



NEW YORK
CITY BAR

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Your Excellencies:

I write on behalf of the Association of the Bar of the City of New York ("the Association") to express our concern about the situation of Ms. Aminatou Haidar, Chairwoman of the Collectif des Défenseurs Sahraouis des Droits de l'Homme – CODESA (Collective of Sahrawi Human Rights Defenders) and a prominent human rights defender in Western Sahara. The Association is concerned about her safety and about the legality of her expulsion to Lanzarote (Spain). Given the serious nature of this matter, the Association respectfully urges you to take all necessary measures to ensure that Ms. Haidar can promptly return to Laayoune (Western Sahara) and rejoin her family.

The Association is an independent non-governmental organization with more than 23,000 members in over 50 countries. Founded in 1870, the Association has a long history of dedication to human rights, notably through its Committee on International Human Rights, which investigates and reports on human rights conditions around the world. The Association also follows legal and policy developments in Africa through its Committee on African Affairs. Similarly, the Association's United Nations Committee follows key international developments throughout the world. All three of these Committees have identified Ms. Haidar's situation as an urgent matter.

Since the eruption of the Western Sahara conflict in 1975, when Morocco first asserted its sovereignty over the territory, there have been consistent reports of human rights violations by Morocco against the Saharawi people of Western Sahara. In 2006, the office of the United Nations High Commissioner for Human Rights identified the human rights situation in the region as a "serious concern" and called for the creation of a mechanism for ensuring adequate and continuous monitoring in both occupied territories and in refugee camps in Tindouf, Algeria. While the Association is not taking a

position on the issue of Western Sahara's sovereignty, the Association does feel strongly that human rights in the region be respected.

Ms. Haidar is a prominent human rights defender in Western Sahara. She was awarded the 2006 Juan Maria Bandres Human Rights Award (Spain), the 2007 Silver Rose Award (Austria), the 2008 Robert F. Kennedy Human Rights Award, and the aforementioned 2009 Civil Courage Prize. She was also nominated for the European Parliament Sakharov Prize in 2005, for the Amnesty International USA's Ginetta Sagan Fund Award, and for the 2008 Nobel Peace Prize. The Association is concerned that Ms. Haidar was detained, expelled, and denied return to Western Sahara for her human rights work in Western Sahara.

According to news reports, Ms. Haidar was arrested on November 13, 2009 by Moroccan authorities upon her arrival at the airport of Laayoune (Western Sahara) together with two Spanish journalists, Mr. Pedro Barbadillo and Mr. Pedro Guillén. The company was travelling through Las Palmas from the United States, where Ms. Haidar recently was awarded the Civil Courage Prize by the Train Foundation for her peaceful advocacy for human rights of the Sahrawi people. It was further reported that, while the two Spanish journalists were released after several hours, Ms. Haidar was expelled from the country to Lanzarote (Spain) after her passport was confiscated by the Moroccan authorities. According to reports, Ms. Haidar declared Western Sahara and not Morocco as her country on the immigration entry form she completed prior to disembarkation at the airport in Laayoune, which she had done in the past, and the Moroccan authorities deemed it a renunciation of her Moroccan citizenship. Ms. Haidar started a hunger strike at the airport of Lanzarote after Spanish authorities refused to allow her return to Laayoune because she was unable to produce her passport. It is further reported that Spanish authorities forcefully intervened to end her hunger strike because of serious concerns about her health.

The Association is concerned that the forced expulsion of Ms. Haidar by the Moroccan authorities was illegal. According to Article 12 (4) of the International Covenant on Civil and Political Rights ("ICCPR"), which Morocco ratified on May 3, 1979, no one shall be arbitrarily deprived of the right to enter his own country. The confiscation of Ms. Haidar's passport constitutes a clear and severe restriction on her ability to leave Spain and to return to her country of citizenship, and consequently amounts to a breach of Morocco's international law obligations.

With regard to Spain, we are concerned that the denial by the Spanish authorities of Ms. Haidar's return to Western Sahara is illegal. Article 12 (2) of the ICCPR, which Spain ratified on April 27, 1977, stipulates that everyone shall be free to leave any country. Spain's obstruction to let Ms. Haidar leave Lanzarote therefore constitutes a breach of this provision. In addition, Spain seems to have violated its own Spanish law on Foreigners (*Ley Orgánica 4/2000* of January 11, 2000, also known as *Ley de Extranjería de España* ("Law")). According to Article 25 (1) of the Law, foreigners need a valid passport or travel document to be able to enter the country. At the time Ms. Haidar arrived at Lanzarote, her passport had already been confiscated and thus she was no longer in possession of a valid travel document. Nevertheless, as news reports state, Spain let her enter its territory because Ms. Haidar has a resident's permit to obtain medical treatment there. If this document was sufficient for the Spanish authorities to allow Ms. Haidar to enter Spanish territory, it can be argued that this document should equally be sufficient to leave the territory in order for her to return to Western Sahara. In addition, Article 28 (2) of the Law states that only in exceptional circumstances of national security or public health can the Minister of Interior Affairs prohibit the departure of a foreigner out of Spanish territory. To the Association's knowledge, no official reason has been given to prohibit Ms. Haidar's departure out of Spain, therefore making the prohibition of Ms. Haidar's departure from Spain illegal.

We believe that Ms. Haidar's expulsion and denial to return to Western Sahara violates international and national law. Accordingly, we respectfully request that Your Excellencies take all necessary measures to ensure the immediate return of Ms. Haidar to Laayoune.

Respectfully submitted,



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cc:

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