

**CHALLENGES FACED BY
SAHRAWI WOMEN HUMAN RIGHTS DEFENDERS
IN WESTERN SAHARA**

A submission by:

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This report focuses on the situation of Saharawi women human rights defenders (“**SWHRDs**”) in the territory of Western Sahara³, currently placed under occupation by Morocco.

The situation in the territory remains a humanitarian crisis with systematic, gross human rights violations and breaches of international humanitarian law being committed as a direct consequence of the prolonged military occupation. Morocco has, as the Occupying Power, the *de facto* control, both over most of the territory and the people living on the occupied land, who are deprived of their civil, political, economic, social and cultural rights.

The situation in Western Sahara is currently characterized by the intensification of armed struggle since November 13, 2020. Following intensive crackdowns on civil society, this has made the work of SWHRDs increasingly dangerous, requiring heightened efforts to strengthen the protection of SWHRDs so that they can work effectively.

¹ Numbers are included as to indicate which questions of the Questionnaire that is being answered. Questions have not been included due to the word limit. Front page, footnotes, annex and appendix are exempted from the word count.

² Reference is in general made to report on violations towards Saharawi women human rights defenders, « MENDIA AZKUE, I. (coord.) et al (2022): Let Everything Come to Light. Human Rights Violations of Women in Occupied Western Sahara (1975-2021), Hegoa–Institute of Development and International Cooperation Studies, Bilbao. », accessible (18.05.23) : https://biblioteca.hegoa.ehu.es/downloads/21331/%2Fsystem%2Fpdf%2F4570%2FQue_salga_todo_a_la_luz_eng.pdf . Summary of report with graphs serves as attachment to the present report.

³ Western Sahara is enlisted as a non-self-governing territory, subjected to the right to self-determination in conformity with the principles contained in UN General Assembly resolutions 1514 (XV) and 1541 (XV).

The UN Special Procedures have documented a pattern of systematic and widespread abuses against Sahrawi civilians and especially targeting HRDs, documenting a concentrated effort to intimidate and to deter HRDs in Western Sahara from exercising their rights to freedom of expression and association, and to retaliate against HRDs for their peaceful and legitimate activities, including membership in human rights organizations, information sharing, as well as dialogue with the UN⁴⁵⁶.

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Morocco exercises complete control over part of the territory of Western Sahara that it occupies, denying entry to most international human rights monitors and media. Morocco employs a wide range of repressive policies and tactics to silence Sahrawi voices demanding the right to self-determination and independence. The repression takes many forms and includes gender-specific violence against SWHRD's.

The work of SWHRDs, and their support for their right to self-determination, is criminalized under the Moroccan penal code, and SWHRDs are faced with trumped up charges, arbitrary arrest and detention, torture, home raids, attacks on family members, particularly their children. SWHRDs are barred from forming women's associations to defend their rights, and from joining human rights organizations, and are also subject to a policy of "financial strangulation" by loss of jobs and social benefits.

SWHRDs are targeted with sexual harassment and violence, including rape, as well as widespread defamation campaigns aimed at silencing their voices and slandering their reputation as women.⁷ During protests, SWHRDs often find themselves targeted by several agents, who assault them with their boots, fists and batons, whilst targeting sensitive parts, including twisting their nipples, kicking them in the vagina, stripping them of their melfhas, calling them "sluts" and threatening to rape them.

During the first three decades of the Western Sahara conflict, many SWHRDs were victims of forced disappearances, arbitrary detentions, torture and ill-treatments, and there was no room to talk about defending human rights. Of a total of 321 victims, women constituted 24% of those subject to forced disappearances, spending between four and sixteen years disappeared.

3

SWHRDs, who are on the frontlines of human rights defense in the occupied Western Sahara, continue to defend the right to self-determination and to fight for the respect and protection of fundamental human rights. Through their work, SWHRDs promote a culture of human rights, demanding accountability, effective remedy and justice.

SWHRDs continue to be central in the work of educating families and victims about their rights and by doing so, aim to build sustainable peace with the enhancement of women's participation and rights. The work of SWHRDs remains critical for the construction of a modern democratic

⁴ Overview of latest documentation and jurisprudence is included in the Annex. Latest communications incl AI Mar 5/ 2020 of 7 January 2021 (8 victims), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25731>

⁵ UA Mar 5/2021 of 10 June 2021 (14 victims), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26478>

⁶ AL MAR 4/2021 of 16 June 2021 (2 victims), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26415>

⁷ For some time, the Moroccan authorities have been discrediting Sahrawi activists, especially women human rights defenders, through the Internet by several websites, most notably: <https://www.sahrawikileaks.com/mobile/>

civil society built on a culture of peace and equal opportunity. The work of SWHRDs however is gravely hindered by the policy of the Moroccan occupation, depriving them of the right to form assemblies and register associations.

4

SWHRDs, belonging to the people of Western Sahara, are generally discriminated against because of their sex, identity, political positions and defense of the right to self-determination.

SWHRD's are often sexually assaulted by police during peaceful street protests and in other settings (see above). In view of the sanctity of women within Saharawi society and their distinct social status for most Arab peoples, they often do not talk about sexual assaults for fear of their impact on their lives and social status. This is also the reason why such sexualized violence is being used.

5 & 9

The participation of SWHRDs in the peaceful resistance, including in peaceful demonstrations, banned civil society associations, monitoring and documenting violations, providing support to victims and communicating with or visiting the Sahrawi refugee camps and being in touch with and collaborating with international organizations, make SWHRDs vulnerable to reprisals.

Reprisals can take the form of abduction and arbitrary detention, assault, sexual abuse, violence, dismissal from work or forced deportation, raiding of homes or retaliations against their children and other family members, including deprivation of scholarships, transport licenses or job opportunities.

Reprisals towards SWHRDs in response to their cooperation with international mechanisms, including OHCHR and the UN Security Council, was latest documented by the UN Special Procedures in a communication of July 2021⁸.

6

SWHRDs have not participated in any official peaceful or political processes apart from their participation at the UN Human Rights Council and by providing information to the UN Human rights mechanisms.

No international human rights monitoring mechanism exists in the occupied territories, with the UN peace operation (MINURSO) not having the mandate to report on human rights violations. In light of ineffective local and regional mechanisms and with the territory being closed to outside observers, a culture of impunity has taken hold in the occupied territories.

The involvement of SWHRDs in the peace process, including at international organizations, remains crucial as to foster sustainable peace in the territory and enhancing human rights for all.

⁸ A Mar 5/2021 of 10 June 2021 (14 victims),
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26478>

SWHRDs operate in a dangerous physical and digital environment. As described above, their physical integrity and safety are constantly threatened and violated, compounded by widespread and systematic usage of digital surveillance, smearing campaigns, harassment and intimidation.

On a local level, SWHRDs are prohibited from organizing themselves into associations and thus carrying out their work and responding to threats in a systematic and autonomous manner. On a regional and international level, SWHRDs seek to cooperate with civil society organizations, the OHCHR and lawyers by documenting, denouncing and calling for accountability when faced with reprisals. For this, SWHRDs are subjected to reprisals.

8

Protection gaps for SWHRDs include:

- Lack of protection from local courts and enforcement mechanisms.
- Lack of a human rights mandate for the UN peacekeeping Mission (MINURSO).
- No visits by the OHCHR to the occupied territory.
- No visits by the UN Special Envoy on Western Sahara to the occupied territory.

The right to an independent judiciary remains absent and with the escalation of demands for civil and political rights, especially the right to self-determination and independence, and the outbreak of the uprising in 2005, the pace of repression, persecution, torture, arbitrary detention, ill-treatment, sexual and verbal harassment escalated.

Hundreds of complaints before the Court of First Instance, the Court of Appeal and the committees of the "National Council for Human Rights" (CNDH) have not been investigated. In light of ineffective local and regional mechanisms and with the territory closed to outside observers, the resulting culture of impunity has severely undermined any hope for justice.

In the absence of effective remedy, some victims refuse to deal with the occupation institutions, whether human rights or judicial. The lack of faith in local mechanisms has led to an increased preference to turn to international human rights organizations and the OHCHR. The protection offered by international mechanisms is, however, severely constrained by the absence of a human rights mandate granted to MINURSO, a lack of visits by OHCHR and the UN Special Envoy, as well as by Morocco's refusal to respect its international obligations and implement decisions rendered by UN bodies, including decisions by UN WGAD and UN CAT.

10 & 12

SWHRDs do not receive grants or funds to implement human rights projects to develop capacities in strengthening the defense of human rights. This lack of funding is a consequence of the ban against Sahrawi associations. The only exception is ASVDH, which obtained the right to register in 2015 following international pressure. This legalization is commonly viewed as a scam, and the 2015 recognition was withdrawn in 2022: ASVDH was prevented from registering its new executive office, its bank account was effectively closed, its members were

assaulted, its headquarters were closed down and its members are barred from entering their headquarters. By preventing the association from registering its new office, ASVDH was deprived of its right to receive support from foreign organizations. In this sense, Sahrawi organisations are not allowed to establish and thus open their own bank account, and such policies make it difficult to obtain funds or grants for capacity-building and the promotion and protection of human rights.

11

The protection for SWHRDs remains limited. As explained above, access to effective remedy on a local level is deemed to be almost non-existent, with international mechanisms only providing partial protection, compounded by the non-implementation of international decisions by Morocco. The situation is aggravated by the continued ban on organisations and criminalization of the work of SWHRDs. Due to the practical prohibition of their activities in the occupied territory, SWHRDs can only hope for international monitoring and protection.

SWHRDs continue to work in an unsafe environment due to the absence of international organizations. The lack of international presence is compounded by limited actions taken by and monitoring activities conducted by international organizations. There is an increasing need for heightened attention to the situation of SWHRDs by both international and regional organizations, and particularly by the OHCHR, including the establishment of a designated Special Rapporteur on Western Sahara.

SWHRDs expect international human rights organizations and the OHCHR to respond quickly and effectively to complaints submitted by them and ask that international organizations continue to monitor the situation, to denounce human rights violations and to demand accountability and respect for international obligations by Morocco.

This becomes particularly important in view of the intensification of violations directed against SWHRDs, the absence of local effective remedies and the institutionalized culture of impunity⁹, also including the protection, and even the promotion in some cases, of perpetrators of gross human rights violations. The renewed armed conflict also requires ICRC to respond and carry out its duties, especially by monitoring the situation and visiting imprisoned HRDs.

At the preventive local level, SWHRDs need to enhance their efforts to pressure the Moroccan authorities to recognize them and their right to assembly, as well as to strengthen their expertise by seeking internationally available training. SWHRDs should also seek to provide local training, establish solidarity networks, facilitate digital protection, and systematize their efforts in responding to smear campaigns pursued by the Moroccan authorities. A prerequisite for this is however the support of and protection provided by international organizations.

⁹ - The proof of this is the failure to open any investigation or follow-up against the members of the Moroccan authorities directly responsible for violations, despite the fact that Sahrawi victims have filed hundreds of complaints before those bodies.

Concluding remarks

Recommendations on how international actors can make the work of SWHRDs safer include:

- States should enhance their political support as to end the suffering of the Sahrawi people and enable them to exercise their right to self-determination and pressure Morocco to respect its international human rights obligations by respecting and implementing decisions by UN bodies.
- The UN Security Council should seek to expand the mandate of MINURSO to include human rights monitoring and reporting.
- The OHCHR should seek to send a mission to the occupied territory, with the aim of documenting and reporting on the human rights situation and human rights violations.
- The Security Council, OHCHR and states should pressure Morocco to open the territory to international organizations, observers and the press, and condemn any expulsion or prohibition that prevents them from carrying out their duties.
- Multinational companies should avoid entering into agreements with Morocco relating to the territory of Western Sahara and should inform SWHRDs and enable victims to seek compensation for damages.

ANNEX

Recent case law on Western Sahara from the UN Human Rights Mechanisms:

The UN Working Group on Arbitrary Detention

- ▶ Opinion no. 11/2017 concerning Salah Eddin Bassir. URL: <https://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WGAD/2017/11&Lang=E>
- ▶ Opinion No. 31/2018 concerning Mohamed Al-Bambary. URL: <https://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WGAD/2018/31&Lang=E>
- ▶ Opinion No. 58/2018 concerning Ahmed Aliouat. URL: <https://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WGAD/2018/58&Lang=E>
- ▶ Opinion No. 60/2018 concerning Mbarek Daoudi. URL: <https://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WGAD/2018/60&Lang=E>
- ▶ Opinion No. 23/2019 concerning Laaroussi Ndour. URL: <https://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WGAD/2019/23&Lang=E>
- ▶ Opinion No. 67/2019 concerning the Student Group. URL: <https://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WGAD/2019/67&Lang=E>
- ▶ Opinion No. 52/2020 concerning Ali Saadouni. URL: <https://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WGAD/2020/52&Lang=E>
- ▶ Opinion No. 68/2020 concerning Walid Salek El Batal. URL: <https://daccess-ods.un.org/tmp/9849299.19242859.html>
- ▶ Opinion No. 46/2021 concerning Yahya Mohamed Elhafed Iaazza. URL: - <https://www.ohchr.org/sites/default/files/2022-03/A-HRC-WGAD-2021-46-Maroc-AEV.pdf>
- ▶ Opinion No. 50/ 2022 concerning Sultana Khaya and Luara Khaya. URL: <https://www.ohchr.org/sites/default/files/documents/issues/detention-wg/opinions/session94/hrc-wgad-2022-50-maroc-aev.pdf>

The UN Special Procedures

- ▶ Communication AL Mar 3 / 2022 of 4 October 2022 (Mhamed Hali). URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27599>
- ▶ Communication Al Mar 5/ 2020 of 7 January 2021 (8 victims). URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25731>
- ▶ Communication UA Mar 5/2021 of 10 June 2021 (14 victims). URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26478>
- ▶ Communication AL MAR 4/2021 of 16 June 2021 (2 victims). URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26415>
- ▶ Communication Al Mar 2/2020, dated 7 September 2020, Hussein Bachir Brahim. URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25422>
- ▶ Communication Al Mar 3/2020, dated 21 July 2020 concerning Khatri Dadda. URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25448>

- ▶ Communication AL MAR 3/2019 dated 8 November 2019 concerning Walid Salek El Batal. URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24936>
- ▶ Communication AL MAR 2/2019 dated 4 June 2019 concerning Naziha El Khalidi. URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24651>
- ▶ Communication AL MAR 1/2019 dated 3 April 2019 concerning Naziha El Khalidi. URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24506>
- ▶ Communication AL MAR 3/2017 dated 20 July 2017 concerning the Gdeim Izik Group. URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23226>

UN Torture Committee

- ▶ CAT/C/72/650/2015, UN CAT decision Omar N'Dour, URL: <https://trialinternational.org/wp-content/uploads/2016/02/Omar-Ndour-v.-Morocco.pdf>
- ▶ CAT/C/72/D/923/2019, UN CAT Decision Mohammed Bouryal. URL: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2F72%2FD%2F923%2F2019&Lang=en
- ▶ CAT/C/72/D/871/2018, UN CAT decision Sidi Abdallah Abahah. URL: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2F72%2FD%2F871%2F2018&Lang=en
- ▶ CAT/C/59/D/606/2014, UN CAT decision Naama Asfari. URL: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2F59%2FD%2F606%2F2014&Lang=en
- ▶ CAT/C/74/D/891/2018, UN CAT decision Abdeljalil Laaroussi. URL: <https://digitallibrary.un.org/record/4002629>

Country reports

- ▶ CAT/C/MAR/CO/4, Committee against Torture, Consideration of reports submitted by States parties under Article 19 of the Convention, concluding observations of the Committee against torture (2011). URL: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FMAR%2FCO%2F4&Lang=en
- ▶ A/HRC/22/53/Add 2, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez. Mission to Morocco (2013). URL: <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F22%2F53%2FAdd.2&Language=E&DeviceType=Desktop&LangRequested=False>
- ▶ A/HRC/27/48/Add5, Report of the Working Group on Arbitrary Detention. Mission to Morocco (2013). URL: <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F27%2F48%2FAdd.5&Language=E&DeviceType=Desktop&LangRequested=False>

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