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VIA EMAIL: URGENT-ACTION@OHCHR.ORG, SR-TORTURE@OHCHR.ORG,
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November 15, 2021

Dr. Nils Melzer
Special Rapporteur on Torture
c/o Office of the High Commissioner for Human Rights United Nations Office at Geneva
("OHCHR")
CH-1211 Geneva 10
Switzerland

Ms. Mary Lawlor
Special Rapporteur on Human Rights Defenders, OHCHR

CC

Ms. Reem Alsalem
Special Rapporteur on Violence Against Women, OHCHR

RE: Sultana Khaya and Luara Khaya/Western Sahara – Moroccan Agents Subjected the Khaya Sisters to Torture and Raped and Forcibly Injected Sultana with an Unknown Substance

Dear Dr. Nils Melzer and Ms. Mary Lawlor,

We are writing to request urgent action on behalf of our clients, Sultana Khaya and Luara Khaya, sisters and Sahrawi human rights defenders advocating for self-determination in Western Sahara. Sultana and Luara have been under *de facto* house arrest – without any legal basis – since November 19, 2020, and during this time they have been raped, sexually harassed, beaten, and threatened with death at the direction of the Government of Morocco.¹ The violence against them

¹ See, e.g., *Moroccan Authorities Violently Raid the Khaya Home and Sexually Assault Sultana and Luara Khaya*, PERSEUS STRATEGIES (Sept. 7, 2021), available at <https://mailchi.mp/bbd46a58b561/moroccosultana-khaya-moroccan-authorities-violently-raid-khaya-home-and-sexually-assault-sultana-and-luara-khaya?e=ad4e970dd3> [hereinafter PERSEUS STRATEGIES]; Sultana Sidibrahim Khaya, *I've Been Raped, Beaten, and Held under House Arrest for Fighting for my Sahrawi People*, CNN GLOBAL (July 29, 2021), available at <https://www.cnn.com/2021/07/29/opinions/morocco-western-sahara-activist-raped-beaten-khaya/index.html> [hereinafter CNN Global]; *Morocco: UN Human Rights Expert Decries "Clampdown" on Human Rights Defenders*, OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS (July 1, 2021), available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27244&LangID=E>; *Western Sahara: Harassment of Independence Activist*, HUMAN RIGHTS WATCH (Mar. 5, 2021), <https://www.hrw.org/news/2021/03/05/western-sahara-harassment-independence-activist> [hereinafter HUMAN RIGHTS WATCH].



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was denounced by six UN Special Rapporteurs in a Joint Communication on June 10, 2021,² and is detailed in their attached petition to the UN Working Group on Arbitrary Detention, submitted on July 29, 2021, which explains how their detention and mistreatment are nothing more than punishment for exercising their rights to freedom of expression, peaceful assembly, and freedom of association.³

However, since then, the abuse against them has continued.⁴ Most recently, on November 15, 2021, Moroccan agents raided Sultana and Luara’s home, raped Sultana, and subjected Luara to sexual assault. And on November 8, 2021, Moroccan agents raided the home, sexually tortured Sultana and Luara, and injected into Sultana’s right hip an unknown substance that made her sick. The injection immobilized Sultana, and she could not move the right side of her body. One Moroccan agent taunted her, “Now you will be sick. You will be unable to protest.” For the next two hours, the agents sexually tortured Sultana, Luara, and their 84-year-old mother while threatening to kill them.⁵

Given these serious human rights violations, the Moroccan government’s discrimination against Sahrawi human rights defenders, and its persecution of Sultana and Luara Khaya,⁶ the Khaya sisters are at an immediate and grave risk of torture and cruel, inhuman or degrading treatment. We respectfully request that, in accordance with your working methods, you investigate the situation and immediately contact the Government of Morocco, urging it to release Sultana and Luara to seek medical treatment of their choice for their injuries and to ensure their right to be free from torture, as guaranteed by the Convention Against Torture (“CAT”) and the International Covenant on Civil and Political Rights (“ICCPR”), both of which Morocco has signed and ratified.

I. DISCRIMINATION AGAINST SAHRAWI HUMAN RIGHTS DEFENDERS

Violence against Sultana and Luara during their ongoing *de facto* house arrest must be understood within the context of a severely hostile environment for Sahrawi human rights defenders in Western Sahara. Both UN Secretary-General António Guterres and the UN Working Group on

² *Joint Communication of Six Special Rapporteurs*, OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, June 10, 2021, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26478>.

³ Appendix I, Petition to the UN Working Group on Arbitrary Detention, *Sultana Khaya and Luara Khaya v. The Government of Morocco*, July 29, 2021, available at https://www.perseus-strategies.com/wp-content/uploads/2021/07/2021-07-29_PUBLIC_FinalPetition.pdf.

⁴ *Physical and Sexual Assault of Woman Human Rights Defender Sultana Khaya*, FRONT LINE DEFENDERS (Aug. 25, 2021), available at <https://www.frontlinedefenders.org/en/case/physical-assault-and-sexual-harassment-woman-human-rights-defender-sultana-khaya-and-her-family> [hereinafter FRONT LINE DEFENDERS, August 25, 2021].

⁵ *Woman Human Rights Defender Sultana Khaya Attacked in Her Home*, FRONT LINE DEFENDERS (Nov. 12, 2021), available at <https://www.frontlinedefenders.org/en/case/woman-human-rights-defender-sultana-khaya-attacked-her-home> [hereinafter FRONT LINE DEFENDERS, November 12, 2021].

⁶ Appendix I, *supra* note 3, at 8; CNN Global, *supra* note 1.



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Arbitrary Detention (“WGAD”) have found that Sahrawi human rights defenders have been subjected to violence, torture, and arbitrary detention by the Moroccan government.⁷ On five prior occasions, the WGAD found that Sahrawi human rights defenders were arbitrarily detained by the Moroccan authorities.⁸ The WGAD has highlighted the widespread torture and ill-treatment of pro-independence Sahrawi human rights defenders, noting that “During their transfer to or upon their arrival at a police station, [Sahrawi human rights defenders] are beaten, insulted and forced to reveal the names of other protestors.”⁹ The WGAD also has highlighted allegations that Moroccan police forces regularly raid the homes of known supporters of Western Sahara’s self-determination.¹⁰

In the first two weeks of May 2021 alone, the Moroccan authorities detained a total of 13 Sahrawi human rights defenders, many of whom were members of ISACOM, a collective of renowned Sahrawi human rights defenders that includes Sultana, and the League for the Defense of Human Rights and the Protection of Natural Resources, to which both Khaya sisters belong and of which Sultana is President.¹¹ The Moroccan government has targeted other members of ISACOM for extensive surveillance and even for house arrest.¹²

Furthermore, many Sahrawi human rights defenders are women, and physical aggression against them is often accompanied by police-initiated defamation campaigns. For instance, Sahrawi activist and journalist Nazha El-Khalidi reported that websites and social media slandered her as a “loose woman” when the police confiscated her cell phone and leaked its contents online.¹³ Sultana was similarly slandered – her communications have been surveilled and leaked online by the police, including sensitive details about being raped by Moroccan security agents on May 12, 2021, which she shared in confidence with her therapist.¹⁴

⁷ REPORT OF THE SECRETARY-GENERAL ON THE SITUATION CONCERNING WESTERN SAHARA, U.N. SECURITY COUNCIL, U.N. Doc. S/2020/938, Sept. 23, 2020, at ¶ 69; *Report of the Working Group on Arbitrary detention: Mission to Morocco*, U.N. HUMAN RIGHTS COUNCIL, U.N. Doc. A/HRC/27/48/Add.5, Aug. 4, 2014, at ¶ 64 [*WGAD Mission to Morocco*].

⁸ *Walid El Batal v. Morocco*, Opinion No. 68/2020, U.N. Doc. A/HRC/WGAD/2020/68, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* Nov. 24, 2020, at ¶¶ 10, 91; *Ali Salem Bujmaa v. Morocco*, Opinion No. 52/2020, U.N. Doc. A/HRC/WGAD/2020/52, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* Aug. 26, 2020, at ¶¶ 7, 9, 76; *Brahim Moussayih v. Morocco*, Opinion No. 67/2019, U.N. Doc. A/HRC/WGAD/2019/67, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* Nov. 20, 2019, at ¶¶ 26, 77; *Laaroussi Ndor v. Morocco*, Opinion No. 23/2019, U.N. Doc. A/HRC/WGAD/2019/23, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* May 2, 2019, at ¶¶ 21, 86; and *Mbarek Daoudi v. Morocco*, Opinion No. 60/2018, U.N. Doc. A/HRC/WGAD/2018/60, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* Aug. 24, 2018, at ¶ 66.

⁹ *WGAD Mission to Morocco*, *supra* note 7, at ¶ 64.

¹⁰ *Id.*, at ¶¶ 64–65.

¹¹ Appendix I, *supra* note 3, at 8-9, 16.

¹² *Id.*, at 21.

¹³ WESTERN SAHARA: A DESERT FOR JOURNALISTS, REPORTERS WITHOUT BORDERS, June 11, 2019, at 3, 18 *available at* <https://rsf.org/en/news/rsf-report-western-sahara-news-blackhole> [hereinafter RWB].

¹⁴ The recording was leaked on a social media platform.



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II. PERSECUTION OF SULTANA AND LUARA KHAYA

The Khaya sisters have remained under *de facto* house arrest for almost a year in deplorable and life-threatening conditions that warrant immediate international action.¹⁵ First, they are not allowed to leave the house. Whenever they step outside, Moroccan agents violently force them back inside. Second, each time Sultana and Luara peacefully demonstrate with the Western Sahara flag on the rooftop, they face retaliatory raids on their home at night. Third, the Moroccan authorities severed the house’s electricity in mid-April 2021, and the Khaya sisters have been without electricity ever since. Fourth, their family members are routinely attacked and denied entry into the house. Fifth, the police throw daily a toxic, noxious, black liquid, “skunk water,” into the house and do not allow the Khaya sisters any reprieve for fresh air.¹⁶

During nighttime raids, Moroccan security agents perpetrate horrific acts of sexual violence against Sultana and Luara. During one such raid on May 12, 2021, Moroccan agents covered Sultana and Luara’s faces with rags and almost suffocated both women. The agents then brutally raped them. Sultana was kicked and penetrated with a shoe for several minutes, and she was left bleeding. Luara was penetrated with a stick that the sisters normally use to wave the Western Sahara flag when they protest on the roof. The assailants also trampled the Khaya sisters and kicked their breasts.¹⁷

III. ALARMING RECENT DEVELOPMENTS IN THE KHAYA SISTERS’ CASE

Four more violent raids have occurred since the submission of Sultana and Luara’s WGAD petition on July 29, 2021. These raids occurred on August 22, 2021, November 8, 2021, November 10, 2021, and on November 15, 2021, and each time, Sultana and Luara were subjected to torture and other cruel, inhuman or degrading treatment at the hands of Moroccan agents.

A. Raid on August 22, 2021

On August 22, 2021, at 4:30 am local time, Moroccan agents violently raided the Khaya family home. Three “minibuses” or vans of agents arrived outside the house. Sultana estimates that there were approximately 80 agents riding in the vans. These agents wore civilian plainclothes and

¹⁵ Appendix I, *supra* note 3, at 10.

¹⁶ *Id.*, at 11.

¹⁷ *Id.*, at 10; *Woman Human Rights Defender Sultana Khaya Was Sexually Assaulted*, FRONT LINE DEFENDERS, May 14, 2021, available at <https://www.frontlinedefenders.org/en/case/woman-human-rights-defender-sultana-khaya-was-sexually-assaulted> (discussing both Sultana and Luara’s assaults) [hereinafter FRONT LINE DEFENDERS, May 14, 2021]; CNN Global, *supra* note 1. Moreover, during a preceding raid on May 10, 2021, approximately 40 Moroccan agents entered the Khaya home and forcibly removed three Sahrawi activists – Salek Baber, Khaled Boufraya, and Babuizid Mohammed Saaed Labhi – who had managed to break the police barricade and join Sultana and Luara inside the house. These three activists were abducted, tortured for two hours, and dumped in the desert, Appendix I, *supra* note 3, at 22.



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black masks to hide their identities. Two or three agents climbed a giant construction crane which is parked outside the house (and which is usually used to rip down the Western Sahara flag when Sultana and Luara protest on the roof) and entered the home through a window on the second floor. These agents descended the stairs to the first floor, where they unlocked the house's front door from inside to allow other agents to enter.¹⁸ The remaining agents then stampeded into the house, destroying furniture, looting the Khaya family's belongings, and assaulting Sultana, Luara, and Luara's son, who had managed to enter the house. The agents poured an estimated five liters of the black toxic liquid inside the house, destroying the walls and floors, and making the Khaya sisters sick.¹⁹

Moroccan agents demanded that the family hand over all their Western Sahara flags, cameras, and phones used both to document abuse by the Moroccan government and to contact their lawyers. The agents managed to steal some Western Sahara flags and five of the family's cell phones, including Luara's phone. The agents also stole a solar charger that the Khaya sisters rely upon to charge their phones, since their electricity was cut off in April 2021.²⁰ Without access to phones, Sultana and Luara face a heightened risk of torture, enforced disappearance, and assassination.

Then, the agents sexually assaulted both Sultana and Luara. The agents zip tied each woman's hands together, stripped off her clothing, and then vaginally and anally searched her without a legal basis while touching her breasts.²¹ They threatened to rape Sultana, and repeatedly threatened to kill both sisters. The agents also exposed Sultana to COVID-19 by rubbing a rough cloth doused in an unidentified substance over Sultana's nose and mouth for approximately fifteen minutes (the amount of time required to contract COVID-19 from close contact).²² Sultana began to experience fever and chills approximately one week after the raid. She subsequently tested positive for the virus using an antigen test on September 1, 2021. A doctor who has been providing virtual medical assistance to Sultana and Luara while they have been under *de facto* house arrest confirmed that Sultana's symptoms were consistent with a COVID-19 diagnosis.²³

Luara was beaten four different times during the August 22, 2021, raid – both on her hips and on her face. The force of the beatings broke several blood vessels in Luara's eye – her pupils

¹⁸ FRONT LINE DEFENDERS, August 25, 2021, *supra* note 4; PERSEUS STRATEGIES, *supra* note 1.

¹⁹ *Id.*

²⁰ *Id.*

²¹ FRONT LINE DEFENDERS, August 25, 2021, *supra* note 4.

²² PERSEUS STRATEGIES, *supra* note 1; *see also Public Health Guidance for Community-Related Exposure*, CENTERS FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html> (last updated Mar. 1, 2021).

²³ Appendix II, Official Statement of Sultana and Luara Khaya's Physician Concerning Sultana's COVID-19 Test and Symptoms.



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appeared bright red.²⁴ Additionally, the agents held the black toxic liquid directly to Luara’s nose and mouth and forced her to inhale. She lost consciousness after becoming dizzy from the smell, and the agents beat Luara to revive her. They used razor blades between their fingers when they beat her. At approximately 5:00 am local time, the agents began to leave the house. Luara’s son followed them to the gate, and they beat his head with a stone until he was concussed.²⁵

Sultana and Luara’s doctor confirmed that Sultana’s symptoms between September 1 and 23, 2021, were consistent with a diagnosis of COVID-19-induced pneumonia. When Sultana sought medical treatment from a local nurse, Moroccan agents turned the nurse away at the door of the Khaya home. Our sources report that the nurse was later threatened by the Moroccan government with a salary cut if she treated Sultana’s illness. Sultana was again denied access to medical treatment of her choice when, on October 2, a delegation from Spain, including two jurists and the Khaya sisters’ doctor, was violently expelled from Western Sahara.²⁶ Upon its arrival in Western Sahara, the delegation told the Moroccan passport control authorities that they were going to Boujdour to provide medical assistance to Sultana Khaya. As soon as the delegation mentioned Sultana, the authorities surrounded and hit its members. The delegation was forced to board a plane back to Spain.²⁷

Following the raid on August 22, Moroccan agents threw a noxious black liquid inside the house and guarded all windows to keep them closed. When Sultana attempted to open a window for clean air, a guard told her, “You are not allowed to open the window or go out. You are not allowed to breathe fresh air. We want you to be dead.”²⁸ The toxic substance not only has caused Sultana to suffer respiratory symptoms but also has caused her teeth to decay.

B. Raids on November 8 and 10, 2021

On November 8, 2021, Moroccan agents both sexually tortured the Khaya sisters and forcibly injected Sultana with an unknown substance that has made her sick. At 4:30 am local time, two buses full of masked Moroccan agents in plainclothes parked in front of the Khaya home. Using a construction crane in front of the Khayas’ house, several Moroccan agents ascended to the roof and entered the second floor. The agents ran downstairs and opened the front door for another

²⁴ Appendix III, Injuries that Sultana and Luara Khaya Sustained During the August 22, 2021, and November 8, 2021, Raids on the Khaya Home.

²⁵ Appendix IV, Fact Update by Sultana Khaya’s International Legal Team Concerning the August 22, 2021, Raid on the Khaya Home.

²⁶ [English translation] *Morocco expels a Spanish delegation with UN endorsement that traveled to assist Sahrawi activist Sultana Khaya*, ATLAS ESPAÑA, https://www.abc.es/espana/abci-marruecos-expulsa-delegacion-espanola-aval-asistir-activista-saharai-sultana-khaya-202110032006_video.html (last updated Oct. 3, 2021).

²⁷ *Id.*

²⁸ PERSEUS STRATEGIES, *supra* note 1; FRONT LINE DEFENDERS, August 25, 2021, *supra* note 4.



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larger group of agents to stampede inside. Sultana’s mother was nearby and pled with the agents not to harm her family, insisting “We are only three peaceful women trapped inside alone.”²⁹

The agents violently beat Sultana’s 84-year-old mother and ransacked the house until they found Sultana and Luara asleep in the same room. The agents grabbed Sultana and held her down. They pulled her hands behind her back, zip-tied her wrists together, violently stripped off her clothes, and forced her to lie on her stomach on the ground. An estimated four agents sat on top of Sultana and attempted to inject her with an unknown substance. The agents said nothing about what the substance was and ignored Sultana’s screams of pain. The agents ultimately succeeded in injecting Sultana’s right hip with the unknown substance, and it is also unknown whether the needle was sterile. One agent said, “Now you will be sick. You will be unable to protest.” Sultana immediately felt adverse effects from the injection. She felt the right side of her body become heavy and she could not move her right arm or leg.³⁰

For the next two hours, until 6:30 am, the agents physically and sexually tortured Sultana, Luara, and Sultana’s mother. The agents touched their breasts and other sensitive areas on their bodies. Using their fingers and nails, the agents pulled and stretched Sultana and Luara’s breasts, and used their nails to break their skin. The agents taunted Sultana and Luara as they screamed in pain and threatened to kill both sisters.³¹ Sultana has dark red and purple finger-shaped bruises on her arms where agents grabbed her and held her down for the injection.³² Her right hip, where she was injected, and her thigh, knee, and calf are bruised. Luara and her mother have similar finger-shaped bruises along their arms where they were grabbed and held down. Sultana is still sick from the injection – she has reported dizziness and vomiting, and she has difficulty moving and breathing. She has also begun to develop deep-purple-colored bruises throughout her body,³³ which her doctor believes are due to the injection.

While Sultana, Luara, and their mother were being sexually tortured, another group of agents ransacked the Khayas’ home. Agents used knives to slash through the family’s food supplies, demanding to know where the family kept their Western Sahara flags and their cell phones – which would be stolen if they were found. They slashed open bags of grain and rendered the food unusable by covering it in the toxic black liquid.³⁴ The agents also threw the toxic black liquid over

²⁹ *Moroccan Authorities Sexually Torture and Forcibly Inject Sultana Khaya with an Unknown Substance*, PERSEUS STRATEGIES, Nov. 9, 2021, available at <https://mailchi.mp/7025d51aac55/sultana-khayawestern-sahara-moroccan-authorities-sexually-torture-and-inject-sultana-khaya-with-unknown-substance?e=95f5fa1ebc> [hereinafter PERSEUS STRATEGIES, November 9, 2021]; FRONT LINE DEFENDERS, November 12, 2021, *supra* note 5.

³⁰ *Id.*; Tweet by Sultana Khaya (@Sultanakhayya1), TWITTER, Nov. 8, 2021, 9:25 am EST, available at <https://twitter.com/Sultanakhayya1/status/1457715992163926017>.

³¹ PERSEUS STRATEGIES, Nov. 9, 2021, *supra* note 29.

³² Appendix III, *supra* note 24.

³³ *Id.*

³⁴ PERSEUS STRATEGIES, Nov. 9, 2021, *supra* note 29.



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all the remaining furniture and carpets. They even dumped the toxin into the family's rainwater supply tank, poisoning water which the Khaya family reserved to drink.

On November 10, 2021, at 3:30 am local time, agents entered the home again to terrorize Sultana and her family members. They beat Sultana, her sister, and her mother and left shortly afterwards.

C. Raid on November 15, 2021

On November 15, 2021, Moroccan agents raided the Khaya home and raped Sultana and subjected Luara to sexual assault. The evening before, on November 14, 2021, the Khaya sisters noticed that additional police arrived in their neighborhood and closed local check points. The sisters suspected the police would try to enter the house and took turns sleeping and standing guard during the night. At approximately 4:00 am local time on November 15, Luara, who was standing guard, heard the police approaching and warned the family, "The police are coming!" The Khaya sisters looked out their window and observed a group of masked Moroccan agents, at the direction of Sheriff Muhammad Al-Madfai, enter the house next door. From the roof of the house next door, the Moroccan agents jumped over to the Khayas' roof and searched it for Western Sahara flags.

At approximately 5:40 am local time, the agents entered the Khaya sisters' home through the roof. They ran downstairs and opened the door for additional agents to enter. Sultana estimates that the total number of agents inside the house was between 50 and 60. The agents wore civilian clothes and facemasks and used flashlights to navigate inside the house. Sultana believes that the agents used masks and flashlights because they were afraid that she would record their actions and they did not want to be identified.

Upon entering, the agents zip-tied each sister's wrists together. Then, three agents held down each sister by pressing their knees into Sultana's and Luara's necks and shoulders. The agents forcibly removed Sultana's pants and ripped her clothing. One agent covered her mouth, suppressing her screams and cries for help. Sultana could barely breathe and panicked, thinking that she would suffocate. Using his fingers, another agent penetrated Sultana's intimate areas for approximately twenty minutes.

Nearby, in the same room, agents held down and sexually assaulted Luara, whose wrists had been zip-tied behind her back. An agent grabbed Luara's intimate areas over her clothes, while kicking her legs and feet and holding a hand over her mouth. Sultana and Luara's mother witnessed the rape and sexual assault of her daughters, crying out in pain and panic. At around 6:00 am, the agents left the house.



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With each successive raid, the Khaya sisters' home has been destroyed and now has no water, in addition to no electricity. Neither sister has been able to clean herself since the rape and sexual assault.

V. INTERNATIONAL LEGAL ANALYSIS

The Government of Morocco has committed numerous flagrant violations of Sultana's rights under international law, including subjecting Sultana and Luara to torture and other cruel, inhuman or degrading treatment ("ill-treatment") in contravention of its obligations under both the CAT and the ICCPR, which Morocco ratified in 1993 and in 1979, respectively.

Under international law, the prohibition against torture and other ill-treatment under international law is absolute and non-derogable.³⁵ Thus, there is no national emergency, war, set of circumstances, or political instability that can make torture or ill-treatment legal.³⁶ Indeed, Article 7 of the ICCPR prohibits torture and ill-treatment,³⁷ and the Universal Declaration of Human Rights ("Universal Declaration") similarly states that "[n]o one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment."³⁸

Torture occurs when a person is subjected to:

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.³⁹

Since Sultana and Luara have been arbitrarily detained, none of the abuse they have endured at the hands of the Moroccan government can be said to arise from or be inherent in or incidental to lawful sanctions.⁴⁰

³⁵ *General Comment No. 2: Implementation of Article 2 by States parties*, UN COMMITTEE AGAINST TORTURE, U.N. Doc. No. CAT/C/GC/2, at ¶¶ 1, 6 (stating that the prohibition against torture is a *jus cogens* norm of international law and that no derogation is permitted from the prohibitions on torture and ill-treatment).

³⁶ *Id.*, at ¶ 5.

³⁷ International Covenant on Civil and Political Rights, 999 U.N.T.S. 171, entered into force Mar. 23, 1976, at Art. 7.

³⁸ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, *adopted* 1948, at Art. 5.

³⁹ Convention Against Torture, 1465 U.N.T.S. 85, *adopted* Dec. 10, 1984, at Art. 1.

⁴⁰ Appendix I, *supra* note 3, at 1-20.



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A. Moroccan public officials have inflicted physical and mental suffering on Sultana and Luara Khaya both to punish them for expressing their political views and to coerce them into silence.

During the raids on their home on August 22, 2021, November 8, 2021, November 10, 2021, and November 15, 2021, Moroccan police officers and security agents inflicted physical and mental suffering on Sultana and Luara Khaya to prevent them from advocating for Western Sahara’s independence and from protesting their *de facto* house arrest.

On August 22, 2021, Moroccan plainclothes agents raided the Khaya home, sexually assaulted both sisters, and exposed Sultana to COVID-19. After invading the Khaya home, the agents demanded that the family hand over all their Western Sahara flags, cameras, and phones used to document abuse by the Moroccan government and to contact their lawyers. The agents stole five cell phones and then sexually assaulted the Khaya sisters, zip-tying each woman’s hands together, stripping off her clothing, and then vaginally and anally searching her without a legal basis while touching her breasts.⁴¹ The agents threatened to rape Sultana both during and after this illegal search, and repeatedly threatened to kill both sisters.

During the August 22, 2021, raid, the agents also subjected Sultana and Luara to other forms of extreme physical violence. They exposed Sultana to COVID-19 by rubbing a rough cloth doused in an unidentified substance over Sultana’s nose and mouth for approximately fifteen minutes.⁴² Sultana subsequently tested positive for the virus using an antigen test on September 1, 2021.⁴³ They also beat Luara four different times on her hips and on her face, and the force of the beatings broke several blood vessels in Luara’s eye – her pupils appeared bright red. Additionally, the agents forced Luara to inhale the black toxic liquid.⁴⁴ She lost consciousness after becoming dizzy from the smell, and the agents beat Luara to revive her, using razor blades between their fingers.

Moroccan police officers and plainclothes agents also inflicted physical and mental suffering on Sultana and Luara Khaya on November 8, 2021, when they injected Sultana with an unknown substance and sexually abused both sisters. On November 8, 2021, Moroccan agents raided Sultana’s home and injected her with an unknown substance after zip-tying Sultana’s wrists together and stripping her of her clothing. The agents ignored her screams of pain while they injected the substance into Sultana’s right hip. Immediately after the injection, an agent said to Sultana, “Now you will be sick. You will be unable to protest.”⁴⁵ Sultana was injected in front of Luara, and the agents sexually abused both sisters by pulling and stretching their breasts.

⁴¹ FRONT LINE DEFENDERS, August 25, 2021, *supra* note 4.

⁴² PERSEUS STRATEGIES, *supra* note 1.

⁴³ See Appendix II, *supra* note 23.

⁴⁴ Appendix III, *supra* note 24.

⁴⁵ PERSEUS STRATEGIES, November 9, 2021, *supra* note 29.



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The agents have repeatedly and vindictively sought to make living conditions unbearable and unpredictable for Sultana and Luara – slashing food supplies, destroying furniture, and covering the interior of their home with a noxious black toxin. On November 10, 2021, at 3:30 am local time, agents entered the home again to terrorize Sultana and her family members. They beat Sultana, her sister, and her mother and left shortly afterwards. Both sisters struggle to sleep at night knowing they could be subjected to violence at any moment.

On November 15, 2021, masked Moroccan agents raped Sultana and subjected Luara to sexual assault. At around 5:40 am local time, between 50 and 60 agents entered the Khaya home after searching the roof for Western Sahara flags. The agents zip-tied each sister’s wrists together. Then, three agents held down each sister by pressing their knees into Sultana’s and Luara’s necks and shoulders. The agents forcibly removed Sultana’s pants and raped her, penetrating her intimate areas with their fingers. Other agents held down Luara, touched her intimate areas, and kicked her feet and legs. As Sultana and Luara screamed in pain, the third agent holding down each sister covered their mouths. Sultana believed that she would suffocate.

Previously, Moroccan police officers and plainclothes agents inflicted physical and mental suffering on the Khaya sisters as punishment and as coercion for their advocacy for Western Sahara’s independence. The Moroccan police beat and tortured Sultana for joining Sahrawi peaceful protests in 2007, 2011, 2013, 2016, and 2018 before placing her under *de facto* house in 2020.⁴⁶ Further, when Sultana was first apprehended and taken to the police station on November 19, 2020, the male Moroccan police commissioner for Boujdour, Hakim Amer, threatened Sultana with torture if she spoke about her political views or if she left the Khaya home after returning to Boujdour.

Moroccan public officials also have sought to punish and to coerce Luara into silence before the most recent raids in August and November 2021. In May 2021, the Boujdour office of the Moroccan Ministry of the Interior threatened Luara with abduction if she did not stop protesting with Sultana or if she stepped outside the house.⁴⁷ And on May 12, 2021, Moroccan agents raped both sisters, and raped Luara with the flagpole that she normally uses to wave the Western Sahara flag as retaliation for her protesting the previous day.⁴⁸

B. Moroccan public officials have inflicted physical and mental suffering on Sultana and Luara Khaya as discrimination against women human rights defenders.

⁴⁶ Appendix I, *supra* note 3, at 8-10.

⁴⁷ *Id.*, at 13.

⁴⁸ *Id.*, at 10.



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Moroccan agents have weaponized sexual violence against Sultana and Luara to punish them for being women human rights defenders. During the raid on August 22, 2021, agents touched their breasts and vaginally and anally searched them without a legal basis.⁴⁹ On November 8, 2021, after injecting Sultana with an unknown substance and waiting for her to become immobilized, Moroccan agents then sexually tortured her and Luara for two hours, until 6:30 am. Using their fingers, the agents pulled and stretched Sultana and Luara’s breasts and used their nails to break each woman’s skin. The agents pinched Sultana’s right hip to spread the injection faster throughout her body. All the while, the agents threatened to rape and kill the Khaya sisters. And on November 15, 2021, Moroccan agents raped Sultana and subjected Luara to sexual assault.

The Khaya sisters have previously been subjected to rape and other sexual violence at the hands of the Moroccan government. On May 12, 2021, Moroccan agents raided Sultana’s home at night after Sultana protested her house arrest during the day. The agents gagged and nearly suffocated Sultana and Luara before raping them. Sultana was penetrated with a shoe, and Luara was penetrated with the flagpole that the sisters normally use to wave the Western Sahara flag. The agents threatened to kill them, and then trampled and kicked their breasts.⁵⁰

Many Sahrawi human rights defenders are women, and physical aggression against them is often accompanied by defamation campaigns. As discussed in the preceding Section I, for example, Sahrawi activist and journalist Nazha El-Khalidi reported that websites and social media slandered her as a “loose woman” when the police confiscated her cell phone and leaked its contents online.⁵¹ The Moroccan police leaked Sultana’s private communications online, including sensitive details about being raped by Moroccan agents, which she shared in confidence with her therapist.

C. Moroccan public officials have inflicted physical and mental suffering on Sultana and Luara Khaya as discrimination against Sahrawi human rights defenders.

The UN Secretary-General António Guterres has found that Sahrawi human rights defenders have been subjected to violence, torture, and arbitrary detention by the Moroccan authorities.⁵² The WGAD also has highlighted that Moroccan police forces regularly raid the homes of known supporters of Western Sahara’s self-determination.⁵³

⁴⁹ FRONT LINE DEFENDERS, August 25, 2021, *supra* note 4.

⁵⁰ CNN Global, *supra* note 1; Appendix I, *supra* note 3, at 10; FRONT LINE DEFENDERS, May 14, 2021, *supra* note 17.

⁵¹ RWB, *supra* note 13, at 3, 18.

⁵² REPORT OF THE SECRETARY-GENERAL ON THE SITUATION CONCERNING WESTERN SAHARA, *supra* note 7, at ¶¶ 69; U.S. DEP’T OF STATE, 2020 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: MOROCCO (2021), <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/morocco/>.

⁵³ REPORT OF THE SECRETARY-GENERAL ON THE SITUATION CONCERNING WESTERN SAHARA, *supra* note 7, at ¶¶ 64–65.



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In the first two weeks of May 2021 alone, the Moroccan authorities detained a total of 13 Sahrawi human rights defenders, many of whom were members of ISACOM, a collective of renowned Sahrawi human rights defenders that includes Sultana, and the League for the Defense of Human Rights and the Protection of Natural Resources, to which both Khaya sisters belong and of which Sultana serves as President. Consistent with these patterns and practices, Sultana and Luara have been arbitrarily detained and are routinely targeted for raids and torture by Moroccan police and security agents.⁵⁴

VI. CONCLUSION

Given the long-standing persecution that Sultana and Luara have faced from the Government of Morocco as Sahrawi women human rights defenders, and the egregious human rights violations perpetrated during the raids on August 22, 2021, November 8, 2021, November 10, 2021, and on November 15, 2021, the Khaya sisters clearly remain at immediate risk of further torture and other cruel, inhuman or degrading treatment.

We respectfully reiterate our request that, in accordance with your working methods, you investigate the situation and urgently contact the Government of Morocco, requesting that it release Sultana and Luara to seek medical treatment of their choice for their injuries and to ensure their right to be free from torture and ill-treatment.

Sincerely,

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⁵⁴ Appendix I, *supra* note 3, at 21.