



**Report: The background to an urgent appeal issued by the UN
Special Procedures concerning Saharawi journalist Walid El Batal
on 7 January 2020**

a report by the Saharawi Journalist organization Equipe Media and the Norwegian
Support Committee for Western Sahara

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1 INTRODUCTION

On 8 November 2019, an **Urgent Appeal** was launched by the **United Nations Special Procedures** (AL MAR 5/2019) concerning the arrest, torture and detention of Saharawi journalist Walid El Batal.¹ The Urgent Appeal was made public 7 January 2020, 60 days after first having been transmitted to the Kingdom of Morocco.² The Urgent Appeal is signed by the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the United Nations Working Group on Arbitrary Detention.

The respective mandate holders referred to information received concerning the arrest and detention of Mr. Walid El Batal, and expressed their concerns of the arrest and detention of Mr. El Batal, and the police violence he had been subjected to at the time of his arrest and whilst held in detention. The respective mandate holders further expressed their concerns of the targeting of human rights defenders in Western Sahara; wherein Saharawi human rights defenders appears to be the target of intimidation aimed at discouraging their work in the field of human rights and to limit the exercise of their rights to freedom of association and freedom of expression. The respective mandate holders asked the Kingdom of Morocco to provide comments to the information provided, to clarify whether any investigation into the arrest and police violence had been conducted, to provide information on the legal basis for the arrest of Walid, and lastly, to indicate what measures that have been taken to ensure that human rights defenders in Morocco and Western Sahara are able to carry out their legitimate activities in safety and in an enabling environment without fear of threats, harassment, stigma or criminalization of any kind.

The Urgent Appeal published 7 January 2019 concerning the case of Walid El Batal is one out many decisions rendered by the United Nations Human Rights Mechanisms concerning the situation of Saharawi journalists. The Working Group on Arbitrary Detention has on several occasions 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.³ 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.

As previously 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. This entails that Saharawi journalists are operating under constant the threat of imprisonment, due the criminalization of independent reporting on the Western Sahara conflict, 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).⁴

* This report is prepared by the Norwegian Support Committee for Western Sahara and the Saharawi journalist organization Equipe Media. Should you have any questions relating to this report or in need of further information, please contact info@vest-sahara.no or tone@vest-sahara.no

¹ Reference AL MAR 5/2019: Joint Communication issued by the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the United Nations Working Group on Arbitrary Detention, dated 8 November 2019. Published 7 January 2020. The Join Communication is made available here: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24936>

² At the time of writing this report, the Kingdom of Morocco has not provided a response to the communication sent

³ 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.

⁴ 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 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>



The case of Walid El Batal serves as yet another testament to the systematic persecution of Saharawi journalist by the Kingdom of Morocco. Due to the criminalization on independent reporting on the Western Sahara conflict, Saharawi journalists works under alarming conditions; without any real means of protection; whilst systematically being faced with trumped up charges and subjected to arbitrary detention. The detainment of the four journalists from the 2010 so-called Gdeim Izik protest, El Bachir Khadda, Hassan Dah, Abdellah Lakhfawni and Mohammed Lamin Haddi, in addition to the continued detention of Mohamed al-Bambary and Walid El Batal serves as vicious examples of this practice; aimed at silencing the once trying to break the current culture of impunity imposed on the occupied territories of Western Sahara.⁵

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.

2 THE URGENT APPEAL BY THE UNITED NATIONS SPECIAL PROCEDURES AND THE CASE OF WALID EL BATAL

The Urgent Appeal was launched in response to the arrest of Walid El Batal on 7 June 2019 in Smara, Western Sahara. The arrest and detention of Walid relates to a wider crackdown on the Saharawi civil society, culminating in a state of fear in the occupied territories of Western Sahara.

Walid El Batal is a 25 year old Saharawi journalist associated with the Saharawi journalist organization «Smara News». Walid El Batal has been associated with Smara News as a journalist and photographer for more than 8 years. He is a former political prisoner, wherein he was sentenced to 14 months in prison in December 2017.⁶ Walid is a well-known human rights defender and journalist from Western Sahara, and his arrest and detention has led to international attention, with Front Line Defenders⁷ and the Organization Mondiale Contre la Torture⁸ currently pressing for his immediate release.



⁵ For more information, please consult the report recently published by Reporters Without Borders, «Western Sahara, A desert for journalists», available here: <https://rsf.org/en/news/rsf-report-western-sahara-news-blackhole>

⁶ For more information on Walid’s conviction and arbitrary detention, see <https://www.frontlinedefenders.org/en/case/waleed-al-batal-sentenced-prison> .

⁷ See the campaign launched by Front Line Defenders here: <https://www.frontlinedefenders.org/en/case/human-rights-defender-waleed-al-batal-physically-abused-police-custody-and-sentenced-six-years>

⁸ See the campaign launched by the Organization Mondiale Contre la Torture here: <https://www.omct.org/fr/human-rights-defenders/urgent-interventions/morocco/2019/10/d25553/>



On 7 June, Walid was intending to report from the reception held following the release of Saharawi journalist Salah Eddine Bassir from prison, in his capacity of being a journalist with Smara News.⁹ However, at around 4 pm, whilst on his way to the house of Salah, Walid was assaulted by Moroccan police and intelligence forces within the car he was driving, alongside three other people. He was assaulted in the car by being beaten with batons, and afterwards dragged out of the vehicle, and heavily beaten with sticks and batons, before he was placed in a white car with no windows.



The video of Mr. Batal being dragged out of his car and beaten by a group of police officers is posted online.

A video of his arrest was later made public.¹⁰ Once within the car, Walid was blindfolded and handcuffed, and was slapped, spitted in the face and harassed by being called condescending words and cursed at. Walid was thereafter taken to the police station in Smara, where he was subjected to severe beatings. Due to the torture, Walid was, whilst accompanied by around 20 police officers, transferred to the hospital at around 10:30 pm on 7 June. The family of Walid was allowed to visit him in the hospital. According to the family, Walid's head was swollen, he was bleeding from his face and his hand, he had scratch marks and bruises all over his body, and his clothes were torn and ripped apart. After having been examined by doctors, he was, on the same night, taken back to the police station in Smara. From 7 June until 10 June, Walid El Batal was held at the police station in Smara, during which time he was interrogated about his activism and an arrest warrant against him. During this time, he was also subjected to cruel and inhumane treatment and beatings whilst being forced to sign police records (confessions).

On June 10, 2019, Walid was presented in front of the investigating judge at the Court of First Instance in El Aaiún whom informed him that an arrest warrant had been issued against him in March 2018 in connection with a demonstration in which Walid allegedly had participated in on 27 March 2018, together with two other journalists belonging to Smara News named Mohamed Salem Mayara and Mohamed Jomaayia.¹¹ Walid was charged with the act of attempted murder, endangering traffic, assault of public officials in their performance of their duties, and possession of weapons (Articles 263, 303, 591, 267 and 300 of the Moroccan Penal Code). Walid was further charged with the act of having assaulted an officer at the time of his arrest on 7 June 2019.

Once presented in front of the investigative judge, Walid was in an alarming state, after having been held detained and subjected to police violence and torture for a total of three days (7-10 June) at the police station in Smara. Walid had clear visible marks from the torture on his body. During the proceedings, Walid informed the judge of the torture he had underwent and stated to the judge the existence of a video showing how he had been assaulted at the time of his arrest. Walid repeated the allegations in all successive proceedings. The Moroccan judges and the prosecutor never responded to

⁹ Reference is made to Opinion No. 11/2017 (A(HRC/WGAD/2017/11) of the United Nations Working Group on Arbitrary Detention, wherein the Working Group found that the arrest and detention of Saharawi journalist Salah Eddine Bassir was arbitrary, and demanded his immediate release from prison. Bassir was not released from prison as ordered by the Working Group, but was released following the end of his prison sentence, on 7 June 2019.

¹⁰ The video was filmed by an unknown citizen and was published by Smara News, and is made available here: <https://www.facebook.com/smaranews/videos/474475493096291/> Note that Walid El Batal is the first person being dragged out of the car.

¹¹ Saharawi journalist Mohamed Salem Mayara and Mohamed Jomaayia was arrested on 27 March 2018, after having published a documentary on the topic of human rights violations in Western Sahara. The two journalists were arbitrarily arrested, tortured and detained in the Black prison of El Aaiún, before they were sentenced to two years by the Court of First Instance on 5 September 2018, and later to six months imprisonment and 18 months provisional release by the Court of Appeal on 2 October 2018. Both journalists appealed the decision to the Moroccan Court of Cassation and is currently awaiting the decision from the Court of Cassation. Both journalists are currently on provisional release. The case of Mayara and Jomaayia was commented on by Freedom House, available here: <https://freedomhouse.org/report/freedom-world/2019/western-sahara>

the allegations made upon torture, and used the police records signed under torture against Walid as criminal evidence against him.

The criminal proceedings against Walid El Batal commenced on 2 October 2019, later postponed to 9 October, in front of the Court of First Instance in El Aaiún, after four months of investigations and pre-trial detention. The prosecutor's case relied solely on the police records in which had been signed by Walid El Batal during torture, in addition to two written testimonies of two police officers who claimed to having been attacked by Walid during his arrest. The two officers were not present during the hearing held on 9 October, and Walid and his lawyers was never given the opportunity to question them. During the proceedings held, Walid denied all charges against him, and asked the prosecutor and the judge to provide *one* piece of evidence corroborating the charges against him. Walid informed the judge that the reason for his arrest is his work as a Saharawi journalist, and that, as a human rights defender, it is not his culture to use violence. Walid was later found guilty in relation to all charges and condemned to 6 years in prison by the Court of First Instance in El Aaiún. The appeal against Walid commenced in front of the Court of Appeal in El Aaiún on 29th October 2019. Neither Walid himself nor his lawyer had been informed of the commencement of the proceedings in advance.¹² The appeal was postponed the same day to 5th November 2019, and later postponed until 12th November 2019. On 12 November 2019, the Court of Appeal reduced the sentence to two years in prison.

During the criminal proceedings conducted, Walid was held in the local prison in El Aaiún, Western Sahara. On 16 November, Walid was transferred, early in the morning, and without informing his family, to Bouzarkarn prison, a prison located within the Kingdom of Morocco, in violation of Article 48 and Article 76 (1) of the Fourth Geneva Convention.

The continued detention of Walid El Batal is directly linked to his arbitrary arrest and his work as a Saharawi journalist. The deprivation of liberty results from Walid's exercise of his rights to freedom of expression and association as a Saharawi journalist and human rights activist, guaranteed by articles 19 and 21 of the ICCPR. Correspondingly, Walid has been targeted and discriminated against on the basis of being Saharawi and due to his political opinions concerning the right to self-determination for the Saharawi people, which constitutes distinct violations of International Humanitarian Law, including (i) the deprivation of the protection under the Convention and the portrayal of Saharawis as Moroccans and (ii) the compelling of allegiance to the Occupying Power.

Because Walid El Batal refuses to pledge his allegiance to the Kingdom of Morocco, Walid was on 7 June 2019 assaulted, arrested, tortured and later detained, in violation of Hague Regulations Article 45, constituting grave breaches of Geneva Law pursuant to Article 147 of GCIV.

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¹² The same pattern of breach of due process was identified in the case of Mr. Mbarek Daoudi (Working Group Opinion No. 60/2018) and in the case of Saharawi journalist Ndor Laaroussi (Working Group Opinion No. 23/2019).

