

Trial Observation Report

From the proceedings against "the 24 from the Salé
Prison/Gdeim Izik" on February 1, 2013

The Permanent Military Court of Rabat, Morocco



Executive Summary

Western Sahara and Morocco share a complicated past. The Sahrawi people have long advocated for the right to self-determination and independence from their occupier, Morocco. In 1991 a ceasefire was agreed, on the condition that a referendum regarding the independence of Western Sahara was to take place. This has not yet happened. The Sahrawi people have therefore, since 1991, fought by peaceful means to gain independence. The past years have seen a growing number of reports on increased violence against Sahrawi activists advocating for independence and human rights. The reports also convey unsettling information on unfair trials as well as long pre-trial detentions.

The Swedish Section of the International Commission of Jurists (hereinafter the "ICJ-S") has with growing concern noted the development. Over the past years ICJ-S has continuously worked to promote the rule of law in Western Sahara and all of Morocco, especially by focusing on the right to a fair trial for human rights defenders of Sahrawi ethnicity. The ICJ-S has on several occasions sent trial observers to the occupied territories of Western Sahara as well as to Morocco.

This particular trial was selected for trial observation to endeavor the protection of the rights of the accused and to advance the cause of the right to a fair trial in the territory selected. The trial, the alleged crimes and their correlation to the Sahrawis' demand for self-determination was considered to carry a representative nature. The high-profiled nature of the case as well as anticipated irregularities in the court proceedings was also taken into consideration in the selection process.

The ICJ-S commissioned two trial observers, lawyers by profession and members of the ICJ-S: Ms. Lisa Staxäng and Ms. Natasa Mirošević (hereinafter the "Observers"), to observe the abovementioned trial conducted at the Military Court in Rabat, Morocco. The trial was scheduled to start at 9 a.m. on February 1, 2013. An *Ordre de Mission* for each observer was issued by the ICJ-S, stating the purpose of the mission.

Previous to the observation, the following information was available:

- ICJ-S was notified about the approaching trial against the 24 on December 31, 2012 by the Spanish *Asociación Internacional de Juristas por el Sáhara Occidental* (International Association of Jurists for Western Sahara, hereinafter "IAJUWS").
- The defendants had been arrested on various locations, mostly around El Aaiún in Western Sahara in early November 2010, following the dismantling of the protest camp Gdeim Izik outside of El Aaiún in Western Sahara. Most defendants had subsequently been detained in the Salé Prison in Rabat.
- The trial was to be held at the Military Tribunal in Rabat. The procedural rules that were to be followed were therefore particular to military proceedings even though the charges were set out according to the Moroccan Penal Code.
- The charges against the defendants included: acts of brutality and/or obscenity on a corps; membership in a criminal group; attempt to murder, alternatively participation in murder, alternatively participation in brawl that resulted in death, and obstructing the passage of vehicles on a highway or public road in order to cause an accident or interfere with or obstruct traffic.
- The defendants claimed to have been exposed to torture throughout their detention period.

On February 1, 2013 the Observers were present at the Military Tribunal in Rabat. During the hearing the Tribunal adjourned the proceedings until February 8, 2013. On February 8 the trial continued and carried on until February 16, when the court issued their judgment. This report is based on the observations made by the Observers on February 1. Unfortunately the

Observers were not able to observe the subsequent days of proceedings. The outcome and recommendations in Section 12 are therefore primarily based on observations made on February 1. The Observers have, however, remained in close contact with other international observers as well as the families of the defendants, enabling the Observers to also briefly report on the rest of the proceedings and the outcome of the trial, as laid out in Section 11 below.

The Observers note with concern that the judicial guarantees as set out in international treaties signed by Morocco were not honored during the observed hearing. Par example, the Observers found that:

- i. The *right to an independent and impartial trial* was not honored. The judgment was based on police reports and (alleged) statements of confession. The court did not seem to operate and value evidence independently and impartially from the prosecution and the police.
- ii. The *right to the equality of arms* was not honored. The defense had only been able to review a summary of the police report. No witnesses from the prosecution were presented during the trial. The defense had therefore very little possibility both to question the evidence presented by the prosecution and to prepare its own defense.
- iii. The likelihood of a breach of the *right not to be compelled to confess guilt and exclusion of evidence elicited by illegal means, including torture or ill-treatment*, to have been breached was disconcertingly high. The defendants claimed to have been subjected to torture and to have been forced to sign statements of confession. None of these allegations were taken into consideration by the court – quite the opposite; as the judges directly based its decision on them.

The aim and scope of this Trial Observation Report is to report on the case against the 24 before the Military Tribunal in Rabat and the prosecution of the Moroccan judiciary. The report briefly contextualizes the human rights issues and their background, but does not analyse these in depth. This report expresses the views of the Observers in their capacity as independent trial observers. For more information on the historical and legal background of Western Sahara, please see the report of ICJ-S: "Trial Observations in Western Sahara – Reports and Legal Analysis", published in January 2012.

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*Report finalized in Stockholm, Sweden
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General Political and Human Rights Background

The formal decolonization process of Western Sahara, former Spanish Sahara, was initiated in the early 1960's after the United Nations Special Committee on Decolonization declared Western Sahara "a non-self-governing territory". In October 1975 the International Court of Justice stated in an advisory opinion that no legal ties of territorial sovereignty existed between the territory of Western Sahara and the Kingdom of Morocco or Mauritania.¹ In November 1975, Morocco annexed the northern two-thirds of Western Sahara and four years later, after the withdrawal of Mauritania, the whole territory. The United Nations has since adopted several resolutions addressing Western Sahara's right to self-determination. Western Sahara is also included in the UN's list of non-self-governing territories. In a letter from Mr. Hans Corell, Under Secretary-General for Legal Affairs, to the President of the Security Council, Mr. Corell points out that the territory of Western Sahara is a non-self-governing territory, since no transfer of the sovereignty has been made by Spain, the former colonial power.² In spite of the aforementioned facts, Morocco still claims sovereignty over the territory and administers it as if it was part of its own national territory.

The Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro (hereinafter "Polisario") is the primary group advocating for Western Sahara's independence. In 1988 a settlement proposal was accepted between Morocco and Polisario. The proposal led to a cease fire between the parties. The settlement plan, as approved by the Security Council, provided for a transitional period for the preparation of a referendum in which the people of Western Sahara would choose between independence and integration with Morocco. In accordance with the settlement proposal the United Nations Mission for the Referendum in Western Sahara (hereinafter "MINURSO") was established with a mandate exclusively related to the referendum.³ The mandate of the MINURSO is prolonged on a yearly basis. However, the claim for an extended mandate that would also cover monitoring of human rights is continuously declined, most recently in April 2013. Until today MINURSO remains the only UN peacekeeping mission without a mandate to monitor human rights abuses.

Restrictions of fundamental rights and violations of human rights are matters of continuous and serious concern in the territory of Western Sahara. Human rights organizations such as Amnesty International and Human Rights Watch have for several years expressed concerns related to the human rights situation.⁴ The ongoing violations include repression of the right to speak, assemble and associate in the context of the right to self-determination for Western Sahara and regarding human rights issues. Repression is carried out by means of arbitrary arrests, unfair trials, restrictions on the rights to movement, association and assembly and also through excessive police violence that goes without investigation or punishment. Sahrawi activists that advocate the claim for self-determination are oppressed by Moroccan authorities by rather frequent use of penalizing of what is considered to be an "affront against the territorial integrity of Morocco".⁵

¹ International Court of Justice, Advisory Opinion of 16 October 1975 concerning Western Sahara.

² Letter dated 29 January 2002 from the Under-Secretary-General for Legal Affairs, the Legal Counsel, addressed to the President of the Security Council, S/2002/161.

³ Security Council resolution 690 of 29 April 1991.

⁴ Letter dated 29 January 2002 from the Under-Secretary-General for Legal Affairs, the Legal Counsel, addressed to the President of the Security Council, S/2002/161.

⁵ Human Rights Watch, Human Right in Western Sahara and in the Tindouf Camps, 2008, p.2.

Part I: Report on the Substance of the Trial Observation

1. Background

1.1 Background of Gdeim Izik

The protest of Gdeim Izik started on the night of October 9, 2010, when a group of Sahrawis began to form a protest camp approximately 12 km south-east of the city El Aaiún, the administrative capital of Western Sahara. The camp consisted of *khaïmas*, which are traditional, Sahrawi tents. The number of protesters increased rapidly as Sahrawis from both Western Sahara and Morocco joined the protest. In the first weeks a few hundred *khaïmas* were mounted, increasing to several thousand. By the first week of November, the Gdeim Izik protest camp's population was estimated at around 5,000.⁶

The primary objective of the camp was to protest against "*ongoing discrimination, poverty and human rights abuses against local citizens*" but later some of the protesters also demanded independence for Western Sahara.⁷

On October 24, a vehicle that tried to enter the camp was fired upon by Moroccan armed forces. As a result, 14-year-old boy, Nayem Elgarhi, died and other passengers were injured.⁸ According to the Moroccan Interior ministry, a bullet was fired from the vehicle and this forced the security forces to reciprocate, with a final toll of one dead and three injured.⁹ According to the Polisario movement, there were no weapons in the vehicle; instead the youths were bringing food, water and medicines to the protest camp.

On the early morning of November 8, the protest camp was dismantled by Moroccan police forces. According to the Moroccan Interior Ministry, the security forces had been ordered not to use firearms; instead the civilians on the camp were deployed "as human shields".¹⁰ A woman present at the camp describes the events: "At about 6am," she said, "a helicopter flew over the camp and the loudhailer said we had to leave. The police moved in immediately, using teargas and water. They started knocking down the tents and hitting people with their sticks." Her son, she said, was handcuffed and arrested. "I have had no news of him since." Confronting the security forces was a group of young protesters that used stones, knives and gas cylinders.

The riots later expanded to El Aaiún and other towns like Smara and El Marsa. In El Aaiún, protesters took to the streets in the following morning. There were no communications with the protest camp and no information about relatives and friends in the camp was available. The protesters, some waving the Western Sahrawian flag, were joined by residents from the camp that were reaching the city. Together they attacked government buildings, banks, cars and shops, and clashed with the police forces. In the afternoon, with the return of the forces deployed in Gdeim Izik, pro-Moroccan protesters demonstrated in the city.

Accurate figures related to the number of deaths, wounded, arrested and missing are not easily determined, as they differ greatly depending on the source. According to Moroccan authorities, the dismantlement of the Gdeim Izik camp and the posterior protests resulted in eleven to twelve deaths and 159 wounded from the security forces, in addition to two civilian deaths among protesters. According to the Polisario Front, 36 Sahrawis were killed, 723 wounded, and 163 were arrested.¹¹ According to other sources, like Amnesty International, more than 200 Sahrawis were arrested.¹²

⁶ <http://www.jeuneafrique.com/Article/ARTJAJA2600p042-045.xml1/proces-expulsion-jeune-afrique-journalistequand-des-militants-sahraouis-montent-le-proces-de-notre-reporter.html>

⁷ <http://www.afrol.com/articles/36808>

⁸ <http://allafrica.com/stories/201010290106.html>

⁹ <http://www.rnw.nl/africa/bulletin/youth-killed-several-wounded-w-sahara>

¹⁰ <http://www.theguardian.com/world/2010/nov/16/moroccan-raid-sahara-refugee-camp>

¹¹ <http://www.reuters.com/article/2010/11/15/sahara-un-idAFN1513669920101115?pageNumber=1&virtualBrandChannel=0>

¹² <http://www.amnesty.org/en/news/morocco-convicted-sahrawis-must-receive-fair-trial-2013-02-18>

Following the dismantlement on November 25, the European Parliament issued a resolution¹³ about the events, expressing great concern about the events and the deteriorating security in the region. On November 27, the UN also condemned the use of violence in the dismantlement of the camp.

1.2 The arrests

The majority of the arrests took place during November 2010. For some of the defendants, the interrogations did not start until a year later. The specific dates of the arrests for the different defendants are found below under 2 Information about the defendants.

1.3 Detention period and cancelled trials

As described above, all 24 accused were not all arrested on a single day, but over a longer period of time. They were therefore also transported between different prisons and detention centers individually as well as in groups, before most of them were sent to the Salé prison in Rabat. Most of the prisoners were kept in the prison's Section 2, where the isolation cells are located, during the first four months. After the initial four to five months in detention, most prisoners were moved from Section 2 to Section 1, where the premises were better suited for receiving visitors.

The trial was first scheduled for 13 January 2012. The day before, the defense lawyers received a telephone call from the trial court informing them that the trial was postponed "indefinitely". The postponement did not take place in a public hearing, wherefore none of the accused, nor were their lawyers present.

The second trial date was announced in August 2012, just days before a visit from Mr. Juan Mendez, UN Special Rapporteur on Torture to Morocco and Western Sahara. The date set was October 24, 2012. This trial was also cancelled. According to the defense lawyers, the cancellation was due to the late arrest of El Bakay Laarabi. He was arrested on September 9, 2012. The Tribunal indicated it did not have time to examine the dossier because of this new arrest.

On both occasions when the trial was cancelled, the families did not receive any information. After the second trial had been cancelled, the families asked for and were granted a meeting with the national committee for human rights. An information exchange about the situation of the prisoners was then agreed upon. After this meeting the situation for the prisoners and the families slightly improved.

1.4 Conditions in the prison

In the very beginning of the detention period the prisoners lacked clothes, shoes and blankets. Most prisoners were kept in isolation cells during the first four months. During this time they wore t-shirts and shorts. Before meeting with the families, the prisoners were given additional clothing, but they were still in a very poor condition. Over the months, the situation slightly improved. At the time of the trial, the prisoners had been given more and better clothing.

After the initial four-month period of isolation, most prisoners were moved to small cells where they stayed two by two. There was one room that houses ten people. The 24 were not necessarily kept together but lived with other prisoners. By the time of the trial, five prisoners were still in isolation cells.

In the beginning the prisoners got very little food. The food that they got was for example uncooked lentils, frequently mixed with pebbles and stones. During the first months, the

¹³<http://www.europarl.europa.eu/document/activities/cont/201011/20101129ATT02511/20101129ATT02511EN.pdf>.

prisoners did not tell their families about the lack of proper food. In February-March of 2011 the families were informed. They were then able to complain to the prison about the food. In order to improve the conditions in the prison, the prisoners started a hunger strike during the spring and summer of 2011 that lasted 20 days. After this the prisoners hunger-striking one day a week, every Wednesday, for approximately two months. In the fall of 2011, they decided to go on a hunger strike for 28 days, between October 31st – December 7th, 2011.

Several of the persons interviewed mention the international pressure as one reason to why the situation for the prisoners has improved over the 27 months of imprisonment – both in terms of general conditions and in terms of decreased levels of torture.

1.5 Allegations of torture

The Observers have received substantive and detailed information on the account that the prisoners have been subjected to torture from interviewing the prisoners' families and the coordinator of the families.¹⁴ During the trial, several of the prisoners showed trial observers scars and wounds from torture. The Observers deem the information received from various independent sources to be both detailed and coherent. It is therefore the Observers' conclusion that the allegations regarding torture are trustworthy.

The families told the Observers that the torture that the different prisoners had been subjected to during the first months had been very similar. In this section, the most reoccurring treatment and methods of torture will be accounted for. The sections below outline more detailed information on each individual prisoner and specific information on whether that prisoner have been subjected to methods of torture that were not common to all prisoners.

In the beginning of the detention period, when families met with the prisoners, several of the prisoners had been tortured so badly that they could not determine their location or means of getting there. In some cases the prisoners were unable to walk on their own or communicate with their family members.

A common method that was used for weeks in a row was to hang the prisoners in the ceiling of the prison cells and to cover the floor with 10 cm of water. During the night, the prisoners were bound and taken down to lie down in the water. Other methods included derogatory shouting, beatings with or without iron pipes, binding of the legs, removal of toe nails, cigarette burns, force-feeding urine, and rape both with or without weapons such as iron pipes. For about a month during the first year, the prisoners were forced to get up at 5 am every morning in order to walk around on their knees in the prison yard for an hour. Isolation was primarily used as a method in order to extract information on which individuals that were responsible for the Gdeim Izik camp. The prisoners were also subjected to torture during interrogation.

It is the impression of the Observers that the torture was more frequent and violent in the beginning of the detention period and that it gradually decreased in intensity and prevalence. By the time of the trial, in February 2013, the torture was less physical and more psychological. The guards frequently entered the cells without notice, talked to the prisoners in derogatory ways and searched them and their belongings without notice. The prisoners received no information or news whatsoever.

¹⁴ The Observers received information on allegations of torture from multiple independent sources, most notably the defence lawyers, the co-ordinator for the families, all family members that the trial observers met with.

The families filed complaints about torture with the Military Court as well as the prosecutor several times, beginning as early as January 2011, but have received no answers.¹⁵ The families also tried to visit the Ministry of Justice, which refused to meet with the families of the 24. The Minister did agree to meet with families of Islamic prisoners.

1.6 Conditions of the families

In January of 2011 the families of the prisoners moved to Salé, a suburb to Rabat. The families tried to, but were not able to, meet with authorities responsible for the prison to protest against the treatment of the prisoners. After four to five months the families contacted the Moroccan Committee for Human Rights. The Moroccan authorities then agreed to meet with human rights organizations. The organizations asked what evidence the authorities had to support keeping the defendants in detention and handed over information. A member of the Moroccan Parliament attended the meeting. One explanation given to why the prisoners were denied some of their rights was that the accusations contained charges for murder.

Two families were able to first meet “their” prisoners on December 19, 2010. The remaining families were not able to meet with their prisoners till late December 2010. During the first four months, when the prisoners were kept in isolation cells, the families were only allowed to meet with the prisoners on Wednesdays, for five minutes at the time, once a week. The prisoner was always kept behind bars during the visit and there was always a guard present. The families protested on a daily basis against this. After this period and when the prisoners had been moved to Section 1 of the Salé-prison, the families were allowed to meet with them twice a week for 30 minutes at the time, always with a guard present. Since December 2012, the families were able to meet with the prisoners for one hour a day, five times a week, still always with a guard present.

Before meeting with the prisoners, the family members always needed to identify themselves.¹⁶ They were always questioned and searched for any items that are not allowed to be brought in. The authorities noted everything that was brought to the prison. All visits took place in a visitor’s room, which is a large hall where prisoners meet with their families.

During the first months the families were not allowed to bring anything to the prisoners, no food, clothing, blankets or books such as the Quran. Over time, this improved. In May 2012, family members were allowed to bring fresh food, but no tinned food. They were eventually allowed to bring newspapers, which were censored. In 2013 the families were able to bring both food and clothing. They were not allowed to bring in mobile phones, paper, or perfume.

The families view the long detention period and the fact that the trial has been cancelled multiple times to have little to do with security policy; instead it is their view that the Moroccan authorities seek revenge for Gdeim Izik. Before the trial the hope amongst the families was very low and the prevailing sentiment was that the trial will never be fair.

2. Information about the Defendants

The number of defendants that have formed part of “the 24” has changed over time. According to information available to the Observers, 24 people are currently considered part of the group. However, only 22 were present at the tribunal on February 1. The Observers were informed that the reason was that the two missing were too weak or ill, but have been

¹⁵ A complaint is filed at the Military Tribunal. There is no form or template that may be used, instead the complainant writes the complaint (in Arabic). The complaint is stamped to confirm receipt and filed at the Military Tribunal.

¹⁶ According to Fatma Lamohaimad, the mother of Lanoussi Abdeljalil, this is to ascertain that they are not Human Rights activists. If it turns out that they are, they are not allowed to visit.

unable to confirm this information. *The following information has primarily been collected through interviews with the relatives of the defendants.*

#	Name	Date of Arrest	Place of Arrest
1.	Sidi Abdallahi Abbahah b. 1975, single	19/11/10	El Aaiún
No additional information.			
2.	Etawbali Abdalahi b. 1980, single	2/12/10	El Aaiún
No additional information.			
3.	Naama Asfari b. 8/01/1970, married	7/11/10	El Aaiún
A human rights activist who has previously been sentenced by Moroccan authorities due to his political activism. In 2007, Asfari was given a two-month suspended sentence, and in 2008, he was sent to jail for two months, in both cases on criminal charges in trials that seemed driven by the authorities' desire to punish him for his political activities. ¹⁷ He is the president of the Paris-based Committee for the Respect of Human Freedoms and Rights in Western Sahara.			
4.	Mohamed Bani b. 1969, married with six sons	8/11/10	Gdeim Izik
<p>The Observers interviewed the sister of Bani, Mbarka Bani.</p> <p>Bani used to be employed with the Delegation of the Moroccan Ministry of construction in El Aaiún/Western Sahara. Bani was arrested by the Gendarmerie on November 8, 2010. He was held for a week in El Aaiún for interrogations and questioning. He was presented to the Royal Prosecutor in El Aaiún, who decided that Bani was to be sent from civil court to military court. Consequently, Bani was sent from El Aaiún to Rabat by military airplane with blindfold and handcuffs. According to his sister, Bani claims to have been subjected to the same type of torture as the other detainees.</p>			
5.	Cheikh Banga b. 12/01/1989, single	8/11/10	Gdeim Izik
No additional information.			
6.	Mohamed Bouryal b. 1970, married with two sons	8/11/10	Gdeim Izik
No additional information.			
7.	Hassan Dah / Adah b. 18/01/1987, single	5/12/10	El Aaiún
<p>The Observers interviewed the sister of Adah, Fatimato Dahwar.</p> <p>Adah was arrested between 7-8 pm on December 4, 2010, in a coffee house with two friends, Mohamed Tahlil and Elbachir Khadda. Adah was taken to an unknown location. His family was not informed on his whereabouts for two days. The family contacted the police, the gendarmerie and the military in order to find out where he was – but all claimed that they did not know where he was. After two days, Khada's brother tried to call Khada's mobile phone and someone from the Gendarmerie Royale picked up. The person that picked up the phone then informed that the three friends were with the Gendarmerie. On December 7, 2010, they were presented to the Prosecutor Royale. At this time they did not have any defense lawyers. The family went to ask for all three but received the response that they were all traitors and that one does not ask questions about traitors. One gendarmerie officer told the families – as a "favor" – that the three were to be sent to Rabat.</p>			
8.	Deich Eddaf / Daffi b. 11/05/1987, married	/12/10	El Aaiún
No additional information.			
9.	Mohamed Elbachir Boutangiza b. 1974, single	19/11/10	El Aaiún
No additional information.			

¹⁷ <http://www.hrw.org/en/news/2009/08/30/morocco-new-jail-term-western-sahara-activist> (2013-03-14, 20.59)

10.	Ettaki Elmachdoufi b. 23/11/1985, single	8/11/10	El Aaiún
No additional information.			
11.	El Houssin/Housein Ezzaoui / Azaoui b. 10/11/1975, married with three sons	4/12/10	El Aaiún
<p>The Observers interviewed the sister of Azaoui, Aicha Azaoui.</p> <p>Azaoui was a member of the Committee of Gdeim Izik. He was arrested around midnight on December 3, 2010 in El Aaiún, with his brother-in-law present. He was very badly tortured during that same night and sent around to various institutions. The families received no information on his whereabouts. A couple of days later they found out that most prisoners related to Gdeim Izik had been sent to Rabat. Azaoui spent the first two months in an isolation cell and was not allowed to see his family until after 2 months.</p> <p>The first time the family got to see him, Azaoui was behind bars and in the presence of a guard. Azaoui's father, sister, brother and wife were allowed to see him only for five minutes. His son was not allowed into the prison. After the 28 days-hunger strike during the fall of 2011 Azaoui asked to go to the hospital but his request was denied.</p> <p>Azaoui has reported that he was subjected to torture on the night when he was arrested, from midnight until 10 am in the morning after. He was then taken to the Gendermerie Royal in El Aaiún. He was so badly injured from the torture that they did not accept to take him in in his condition, while they thought he was going to die. He was put in an ambulance and transported to the hospital with a guard. They waited at the hospital until 3 pm, when the Director of the hospital refused to take him in and he was sent back to the Gendermerie, where three military doctors examined him. The authority of the Gendermerie still refused to take him in.</p>			
12.	Brahim Ismâïli b. 1970, married with five sons	9/11/10	El Aaiún
No additional information.			
13.	Elbachir Khadde b. 6/10/1986, single	5/12/10	El Aaiún
See information under Hassan Adah.			
14.	Mohamed Khouna Babait b. 1981, married with one son	15/08/11	El Aaiún
<p>The Observers interviewed the mother of Khouna Babit.</p> <p>Khouna Babit was arrested on August 15, 2011 in a public place in El Aaiún. He was taken into a car and transported to the police station for interrogation. He was thereafter taken to the place where Gdeim Izik was once mounted, in order to question him "on site". He was held captive in El Aaiún for two days before he was taken, with blindfold and his hand bound, to the Salé-prison in Rabat. The father and brother was able to meet Khouna Babit after approximately one week. During the first 15 days of imprisonment his wife was denied to meet with him. He was put in an isolation cell for 40 days. After this initial period he was put together with other Gdeim Izik prisoners.</p> <p>Khouna Babit has reported that he has been subjected to torture already in El Aaiún. Because of this he had to be taken to the hospital in El Aaiún before he could be sent to Rabat.</p>			
15.	El Bakay Laarabi (not mentioned in the indictment of 3/11/2011) b. 1976, married with two sons	9/9/12	Dakhla
No additional information.			
16.	Sidi Abdeljalil Laaroussi b. 1978, married with two sons	13/11/10	Boujdour
The Observers interviewed the mother of Laaroussi, Fatma Lamohaimad, and sister.			

Laaroussi was able to leave the camp during its dismantlement and was arrested in December in his home in Boujdour. The family found out about the arrest as he did not pick up his phone when they called. Laaroussi's mother and brother went to the prison to meet with him already in mid-December, but were declined to meet him. They first got to see Laaroussi in late December. They were allowed to meet for five minutes only. Laaroussi was held behind bars, and the meeting was monitored by a guard. Laaroussi was carried to the meeting as he was not able to walk. His legs had been bound for four consecutive days. During the first months Fatma was only able to meet with Laaroussi once a week for five minutes at the time.

During the initial period of detention, Laaroussi has reported that his thighs and lower legs were bound together for four days, disabling him to walk, and he was left hanging that way. He has further explained that was beaten with iron pipes. His toe nails were removed. His relatives noted that he had cigarette marks covering his whole body. The families report that similar stories have been told by all prisoners.

17.	Mohamed Lamine Haddi b. 1980, single	20/11/10	El Aaiún
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No additional information.

18.	Sidi Ahmed Lemjiyed b. 1/05/1959, single	25/12/10	El Aaiún
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The Observers interviewed the sisters of Lemjiyed, Fatma and Mbaraka Lemjiyed.

Lemjiyed has long been part of the Western Sahrawi movement for a free Western Sahara.¹⁸ According to his sister, he was arrested as punishment for having worked a lot with international observers and organizers. He was in Spain during the events of Gdeim Izik, and he was therefore not present. He came back to Morocco to attend the trial of "the 7", of which Brahim Dahne was one. Lemjiyed was arrested on December 25, 2010 in El Aaiún. The civil court in El Aaiún decided to send him to the Military Tribunal in Rabat, and he was therefore sent to the Salé-prison. Upon his arrest, his old mother, already sick, came to Rabat in order to be close to her son. The family and mother searched for a house to stay in for two weeks before they found one. Especially the mother suffered from meeting her son only for five minutes at the time during the first weeks. A couple of months later she died, still in Rabat. According to her daughter, she died of grief and worry over her son in prison.

The family has filed various complaints.

Lemjiyed has reported that he has been subjected to torture. He contracted problems with his kidneys, back and arms. His family petitioned that he should be allowed medical treatment, without answer. The family filed a complaint over this to the Committee for Human Rights, to the Military Tribunal and to the prosecutor. To begin with, the family was not allowed to bring water or medication. This they were eventually allowed.

19.	Abdallah / Abdalahi Lekhfaoui / Lakhfaoui b. 1974, single	12/11/10	On the beach of Fom El Oued
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The Observers interviewed the mother of Lakhfaoui.

Lakhfaoui was one of the organizers of Gdeim Izik from the inside and was very active within the camp. When the mother of Lakhfaoui understood that he had been arrested, she went to Rabat and stayed in a hotel. In Rabat she spent three days going to different institutions and courts in order to find out where he was and to get approval to meet him. On November 19 she was finally able to meet him in the Salé-prison. When she first got to meet him, the guards also brought out another prisoner together with Lakhfaoui. None of them wore clothes. The first question Lakhfaoui asked was: "Where am I?" indicating that the guards and police had not told them where they were taking them. He explained that he had been naked for four consecutive days, that he had not known where he was, and that the guards had thrown water on him several times a day.

¹⁸ His family had much information on the history of Lemjiyed. Among other things, has he participated in demonstrations, worked for a commission of Western Sahara that worked for a peace plan with Morocco, that was later denied by Morocco. He has been part of groups that has documented torture committed by the state on Sahrawi prisoners. He was kidnapped on April 1, 1978 and again on January 5, 1979. He was arrested again in October 1999 because of a demonstration in El Aaiún. He was arrested again in April of 2005 and on several occasions subsequent to this.

During the first four months of imprisonment, the mother of Lakhfaouni was able to meet him once a week, on Wednesdays, for five minutes only. The time interval slightly increased over the months to 30 minutes. They met in a room divided by bars. Lakhfaouni was always chained by his feet and legs so that he was unable to stand up. He was always blindfolded. After the first four months they finally got to meet face to face. An armed guard was always present right behind Lakhfaouni. The families constantly manifested and sent complaints to the Military Tribunal in order to achieve better conditions for the prisoners. As previously mentioned, the hunger strike considerably bettered the conditions. Since December 19, 2012, the families are able to meet with the prisoners for one hour per day, 5 days a week.

The mother of Lakhfaouni explains that since Lakhfaouni was one of the initiative takers behind the Gdeim Izik, he has been tortured more than the others. His mother indicated that her view is that he has now, due to the torture, completely lost his mind. She has multiple times asked for medical examinations of Lakhfaouni, requests that have consistently been denied. The torture he has been subjected to during his time in imprisonment includes e.g. rape with steel pipes. On one occasion Abdalahi was in a conflict with his guard because of a cigarette. Abdalahi was thrown in a freezer for four hours, and the guard lowered the temperature. His mother tried to file a complaint about this occasion, to no avail. In addition, his mother has been told that Abdalahi was put on a long rope hanging from a helicopter; he was thereafter pulled from the helicopter for 25 km between a phosphate compound outside of El Aaiún and to the shoreline. (The Observers note that the linear distance between El Aaiún and the shore is approximately 20-25 km.)

20.	Mohamed Mbarek Lafkir b. 1978, single	10/11/10	El Aaiún
<p>The Observers interviewed the mother of Lafkir.</p> <p>Lafkir worked as a security guard at Gdeim Izik, and was therefore one of the first people to be arrested. He was arrested in the actual camp of Gdeim Izik, by military staff, not police. He was blindfolded, handed over to the Gendarmerie, and put in a truck together with other prisoners. His family was not informed of his arrest until an anonymous person called the family to inform that the son was captivated and taken to Rabat. The family was able to meet with Lafkir only after several manifestations. When they met him, he was unable to talk to his mother because of the torture that he had been subjected to. They only met through bars and with a guard present. During imprisonment, only the mother of Lafkir is allowed to meet with him, not his two brothers.</p> <p>Lafkir reported to have been subjected to torture already by the Gendarmerie, that he was first handed over to, then by the Moroccan police. He has been injured in the neck and in his arm.</p>			
21.	Ahmed Sbaaï / Sbai b. 1978, single	8/12/10	El Aaiún
<p>Sbai is the secretary general of a Sahrawi organization working to support the political prisoners, Committee for the Protection of Saharawi Prisoners. Sbai has previously been arrested due to his work with ASVDH, shortly after the ASVDH published a 121-page report that details allegations of arbitrary arrests, torture and ill treatment in Western Sahara.¹⁹</p>			
22.	Mohamed Tahlil b. 1981, single	5/12/10	El Aaiún
<p>See information under Hassan Adah.</p>			
23.	Sidi Abderahmane / Abderrahman Zayou / Zeyou b. 01/01/1974, single	21/11/10	El Aaiún
<p>No additional information.</p>			
Prisoners provisionally released			
24.	Mohamed El Ayoubi / Elayoubi b. 1955, single	8/11/10 released provisionally on 13/12/11	Gdeim Izik

¹⁹ <http://www.frontlinedefenders.org/node/236> (2013-03-14, 21.05)

No additional information.

It may be noted that a man named Hassan Aalia was arrested and detained for several days at the time of the dismantling of the Gdeim Izik. He was released without charge. He was not declared "escaped" and was sought only when the authorities decided to hold a trial. He is now in Spain where he has been granted asylum.

3. Charges and Indictment

3.1 Nature of the charges²⁰

According to the Charge Sheet the 24 faced the following charges:

- a. Membership in a criminal group (Article 293 MPC) (*Formation d'une bande criminelle*)

Article 293 of the Moroccan Penal Code

Toute association ou entente, quels que soient sa durée et le nombre de ses membres, formée ou établie dans le but de préparer ou de commettre des crimes contre les personnes ou les propriétés, constitue le crime d'association de malfaiteurs qui existe par le seul fait de la résolution d'agir arrêtée en commun.

- b. Violence against officials (Article 300 MPC) (*Usage de la violence contre des agents de la force publique dans l'exercice de leurs fonctions*)

Article 300 of the Moroccan Penal Code

Toute attaque ou toute résistance pratiquée avec violence ou voies de fait envers les fonctionnaires ou les représentants de l'autorité publique agissant pour l'exécution des ordres ou ordonnances émanant de cette autorité, ou des lois, règlements, décisions judiciaires, mandats de justice, constitue la rébellion. Les menaces de violences sont assimilées aux violences elles-mêmes.

- c. Attempt to assassinate (Articles 114 and 392 MPC) alt. participation in murder (Articles 129 and 392 MPC) alt. participation in brawl that resulted in death (Articles 129 and 405 MPC) (*Faits qui causèrent la mort*)

This accusation concerned 12 of the defendants.

Article 114 of the Moroccan Penal Code

Toute tentative de crime qui a été manifestée par un commencement d'exécution ou par des actes non équivoques tendant directement à le commettre, si elle n'a été suspendue ou si elle n'a manqué son effet que par des circonstances indépendantes de la volonté de son auteur, est assimilée au crime consommé et réprimée comme tel.

Article 129 of the Moroccan Penal Code

Sont considérés comme complices d'une infraction qualifiée crime ou délit ceux qui, sans participation directe à cette infraction, ont:

1° Par dons, promesses, menaces, abus d'autorité ou de pouvoir, machinations ou artifices coupables, provoqué à cette action ou donné des instructions pour la commettre;

2° Procuré des armes, des instruments ou tout autre moyen qui aura servi à l'action sachant qu'ils devaient y servir;

3° Avec connaissance, aidé ou assisté l'auteur ou les auteurs de l'action, dans les faits qui l'ont préparée ou facilitée;

4° En connaissance de leur conduite criminelle, habituellement fourni logement, lieu de retraite ou de réunions à un ou plusieurs malfaiteurs exerçant des brigandages ou des violences contre la sûreté de l'État, la paix publique, les personnes ou les propriétés.

La complicité n'est jamais punissable en matière de contravention.

Article 392 of the Moroccan Penal Code

Quiconque donne intentionnellement la mort à autrui est coupable de meurtre et puni de la réclusion perpétuelle. Toutefois, le meurtre est puni de mort: Lorsqu'il a précédé, accompagné, ou suivi un autre crime; Lorsqu'il a eu pour objet, soit de préparer, faciliter ou exécuter un autre crime ou un délit, soit de favoriser la fuite ou d'assurer l'impunité des auteurs ou complices de ce crime ou de ce délit.

²⁰ Link to the Moroccan Penal Code: http://www.wipo.int/wipolex/en/text.jsp?file_id=190447

Article 405 of the Moroccan Penal Code

Quiconque participe à une rixe, rébellion ou réunion séditieuse au cours de laquelle sont exercées des violences ayant entraîné la mort dans les conditions prévues à l'article 403, est puni de l'emprisonnement d'un à cinq ans à moins qu'il n'encoure une peine plus grave comme auteur de ces violences. Les chefs, auteurs, instigateurs, provocateurs de la rixe, rébellion ou réunion séditieuse sont punis comme s'ils avaient personnellement commis lesdites violences.

d. Act of brutality/obscenity on a corps (Article 271 MPC) (*Souille ou mutile un cadavre*)

This accusation concerned two of the defendants.

Article 271 of the Moroccan Penal Code

Quiconque souille ou mutile un cadavre ou commet sur un cadavre un acte quelconque de brutalité ou d'obscénité, est puni de l'emprisonnement de deux à cinq ans et d'une amende de 200 à 500 dirhams.

The charges were formulated in Arabic, which some of the accused understand. It is, however, not the mother-tongue of some of the accused, whose mother-tongue is Hassāniya.

3.2 Pre-trial rights

When a person is first arrested, Moroccan law provides limited rights to meet with a lawyer. A person subject to arrest has the right to meet with a lawyer only after 48 hours in detention. The meeting may only last 30 minutes and must be conducted in the presence of the police.

Article 66 in the Criminal Code of Procedure.

La période de garde à vue est limitée à 48 heures, avec une possibilité de prolongation de 24 heures à la discrétion du procureur. Dans les cas d'atteinte à la sécurité de l'Etat, la garde est portée à 96 heures et peut aussi être prolongée sur décision du procureur. Durant cette période initiale de détention l'accusé est interrogé sans la présence d'un avocat, et même si l'article 66 du nouveau Code de procédure pénale autorise le suspect à faire appel à un avocat lors de la prolongation de la garde à vue, il autorise aussi le parquet à retarder la présence de l'avocat sur demande de la police judiciaire (pour les besoins de l'enquête en rapport avec certains crimes.).

L'accusé doit être traduit en justice dans les deux mois qui suivent son arrestation, avec un maximum de cinq prolongations de deux mois chacune, à la discrétion du juge d'instruction. Ainsi, un accusé peut être détenu provisoirement pendant 1 an.

Article 66 of the Criminal Procedure Code was amended in October 2002 and now allows, in "terrorism" cases, for extending the length of *garde à vue* (detention in police custody) to 96 hours, renewable twice upon authorization from the public prosecutor. The Counter-Terrorism Act No. 03-03 of 28 May 2003 also provides support for pro-longed detentions and other forms of ill-treatment in the case of terrorists.

Furthermore, in the case of "terrorists", during the *garde à vue*, the public prosecutor may, at the request of the police, also delay the defendant's contact with a lawyer for up to 48 hours as from the first renewal. This means that a "terrorist" suspect might be prevented from communicating with a lawyer for the first 6 days of *garde à vue*.

4. Applicable Laws, Decrees or Regulations

4.1 Human rights conventions ratified by Morocco

The right to a fair trial is provided for in various international and regional treaties. These standards are to be considered binding on the States who have ratified (acceded) to them. Morocco has ratified most of the international human rights treaties that cater for the right to a fair trial. Once a state has ratified an international instrument, its international obligations may be directly enforceable by national courts. Legislation may need to be enacted in order to give a State's international obligations the force of law at national level. If a State has not ratified a certain international treaty or not yet incorporated it into national law, it is still

possible to assess national court proceedings against international standards which have obtained the status of customary international law.

Morocco has ratified the International Covenant on Civil and Political Rights of 1966 (in 1979), the International Covenant on Social, Economic and Cultural Rights of 1966 (in 1979) and the Convention Against Torture and Other Cruel, Inhumane, or Degrading Treatment and Punishment of 1984 (in 1993).

However, doctrinal sources indicate that in Morocco, ratification is rarely followed by the harmonization of domestic Moroccan law in accordance with the standards of the international conventions.²¹ As a consequence, local judges, who lack sufficient education in international human rights law, may not consider the enforcement of international standards to be a priority. Furthermore it may be noted that the Constitution does not contain any provisions prescribing the supremacy of international treaties over domestic law. The Moroccan government's refusal to allow treaty bodies to hear individual complaints also obstructs the impact of the international conventions. For instance, although Morocco has claimed its intention to do so, Morocco has not yet signed the optional protocol of the International Covenant on Civil and Political Rights, which gives the Human Rights Committee possibilities to hear individual complaints regarding claimed breaches of the rights set forth in the Covenant.²²

4.2 The right to a fair trial

The right to a fair trial is safe-guarded by several international documents including Articles 8, 10 and 11 of the Universal Declaration of Human Rights (UDHR) and Articles 14 and 15 of the International Covenant on Civil and Political Rights (ICCPR). Several distinct, although related, judicial guarantees flow from the right to a fair trial. The list of the specific guarantees is not exhaustive, and consequently the right to a fair trial is broader than the sum of the individual guarantees. These will be further elaborated upon in Section 11 below. The main characteristic of a trial observation is certainly the observation of the hearing itself, but it is recognized that the non-compliance with certain guarantees during the pre-trial period can directly impact the overall fairness of the trial.

The Right to a Fair Trial According to the UDHR

According to **Article 8 of UDHR** everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. **Article 10 of UDHR** states that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. **Article 11 of UDHR** prescribes that everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense and that no one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

²¹ Abdelaziz Nouaydi, Morocco, The Imperative of Democratic Transition in Av' Abd Allah Ahmad Na'Im Human rights under African constitutions: realizing the promise for ourselves.

²² United Nations, *Treaty Series*, vol. 999, p. 171.

http://treaties.un.org/Pages/ViewDetails.aspx?srch=TREATY&mtdsq_no=IV-5&chapter=4&lang=en, 2012-12-04

The Right to a Fair Trial According to the ICCPR

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

- (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
- (b) To have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing;
- (c) To be tried without undue delay;
- (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
- (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
- (g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

The Moroccan Constitution

The Moroccan Constitution (adopted in 1996, hereinafter the "Constitution") does not contain any provisions aimed to guarantee the right to a fair trial. All Moroccan citizens shall be equal before the law according to **Article 5** of the Moroccan Constitution and according to **Article 9** the constitution shall guarantee the citizens, inter alia, freedom of opinion, of expression in all its forms, of public gathering; of association, and the freedom to belong to any union or political group of their choice. **Article 10** of the Constitution states that no one shall be arrested, put into custody or penalised except under the circumstances and procedures prescribed by law. The home shall be inviolable. Search warrant shall be issued and investigation ordered under the conditions and procedures prescribed by law. According to **Article 82** of the Constitution the Judiciary shall be independent of the legislative and executive branches.

In an earlier trial observation report from 28 May 2010 and 7 February 2011, trial observers from the ICJ-S have in general terms presented their view of the impartiality of the Moroccan judiciary. The report dated 7 February 2011 also contains a general assessment of the application of the right to a fair trial in Morocco.²³

5. The Prosecution/Applicant Case

The defendants were charged with criminal offences under Articles 300, 293, 114, 129, 392, 405 and 271 of the Moroccan Penal Code as described under chapter 3 above.

The prosecutor was seated to the left of the judges. He was quite active in his role and responded to questions posed by the defense and the judge. At times the prosecutor took on a rather deriding attitude. He was once reprimanded by the presiding judge, when he wanted to make an analogy that the judge viewed improper.

The "applicant case" is difficult to summarize while, in essence, not a full case was presented during the observed hearing. The judge was in charge of the advancement of the proceedings and, in the eyes of the Observers, quite randomly presented topics of discussion. Also, it often seemed that the debated topics changed before the previous one had been settled. The primary task of the Prosecutor was to respond to submissions of the defense. The views and submissions of the Prosecutor will therefore be relayed in connection with the submissions of the defense as laid out in Section 6.2 below. No evidence was as such presented by the prosecution to the court. It was the impression of the Observers that the prosecution did not argue its case. He did not try to meet any burden of proof. It seemed that everything said by the prosecution was accepted as truth by the judge.

When the proceeding was over for the day, the Prosecutor held a small "press conference" where he read a statement of about five sentences. When asked if he would respond to any questions, he claimed that he would take questions later, outside of the court room. Consequently, the Observers waited outside of the court room for approximately 20 minutes. The prosecutor did not show. The Observers asked around in order to locate the Prosecutor and eventually approached his room. At last, he appeared and hesitantly agreed to answer a few questions. His answers did not meet the questions posed.

6. The Defense/Defendant Case

Eight defense lawyers were present and one was absent. The defense counsels were Mohamed Boukhaled, Mohamed Lahbib Rqubi, Lahmad Bazaid, Mohamed Fadel Al-Layly, Nour Edine Dalil, Abdalla Chalouk, Mohamed Hasoudi, Motafa Rachidi, Mostafa Jiyaf, Abid Addine Abderrahmane and Malek Mountaki. All are members of different Moroccan bar associations such as the Rabat Bar. All worked pro-bono with the present case. The overarching position of the defense seemed to be that the defense was not ready for trial.

The defense therefore argued a number of procedural impediments:

6.1 All defense lawyers were not present

A discussion was held on whether the trial could proceed with one defense lawyer absent. All defendants approved for the trial to continue and retained the authorization for the absent lawyer to remain legal representative for all accused.

6.2 All defense lawyers had not been given access to the case file and protocols

Early during the hearing, some of the defense lawyers raised concerns that they had not been given access to see the full contents of the case file (the discovery file). The Observers were informed that the case file contained over 800 pages. The Observers' impression is that some

²³ The reports may be ordered from the Secretariat of ICJ-S, please email secretariat@icj-sweden.org.

defense lawyers had been able to see more of the case file than some others. Information on this point varied.

Furthermore, the defense argued a number of breaches of the rights of the defendants:

6.3 The hearing was not public

During the hearing the defense was informed that the family-members and also some human rights activists had difficulties in accessing the court. The defense raised this matter and submitted that the hearing was not public if people were deterred from entering the building. Present, however, were persons claiming to be family members of the victims. The judge initially stated that it was indeed a public hearing and that it was the decision of the prosecutor to only allow the families of the victims and not the defendants. The Prosecutor claimed that 15 of the family members of the defendants had indeed been allowed to enter into the courtroom and that 20 human rights activists also were present.

The defense also questioned that the manner in which the trial was conducted was highly militarized, with a very high presence of military officers. The judge and the prosecutor argued that this was in order to ensure the protection and safety of the defendants and the public. In addition, the defense pointed out that the officers carried heavy weapons, not suited for securing a crowd, but for armed attack. The Judge pointed to the fact that the hearing was held in a military tribunal, for which the law contained requirements for military staff to be present at the trial.

During the trial several cameramen filmed parts of the trial, although the judge at one point told them that it was not allowed to take pictures in the courtroom.

6.4 The defendants were not allowed translation into their own language

The tribunal had brought in translators that were to translate the trial into English, Spanish and French, sentence by sentence. The judge claimed that this was in order to help the foreign observers to stay informed. The defense raised the issue that not only the international observers should be able to understand, translation is as much, if not more, for the defendants and the public. Therefore, translation to Tamazight, a Berber language endorsed in the Constitution, and also Hassānīya, the variety of Arabic spoken in Western Sahara (and the mother-tongue of several of the defendants) should also be provided for. The judge eventually called for a translator into Hassānīya, who stood up from the public. Eventually the judges understood that the arrangement with the translators repeating each sentence would be too time-consuming, instead the judge instructed the translators to summarize the discussions during the hearing and then offer their translation to the defendants.

6.5 Attendance checks

The court did not perform an attendance check of the defendants or the defense lawyers. The judge started to check the identity of the one of the defendants, but did not proceed to the next one. The defense eventually raised the claim that if the court had not even checked the attendance of all defendants, the hearing could not be considered to have begun. The judges claimed that they followed the Code of Penal Procedure, according to which you first check the charges and then the identity of the defendants.

6.6 Insufficiency of evidence submitted – the police reports

The defense also claimed that the police and gendarmerie reports in the case file were contradictory and "countered facts of reality". The reports were challenged under Provision 289 – that the report did not meet all legal standards and that its legality may be put in question. Provision 291 states that the court may only ground their verdict on documents circulated in the courtroom.

In addition, the defense lawyers argued:

6.7 Submission of new evidence – calling of witnesses by the defense

One of the main points argued during the hearing was the request from the defense to call witnesses, according to Articles 88 and 89 of the Military Law, with reference to the Provision 287 of the Code of Penal Procedure which stipulates that all evidence – written or oral – may be brought before the court. The defense lawyers had prepared two lists of witnesses, divided into different categories, that they requested should be called to give testimonies.

The first list included three people with general knowledge about the situation and events in Gdeim Izik. The first person on the list was former interior minister, Mr. Moulay Tayeb Cherkaoui. The second person on the list was Mrs. Gejmou la Abbi, deputy. The third person on the list was the Wali (Governor) of the El Aaiún/Boujdour/Sakia el Hamra region. During and after the events, a Commission investigated the events. Some of the people on the Committee was present during the events at Gdeim Izik and therefore have knowledge about whether some of the defendants were there or not.

The second list was related to the legality of the reports from the police and gendarmerie. The list contained 20-25 people that mostly were people that would be able to sustain factual accounts of the events. Several of these witnesses were to be called to support that some of the defendants were not, as stated in the reports from the police and gendarmerie, arrested in Gdeim Izik, but in their homes and other places, and on other days than stated in the reports.

To begin with, the defense not only argued that they requested the people on the lists to be called and summoned as witnesses, but they also required to be able to explain the reasoning behind each witness on the list. This was not necessary, according to the judges. In addition, the defense asked for the officers of the police and gendarmerie to be called as witnesses, especially as the reports from the police and the gendarmerie differed on important accounts.

6.8 Length of adjournement

When the court decided that additional witnesses were to be allowed, they decided to adjourn the trial for a week until February 8, 2013. The defense argued that it needed at least two weeks to prepare for the witnesses, primarily because most defense lawyers work pro bono, live in various parts of the country and have to all assemble to prepare together. The prosecutor argued that the trial could not be postponed any longer because the defendants had already been held for so long and that it was important for the families of the victims that the trial continued. The prosecutor claimed that he "believe in the nobility of our mission, which calls for some sacrifices on our part". He claimed to be willing to stay overnight to make the trial go forward. The defense responded that it was hardly the fault of the defense that it had taken over two year for the trial to take place, and that one week more or less would not be detrimental. The judges decided to adjourn the trial one week, until February 8.

7. Situation at the Military Tribunal and the Conduct of the Presiding Judge

7.1 Outside the courtroom

Before and during the proceeding, there were several demonstrations and manifestations taking place outside of the Tribunal building. One manifestation consisted of Sahrawi family members and others, several of whom were dressed in traditional Sahrawi clothing. Another group of demonstrators claimed to be Sahrawis in favor of Moroccan occupation. Their signs read for instance "There is the Court – here are the Murderers". The Observers spoke to several witnesses who had seen the "Sahrawis for Morocco" coming out of cars dressed in

ordinary wear and then changing into traditional Sahrawi clothing.²⁴ They also changed their clothing upon leaving. The family members suggested that these are soldiers and/or people living in Rabat getting paid for “demonstrating” outside the court, in order to give observers and others the view that there are Sahrawis that support the Moroccan occupation.

The Observers were informed that several family members experienced difficulties in entering the Military Tribunal. Although none of the international observers – and no one else as far as the Observers noted – had to, the Sahrawi families had to remove their coats, clothes and shoes.²⁵ It was also suspected that their shoes had been tagged with a monitoring device. Further, the guards expressed themselves in derogatory and discriminatory terms towards the family members of the defendants.

7.2 In the courtroom

The bench consisted of five judges in total. The Presiding Judge was dressed in blue and grey robes, and the remaining four were dressed in military uniforms. It was only the presiding judge who spoke during the proceedings. The presiding judge was relaxed and even joked on a number of occasions. The judge welcomed the international observers and stressed that the court was very accommodating. The court had brought in translators to Spanish, French and English that were to translate during the whole proceedings.

During the hearing, the judges adjourned the hearing without explanations for two and a half hours. It turned out that the pause was because the court was deliberating what witnesses to allow from the defense.

8. Judgment and Sentence

During the hearing, the judge took the following decisions, without motivating or reasoning any of them:

- That the hearing was public.
- That the defendants were to be given translated summaries in Hassāniya after the trial.
- That the defense was allowed to call two to three witnesses out of approximately 30. The judges deliberated over the witnesses on list 1 but directly turned down the witnesses of list 2. The court allowed the witnesses called by the prosecutor.
- That the hearing was to be adjourned until February 8, 2013.

9. Fairness of the Proceedings

It should first be noted that the trial observation relayed in this report covers one hearing lasting one day of a trial that lasted in total eight days. It is neither the object nor purpose of the following assessment to draw general conclusions, but rather to carefully evaluate the compliance of the hearing observed with the legal documents listed under Section 4. When commenting upon the impartiality of the judiciary in the present case, the evaluation is based on the court proceedings and the information received in the meetings as described under Part II of the report.

In the following, some of the requirements stipulated by the right to a fair trial will be discussed in more detail. The elements of the right to a fair trial discussed below were those that the Observers found to be the most severe breaches of the right to a fair trial.

²⁴ It may be noted that the people who claimed to be Sahrawis and dressed in traditional clothing wore the clothing in non-traditional ways, i.e. they did not wear the clothing according to custom. For instance, did some of them wear their clothing together with a baseball hat, something a Sahrawi would never do. Unfortunately, these are differences that may be noticed only by someone who knows Sahrawi dressing.

²⁵ The discrimination that the Sahrawis were subjected to was noticed and may be confirmed by the President of AMDH, who was on her way in during this time.

10. The Right to a Fair Trial

Due process of law (or, the right to a fair trial) is grounded in two main elements: the right of all persons to equality before the law and the courts and the right of all persons to a public hearing with all due guarantees before a legally-constituted, competent, independent and impartial tribunal as well as the right to appeal.

10.1 General standards

10.1.1 The right to equality before the law and courts

The right to equality before the courts as enshrined in Article 14 § 1 of the ICCPR has two basic aspects: equal access to the courts and equal treatment by the courts. This means that all persons are equal before courts and tribunals. National legislation should prohibit any type of discrimination and guarantee everyone equal and effective protection against discrimination on any ground such as race, color, ethnic origin, language, sex, gender, sexual orientation, gender identity, political or other opinion, religion, creed, disability, national or social origin, birth, economic or other status.

Numerous independent reports (see e.g. the reports mentioned above) have reported that people of Sahrawi origin are not treated equally to people of Moroccan origin in Moroccan Courts. It is often claimed that trials against Sahrawi activists have a politicized motive. Several of the persons the Observers interviewed before the trial feared that this would affect also the present trial. Interestingly, to the accused it seemed so obvious that the trial was politicized that they themselves brought politics into the courtroom; as the accused entered into the courtroom they screamed, sang and shouted for the freedom and independence of Western Sahara. As the first and, as it turned out to be, only defendant was asked his name by the judge, he said "an independent Sahrawi state is the only solution". The judge responded "Please defend yourself and leave the rest to the side. We are in a hearing, please respect this." Following this, the Sahrawi cause was only brought up again as the accused were marched out of the courtroom as they (along with some participants from the public) again sang and shouted.

Some of the defense lawyers also claimed that the report depicted the accused as indecent people, talking in general terms about Sahrawi people.

10.1.2 Military court

International human rights law does not prohibit military tribunals. But as with any other court, military tribunals must comply with international standards on fair trial to the same extent as ordinary courts. International human rights law has established certain criteria with regard to the scope of jurisdiction of military tribunals. These principles and criteria have been codified in the Draft principles governing the administration of justice through military tribunals, adopted by the former UN Sub-Commission on the Promotion and Protection of Human Rights. Even though they are Draft Principles, the European Court of Human Rights has stated that they reflect the evolution of international human rights law in the field of military tribunals and it has used them as a source of law. These Principles, developed from jurisprudence and several international instruments, stipulate that:

- i. Jurisdiction of military tribunals shall be confined to military offences committed by military personnel;
- ii. Military tribunals are not competent to try military personnel for gross human rights violations, as they constitute ordinary criminal offences under the jurisdiction of ordinary courts and cannot be considered as criminal offences related to military service;
- iii. In principle, military tribunals are not competent to try civilians. However, human rights jurisprudence accepts that civilians can be tried by military tribunals in exceptional circumstances:

- when it is allowed under international humanitarian law; or
 - when no civilian court exists, or where trial by such courts is materially impossible, or the regular civilian courts are unable to undertake the trials;
- iv. Whether trying members of the military or, in exceptional circumstances, civilians, trials in military courts must afford the accused all guarantees of the right to a fair trial set out in international standards.

The trial of the defendant was held in Military Court. No explanation why the proceeding was held in a Military Court was provided.

10.1.3 Independence and impartiality

By virtue of Article 14, subparagraph 1 of the ICCPR, the requirement of independence and impartiality serves to safeguard the integrity of the judiciary and to ensure that judges base their judgments solely on the merits of the case before it according to law. One factor to take into account is the separation of powers and the relationship between the judiciary and the prosecution. An assessment of the impartiality of the Moroccan judiciary has been made in an earlier trial observation report by the ICJ-S of 28 May 2010. During the hearing, the defense raised the high military presence as a reason for the independence of the court to be put at risk. In addition, it was the Observer's impression that the prosecution had clear advantages in front of the judge compared to the defense lawyers. The prosecutor had an office in the military tribunal, outside of which the Observers met him briefly. Unlike the defense lawyers, the prosecution spoke without being interrupted, and did not have to explain his assertions the same way the defense lawyers had to.

10.2 Pre-trial rights

10.2.1 Right to defense and right to be informed promptly of the charge

Under international standards, anyone arrested or detained has the right to be assisted by a lawyer without delay and to communicate and consult with his lawyer without interception or censorship and in full confidentiality. This right may be delayed only in exceptional circumstances and must comply with strict criteria determined by law. In any event, the person deprived of liberty should have access to a lawyer within 48 hours of their arrest or detention. This right is not protected under Moroccan Law, as described above under Section 3.2. From interviewing several family members, the Observers could not come to any other conclusion that the accused had not been informed about their charges and had not been assisted by a lawyer without severe delays.

10.2.2 The right to be tried without unfair delay

Pursuant to article 14, subparagraph 3 (c), of the ICCPR, everyone has the right to be tried without undue delay. Undue delay has to be assessed on the merits of each specific case, taking into account the complexity and the special circumstances of each case. The Observers can only note that it has taken the prosecution over two years to finally bring the case to trial, and that the trial has been cancelled twice.

10.2.3 Right to adequate time to prepare the defense

The Observers were able to identify at least three incidents that indicated that the right to prepare the defense was not catered for: First, during the trial the defense submitted that even though they had been able to meet with the defendants, some of them had been so badly tortured that this affected their ability to work together with their lawyers to prepare for the defense in the trial. Second, some of the defense lawyers raised the concern that they had not been given access to see the full contents of the case file. Third, and as described above, one of the arguments during the hearing was whether the trial should be adjourned one or two weeks. The defense claimed their right to adequate time to prepare the defense,

more specifically to co-ordinate between themselves, to prepare witnesses, to travel to the trial. The court did not agree on any of these accounts.

10.3 During the trial - rights flowing from the right to a fair hearing

10.3.1 The right to a public hearing

As described above, a discussion whether the hearing should be deemed public or not was held during the hearing. The Prosecutor claimed that the best evidence of a public hearing was a room filled with people and he did not see an empty room. One of the defense lawyers responded that "A fair trial may not be observed only through the presence of legal observers - it is the trial in and of itself that needs to be fair." The judge finally "decided" that "as President of the Court [I] find it documented that the hearing is public". He also said that he "refused anyone saying that the families of the defendants were refused" into the courtroom.

Only the fact that a judge thinks that he, when met with arguments that the public cannot access the hearing, can "decide" whether a hearing is public or not raises concerns when such a statement is not followed with actions to ensure the availability of the hearing. A decision not to hold a public hearing needs to be taken before the hearing and may only be granted under specific circumstances. If it is still, when the hearing is ongoing, unclear whether the hearing is public or not, and if some people are not let into the courtroom, the hearing does not raise to the standards of international law.

10.3.2 Right to interpretation

As indicated above, several of the accused's mother-tongue is Hassānīya, and not Arabic, which was the language that the hearing was conducted in. The tribunal had brought in translators in English, Spanish and French, i.e. not the languages of the defendants. Most Observers were quite surprised by this move on behalf of the court. Even though the translation did not work out in the end, it was at least an attempt on behalf of the Moroccan judiciary to be more accessible. Regardless, the right to interpretation as contained in international treaties, concerns the right of the accused to have the trial translated into his or her mother-tongue or another language that the defendant may understand. Even though it is most likely the case that the majority of the accused do understand Arabic, it is still not sufficient if only one of the defendants do not. To only be provided with a summary in Hassānīya at the end of the trial is not sufficient in the eyes of international law.

10.3.3 The principle of equality of arms

The principle of equality of arms stems from the right to equality before courts as established in Article 14 § 3 (b) of the ICCPR. This implies that all parties to a trial should have the same procedural rights in order for a trial to be fair. The principle of equality of arms requires that the parties can contest the arguments and evidence presented against them.

One of the most serious indications of a breach of this right, that the Observers could note, was that the defense lawyers raised their concern that they had not been given access to see the full contents of the case file. To not be able to see the content of the case file, onto which your case is brought before you, is a clear breach of the right to equality of arms.

10.3.4 Right to call and examine witnesses

One of the main points of argument during the hearing was the attempt of the defense to call witnesses from two different lists. The defense was only allowed to call a limited number of all the witnesses that they had summoned. During the trial, the defense also raised a request for the officers from the police and gendarmerie that had written the reports to be called as witnesses. This request was not addressed. It is a crucial aspect of the right to defense to be able to question the evidence from the other side and to cross-examine witnesses presented from the other side.

10.3.5 The presumption of innocence

The principle of presumption of innocence, as codified in article 14 § 2 of the ICCPR, is a fundamental part of the right to a fair trial. The presumption of innocence is an absolute right which can never be derogated from. Numerous consequences flow from this guarantee, including the accused's right to remain silent and not to be compelled to make a confession and the principle that the burden of proof should lay with the prosecution. During the hearing, one of the defense lawyers called upon this particular right in connection to a request for new evidence to be accepted. He said that all evidence needs to be brought before the court without prejudice.

10.3.6 The right not to be compelled to confess guilt or to testify against oneself and exclusion of evidence elicited by illegal means, including torture or ill-treatment

The Observers find the allegations of torture and the unclear statements of confessions trustworthy. As mentioned above, the defense put forward submissions that the accused had all been subjected to torture during detention. These allegations put into question the right not to be compelled to confess guilty and also that evidence submitted under such circumstances should be excluded. In addition, the defense submitted that some of the accused had been tortured so bad that it affected their ability to work together with their lawyers to prepare for the defense in the trial.

Article 293 of the Criminal Code of Procedure prohibits the use of "confessions" obtained through torture and other ill-treatment, stating that a "confession" obtained through *"violence or coercion shall not be considered as evidence by the court"*. In a report from the ICJ International to the Committee against Torture, the ICJ states that this "article remains largely disregarded by Moroccan courts, in particular in cases related to 'terrorism'".²⁶ This is also confirmed by statements in a report from Human Rights Watch, stating that their investigations "indicates that despite evidence of torture and serious mistreatment, including badly bruised detainees who appear before prosecutors and investigating judges and who demand a medical examination in vain, and the many detailed complaints submitted in writing by alleged victims to offices of the prosecutor, Moroccan officials do not fulfill their legal obligation to investigate this evidence and hold the perpetrators responsible."²⁷

11. The Outcome of the Trial

In this section it may be interesting to note that the Observers received several comments on how the international presence by observers may have been perceived. Many of the persons interviewed mentioned that the international political pressure on the trial had been important but most were convinced that the defendants would not enjoy their right to a fair trial. Several mentioned that the international pressure had been one reason why the situation for the prisoners had improved during the 27 months of imprisonment – both in terms of general prison conditions and in terms of torture. A number of interviewees were afraid that the judges would not really decide on the outcome themselves, but that the security police would. Some also voiced concerns that the international observers may have a negative impact on the outcome of the trial and that the security police may want to send a signal that international presence does not matter.

The trial continued on February 8, 2013. On Saturday night to Sunday, February 16-17 2013, the Military Court of Rabat delivered its verdict. The court sentenced eight of the defendants to life imprisonment, four to a 30-year prison term, eight to a 25-year prison term and two to

²⁶ <http://www2.ohchr.org/english/bodies/cat/docs/ngos/ICJ-CAT47-Morocco.pdf>, p. 6.

²⁷ Human Rights in Western Sahara and in the Tindouf Refugee Camps Morocco/Western Sahara/Algeria, Report by Human Rights Watch, published in December 2008, p. 62.

a 20-year prison term. One defendant was tried in absentia and given a life sentence. Two defendants received 2-year prison sentences and were released soon after because they had already served time in detention.²⁸

Other international organisations have also reported from the trial. Amnesty International declared the trial "flawed at the outset"; its Deputy Director for the Middle East and North Africa, Ann Harrison, found it "disturbing" that the authorities had "ignored the Sahrawi defendants' allegations of torture and coerced confessions."

12. Recommendations

The following recommendations build on conclusions drawn from facts observed at the hearing on the 1st of February and from information received through interviews at the court and with the defendants' families. It is the view of the Observers that the undertaken trial observation and the information gathered during it, even though conducted only during a part of the trial, provides a firm basis for an assessment of the fairness of the observed proceedings.

The ICJ-S recommends the ICJ International and other international organizations:

- To conduct continued trial observations of court proceedings that involves human rights activists of Sahrawi ethnicity.
- To initiate follow-up activities in regard to trials concerning people of Sahrawi ethnicity.
- To further improve the cooperation and information exchange between international observers that monitor the human rights situation in Western Sahara.

The ICJ-S encourages the Government of Morocco to:

- To ratify the first optional protocol to the ICCPR and thus enable the Committee to try individual complaints. This would be one step in order to estimate and ensure compliance with standards of fair trial.
- To include a provision in the Constitution stating the supremacy of International Law over national law.
- To review the rights of individuals in the judiciary system. It would be especially important to review the *de facto* possibilities for defendants
 - (i) to question a decision to hold trial in a military court
 - (ii) to call on witnesses
 - (iii) to question the content and accuracy of police reports
 - (iv) to question confessions signed in detention
 - (v) to file complaints relating to the accuracy of statements of confessions
 - (vi) to file complaints regarding the use of torture by the police.

²⁸ <http://allafrica.com/stories/201302190749.html>; <http://www.reuters.com/article/2013/02/17/us-morocco-westernsahara-trial-idUSBRE91G0F720130217>

Part II: Report on the Practical Issues of the Trial Observation

1. Methodology of Observation

In this section, the theoretical framework for the observation will briefly be laid out, in addition to a short description of the practical methodology used on the ground.

1.1 Methodology of the trial observation – theoretical framework

According to the principles for trial observation set forth in the International Commission of Jurists' Trial Observation Manual (hereinafter the Manual) observations should in principle focus on the procedural aspects of the trial, and not on the substance or merits of the case in question. This means that the trial observation should focus on assessing whether the legislation applied in the trial and the manner in which the proceedings are conducted comply with international standards on due process and the right to a fair trial.

Generally, therefore, the observers have no role in evaluating the evidence and arguments put forward by the parties, or in weighing up the guilt or innocence of the accused. The observers should, however, examine two principles related to the submission of evidence that are especially important. The first is the *principle of legal evidence*, which aims at ensuring that evidence has been lawfully – in accordance with procedural norms – obtained. The second is the *principle of legitimacy of evidence* which aims to preclude evidence that has been obtained using methods prohibited under international law, such as torture or death threats.

The Manual also sets forth that observations may, but only under certain circumstances, assess the substance and merits in a specific case. One of these situations may occur where a trial is brought against "human rights defenders, journalists and political or social opponents for the legitimate and peaceful exercise of their rights to promote and strive for the protection and realization of human rights their political rights and/or their freedom of conscience, expression and association".²⁹ In the present case, the Observers have not deemed to have had sufficient ground for assessing the substance and the merits of the case.

The legal assessment of the trial is exclusively based on norms whose legal foundation is undisputed. This includes:

- i) the Constitution, Criminal Code and Criminal Code of Procedure of Morocco;
- ii) human rights treaties to which Morocco is a party;
- iii) international standards on human rights and administration of justice that are declarative in nature; and
- iv) norms of international customary law.

It is universally recognized that states cannot invoke their national legislation in order to justify a failure in compliance with international obligations, such as the right to a fair trial. States must, according to the principle of *pacta sunt servanda*, perform all their international obligations in good faith. This means that domestic authorities cannot claim obstacles under national law for not having applied their duties according to international conventions in a due manner.³⁰

1.2 Methodology of the trial observation – in practical terms

The foremost objective of the visit was naturally to be present at, and observe, the trial. In addition, the aim of the Observers was to meet with as many representatives of the judiciary as possible. The Observers also found it meaningful to meet with fellow observers to learn and

²⁹ International Commission of Jurists, Trial Observation Manual for Criminal Proceedings, p. 21.

³⁰ Articles 26 and 27 of the Vienna Convention on the Law of Treaties.

exchange views. It may be noted that, in order to preserve the critical neutrality of the ICJ-S, the Observers were weary to meet with Sahrawi activists.

Brief Outline of Schedule

The visit lasted in total for four days, January 31 - February 3, 2013. The trial was scheduled for the morning of February 1. The first day, January 31, was spent travelling. The trial was held on February 1. On February 2 the trial observers met with the defendants' families. The fourth day, February 3, was spent travelling.

February 1: Trial Day

The Observers arrived at the tribunal together with approximately ten other Observers. Two blocks surrounding the tribunal were blocked by military. Outside the Court demonstrations were held. The Observers had little trouble in entering the building. There was a security check. Thereafter several military staff collected the Observers' *Ordre de Mission* and passports. Some Observers were taken head shots of. Thereafter the Observers received badges and were able to move freely within the public areas of the court building. The accused arrived at the tribunal with a military bus. An estimation of the Observers counts approximately 200-300 military officers in and around the tribunal, possibly more. In the courtroom only, approximately 50-60 military officers were present at all times. The trial started at approximately 9.20-9.30 in the morning with the accused entering the court room. Thereafter the judges came in. The trial lasted until approximately noon, when the judges went out not to return until approximately two hours later. They then announced their decision, some discussion followed and then the trial was properly adjourned at approximately 15 pm. The Observers tried to meet with the Presiding Judge and the Prosecutor before leaving the tribunal.

February 2: Meeting with families

The families of the defendants live together in a house in Salé, outside of Rabat and not far from the Saléprison. The trial observers decided to meet with the families in order to get more information on whether the rights of the defendants related to their families had been honored.

During the visit the trial observers were greeted by the brother of one of the accused, who is the coordinator of the families through " Comité de familles de prisonniers politiques sahraouis groupe Gdeim Izik". He informed the trial observers generally about the history and situation of the accused and their families. The trial observers thereafter independently interviewed around 10 people from the families.

List of materials studied

- The ICJ Manual for Trial Observations
- ICJ-S trial observation reports from 2010-2011
- Report of the judicial mission of observation to the trial of the 24 from Salé, Rabat 23 - 26 October 2012
- ICJ-s submission to the Committee against torture on the examination of the fourth periodic report of the Kingdom of Morocco, under the convention against torture and other cruel, inhuman or degrading treatment or punishment, Committee against Torture 47th Session 31 October –25 November 2011

Persons interviewed

Ms. Ines Miranda from IAJUWS

Other observers

Prosecutor

Judge

Family members of:

Lanoussi Abdeljalil, his mother Fatma Lamohaimed and sister

Abdalahi Lakhfawni, his mother

Mohammed Burial, his mother Fatma Lafqir

Babit Muhammed Juna, his mother Aicha Dadih

Mohammed Bani, his sister Elmana Mbarka Bani

Sidi Ahmed Liemjiyed, his mother and sisters Fatma and Mbarka

El Husain Azawi, his sister Aicha Azawi

Hasan Adah, his sister Fatimato Dahwar