

AMNESTY INTERNATIONAL

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Morocco/Western Sahara: Irregularities in Sahrawi activist's trial

Amnesty International is concerned about the recent sentencing of Sahrawi activist Mustafa Abdel Dayem, currently on hunger strike, to three years in prison on the basis of what he claims was a falsified record of statements he made in custody. The organization is also concerned that other aspects of Mustafa Abdel Dayem's trial proceedings did not meet international fair trial standards as he was denied the right to legal counsel during his appeal hearing. His case was submitted several days ago to Morocco's highest court, the Court of Cassation, which can review the alleged irregularities in his trial and, if confirmed, dismiss the ruling and send the case for retrial by a lower court.

Amnesty International fears that Mustafa Abdel Dayem's conviction may have been intended to punish him for his public support for the right to self-determination for the people of Western Sahara and for the Polisario Front, which calls for an independent state in Western Sahara and runs a self-proclaimed government-in-exile in refugee camps in south-western Algeria.

Mustafa Abdel Dayem, member of both the Assa-Zag Branch of the Moroccan Association for Human Rights and the Sahrawi Journalists' and Writers' Union, was arrested without a warrant on the evening of 27 October 2008 at his home in Assa in southern Morocco and taken to the Royal Gendarmerie Station in the same city. His arrest followed anti-government protests in Assa earlier that day by Sahrawi members of the population calling for the creation of employment opportunities and the right of the Sahrawi people to self-determination. While Mustafa Abdel Dayem claims not to have participated in the protests, he admits to having lowered the Moroccan flag from the 'Alal Al-Fassi secondary school, where he worked as a security guard. He explains that his action was intended to show his support and solidarity with the demonstrators and his opposition to the intervention of law enforcement officers to break up the protests.

On 4 November 2008, the Court of First Instance of Guelmim sentenced Mustafa Abdel Dayem to a three-year prison term and a fine of 50,000 dirhams (approximately US\$6,220) for offending the flag of the Kingdom of Morocco, rebelling and inciting an armed gathering, participating in the destruction of public property and participating in the contempt of public officials on duty. The sentence also included a prohibition on Mustafa Abdel Dayem from practicing teaching or working in any educational institution for a period of 10 years. Mustafa Abdel Dayem insists that the record of his questioning by the Royal Gendarmerie (*procès-verbal*), on which his conviction was largely based, was falsified – attributing to him acts which he neither committed nor confessed to committing during his interrogation at the Royal Gendarmerie station in Assa. He argued that he had signed a *procès-verbal* following his questioning, whereas the one presented to the court was unsigned. During the hearing, his defence team walked out in protest at the court's refusal to call on the Royal Gendarmerie to produce as evidence the *procès-verbal* signed by Mustafa Abdel Dayem.

During his appeal trial, Mustafa Abdel Dayem was denied his right to be defended by legal counsel. According to members of his defence team, none of his lawyers was summoned to the appeal hearings which took place at the Court of Appeals of Agadir. Furthermore, Mustafa Abdel Dayem claims that his request to postpone the second hearing on 11 December until his lawyers were present or until he had had the opportunity to constitute a different defence team was rejected by the court, which confirmed the lower court's conviction later that day. On 19 December his lawyers submitted an appeal against the ruling to the Court of Cassation, which is mandated to review cases only on questions of procedure, but no date has yet been set for its consideration of the case.

Mustafa Abdel Dayem, currently incarcerated at Inzegane Prison in Agadir, has reportedly been on hunger strike since 13 December 2008 to protest the Court of First Instance's refusal to request as evidence his signed *procès-verbal* to the Royal Gendarmerie and the Court of Appeal's insistence on pronouncing its decision despite the absence of his defence team.. Seven of his family members in Assa, including his parents, who are elderly, started a hunger strike on the same day in solidarity with him, threatening to continue it until he is retried in a trial meeting international standards.

Background

Since 2005, dozens of Sahrawis have been charged with violent conduct and detained after being arrested during or after demonstrations against Moroccan rule in Western Sahara. Many of those arrested allege that they were tortured or otherwise ill-treated to force them to sign confessions, to intimidate them from protesting further or to punish them for demanding the right to self-determination for the people of Western Sahara. The Moroccan authorities continue to claim that those imprisoned were involved in criminal acts and are not being held for their views. Amnesty International has serious concerns about the fairness of their trials, including that some of the evidence was tainted on account of unexamined claims of torture or other ill-treatment and that defendants were not permitted to call defence witnesses

In October 2008, Yahya Mohamed ElHafed, member of the Collective of Sahrawi Human Rights Defenders, was found guilty of violent conduct and sentenced to 15 years' imprisonment in connection with his participation in a protest in Tan Tan against Moroccan rule. Eight other defendants received sentences of up to four years in prison. Allegations that they were tortured during questioning were not investigated.