houssein Lidri and Brahim Noumria. Both men were allegedly tortured while in illegal detention in Laâyoune in the building of the Mobile Intervention Company (CMI).

Brahim Lidri and Houssein Lidri are members of the officially dissolved Sahara Branch of the Forum Vérité et Justice. Both men were arrested on 20 July 2005 at 9.00 am at the home of the human rights defender, Fatma Ayacha in Laâyoune by Moroccan security forces. Both were brought to the police station in Laâyoune where they were reportedly questioned by the GUS (Groupe Urbain de sécurité), in connection with the recent demonstrations and their contacts. On the day preceding his arrest, Houssein Lidri had given an interview to the Arabic satellite television channel, Al-Jazeera, about the arrest of Ali-Salem Tamek. And Brahim Noumria gave an interview about the human rights situation to a Spanish newspaper.

After two hours Houssein Lidri and Brahim Noumria were reportedly transferred to an illegal detention centre. They allege that they were bound and gagged and taken out of the backdoor of the police station and driven to the headquarters of the Mobile Intervention Company (CMI) where they were kept for two days and systematically tortured. Houssein Lidri states that he was blindfolded and suspended in the "airplane position" with his hands and feet bound together behind his back, that he was beaten on sensitive parts of the body such as the soles of his feet, that hairs were pulled from his face and head and that he was burnt with cigarettes. He says that he was beaten until he lost consciousness and then released until he gained consciousness, he would then be bound and beaten again. He stated that this occurred constantly for two days, but that at night he was allowed to sleep on the ground without a blanket for about 2 hours and that he was bound, beaten and interrogated again. He was interrogated in relation to which international organisations and media was he in contact with.

Brahim Noumria alleges that he too was suspended in contorted positions with his hands tied and eyes blindfolded, that he was beaten on the hands and face, that a chemical substance was sprayed on him, that he was burnt with open flames and that he was spat on. He says that his hands were bound in cloth when they were beaten to reduce the traces of the violence. Brahim Noumria says that he had previously been held and tortured at the same CMI headquarters during the time that he was "disappeared" in the 1980s.

Houssein Lidri says he recognised the voices of those who tortured him and that they are the following people, allegedly members of the GUS and Renseignements Généreux.

Both men say that that they were transferred to the police station in Laâyoune on 22 July 2005, and then brought before the judicial authorities in Laâyoune on the same day, where they state that they had been tortured in the CMI building. They claim that the judicial authorities refused to accept their complaint and refused them access to medical treatment but extended their detention for 24 hours. Following this they were reportedly transferred back to CMI. They were detained for a further several hours and tortured again.

On 23 July 2005 Houssein Lidri and Brahim Noumria were charged on various counts related to participating in and inciting violent protest activities and belonging to an unauthorized association. At this point they were able to submit a complaint of torture and to request to be seen by a doctor.

They were both examined by a doctor appointed by the authorities on the 25th of July and his report said that the only physical evidence visible was probably the result of them having been bound by the wrists and ankles. However, witnesses who saw the two human rights defenders on the 22nd of July and the 23rd of July, including lawyers and other detainees, state that both men showed visible physical signs of having been severely beaten. According to a further witness who visited both human rights defenders on 26 July 2005, it was clear that both men had been tortured. In Houssein Lidri's case he had scars on the back of his head, his shoulders and on his hands. He was still bleeding and he was unable to speak as a result of the treatment that he had sustained.

Front Line has received other reports that the building of the CMI has been used as an illegal detention centre and that other people, including other human rights defenders have been interrogated and tortured there.

On the 1st of August Houssein Lidri and Brahim Noumria together with two others were transferred to Casablanca. They state that they were bound and made lie on the floor of a van on their stomachs, their hands were bound behind them, they were blindfolded, there was no ventilation, they were not given any access to a lavatory and the entire transfer took approximately 20 hours. They left Laâyoune prison at 7.00am and arrived at 3.00am the following day at the Okacha prison in Casablanca. Both human rights defenders were held for two months at Okacha Prison in Casablanca. Houssein Lidri, along with other detained Saharawi human rights activists and demonstrators, reportedly engaged in a hunger strike during the period from 8 August to 29 September 2005 to demand, among other things, improved conditions of detention, investigations into the allegations of torture against himself and Brahim Noumria, their return to Laâyoune Civil Prison and their release.

Both human rights defenders were subsequently transferred back to Laâyoune Civil Prison. Brahim Noumria was reportedly on hunger strike a second time from 20 October to 3 November 2005 to protest at poor prison conditions.

Front Line met with Mr. Bez, Crown Public Prosecutor at the Court of Appeal in Laâyoune, who is responsible for the investigation into the complaint of torture. Front Line had a frank and purposeful discussion with Mr. Bez. He showed Front Line a copy of the official medical report of 25th July and confirmed their arrest on the 20th July, that they had been presented to his deputy on the 22nd July and had their detention extended for 24 hours, and that they had been charged on the 23rd July and had at that point made a complaint of torture.

He said that they were in police custody for the three days and that this is recorded in the police statements. He denied that it was possible they were illegally transferred to the office of the CMI. In relation to complaints of torture in police custody, the judge said that they made spot visits to places of detention and as yet have not encountered any anomalies. He accepted that the judge in the case had ruled that the transfer to

Casablanca was not properly authorised. Front Line requested Mr. Bez to ensure that there was a full investigation of the complaint of torture against Houssein Lidri and Brahim Noumria including the interviewing of witnesses and those alleged to have been responsible.

Ongoing harassment of human rights defenders

The Front Line Mission to Western Sahara received testimony that there has been an increase in assaults, and harassment of human rights defenders since May 2005. This included heavy surveillance of their activities with human rights defenders regularly followed. They were frequently detained and interrogated about their work and their contacts. Often the people that they would meet with would also be interrogated and/or threatened about having contacts with them. Sometimes human rights defenders were prevented from interviewing people who have been victims of human rights violations, for example by preventing access to victims receiving medical treatment at the hospital. In spite of this harassment human rights defenders continue to document and publish information about human rights violations and they report that there is a growing number of people willing to help them in this.

Some human rights defenders have had their homes searched by the security forces without any legal warrant. Often their personal belongings have been damaged or destroyed. Front Line visited the house of a human rights defender in Smara, whose home and belongings had been badly smashed up during a security force raid. The entire contents of the house had been turned upside down with windows, doors, sinks and a computer badly damaged.

Front Line received reports of human rights defenders and protesters being physically assaulted and in some cases tortured by the security forces while in police custody. Human rights defenders stated that there had been a switch in tactics by the police and that rather than detaining people for extended periods of time they would now savagely beat and then release anyone they apprehended. One human rights defender said that he had been told “we are not going to make heroes of you anymore” in apparent reference to the campaigns for the release of detained human rights defenders.

The week following the Front Line Mission to Western Sahara there was a mission by the Office of the United Nations High Commissioner for Human Rights (OHCHR) to Western Sahara. The OHCHR delegates were able to meet with some human rights defenders but there were also reports that several of those that they met with were harassed as they tried to access their hotel to have meetings and that some human rights defenders were prevented to enter the hotel. Front Line also received reports that a number of people were assaulted by the security forces, including one human rights defender who is a member of the Forum for Justice and Truth during peaceful demonstrations on 17 May 2006. Furthermore, Front Line received reports of heightened harassment of human rights defenders in the days immediately before the OHCHR mission.

Travel restrictions

In the last years a number of human rights defenders have had their passports confiscated and as a result have not been able to travel. On 23 March 2003 Sidi Mohammed Dadach, an ex-political prisoner and winner of the 2002 RAFTO prize for human rights had his passport confiscated. He had been en route to Geneva to the UN Human Rights Commission, he was arrested by the Moroccan authorities at the airport, his passport was confiscated and he was detained along with three other people that he had been travelling with. He was released shortly afterwards but his passport has not been returned to date. Sidi Mohammed says that there are no legal reasons that he should not be allowed to travel and he believes that it is solely due to the fact that he is openly in favour of self-determination for the Sahawari people and that if he were allowed to travel outside Western Sahara he would discuss in public the need for the respect of human rights and independence of Western Sahara. Sidi Mohammed Dadach appealed to a Tribunal of the Agadir Administrative Court for the return of his passport and received a positive decision on 12 February 2004. However, the Minister of the Interior reportedly appealed against this decision and it was overturned. Sidi Mohammed spent 25 years in prison over two separate prison sentences. He was released from prison in 2001.

In 2003, a delegation of human rights defenders and families of the “disappeared” was also prevented from travelling to Geneva for meetings at the UN. All had valid passports and visas for Switzerland. Their passports, plane tickets, testimonies were confiscated by the authorities.

Human rights defender Ali Salem Tamek told Front Line that he had not been allowed to have a passport for 12 years until he received his passport back in 2004, following international pressure.

Role of international community

Human rights defenders in Western Sahara were appreciative of international support and welcomed the appeals, which they believe contributed to the release of the detainees in March and April 2006. However, there was a general feeling that the international community was not sufficiently engaged with the human rights situation in Western Sahara.

The UN Mission in Western Sahara (MINURSO) does not have a mandate to address the human rights situation. This is a serious problem given that the prospects for a peaceful resolution of the situation are inevitably intertwined with respect for human rights. There is no prospect of holding any referendum without respect for freedom of expression and freedom of association. The ceasefire may well come under pressure if the right to engage in peaceful activities continues to be repressed violently by the Moroccan authorities. There is no prospect of negotiating any other peaceful political outcome when there is no space for civil society to operate in Western Sahara and freedom of expression and association are denied.

The mission from the Office of the High Commissioner for Human Rights (OHCHR) visited Laâyoune in mid-May the week after the Front Line mission was very much welcomed by human rights defenders. However, although they were able to meet with some human rights defenders others were physically blocked from attending meetings. And Front Line received reports relating to the physical assault of one human rights defender.

Front Line asked all the human rights defenders that we met with about contacts with European Union (EU) representatives and about implementation of the EU Guidelines on the Protection of Human Rights Defenders. The consistent message was that there was very little or no contact with EU embassies. They spoke of some contact with the US embassy and two efforts to send a joint Scandinavian delegation, which had been blocked by the Moroccan authorities.

Recommendations to the Moroccan Authorities

1. Ensure that the UN Declaration on Human Rights Defenders³ is respected in Western Sahara and that human rights defenders are free to carry out their legitimate activities in conformity with international human rights law.
2. Ensure that human rights organisations are able to legally register including the Forum Vérité et Justice (Sahara Branch) and the Association sahraouie de victimes de violations graves des droits humains commises par l'état marocain;
3. Ensure that there are no further human rights defenders imprisoned on false charges because of their work for human rights;
4. Immediately investigate reports of torture and ill-treatment of human rights defenders and bring those responsible to justice;
5. Put an end to the ongoing harassment and surveillance of all human rights defenders;
6. Ensure that human rights defenders are not prevented from travelling internationally and return the passports of those human rights defenders who have had them confiscated.

Recommendations to the international community

Respect for human rights and ensuring the freedom for human rights defenders and other members of civil society to operate freely are crucial to any peaceful settlement of the situation with regard to Western Sahara. Human rights must therefore be at the forefront of the engagement of the international community with the situation.

1. Either the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) should be expanded to include monitoring and protecting human rights; or, his function should be taken on by an OHCHR field presence.
2. The European Union representation and the representatives of individual EU Governments should actively implement the EU Guidelines on the Protection of Human Rights Defenders with regard to human rights defenders in Western Sahara. In particular they (and non-EU

³ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

Governments) should monitor and report on the situation of human rights defenders, maintain regular contacts with human rights defenders, attend trials and monitor investigations of torture and ill-treatment, and raise issues of concern with the Moroccan authorities as appropriate.

3. Governments and/or other international institutions could also provide very real support to human rights defenders in Western Sahara through providing them with training opportunities and possibilities to participate in international activities that would enable them to network at the international level.