

## The Case of Saharawi Journalist Ndor Laaroussi

On 9 August 2019, the UN Working Group on Arbitrary Detention published its decision regarding the detention of Saharawi journalist Ndor Laaroussi (Opinion No. 23/2019)<sup>1</sup>. This report is prepared by the Saharawi journalist organisation Bentili Media Centre in collaboration with The Norwegian Support Committee for Western Sahara and Adala UK. The reports comments on, and gives the context to, the decision rendered by the UN Working Group on Arbitrary Detention during its 84<sup>th</sup> session from 24 April until 3 May 2019.

The case of Ndor Laaroussi serves as a testament of how Saharawi journalists are targeted by policies and practices of the Moroccan government that result in multiple human rights violations. Ndor Laaroussi is a Saharawi journalist belonging to the Bentili Media, based in the occupied territories of Western Sahara. Ndor was arbitrarily arrested, tortured and detained in May 2018.



Ndor Laaroussi covering the Gdeim Izik court case in 2017

**The decision of the Working Group strongly criticizes the Government of the Kingdom of Morocco and holds that Ndor Laaroussi was arrested and imprisoned in response to his support for the right to self-determination for the people of Western Sahara and affirms that the status of Ndor Laaroussi as a journalist is protected under international law (para 78).**

Laaroussi was arrested on his way from his uncle's house in the centre of El Aaúin, the capital of Western Sahara, when he found himself surrounded by Moroccan intelligence forces and police, who beat him in the street, and forced him into the back of a police vehicle. Upon his arrival at the police station, Ndor was subjected to torture by being beaten by several police officers. He was left on the floor of the cell for two days, before he on the third day was forced to sign pre-written police records. Ndor was subsequently presented in front of the Court of First Instance in El Aaúin - three days after his initial arrest and still unaware of the reason for his arrest - before being transferred to the "Black prison" of El Aaúin.

Whilst considering the facts of the case, the Working Group found that Laaroussi had been arrested without a legal basis. The Group noted the lack of any criminal evidence implicating Laaroussi, besides the police records signed three days after the arrest *and* whilst being tortured. The Working Group simultaneously held that the Ndor had not been brought in front of a judge which could have reviewed the lawfulness of his arrest and detention, rendering the arrest of Ndor in violation of Article 9 of the ICCPR (Category I).

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This report is prepared by the Norwegian Support Committee for Western Sahara, Adala UK and the Saharawi Journalist organization Bentili Media. On behalf of The Norwegian Support Committee for Western Sahara, the report is signed by Erik Hagen, Director of the Norwegian Support Committee for Western Sahara, [info@vest-sahara.no](mailto:info@vest-sahara.no), and Tone Sorfonn Moe, Legal scholar, [tone@vest-sahara.no](mailto:tone@vest-sahara.no). Please do not hesitate to contact the undersigned should you have any questions relating to this report, or in need of any additional information.

<sup>1</sup> Opinion adopted by the UN Working Group on Arbitrary Detention at its 84<sup>th</sup> session (24 April until 3 May 2019, Geneva), Opinion No. 23/2019, concerning Ndor Laaroussi (Morocco), A/HRC/WGAD/2019/23. The decision rendered by the Working Group on Arbitrary detention is published and made available on the homepage of the Working Group here:

[https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session84/A\\_HRC\\_WGAD\\_2019\\_23.pdf](https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session84/A_HRC_WGAD_2019_23.pdf)

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Recent decision rendered by the United Nations Working Group on Arbitrary Detention

As found by the Working Group, Laaroussi had simply been arrested as a result of his work as a journalist, whereas the sole piece of evidence supporting his arrest was confessions, signed three days after his arrest. Upon this conclusion and on this basis, the Working Group simultaneously referred the case of Ndor Laaroussi to the UN Special Rapporteur on Torture, whilst noting that the case of Ndor served as one case out of many, forming part of a systematic practice and policy.

The Working Group further found that the detention of Ndor Laaroussi was a result of and a response to his activism in support of the right to self-determination for the Saharawi people in breach of Article 19 of the ICCPR (category II). During the procedures, the Moroccan government argued that Ndor is Moroccan and that he is not a journalist, as he does not hold an official accreditation from the Moroccan Government.

The Working Group however concluded that Ndor Laaroussi is a Saharawi *and* a journalist, holding that his profession as a Saharawi journalist is protected under international human rights law (article 19 ICCPR). In light of the arrest of Ndor and his activities as a journalist, the Working Group found it clear that Ndor Laaroussi had been arrested in response to his activities as a Saharawi journalist, breaching Category II.

The Working Group continued to highlight the violations of the right to a fair trial present in the case of Ndor, noting that the use of the confessions signed under torture constituted a breach of ICCPR Article 14 (3) (g). In addition, the Working Group found that the case illustrated a breach to the right to adequate defence, whereas Ndor had been held three days in the police station without being allowed to meet his lawyer, in addition to being prevented from consulting with his lawyer during the proceedings (Category III).

Finally, the Working Group concluded that Laaroussi had been targeted due to his connection with the movement fighting for the right to self-determination for the people of Western Sahara. The Working Group found that this was illustrated by the remarks made by the police officer arresting Laaroussi who had stated that Ndor was being arrested because he is “Polisario”. Whilst noting the systematic practice of discrimination against Saharawis, as previously documented by the Working Group, the Working Group concluded that Laaroussi had been arrested, tortured, and detained in response to his political opinions in support for the right to self-determination *and* on the basis of merely being Saharawi, constituting discrimination, breaching the equality of human rights (category V).

“The Working Group recalls that the expression of a political opinion, including advocating for the right to self-determination for the people of Western Sahara, is protected under international law by article 19 of the Covenant.

The Working Group also recalls that the journalist status of Mr. Ndor is protected under international law.

The Working Group is convinced, in the light of all the circumstances of the case, that the arrest, detention and prosecution of Mr. Ndor is the result of the enjoyment of his rights stated above and duly protected. Consequently, the Working Group concludes that Mr. Ndor is arbitrarily detained under Category II.”

United Nations Working Group on  
Arbitrary Detention, Opinion No.  
23/2019 para 78

## Practice from the UN Human Rights Mechanisms - the case of Saharawi journalists

The Working Group on Arbitrary Detention has in its jurisprudence documented the systematic persecution and political prosecution of Saharawi journalist and human rights defenders in response to their support for the right to self-determination for the people of Western Sahara.<sup>2</sup> The reason for the arrest of these Saharawi journalists is their documentation on human rights violations in the occupied territories of Western Sahara, and their attempt to break the current media blockade.

Both Opinion No. 11/2017, Opinion No. 31/2018 and Opinion No. 23/2019 relates to the imprisonment of Saharawi journalists, working to expose human rights violations committed against the Saharawi population. In Opinion No. 11/2017, concerning Salah Eddine Bassir, the Working Group highlighted that Mr. Bassir was associated with the political movement, and considered that “Mr. Bassir had been victimized for expressing his political opinion on the situation of Western Sahara, which constitutes a violation of the protection afforded under articles 18, 19 and 26 of the Covenant against discrimination based on a person’s political opinion”.<sup>3</sup> In opinion No. 31/2018, concerning Mohamed Al-Bambary, the Working Group highlighted that Mr. Al-Bambary was to be considered a journalist, and noted that it was not necessary to have a press card or to be a member of an association for journalists in order to carry out such activities, in contrast to the argument imposed by the Moroccan government. In all decisions, the Working Group found that the detention of Saharawi journalists serves as a violation of category I, II, III and V of the Methods of Work of the Working Group, constituting political prosecution and racial discrimination in breach of the equality of human rights, with the decision relating to the case of Ndor Laaroussi serving as the latest testament.

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). As Morocco invaded a territory, in 1975, in which it does not hold sovereignty (ICJ Advisory Opinion, Western Sahara, 1975), falling under the administration of a “High Contracting Party” (Spain), rendering the conflict and international armed conflict (GCIV article 2 (2)), Morocco’s presence in Western Sahara, without the consent of the people of Western Sahara, is the one of an “occupying power” falling under Article 42 of 1907 Hague Regulations and Article 2 of the Fourth Geneva Convention of 1949.

As documented by the Working Group, Saharawi journalists are arrested in response to their documentation of human rights violations in the occupied territories of Western Sahara, whereas their profession itself is criminalized under national law (as highlighted above). This entails that Saharawi journalists are operating under constant the threat of imprisonment, due the criminalization of independent reporting on the Western Sahara issue, in which the recent communication by the UN Human Rights Mechanisms concerning the case of Ms. Naziha El Khalidi further symbolizes and attests to (AL MAR 1/2019).<sup>4</sup>

<sup>2</sup> See opinions adopted by the UN Working Group on Arbitrary Detention available on the homepage of the Working Group < <https://www.ohchr.org/en/issues/detention/pages/opinionsadoptedbythewgad.aspx> > The Working Group documented the political prosecution of Saharawi human rights defenders in Opinion No. 39/1996, Opinion No. 4/1996, in Opinion No. 11/2017 concerning Salah Eddine Bassir, in Opinion No. 31/2018 concerning Mohamed Al-Bambary, in Opinion No. 60/2018 concerning Mbarek Daoudi, and lastly, in Opinion No. 23/2019, concerning Ndor Laaroussi.

<sup>3</sup> Opinion No. 11/2017, at para 47-48.

<sup>4</sup> Joint communication signed on behalf of the UN Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the Right to Freedom of Opinion and Expression and the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or

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This report is prepared by the Saharawi Journalist Organization Bentili Media and  
the Norwegian Support Committee for Western Sahara.

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or have any questions relating to this report, please contact the undersigned at [info@vest-sahara.no](mailto:info@vest-sahara.no).



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Punishment concerning the case of Saharawi journalist Ms. Naziha El Khalidi, dated 3 April 2019, made available here:  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24506>

