



**LAWYERS FOR  
LAWYERS**

**INTERNATIONAL BAR ASSOCIATION'S  
HUMAN RIGHTS INSTITUTE & LAWYERS FOR  
LAWYERS**

**NEWS RELEASE**

13 November 2023

**IBAHRI and L4L concerned over arbitrary  
lawyer license deprivation of Sahrawi human  
rights defender, M'hmed Hali**

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The [International Bar Association's Human Rights Institute](#) (IBAHRI) and [Lawyers for Lawyers \(L4L\)](#) are concerned over the situation of Saharawi human rights defender M'hmed Hali who has been arbitrary deprived of his right to practice as a lawyer in the Moroccan judicial system due to opinions expressed in support of the right to self-determination for the people of Western Sahara.

Mr. Hali is a member of the human rights monitoring organisation, Sahrawi Association of Victims of Grave Human Rights Violations committed by the Moroccan State (ASVDH), which, since its creation in 2005, has denounced serious human rights violations in the region, appearing before the United Nations and the European Parliament.

Mr. Hali applied for membership in October 2019, in accordance with Moroccan law No. 28.08 which governs admissibility to the bar. However, on February 13, 2020, the Agadir Bar rejected his application on the grounds of an investigation conducted in terms of Article 11 of Moroccan law No. 28.08, which examines the ethical conduct of an applicant. The investigation found that *"he is not a person fit to practice because he is a member organization (ASVDH) that deny Moroccan sovereignty over Western Sahara"* and that *"the concerned candidate is well known for his separatist and anti-territorial integrity attitudes."*

Under Moroccan Law No. 28.08., Mr. Hali would have fulfilled the legal conditions, including having passed the aptitude test for access to the Agadir bar, have no criminal record and holding a Moroccan nationality in accordance with Article 5 of Law No. 28.08. The basis of the refusal was the outcome of an investigation under Article 11 of Law No. 28.08, which refers to the ethical conduct of an applicant.

Pursuant to Article 11, the Bar Association may conduct research on the morals of a candidate and ensure that the candidate have not been subject to a judicial or disciplinary conviction affecting honor and moral. However, pursuant to Article 11, the Bar Association have the competence to investigate, but they may not reject the application if the candidate meets the criteria of Article 5.

The former Special Rapporteur on the Independence of Judges and Lawyers, Diego Garcia, and the Special Rapporteur on Freedom of Expression and Association, Irene Khan, have previously expressed concern to the Government of Morocco over Mr. Hali's arbitrary deprivation, concluding that 'if confirmed, the events described above would violate international and regional standards on the free and independent exercise of the profession of lawyer' (AL Mar 3/2022, 4 October 2022).

**IBAHRI Co-chair and Immediate Past Secretary General of the Swedish Bar Association, Anne Ramberg Dr Jur hc**, commented: *'Article 23 of the UN Basic Principles on the role of the lawyers holds that lawyers, like other citizens, have the right to freedom of expression, conviction, association, and assembly. To bar a lawyer from practicing due to political opinions expressed would severely undermine the rule of law, constrain the space for legal discourse, and hinder the role lawyers play in dispensing their professional duty.'*

With this decision, Mr. Hali is deprived of the right of access to practicing law for subjective political considerations, and thus treated discriminatory. This is in disregard of the UN Principles on the role of lawyers, in particular Principle 10, which states that *'Governments, professional associations of lawyers and educational institutions shall ensure that there is no discrimination against a person with respect to entry into or continued practice within the legal profession on the grounds of race, colour, sex, ethnic origin, religion, **political or other opinion**, national or social origin, property, birth, economic or other status, except that a requirement, that a lawyer must be a national of the country concerned, shall not be considered discriminatory.'*

**Irma van den Berg, Director of Lawyers for Lawyers** mentions: *non-discrimination with entry in the legal profession is highly important to create representativeness in the practice of law before courts to not only strengthen the public's trust in the system, but also to create cultural and social diversity within its membership. Non admittance to the bar for political opinions expressed, such as in the case of Mr. Hali, is considered discriminatory on the basis of principle 11.*

Article 11 of the Basic Principles goes on to state that *'In countries where there exist groups, communities or regions whose needs for legal services are not met, particularly where such groups have distinct cultures, traditions or languages or have been the victims of past discrimination, Governments, professional associations of lawyers and educational institutions should take*

*special measures to provide opportunities for candidates from these groups to enter the legal profession and should ensure that they receive training appropriate to the needs of their groups.'*

In its documentation, the UN Human Rights Mechanisms have established a systematic pattern of the persecution of Saharawis in Western Sahara. The UN Working Group on Arbitrary Detention concludes that this systematic persecution of Saharawis constitutes racial discrimination, breaching the equality of human rights. The aim and background for the systematic persecution is to silence the advocacy in favour of the right to self-determination for the people of Western Sahara.

**IBAHRI Co-Chair Mark Stephens CBE**, stated: *'Considering the need for sufficient legal representation for, and from, the Sahrawi community, and continued documentation of systematic human rights abuses and racial discrimination of Saharawi's by UN mechanisms in Western Sahara, Article 11 of the guiding principles is extremely relevant and calls on the State to take positive measures for candidates that come from marginalised communities, such as Mr. Hali, as opposed to restricting their participation in the profession.'*

Only the full validity of these Principles, which make it possible to guarantee that the lawyers can exercise their professional functions without hindrance, realizes the rule of law and, therefore, a democratic state. The IBAHRI and L4L therefore call on the authorities to fully respect all procedural rights of Mr. Hali and that the necessary measures be taken so that Mr. Hali's request be reconsidered.

**ENDS**

**For further information/interview requests, please send an email to: [IBAHRI@int-bar.org](mailto:IBAHRI@int-bar.org)**

#### **Notes to the Editor**

1. The [International Bar Association's Human Rights Institute](#) (IBAHRI), established in 1995 under Founding Honorary President Nelson Mandela, is an autonomous and financially independent entity, working to promote, protect and enforce human rights under a just rule of law, and to preserve the independence of the judiciary and the legal profession worldwide.
2. Find the IBAHRI (@IBAHRI) on social media here:
  - [twitter.com/IBAHRI](https://twitter.com/IBAHRI)
  - [www.facebook.com/IBAhumanrights](https://www.facebook.com/IBAhumanrights)
  - [www.linkedin.com/in/iba-human-rights-institute/](https://www.linkedin.com/in/iba-human-rights-institute/)
3. The [International Bar Association](#) (IBA), *the global voice of the legal profession*, is the foremost organisation for international legal practitioners, bar associations and law societies. Established in 1947, shortly after the creation of the [United Nations](#), it was born out of the conviction that an organisation made up of the world's bar associations could contribute to global stability and peace through the administration of justice.

The IBA acts as a connector, enabler, and influencer, for the administration of justice, fair practice, and accountability worldwide. The IBA has collaborated on a broad range of ground-breaking, international projects with the [United Nations](#), the [European Parliament](#), the [Council of Europe](#), [The Commonwealth](#), the [Organisation for Economic Co-operation and Development](#) (OECD), the [World Trade Organization](#), the [International Monetary Fund](#) and the [World Bank](#), among others.

4. Find the IBA (@IBAnews) on social media here:

- [twitter.com/IBAnews](https://twitter.com/IBAnews)
- [twitter.com/IBAevents](https://twitter.com/IBAevents)
- [www.facebook.com/internationalbarassociation](https://www.facebook.com/internationalbarassociation)
- [www.linkedin.com/company/international-bar-association](https://www.linkedin.com/company/international-bar-association)

5. [Lawyers for Lawyers \(L4L\)](#) is an independent, non-political and not-for-profit lawyers' organization established in 1986. Our mission is to promote the independent functioning of lawyers and the legal profession across the world in accordance with internationally recognized norms and standards. Our work to support lawyers who are at risk as a result of discharging their professional duties, seeks to protect them from threats, risks and reprisals, strengthens their international recognition and protection in laws, policies and practices, and empower them to fulfil their role as essential agents of the administration of Justice. Lawyers for Lawyers was granted special consultative status with the UN Economic and Social Council in July 2013.

6. Find L4L (@L4L\_INT) here:

- [https://twitter.com/L4L\\_INT](https://twitter.com/L4L_INT)
- <https://www.facebook.com/lawyersforlawyersNL>
- <https://www.linkedin.com/company/lawyers-for-lawyers-l4l/>

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Recent case law Western Sahara:

### **The UN Working Group on Arbitrary Detention**

- ▶ Opinion no. 11/2017 concerning Salah Eddin Bassir. URL: <https://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WGAD/2017/11&Lang=E>
- ▶ Opinion No. 31/2018 concerning Mohamed Al-Bambary. URL: <https://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WGAD/2018/31&Lang=E>
- ▶ Opinion No. 58/2018 concerning Ahmed Aliouat. URL: <https://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WGAD/2018/58&Lang=E>
- ▶ Opinion No. 60/2018 concerning Mbarek Daoudi. URL: <https://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WGAD/2018/60&Lang=E>
- ▶ Opinion No. 23/2019 concerning Laaroussi Ndour. URL: <https://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WGAD/2019/23&Lang=E>
- ▶ Opinion No. 67/2019 concerning the Student Group. URL: <https://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WGAD/2019/67&Lang=E>
- ▶ Opinion No. 52/2020 concerning Ali Saadouni. URL: <https://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WGAD/2020/52&Lang=E>

- ▶ Opinion No. 68/2020 concerning Walid Salek El Batal. URL: <https://daccess-ods.un.org/tmp/9849299.19242859.html>
- ▶ Opinion No. 46/2021 concerning Yahya Mohamed Elhafed Iaazza. URL: - <https://www.ohchr.org/sites/default/files/2022-03/A-HRC-WGAD-2021-46-Maroc-AEV.pdf>
- ▶ Opinion No. 50/ 2022 concerning Sultana Khaya and Luara Khaya. URL: <https://www.ohchr.org/sites/default/files/documents/issues/detention-wg/opinions/session94/hrc-wgad-2022-50-maroc-aev.pdf>

## **The UN Special Procedures**

- ▶ Communication AL Mar 3 / 2022 of 4 October 2022 (Mhamed Hali). URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27599>
- ▶ Communication AI Mar 5/ 2020 of 7 January 2021 (8 victims). URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25731>
- ▶ Communication UA Mar 5/2021 of 10 June 2021 (14 victims). URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26478>
- ▶ Communication AL MAR 4/2021 of 16 June 2021 (2 victims). URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26415>
- ▶ Communication AI Mar 2/2020, dated 7 September 2020, Hussein Bachir Brahim. URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25422>
- ▶ Communication AI Mar 3/2020, dated 21 July 2020 concerning Khatri Dadda. URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25448>
- ▶ Communication AL MAR 3/2019 dated 8 November 2019 concerning Walid Salek El Batal. URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24936>
- ▶ Communication AL MAR 2/2019 dated 4 June 2019 concerning Naziha El Khalidi. URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24651>
- ▶ Communication AL MAR 1/2019 dated 3 April 2019 concerning Naziha El Khalidi. URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24506>
- ▶ Communication AL MAR 3/2017 dated 20 July 2017 concerning the Gdeim Izik Group. URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23226>

## **UN Torture Committee**

- ▶ CAT/C/72/650/2015, UN CAT decision Omar N'Dour, URL: <https://trialinternational.org/wp-content/uploads/2016/02/Omar-Ndour-v.-Morocco.pdf>
- ▶ CAT/C/72/D/923/2019, UN CAT Decision Mohammed Bouryal. URL: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2f72%2fD%2f923%2f2019&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2f72%2fD%2f923%2f2019&Lang=en)
- ▶ CAT/C/72/D/871/2018, UN CAT decision Sidi Abdallah Abahah. URL: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2f72%2fD%2f871%2f2018&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2f72%2fD%2f871%2f2018&Lang=en)
- ▶ CAT/C/59/D/606/2014, UN CAT decision Naama Asfari. URL: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2f59%2fD%2f606%2f2014&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2f59%2fD%2f606%2f2014&Lang=en)
- ▶ CAT/C/74/D/891/2018, UN CAT decision Abdeljalil Laaroussi. URL: <https://digitallibrary.un.org/record/4002629>

### Country reports

- ▶ CAT/C/MAR/CO/4, Committee against Torture, Consideration of reports submitted by States parties under Article 19 of the Convention, concluding observations of the Committee against torture (2011). URL: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fMAR%2fCO%2f4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fMAR%2fCO%2f4&Lang=en)
- ▶ A/HRC/22/53/Add 2, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez. Mission to Morocco (2013). URL: <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F22%2F53%2FAdd.2&Language=E&DeviceType=Desktop&LangRequested=False>
- ▶ A/HRC/27/48/Add5, Report of the Working Group on Arbitrary Detention. Mission to Morocco (2013). URL: <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F27%2F48%2FAdd.5&Language=E&DeviceType=Desktop&LangRequested=False>