

**Human Rights Violations Committed by the Kingdom of Morocco in Western Sahara**

**Submission to the United Nations Universal Periodic Review of**

**Kingdom of Morocco**

**41st Session of the UPR**

**Human Rights Council**

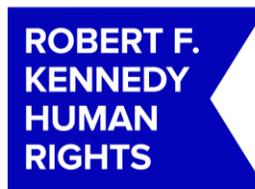
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**Submitted by:<sup>1</sup>**

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**Right  
Livelihood**



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<sup>1</sup> A description of the submitting organizations is attached in Annex I.

## **I. Introduction**

1. In this submission, the Sahrawi Organ against the Moroccan Occupation (ISACOM), the Nushatta Foundation for Media and Human Rights, Right Livelihood, and Robert F. Kennedy Human Rights analyze the Kingdom of Morocco's fulfillment of the Sahrawi people's civil and political rights in the Non-Self Governing Territory<sup>2</sup> (NSGT) of Western Sahara since Morocco's prior Universal Periodic Review (UPR) in May 2017. The submission assesses Morocco's implementation of recommendations received during its previous cycle, and provides specific and action-oriented recommendations based on incidents in the past five years.
2. The Kingdom of Morocco is the *de facto* occupying power in Western Sahara since it continues to assert its military presence in large parts of the NSGT. As such, in the context of the violations analyzed in this report, it is required to comply with its human rights obligations under the Fourth Geneva Convention, the International Covenant on Civil and Political Rights (ICCPR), the United Nations (UN) Convention against Torture (CAT), and other relevant treaties and conventions it has ratified. Despite its *de facto* power, it is important to note that Morocco has no legitimate sovereignty over Western Sahara under international law.<sup>3</sup>
3. In Western Sahara, the brutal repression of any independent voices criticizing Morocco's illegal occupation remains the norm. Any attempts to claim the Sahrawi people's inalienable right to self-determination and the respect of their fundamental freedoms are met with hostility and violence.<sup>4</sup>
4. For decades, systematic human rights abuses and police brutality have been part of a pattern of repression targeting any Sahrawis working towards the respect of human rights.<sup>5</sup> Activists are beaten, imprisoned, tortured, and sentenced without due process. Moroccan authorities have been subjecting activists to constant physical and technological surveillance, and have repeatedly impeded their freedom of movement. Authorities use long-term arbitrary detention as a tool to silence Sahrawi human rights defenders,<sup>6</sup> and as of March 2021, there were 40 Sahrawi political prisoners held in various Moroccan jails.<sup>7</sup> Nongovernmental organizations (NGOs) suffer arbitrary and politically motivated restrictions. Protests against Moroccan rule and occupation are systematically prohibited. Since 1975, the Sahrawi people's rights have been trampled on with impunity: there is virtually no prosecution for the abuses committed against them, and officials responsible for committing the violations walk freely on the streets.<sup>8</sup>
5. Despite prior UPR recommendations calling on Morocco to improve accountability for cases of torture,<sup>9</sup> and to allow individuals to fully exercise their rights to freedom of expression,<sup>10</sup> assembly,<sup>11</sup> and association,<sup>12</sup> authorities continuously target Sahrawis and prevent them from exercising the aforementioned rights. This submission examines some of these violations and calls on Morocco to implement changes and remove impediments to the full enjoyment of these rights.

## **II. Background and Recent Developments**

6. The Western Sahara issue is one of the oldest and most neglected conflicts in the world.<sup>13</sup> It dates back to 1975, when most of Western Sahara was under the occupation of the Kingdom of Morocco. Spain,

its former colonial administrator, withdrew in 1976 without fulfilling its mandate as Administering Power.<sup>14</sup> Western Sahara thus became the only NSGT<sup>15</sup> without an internationally recognized Administering Power. Morocco and the Polisario Front, a pro-independence movement established in 1973 against the Spanish control over the territory, engaged in a war that lasted 16 years. In 1991, the UN brokered a ceasefire between the parties and established the UN Mission for the Referendum in Western Sahara (MINURSO) with the aim of organizing a referendum to enable the Sahrawi people to freely exercise their inalienable right to self-determination.<sup>16</sup> To date, the referendum on the status of Western Sahara is still pending.

7. Recent events have further escalated the human rights situation in the territory. On November 13, 2020, the ceasefire was violated when the Royal Moroccan Armed Forces entered the buffer zone of Guerguerat and evicted civilians.<sup>17</sup> The incident reignited the conflict after almost 30 years and led to widespread protests across the country. One month later, on December 10, 2020, former US President Donald Trump announced<sup>18</sup> that the US would recognize Morocco's illegal occupation of Western Sahara.<sup>19</sup> The announcement was part of a deal under which Morocco agreed to normalize its diplomatic ties with Israel. Although the decision does not change Western Sahara's status in the UN system as a NSGT, this unilateral move hampers the efforts of the international community to find a peaceful solution to the conflict as the US, a P5 member and major diplomatic power, was the first country to recognize Morocco's sovereignty over the territory.<sup>20</sup> President Joseph Biden has not reversed Trump's decision.<sup>21</sup>
8. In October 2021, the UN Security Council renewed MINURSO's mandate,<sup>22</sup> once again without establishing a human rights monitoring mechanism. Various rights organizations, including RFK Human Rights<sup>23</sup> and Right Livelihood,<sup>24</sup> have called for a rights component to be added to MINURSO. This was also made as recommendation 144.24 in the prior UPR cycle.<sup>25</sup> Yet, unlike the majority of standing UN missions, MINURSO still has no human rights mandate and Morocco has consistently opposed enlarging its mandate. In the same month, the UN Secretary General appointed Staffan de Mistura as the new Personal Envoy for Western Sahara, renewing the prospects of reinvigorating peace talks.<sup>26</sup> On January 12, 2022, de Mistura embarked on his first trip to the region where he met with Moroccan authorities, representatives of the Polisario Front in Tindouf, and traveled to Mauritania as well.<sup>27</sup> He did not visit the occupied territories.
9. For several years now, the UN has encouraged parties to work with the international community to develop and implement independent and credible measures to ensure the full respect for human rights. However, systematic human rights abuses and violations in Western Sahara continue with the prolonged occupation and lack of the right to self-determination.<sup>28</sup>

### **III. Main Violations of Rights: Implementation of Recommendations from the prior UPR and the Current Status of these Recommendations**

#### **Freedom of Movement**

10. Morocco is bound to respect and enforce the right to liberty of movement as enshrined in Article 12 of the ICCPR.<sup>29</sup>

11. No recommendations were made to Morocco in the previous UPR cycle regarding freedom of movement in Western Sahara. However, there have been various violations of this right at the hands of Moroccan authorities. Although freedom of movement may be restricted under certain circumstances under the ICCPR,<sup>30</sup> Moroccan authorities have arbitrarily imposed restrictions and limitations on freedom of movement on Sahrawis wanting to leave Western Sahara, to move to other cities within the territory, or even move within the same city. There have been various cases of physical attacks, threats, intimidation, and arbitrary arrests, among other harassment techniques, to impede the free movement of Sahrawis, specifically activists and human rights defenders.
12. On **January 18, 2019**, Moroccan police banned a group of 17 Sahrawi human rights defenders from traveling from El Aaiún to other cities in Western Sahara and southern Morocco. The delegation had just visited the Sahrawi refugee camps in Tindouf, Algeria and the liberated territories of Western Sahara. They were scheduled to travel to other cities but Moroccan police prevented them from continuing their journey without any official explanation. The group was subjected to abuses such as the attempted seizure of the car of human rights defender Aminatou Haidar (ISACOM president and the delegation's spokesperson), physical attacks against activists Mina Baali and Sultana Khaya, the confiscation of documents from activist Ali Boujlal's car, and the confiscation of human rights defender Hamadi Naciri's mobile phone. The delegation was forced to return to El Aaiún and tried to head towards the south of Morocco on **January 19, 2019**, but were prevented from doing so. Haidar and other members of the delegation went to the MINURSO headquarters to inform the Head of the Mission about the deprivation of their legitimate rights. Moroccan police officers assaulted her in front of MINURSO officials.
13. Moroccan authorities have repeatedly prevented Aminatou Haidar from traveling out of Western Sahara. In **November 2020**, they prevented Haidar from boarding a plane to the Canary Islands due to false claims that she tested positive to COVID-19.<sup>31</sup> In **January 2022**, Moroccan airport authorities again prevented her from boarding a plane to Spain under the pretext that her European COVID-19 vaccination pass was not valid to travel.<sup>32</sup>
14. Since the beginning of the *de facto* house arrest of Sultana Khaya and her family in **November 2020**, several activists have been trying to reach the city of Boujdour, where Khaya resides, to support her. However, Moroccan police have prevented them from reaching Boujdour on multiple occasions. On **February 8, 2021**, Moroccan police prevented ISACOM member Elmami Aamer Salem and two other activists from leaving the city of Dakhla to head to Boujdour. On **April 3, 2021**, uniformed and plain-clothed police officers assaulted a group of Sahrawi activists at the taxi station in El Aaiún by using excessive force and sexually harassing the women. The police prevented them from traveling to Boujdour. A media activist posted a live video on Facebook of this incident that reached more than 90,000 views; Facebook removed the video after it was reported.<sup>33</sup> On **November 10, 2021**, 24 ISACOM members organized the "*Caravan to save the life of the activist Sultana Khaya and her family*" and left for Boujdour. At the checkpoint south of El Aaiún, the Moroccan police prohibited them from continuing their journey and they were forced to return home. Police agents dispersed the cars and verbally intimidated the activists.<sup>34</sup> On **February 27, 2022**, ISACOM members Mina Baali, Leila Illili, Mariem Dambar and Ghali Aajna, as well as TV RASD correspondent Salha Boutanguiza,

headed to Boujdour in an attempt to visit and help Khaya, but they were not able to reach her as plain-clothed Moroccan police men prevented them from doing so by physically assaulting them.<sup>35</sup>

### **Torture and Cruel, Inhuman, Degrading Treatment, and Violations of Physical and Psychological Integrity**

15. Morocco has an obligation to prevent torture and other cruel, inhuman, and degrading treatment under Article 7 of the ICCPR, Articles 1(1) and 2(1) of the Convention against Torture (CAT),<sup>36</sup> and Article 32 of the Fourth Geneva Convention.<sup>37</sup>
16. In its Third Cycle Midterm Report,<sup>38</sup> Morocco mentioned progress made in regard to recommendation 144.120, including changes on the law on torture, but they did not mention any specific measure taken in relation to Western Sahara. The practice of torture still persists and is used against Sahrawi human rights defenders, journalists, political prisoners, and other civil society activists. Authorities have also tortured children, with one case in November 2020 and another in March 2021.<sup>39</sup> A non-exhaustive list of recent cases of torture and ill-treatment follows.
17. In **May 2021**, Moroccan forces carried out a series of assaults against ISACOM and other NGO members. A number of UN Special Procedures also requested information from Morocco about these incidents.<sup>40</sup> On **May 8**, state agents tortured human rights defender Hassan Abba while he was going to visit his brother which left him with a foot and hand injury, as well as marks on his face.<sup>41</sup> On **May 9**, more than 50 Moroccan agents raided the house of Mina Baali, executive member of ISACOM, with some entering by breaking the door and the garage, and others coming from the roof. They violently assaulted Baali, her sister Mbarka Alina Baali, and her friend and journalist Salha Boutanguiza. They also destroyed the furniture, and stole all the electronic equipment, money, and food they had in the kitchen.<sup>42</sup> All this happened in front of her 13-year-old son. She was left without light for six days and was subjected to an arbitrary house arrest for 20 days following the incident. On the same day, authorities also assaulted a Nushatta Foundation photographer as his camera was confiscated by plain-clothed policemen,<sup>43</sup> and human rights defender and executive member of ISACOM Lehen Dalil. Dalil went to visit Baali, but after entering the house, about ten Moroccan police officers entered and tortured him. They then took him to the outskirts of El Aaiún where they tortured him again, leaving him lying barefoot on the street.<sup>44</sup> In that same month, authorities also physically assaulted other ISACOM members, including Hmad Hammad, El-Ghalia Djimi, Laaroussi Taglabout and Mbairkat Abdelkrim, and other activists.<sup>45</sup>
18. According to information received from activists Sultana Khaya and her sister, Moroccan authorities have subjected their family to repeated physical and sexual assaults in **2021** throughout Khaya's house arrest. On **May 10**, hooded agents raided Khaya's home, beat her and her sister, destroyed furniture, and stole documents, money, computers, and valuables.<sup>46</sup> On **May 12**, agents sexually assaulted her and her sister.<sup>47</sup> On **August 22**, Moroccan agents reportedly raided the house, sexually assaulted Khaya and her sister again, and also poured five liters of toxic substance that damaged house walls and floor.<sup>48</sup> On **November 8**, Moroccan agents raided the house, sexually assaulted Khaya, her sister, and their 84-year-old mother while threatening to kill them. They also injected an unknown substance into Khaya's right hip that made her sick.<sup>49</sup> It is also reported that Moroccan agents raided the house,

raped Khaya, and sexually assaulted her sister again on **November 15**.<sup>50</sup> On **December 5**, Moroccan agents raided their house and raped Sultana and her sister, forcing Sultana to inhale a toxic substance and forcibly injecting her with an unknown substance for the second time.<sup>51</sup>

19. Authorities arrested the Gdeim Izik group in 2010 after the group participated in peaceful protests.<sup>52</sup> In **November 25, 2020**, Morocco's Court of Cassation upheld the guilty verdict and decades-long sentences (20 years to life)<sup>53</sup> of the Gdeim Izik group without regard for torture allegations nor reports that the group was prohibited from communicating with legal representatives.<sup>54</sup>
20. In **November 2021**, the UN Committee against Torture found that Morocco violated numerous provisions of the CAT in the case of former Sahrawi political prisoner Omar N'dour. His torture took place in November 2010 in the aftermath of the dismantling of the Gdeim Izik protest camp.<sup>55</sup> The Committee urged Morocco to provide N'dour with fair and adequate compensation, and to initiate a thorough and impartial investigation in the incident.
21. In **December 2021**, authorities arrested Sahrawi activist and president of Nushatta Foundation, Lwali Lahmad, and released him after 8 hours. Eight cars and three motorbikes imposed a blockade outside Lahmad's home in the LaHashishah neighborhood of El Aaiún. The parked cars belonged to different security and intelligence-related agencies, including the General Directorate for Territorial Surveillance, auxiliary forces, and masked and armed policemen led by high-ranking officers (who could not be identified). Lahmad's younger brother was attempting to enter the home but officers stopped him and demanded he present his identification to enter. This confrontation prompted Lahmad and his father to go outside. After identifying Lahmad, security officers told him that he was wanted for arrest; Lahmad asked if there was an arrest warrant against him and refused to proceed without the official warrant. Upon his refusal, a civilian vehicle arrived after a call by an officer, and four plain-clothed policemen exited the vehicle to forcibly detain Lahmad. He was not informed of the reason for his arrest nor offered the opportunity to speak to a lawyer at any time. During this time, several police officers tied his hands, blindfolded him, interrogated him in the car, beat him violently, and threatened to rape him. He was then taken to the Moroccan security headquarters where he was tortured. He was accused of encouraging young people to take to the streets to support the Algerian national team after the football match against the Moroccan team in the recent Arab Cup. He was released in a very deteriorated physical state with signs of torture all over his body.

### **Freedom of Expression**

22. Under Articles 19 and 21 of the ICCPR, Morocco has an obligation to guarantee the right to freedom of expression without discrimination.
23. The government received three recommendations regarding freedom of expression in Western Sahara under Morocco's prior UPR cycle. Morocco accepted one of the three (144.120), and considered that the remaining two (144.117; 144.244) as already being fully implemented. Despite Morocco's claims of ensuring the full respect of Sahrawi people's right to freedom of expression, all the cases outlined throughout this report show how anyone expressing views in support of self-determination is subjected to violent repression. Furthermore, for years, Western Sahara has been considered a news blackhole

due to the complete absence of independent international observers, as Moroccan authorities have not allowed access to foreign press, organizations, or institutions trying to enter Western Sahara. This leaves Sahrawi activists and journalists as the only ones left to document the human rights crisis in the territory,<sup>56</sup> but journalists are forced to operate underground as many of them have been targeted and prosecuted by the Moroccan authorities in retaliation for their work.

24. On **September 28, 2018**, the UN Working Group on Arbitrary Detention found that Moroccan authorities arbitrarily detained journalist Mohamed Al-Bambary when they arrested him on August 26, 2015 and called for the Moroccan government to release him.<sup>57</sup> Yet, Al-Bambary was released in September 2021, completing more than his six year sentence for accusations based on inadmissible evidence and evidence obtained from coercion.<sup>58</sup> Al-Bambary reported on human rights abuses committed by the Moroccan government.
25. In **December 2018**, Moroccan police detained a journalist for four hours for live-streaming a video on social media that showed Moroccan police and military blocking a street where a peaceful protest was planned.<sup>59</sup> In **July 2019**, the Court of First Instance of El Aaiún sentenced the journalist to a 400 EUR fine on vague charges of “claiming a title/position protected by the law.”<sup>60</sup>
26. On **December 24, 2019**, Khatri Dadda, an activist working for a group of Sahrawi media activists in the city of Smara was arrested due to his activities as a photographer.<sup>61</sup> On **March 4, 2020**, the Court of First Instance in El Aaiún sentenced him to 20 years in prison on charges of attacking police officers and destroying public property.<sup>62</sup> In **May 2020**, the Appeal Court confirmed the sentence.<sup>63</sup> The activist was forced to sign police records and he was never given complete access to the evidence file. Sources believe that he was arrested because he filmed the violent arrest of a Sahrawi human rights defender in June 2019.<sup>64</sup> He remains imprisoned.
27. Moroccan police forces have been targeting members of the Nushatta Foundation for documenting and reporting human rights violations. Recent incidents include attempts of abduction, home raids, and strict police surveillance. In **May 2020**, Sahrawi journalist Ibrahim Amrikli was arrested in El Aaiún and detained for over two days for his work with Nushatta. He was forced to sign a false confession and charged with “breaking orders related to the health emergency status” and “offending public officials.” His trial was postponed to an unknown date.<sup>65</sup> As reported in *para. 21*, the president of Nushatta was also arbitrarily arrested and tortured on **December 11, 2021**.
28. In **July 2020**, police arbitrarily detained the founder of Agargarat Media, Essabi Yahdih, for 10 hours before releasing him without charge. He said that police threatened him with “arrest, rape, and murder” and interrogated him about his activities with the media company.<sup>66</sup> On **May 26, 2021**, he was rearrested and charged with “undermining the integrity of the Moroccan state by photographing military installations and security posts without the consent of the public authorities.” On **October 23, 2021**, the Dakhla Court of Appeal sentenced him to two years imprisonment, the maximum sentence for this offence, which he is currently serving in Smara City Prison.
29. Furthermore, in **November 2020**, Moroccan occupation forces attempted to abduct two Sahrawi journalists working for Nushatta, cameraman Mohammed Haddi and reporter Cherif Bakhil, due to

their vital roles in reporting on repression in Western Sahara. More than 20 masked and armed special police forces (led by officers widely implicated in gross human rights abuses) raided both of their homes and terrorized the families of the two journalists. Haddi and Bakhil managed to escape and subsequently went into hiding.

### **Freedom of Assembly**

30. Under Article 21 of the ICCPR, Morocco has an obligation to guarantee the right to freedom of assembly. In the previous UPR cycle, recommendations 144.117 and 144.244 (accepted by Morocco) and recommendations 144.120 and 144.235 (accepted as fully implemented by Morocco) were related to freedom of assembly in Western Sahara. However, permission to hold public gatherings is regularly denied. Police prohibit and/or violently repress peaceful demonstrations in favor of self-determination. The use of force, torture, and arbitrary arrest against Sahrawi protesters are the norm.
31. The Damber family, residing in El Aaiún, has been protesting against the murder of their son Said Dambar for 11 years. He was shot dead by a Moroccan police officer on December 22, 2010. His family does not know where he is buried and they continue to demand justice and accountability. Every 22nd of the month, the family tries to organize a peaceful protest at their house, which is regularly violently repressed by the Moroccan police, including physical attacks against family members.
32. In **July 2017**, members of the Student Group El Wali were handed years-long sentences (four group members sentenced to 10 years, three group members sentenced to three years) after participating in a demonstration. Their appeal hearings were delayed three times and all of the defense's evidence was rejected, leading to their sentences being upheld in **April 2018**.<sup>67</sup>
33. On **January 2, 2020**, Moroccan police in El Aaiún prevented representatives of Sahrawi NGOs from celebrating Aminatou Haidar's reception of the 2019 Right Livelihood Award, which was supposed to occur at the headquarters of the Sahrawi Association of Victims of Grave Violations of Human Rights Committed by the State of Morocco (ASVDH).<sup>68</sup> Authorities denied some activists access to the venue and forced all those present to leave. On **January 11**, Moroccan police officers attacked Haidar while she was trying to attend a meeting with fellow human rights defender El-Ghalia Djimi. When leaving the house to reach the meeting location, police officers verbally insulted her and her children, pushed her to the ground, and punched her in the chest and neck. As a consequence of these attacks, Haidar has suffered serious damage to her knee. Haidar had just returned to Western Sahara from a trip to Europe, where she met with UN representatives, including the former UN Deputy High Commissioner. Following these incidents, Haidar's case was included in the 2020 UN Secretary General's report on cooperation with the UN, its representatives and mechanisms in the field of human rights.<sup>69</sup>
34. On **March 23, 2020**, Morocco adopted Law-Decree no. 2.20.292 and Decree no. 2.20.293 enacting special provisions due to the spread of COVID-19.<sup>70</sup> These new health measures were instrumentalized to intimidate, harass, and detain Sahrawi human rights defenders.<sup>71</sup> Their application has been discriminatory against the Sahrawi people. Under this pretext, Moroccan police not only prevented

Sahrawis from organizing any peaceful public demonstrations, but also private working meetings and family celebrations. For example, on **November 22, 2020**, two Saharawi journalists were prevented from celebrating their wedding and subject to a police siege. This is in stark contrast to Moroccan settlers in the Occupied Territory, who have been able to freely celebrate ceremonies and to participate in large demonstrations, including to mark President Trump's declaration of the US' recognition of Moroccan sovereignty over Western Sahara.<sup>72</sup>

35. In the days following the end of the ceasefire in **November 2020**, peaceful demonstrations in support of self-determination spread across different cities in the Occupied Territory.<sup>73</sup> In response, Moroccan armed security forces brutally suppressed the protests, including through beatings, home raids, and arbitrary arrests. The violent repression of demonstrations continued throughout **December 2020**.
36. On **October 31, 2021**, a group of Sahrawi women who survived enforced disappearance organized a peaceful demonstration to protest against the Moroccan occupation. The demonstration was violently repressed.
37. On **December 5, 2021**, Moroccan police forces and paramilitary physically assaulted five Sahrawi human rights defenders, including Aminatou Haidar, during a peaceful demonstration.<sup>74</sup> Agents also violently stripped Mina Baali of her traditional Sahrawi dress.<sup>75</sup> They were protesting against the renewed attacks against human rights defender Sultana Khaya.<sup>76</sup>
38. In **February 2022**, Moroccan authorities violently responded to protesters in the city of Dakhla. Protesters were denouncing Moroccan authorities' lack of investigation into the disappearance and the alleged death of a Sahrawi businessman in Dakhla. His family were among those protesting, seeking justice for the killing and for the lack of accountability over his death. His family is now being held under police surveillance. In the same month, Moroccan police in El Aaiún prevented many ISACOM members (including Aminatou Haidar, Mustapha Dah, Toufa Abdesamad, Ahmed Salem Lebruto and Najat Khnaibila) from celebrating the National Day of the Sahrawi Mother.

### **Freedom of Association**

39. Moroccan authorities have violated Sahrawis' right to freedom of association, as enshrined in Article 22 of the ICCPR. Human rights defenders have faced numerous obstacles in their attempt to work or organize together.
40. In the previous UPR cycle, recommendations 144.58 and 144.61 (noted and partially rejected by Morocco); recommendation 144.117 (accepted as fully implemented by Morocco), and recommendation 144.120 (accepted by Morocco) centered on ensuring that human rights defenders, civil society, and non-government associations in Western Sahara are able to exercise their freedom of association.<sup>77</sup> Yet, violations of freedom of association continue to occur in the territory.

#### ***A. Registration of civil society organizations***

41. Only one organization is a registered NGO in Western Sahara, but authorities have reportedly blocked them from working since **May 11, 2019**.<sup>78</sup> On **May 9-11, 2019**, security forces surrounded them, prevented new equipment from being delivered, and intelligence officers dressed in civilian clothes prevented staff from entering the building. Though the organization filed a criminal complaint on **May 13**, no confirmation of the complaint was given.<sup>79</sup>
42. ISACOM faced challenges to their formation as an NGO. ISACOM was formally founded on September 20, 2020,<sup>80</sup> and on **September 29, 2020**, the Prosecutor at the Court of Appeal in El Aaiún opened a judicial investigation into the establishment and convening of ISACOM based on grounds of infringing on the territorial integrity of the Kingdom, vowing to protect “public order.”<sup>81</sup> As of **March 23, 2022**, this investigation remains open and ongoing. Additionally, Moroccan security forces harassed members of ISACOM’s executive office on **September 29, 2020**.<sup>82</sup>

### *B. Harassment and smear campaigns against human rights defenders*

43. Freedom of association does not merely entail the right to form and join an association.<sup>83</sup> In situations where it is difficult to formally establish an association<sup>84</sup> (as it is in Western Sahara), the right to freedom of association also protects activities of individuals part of an unregistered association.<sup>85</sup> As the prior Special Rapporteur on the rights to freedom of peaceful assembly and association noted, “the right to freedom of association obliges States to take positive measures to establish and maintain an enabling environment.”<sup>86</sup> This includes allowing individuals to operate without fear of threats or intimidation,<sup>87</sup> as harassment and attacks against human rights defenders create an environment where civil society is not as open and where dissenting views are silenced.<sup>88</sup> Nonetheless, Morocco violates the right to association as security forces and other authorities repeatedly target human rights defenders and activists with smear campaigns and harassment in retaliation for their work.<sup>89</sup>
44. On **May 14, 2019**, authorities sentenced a human rights defender to two months in prison on false charges of drug possession. He was previously detained for protesting in El Aaiún.<sup>90</sup> On **September 25, 2021**, Moroccan police harassed, threatened, and intimidated a human rights defender at her home and damaged her property. This defender had a meeting with members of the Gdeim Izik Group to discuss the house arrest of fellow human rights defender Sultana Khaya.<sup>91</sup> Furthermore, in **November 2021**, the chief public prosecutor of the Rabat Court of Cassation filed a complaint<sup>92</sup> (which he received from a Moroccan NGO) against the Chairperson of ISACOM, Aminatou Haidar, following statements she made against the Moroccan occupation when Moroccan police prevented her and colleagues from visiting a colleague in Boujdour.<sup>93</sup> The complaint states that Haidar has been making separatist claims targeting the “territorial integrity of the kingdom,” and called for judicial measures against Haidar to protect public order.<sup>94</sup> Though protecting public order is an exception to the right of freedom of association under Article 22, Morocco often resorts to using blanket exceptions like public order as a pretext to prevent calls for self-determination.

### *C. Surveillance and right to privacy*

45. In addition to harassing human rights defenders, Moroccan authorities have surveilled their activity and have violated Article 17 of the ICCPR by infringing on Sahrawi activists’ right to privacy<sup>95</sup>

through continuous surveillance of activists' homes. Though the right to privacy was not specifically addressed in the prior UPR cycle, authorities have engaged in physical and digital surveillance.

46. On **September 29, 2020**, after the establishment of ISACOM, Moroccan occupation forces maintained severe restrictions on the freedom of movement of its executive members, who were subject to a police siege and were prevented from receiving visits, including from family members. For around three months, four Sahrawi human rights defenders (Aminatou Haidar, El-Ghalia Djimi, Lahcen Dalil, Mina Baali and Fatma Ayach) were under constant police surveillance. Throughout this period, two cars with plain-clothed police officers chased and followed Haidar and Djimi at their slightest movement.
47. After coming back from Spain in **November 2020**, Sultana Khaya and her family have been under a *de facto* house arrest,<sup>96</sup> and subjected to multiple attacks and assaults at the hands of Moroccan police agents. Almost one and a half years later, military and police agents still surround their home and prevent Khaya from advancing more than a block from the entrance, often physically dragging her and her sister back into the house.<sup>97</sup> A journalist reported that Moroccan police in civilian clothing surrounded her home, surveilled her and her family on **March 15, 2021**, and prevented anyone from entering her home.<sup>98</sup>
48. Since at least 2017, Morocco has been using NSO Group's Pegasus spyware to carry out targeted attacks against human rights defenders.<sup>99</sup> A recent investigation indicates that Aminatou Haidar's phone was infected with Pegasus in **October and November 2021**. Traces of targeting dating back to September 2018 were found in another one of her phones. Digital forensic groups confirmed that other Sahrawi activists and diplomats' devices have been infected by the spyware.<sup>100</sup>

#### ***D. Other challenges to freedom of association***

49. Other challenges to the full enjoyment of freedom of association include the ability of local civil society to meet with individuals from abroad. Moroccan authorities have continuously deported individuals entering Western Sahara who aim to meet with Sahrawi human rights activists or report about the human rights situation in Western Sahara. Western Sahara remains inaccessible to human rights organizations.<sup>101</sup> This restriction has further limited the availability of information about the human rights situation in Western Sahara to the broader public and international community.
50. Authorities deported two Danish activists on **October 17, 2019**, and prevented them from entering El Aaiún, questioning them about their work in Sahrawi camps.<sup>102</sup> Authorities prevented a Portuguese researcher from getting off her plane and entering El Aaiún on **December 10, 2019**.<sup>103</sup> Eight Spanish political party members were ordered to leave El Aaiún on **February 28, 2020** as they aimed to meet with Sahrawi activists.<sup>104</sup> On **October 2, 2021**, Moroccan authorities deported two Spanish human rights lawyers and a Spanish doctor of Sahrawi origin who arrived in Western Sahara on a humanitarian mission to visit Sultana Khaya.<sup>105</sup> They were deported immediately upon disclosing their reason for arrival.<sup>106</sup>

#### IV. Recommendations

The signatories of this submission recommend that Morocco:

- **Ensure that Sahrawi human rights defenders and journalists are able to carry out their peaceful work without fear of intimidation and reprisals, both offline and online, and guarantee their physical and psychological integrity;**
- **End the practice of arbitrary house arrest and arbitrary detention against Sahrawi human rights defenders, and release all those detained;**
- **Develop and implement credible measures to ensure a safe and enabling environment for civil society in Western Sahara;**
- **End the prosecution of individuals detained solely for exercising their right to freedom of expression, peaceful assembly, and association, including those advocating for the Sahrawi people's right to self-determination;**
- **Ensure that the Sahrawi people are able to travel freely in the occupied territories, as well as to leave or return to Western Sahara, without any impediments to their freedom of movement;**
- **Promptly conduct full, impartial, and independent investigations into all allegations of torture and other ill-treatment and prosecute those responsible;**
- **Take effective measures to ensure that the right to freedom of expression, peaceful assembly, and association in Western Sahara is respected in all circumstances;**
- **Uphold Sahrawi people's rights to peacefully express their views, without fear of retaliation;**
- **Fully and impartially investigate events in which peaceful demonstrations were violently repressed;**
- **Remove obstacles and impediments for non-governmental organizations attempting to form or register, including those defending the Sahrawi people's right to self-determination;**
- **Allow access for individuals and groups to enter Western Sahara, to meet with Sahrawi human rights groups and activists and to report on the human rights situation in the territory;**
- **Accept the establishment of a human rights component in the United National Mission for Referendum in Western Sahara (MINURSO);**
- **Enable the people of Western Sahara to exercise their right to self-determination through a democratic referendum;**
- **Fully cooperate with the Secretary-General and OHCHR on the human rights situation in Western Sahara.**

## Annex I

The **Sahrawi Organ Against Moroccan Occupation (ISACOM)** is an organization set up by a group of Sahrawi human rights defenders with the aim of defending the legitimate rights of the Saharawi people, including the right to self-determination, and to advocate for the release of Saharawi political prisoners held in Moroccan jails. ISACOM's president and founder, **Aminatou Haidar**, is a prominent Sahrawi human rights defender and recipient of both the 2019 Right Livelihood and the 2008 Robert F. Kennedy Human Rights Awards.

Founded in 2013 in the occupied territory of Western Sahara, **the Nushatta Foundation for Media and Human Rights** is a non-profit, non-governmental media and human rights foundation operating in the Moroccan-controlled Western Sahara and the Sahrawi refugee camps south-west of Algeria. Its members are indigenous Saharawi youth between the ages of 18-30 who have experienced illegal detention, torture, kidnapping, harassment, and other forms of mistreatment at the hands of the Moroccan authorities because of their support for the self-determination for people of Western Sahara.

**Right Livelihood** awards each year four individuals or organizations working in a multitude of fields such as Human Rights, Peace, Justice and Sustainability. The Award comes with long-term support for these activists, which are currently 186 from 73 different countries. Having received ECOSOC status in 2018, Right Livelihood actively works with UN Human Rights mechanisms to advance Laureates' causes and improve their working conditions.

**Robert F. Kennedy Human Rights** is a nongovernmental organization based in Washington, D.C. Founded in 1968 as a living memorial, it strives to achieve Robert F. Kennedy's vision of a more just and peaceful world. Robert F. Kennedy Human Rights partners with civil society leaders globally to protect civic space through strategic litigation and advocacy.

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- <sup>3</sup> Western Sahara, Advisory Opinion, I.C.J. Rep. 1975, p. 12, ¶ 162 (Oct. 16) available at <https://www.icj-cij.org/public/files/case-related/61/061-19751016-ADV-01-00-EN.pdf>.
- <sup>4</sup> See *Relaunching Negotiations over Western Sahara*, Int'l Crisis Group (Oct. 14, 2021), <https://www.crisisgroup.org/middle-east-north-africa/north-africa/western-sahara/227-relaunching-negotiations-over-western-sahara>.
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- <sup>6</sup> The Norwegian Support Committee for Western Sahara, American Association of Jurists, League for the Protection of Saharawi Political Prisoners Held within Moroccan Jails, *Occupied Territories of Western Sahara and Long Term Detention of Saharawi Human Rights Defenders* (March 2021), [https://www.ohchr.org/Documents/Issues/Defenders/longterm-detention-defenders/Submissions/CSOs/36\\_nscws-aaj-lpspp-cso-en-morocco-y.pdf](https://www.ohchr.org/Documents/Issues/Defenders/longterm-detention-defenders/Submissions/CSOs/36_nscws-aaj-lpspp-cso-en-morocco-y.pdf) at 1.
- <sup>7</sup> As reported by The League for the Protection of Saharawi Political Prisoners Held within Moroccan Jails. *Id.* at Annex.
- <sup>8</sup> Kerry Kennedy, 'Biden must undo Trump's damaging decision on Western Sahara', Africa Portal (Feb. 19, 2021), <https://www.africaportal.org/features/biden-must-undo-trumps-damaging-decision-on-western-sahara/>.
- <sup>9</sup> Recommendations 144.35, 144.49-144.51 from *UPR of Morocco (3rd Cycle - 27th Session), Thematic List of Recommendations*, Office of the High Comm'n'r for Human Rts. available at [https://lib.ohchr.org/HRBodies/UPR/Documents/Session27/MA/UPR27\\_Morocco\\_ThematicList\\_of\\_Recommendations\\_E.docx](https://lib.ohchr.org/HRBodies/UPR/Documents/Session27/MA/UPR27_Morocco_ThematicList_of_Recommendations_E.docx) (hereafter *Third Cycle Recommendations*).
- <sup>10</sup> Recommendations 144.117, 144.120, 144.244, *id.*
- <sup>11</sup> Recommendations 144.117, 144.119, 144.244, *id.*
- <sup>12</sup> Recommendations 114.58, 114.61, 144.114, 144.117, 144.120, and 144.122, *id.*
- <sup>13</sup> *Western Sahara: The Cost of the Conflict*, Int'l Crisis Group (June 11, 2007), <https://www.crisisgroup.org/middle-east-north-africa/north-africa/western-sahara/western-sahara-cost-conflict>.
- <sup>14</sup> On December 20, 1966, in adopting resolution 2229 (XXI), the UN General Assembly invited Spain to determine at the earliest possible date the procedures of the holding of a referendum under United Nations auspices.
- <sup>15</sup> On December 11, 1963, in adopting resolution 1956 (XVIII), the UN General Assembly included Western Sahara in the list of Non Self-Governing Territories (NSGT), pending decolonisation.
- <sup>16</sup> Guterres 'remains committed' to maintaining 1991 ceasefire in Western Sahara, United Nations (Nov. 13, 2020), <https://news.un.org/en/story/2020/11/1077672>.
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- <sup>19</sup> *The Foundation deplors US recognition of Moroccan claim over Western Sahara*, Right Livelihood, (Dec. 15, 2020), <https://rightlivelihood.org/news/the-foundation-deplors-us-recognition-of-moroccan-claim-over-western-sahara/>.
- <sup>20</sup> Jillian Kestler-D'Amours, *US recognised Morocco's claim to Western Sahara. Now what?*, Al Jazeera (Dec. 11, 2020), <https://www.aljazeera.com/news/2020/12/11/us-recognised-moroccos-claim-to-western-sahara-now-what>.
- <sup>21</sup> *Department Press Briefing*, U.S. Dept. of State (July 1, 2021), <https://www.state.gov/briefings/department-press-briefing-july-1-2021/>.
- <sup>22</sup> S.C. Res. 2602, U.N.Doc. S/RES/2602 (Oct. 29, 2021), [https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_res\\_2602.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2602.pdf).
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- <sup>24</sup> *HRC45: Concern over UN silence on Western Sahara*, Right Livelihood, <https://rightlivelihood.org/advocacy-updates/hrc45-concern-over-un-silence-on-western-sahara/> (last accessed Feb. 24, 2022).
- <sup>25</sup> *Third Cycle Recommendations*, *supra* note 9.
- <sup>26</sup> *Secretary-General Appoints Staffan de Mistura of Italy Personal Envoy for Western Sahara*, United Nations (Oct. 6, 2021), <https://www.un.org/press/en/2021/sga2068.doc.htm>.
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- <sup>29</sup> International Covenant on Civil and Political Rights art. 12, Dec. 16, 1966, 999 U.N.T.S. 1976 (hereafter ICCPR).
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<sup>32</sup> Aminatou Haidar (@aminatouhaidar), Twitter (Jan 27, 2022), <https://twitter.com/AminatouHaidar/status/1486818710593675278>; *Western Sahara: Moroccan Occupation Authorities Prevent Sahrawi Human Rights Activist Aminatou Haidar From Travelling to Spain*, All Africa (Jan. 30, 2022), <https://allafrica.com/stories/202201310549.html>.

<sup>33</sup> Salha Boutanguiza, Facebook (May 4, 2021), <https://www.facebook.com/photo.php?fbid=3953754594709303&set=a.820950917989702&type=3&theater>.

<sup>34</sup> Live video, ISACOM Officiel, Facebook (Nov. 10, 2021), [https://www.facebook.com/watch/live/?ref=watch\\_permalink&v=295741775780235](https://www.facebook.com/watch/live/?ref=watch_permalink&v=295741775780235).

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<sup>36</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, arts. 1(1) and 2(1), Dec. 10, 1984, 1465 U.N.T.S. 1987.

<sup>37</sup> Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, art. 32, August 12, 1949, 75 U.N.T.S. 1950.

<sup>38</sup> المملكة المغربية، التقرير الملحق بملتمسك متباعدة تنفيذ توصيات اجلولة الثالثة من آلية الستعراض الدوري الشامل (in Arabic, last accessed March 22, 2022), [https://lib.ohchr.org/HRBodies/UPR/Documents/Session27/MA/Morocco\\_ThirdCycleMid-termReport\\_AR.pdf](https://lib.ohchr.org/HRBodies/UPR/Documents/Session27/MA/Morocco_ThirdCycleMid-termReport_AR.pdf) at 18.

<sup>39</sup> See *Morocco Cracks Down on Activists*, Human Rts. Watch, *supra* note 5; *Morocco/Western Sahara: Targeted Crackdown of Sahrawi Activists*, Amnesty Int'l (July 19, 2021), <https://www.amnesty.org/en/documents/mde29/4404/2021/en/>; Vita Angola and Isabel Lourenco, *The Children of Western Sahara Live in Constant Terror*, The Namibian (March 30, 2021), <https://www.namibian.com.na/210092/archive-read/The-Children-of--Western-Sahara-Live-in-Constant-Terror>.

<sup>40</sup> Letter to the Moroccan Government from: Morris Tidball-Binz, Irene Khan, Clement Nyaletsossi Voule, Mary Lawlor, Nils Melzer, and Elizabeth Broderick UA MAR 5/2021 (June 10, 2021), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26478> (in French) (hereafter Letter to the Moroccan Government from Special Rapporteurs).

<sup>41</sup> *Id.* at 8.

<sup>42</sup> *Id.* at 7.

<sup>43</sup> Video of incident available here: Nushatta Foundation (@Nushatta) Twitter, (May 10, 2021), <https://twitter.com/Nushatta/status/1391670878837039106>.

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<sup>45</sup> *Id.* at 7-8.

<sup>46</sup> *In the Matter of Sultana Khaya and Luara Khaya*, Petition to the United Nations Working Group on Arbitrary Detention, submitted by Stephanie Herrmann, Tone Sørffonn Moe, Mads Andenas, and Jared Genser (July 29, 2021), [https://www.perseus-strategies.com/wp-content/uploads/2021/07/2021-07-29\\_PUBLIC\\_FinalPetition.pdf](https://www.perseus-strategies.com/wp-content/uploads/2021/07/2021-07-29_PUBLIC_FinalPetition.pdf) at 10 (hereafter *In the Matter of Sultana Khaya and Luara Khaya*).

<sup>47</sup> *Id.* at 10.

<sup>48</sup> Front Line Defenders (@FrontLineHRD) (Sept. 3, 2021), <https://twitter.com/FrontLineHRD/status/1433817597712142354>; *Physical Assault and Sexual Harassment of Woman Human Rights Defender Sultana Khaya and her Family*, Frontline Defenders (Aug. 25, 2021), <https://www.frontlinedefenders.org/en/case/physical-assault-and-sexual-harassment-woman-human-rights-defender-sultana-khaya-and-her-family>.

<sup>49</sup> *Woman Human Rights Defender Sultana Khaya Attacked in Her Home*, Frontline Defenders (Dec. 20, 2021), <https://www.frontlinedefenders.org/en/case/woman-human-rights-defender-sultana-khaya-attacked-her-home>.

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<sup>51</sup> *Woman Human Rights Defender Sultana Khaya Attacked in Her Home*, *supra* note 49.

<sup>52</sup> *Relaunching Negotiations over Western Sahara*, Int'l Crisis Group, *supra* note 4.

<sup>53</sup> *Morocco High Court Reviewing Key Western Sahara Case*, Amnesty Int'l (Nov. 8, 2020), <https://www.amnesty.org/en/latest/news/2020/11/morocco-high-court-reviewing-key-western-sahara-case/>.

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<sup>55</sup> *Western Sahara: Beatings, Abuse by Moroccan Security Forces*, Human Rts. Watch (Nov. 26, 2010), <https://www.hrw.org/news/2010/11/26/western-sahara-beatings-abuse-moroccan-security-forces>.

<sup>56</sup> *RSF Report: Western Sahara, A News Blackhole*, Reporters without Borders (updated Aug. 12, 2019), <https://rsf.org/en/news/rsf-report-western-sahara-news-blackhole>.

<sup>57</sup> *Opinion No. 31/2018 concerning Mohamed Al-Bamary (Morocco)*, A/HRC/WGAD/2018/31 (Sept. 28, 2018), <https://undocs.org/A/HRC/WGAD/2018/31> (Opinion No. 31/2018); *Call for Release of Sahrawi Activist Mohamed Al-Bamary*, Robert F. Kennedy Human Rts. (May 15, 2020), <https://rfkhumanrights.org/press/call-for-release-of-sahrawi-activist-mohamed-al-bamary>.

<sup>58</sup> *Opinion No. 31/2018 concerning Mohamed Al-Bamary (Morocco)*, *supra* note 57, at ¶ 47.

<sup>59</sup> *Western Sahara: Systematic harassment of Sahrawi human rights defenders and organisations*, Frontline Defenders (May 17, 2019), [https://www.frontlinedefenders.org/sites/default/files/western\\_sahara\\_-\\_ua\\_-\\_17\\_may\\_2019\\_en.pdf](https://www.frontlinedefenders.org/sites/default/files/western_sahara_-_ua_-_17_may_2019_en.pdf).

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<sup>65</sup> *Morocco and Western Sahara 2020*, Amnesty Int'l, <https://www.amnesty.org/en/location/middle-east-and-north-africa/morocco-and-western-sahara/report-morocco-and-western-sahara/> (last accessed Feb. 24, 2022).

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<sup>85</sup> *See id.* at ¶. 56.

<sup>86</sup> *Id.* at ¶. 63.

<sup>87</sup> *Id.* at ¶. 63.

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