



International Educational Development



**Invite all delegations to the 39th session of the Human Rights Council to
a side-event on**

Freedom of Expression and freedom of the press in Western Sahara

Tuesday 18 September – 12:00 to 1:00 PM – Room XXIII

Panelists

Mr. Hassanna Aalia – Sahrawi National Commission for Human Rights

Mr. Jalihenna Mohamed – Sahrawi Campaign Against the Plunder (SCAP)

Mr. Abdeslam Aomar Lahsen - President of Association of the Families of the Sahrawi Prisoners and Disappeared (AFAPREDESA)

Moderator

Mr. Gianfranco Fattorini – American Association of Jurists (AAJ)

English / Spanish interpretation

Light refreshments and sandwiches will be served after the meeting



Invitar a todas las delegaciones a la 39^a sesión del Consejo de Derechos Humanos a un evento paralelo sobre

Libertad de expresión y libertad de la prensa en el Sahara Occidental

Martes 18 de Septiembre – 12:00 a las 13:00 – Sala XXIII

Ponentes

Mr. Hassanna Aalia – Comisión Nacional Saharaui de Derechos Humanos

Mr. Jalihenna Mohamed – Sahrawi Campaign Against the Plunder (SCAP)

Mr. Abdeslam Aomar Lahsen- Presidente, Asociación de Familiares de Presos y Desaparecidos Saharauis (AFAPREDESA)

Moderator

Mr. Gianfranco Fattorini – Asociación Americana de Juristas (AAJ)

Interpretación Español / Ingles

Bebiendas y sándwiches se servirán después de la reunión

Side event at the 39th session of the Human Rights Council

18 September 2018

**Freedom of Opinion and Expression and Freedom of the Press
in Western Sahara**

Introductory remarks by the American Association of Jurists

Since 1884, Western Sahara was under Spanish colonial rule. In December 1963, the General Assembly¹ added the Territory into the list of the Ad-Hoc Committee on the Situation in the Non-Self-Governing Territories concerning the implementation of the Declaration on the Granting of Independence to colonial countries and peoples.

On 6 November 1975, the International Court of Justice, responding to a request for an opinion from the General Assembly, had determined that "The inferences to be drawn from the information before the Court concerning internal acts of Moroccan sovereignty and from that concerning international acts are in accord in not providing indications of the existence,..., of any legal tie of territorial sovereignty between Western Sahara and the Moroccan State."²

The same day, the Kingdom of Morocco invaded Western Sahara militarily and organized a transfer of thousands of Moroccan people into the Non-Self-Governing Territory (Green march). The UN Security Council adopted resolution 380, deplored the holding of the march and calling upon Morocco immediately to withdraw from the Territory of Western Sahara all the participants to the march.

On 26 February 1976, Spain informed the UN Secretary-General that as of that date it had terminated its presence in Western Sahara and relinquished its responsibilities over the Territory. Western Sahara became, and is still today, the only Non Self-Governing Territory that has not an internationally recognized Administering power and which is under foreign occupation.

Recent judgments of the Grand Chamber of the Court of Justice of the European Union on December 2016 and February 2018 and of the High Court of South Africa in Port Elisabeth (June 2017) reaffirmed that Western Sahara has a separate and distinct status in relation to that of any State, including the Kingdom of Morocco and that the Moroccan occupation of a large part of Western Sahara has not affected the international status of the Territory as a Non Self-Governing Territory.

Nevertheless, the Kingdom of Morocco persists in considering the Non Self-Governing Territory of Western Sahara as an integral part of its national territory: this position has a direct consequence throughout the Moroccan legislative system.

¹ UNGA Resolution 1956 (XVIII)

² Western Sahara, Advisory Opinion, I.C.J. Reports 1975, p.12

Right to Freedom of Expression

Whoever speaks about the inalienable right to self-determination of the Sahrawi people and their right to independence³, either within the borders of the Kingdom of Morocco or in the occupied part of the Non Self-Governing Territory of Western Sahara, is accused of challenging the security of the State and its territorial integrity.

A/ The New Press Code

Promulgated in the Official Bulletin of the Kingdom of Morocco on 15 August 2016, it entered into force on that date. The Code is composed of three texts: the law relating to the press and the edition (law n ° 88-13), the law that regulates the status of professional journalists (law n ° 89-13) and the law establishing the Press National Council (law n ° 90-13).

The new Press Code is questioned by the members of the profession, all political tendencies and sympathies. In recent months, press professionals, newspaper publishers and journalists, who were barely consulted by the Minister of Communication in the elaboration of the law, have often denounced it.

Even if the new Press Code brings some real advances like the legal recognition of the freedom of electronic media and the establishment of judicial protections of the confidentiality of sources, the announcement of the annulment of custodial sentences and their replacement by fines and alternative punishments is misleading. Indeed, the sentences of imprisonment were eliminated from the new Press Code, but it is because they were "transferred" to the Penal Code, in particular with respect of offenses to religion, monarchy or symbols of the Kingdom.

B/ The new Article 275 e / of the Penal Code

Article 275 e / of the new Penal Code (Law No. 73.15), published in the Official Bulletin on 15 August 2016, together with the Press Code (BO No. 6491, in Arabic) stipulates that "anyone who insults the Muslim religion, the monarchy or attempts to the territorial integrity of the Kingdom will be punished from six months to two years of imprisonment and a fine of 20,000 to 200,000 Dirhams⁴, or one of these two penalties".

The same article provides that penalties may be increased from two to five years imprisonment and a fine of 50,000 to 500,000 Dirhams, if the aforementioned acts are committed by statements made at meetings or in public places, posters, or by distributing leaflets or any other printed or electronic means".

These provisions of the Criminal Code were not introduced accidentally. In fact, they nullify the advances made in the Press Code, making more difficult the work of journalists and restricting anyone from questioning religion, the monarchy or the conflict in Western Sahara.

C/ The practice and its consequences

Article 275 e / introduced, without naming it, the crime of blasphemy, it reintroduces the crime of slur to the sacredness of the King, which was eliminated in the last reform of the Moroccan Constitution in 2011 and it explicitly aims to close any debate on the more than 40 years ongoing conflict in Western Sahara.

³ UN General Assembly Resolution 1514 (XV)

⁴ 100 Dirhams are equivalent to approximately 10,50 US \$

While self-censorship is very common for journalists in Morocco, well known journalists have chosen to exile:

- Ali Lmrabet, an independent journalist (who actually lives in Spain) was condemned in 2005 to close down its publication and was prohibited to exercise his profession in Morocco for a period of 10 years; still in the present days he is subject to administrative harassment by the Moroccan authorities;
- Hicham Mansouri, historian and journalist, (who actually lives in France) was Chief of project at the Moroccan Investigative Association (AMJI) left the country in 2016;
- Aboubakr Jamaï, investigative journalist, former editor of the weekly French-language "Le Journal hebdomadaire" (18,000 copies) (who actually lives in France), at a press conference in Casablanca in February 2010 said: "I will no longer do journalism in Morocco and I decided to opt for the voluntary exile";
- Ahmed Réda Benchemsi, founder and former publishing director of the Moroccan weeklies Tel Quel (in French) and Nichane (in Darija) went into exile in the United States three months after the closure of Nichane in 2010 by the Moroccan authorities.

In the 2018 ranking established by the international organization for the defense of journalists, Reporters Without Borders, the Kingdom of Morocco is ranked 135 out of 180 countries. Compared to the 2016's ranking, established before the adoption of the new Press Code, the Kingdom of Morocco was demoted five ranks.

In the Non Self-Governing Territory of Western Sahara, Sahrawi independent journalists and media outlets advocating for the implementation of UNGA resolution 1514 (XV)⁵ are systematically targeted by the Moroccan authorities.

⁵ Declaration on the Granting of Independence to colonial peoples (14 Dec. 1960)



Evento paralelo en el marco de la 39^a sesión del Consejo de Derechos Humanos

Libertad de expresión y libertad de la prensa en el Sahara Occidental

Ginebra, martes 18 de Septiembre 2018

Ante todo, me gustaría dar las gracias a las organizaciones que han hecho posible este panel.

Primero, antes de que hablamos de la libertad de expresión y de prensa, en el Sahara Occidental, es importante recordar, que el estatuto jurídico internacional del Sáhara Occidental se define por las notas siguientes:

- es un TNA;
- es el único TNA que no tiene una Potencia Administradora que cumpla las obligaciones derivadas de la Carta de NNUU; y
- es el único TNA que se encuentra, parcialmente, ocupado por una potencia extranjera.

Y, en la medida en que la Resolución 1514 de NNUU, afirma que las situaciones de ocupación constituyen la denegación de los DDHH, podemos dar por sentado que, en el Sahara Occidental, la libertad de expresión, de prensa y todos los demás derechos, le resultan negados a la población saharaui.

La realidad sobre el terreno, durante los últimos 43 años, no ha venido sino a corroborar lo que la mencionada Resolución 1514 ha dejado establecido.

Así, las fuerzas de ocupación marroquíes, en el período comprendido entre 2016 y 2018, habían expulsado, a más de 300 periodistas y observadores internacionales, que habían accedido al territorio con la intención de conocer la realidad de la situación de los derechos humanos. Algunos de estos observadores internacionales, han sido brutalmente tratados, sufriendo golpes y malos tratos. En las actas del Grupo de Trabajo contra las Desapariciones Forzadas e Involuntarias constan varias denuncias de expertos independientes que han pretendido acceder al territorio y han sido expulsados por las fuerzas de ocupación marroquíes.

El equipo de investigación del canal de TV español, La SEXTA, fue detenido junto con el periodista Ahmed Al-Tanji, el 15 de febrero de 2018, cuando intentaban documentar el saqueo del pulpo, en aguas del Sahara Occidental .

A fecha de hoy, siete periodistas saharauis, siguen estando encarcelados, en las cárceles marroquíes, bajo acusaciones falsas: Abdallah Al-Khafouni, condenado a cadena perpetua; Huda Mohammed al-Amin, a 30 años de prisión; Al-Bashir Jadda, a 20 años; Mohammed Al-Bambari, a 6 años; Salah Al Basir, a 4 años; Mohammed Salem Mayara y Mohamed Al-Yumae, siguen pendientes de juicio. Y éste es el método que utilizan para bloquear la actividad de los periodistas saharauis, que constituyen la única fuente de información fiable sobre lo que sucede en los territorios ocupados del Sáhara Occidental.

Por otra parte, el Grupo de Trabajo sobre Detenciones Arbitrarias ha admitido la denuncia presentada, por el periodista Mohammed al-Bambari, contra Marruecos.

Las autoridades de ocupación marroquíes no solo secuestran y arrestan a periodistas saharauis y activistas, sino que también practican la violencia contra ellos y se apoderan de sus equipos. Confiscando el material que portan en cualquier momento del día.

Desde principios de 2018, se han registrado 43 casos de ataques contra periodistas que documentaban manifestaciones pacíficas organizadas por las organizaciones saharauis, para exigir la independencia de su país y mejorar sus condiciones de vida. De los 43 casos, por ejemplo, el caso Arousi Nadour, que fue encarcelado el 2 de mayo de 2018 y sentenciado a tres meses de prisión por este hecho.

En este mismo contexto, el Servicio de Inteligencia marroquí están financiando páginas web registradas en LINKA, un sitio web con base en Rabat, que difama a activistas y medios de comunicación y difunde rumores maliciosos y falsedades.

Además, las comunicaciones y el acceso a internet, están bajo el control absoluto de los servicios de inteligencia que, dotados de las tecnologías más modernas, controlan y censuran la actividad de los activistas saharauis.

A pesar de todas estas violaciones, un silencio cómplice y vergonzoso de la comunidad internacional y, especialmente, de España, la Potencia Administradora, sigue cubriendo el territorio con un manto de oscuridad que impide que la comunidad internacional sepa de estas violaciones.

Por último, reivindicamos la protección necesaria para los periodistas saharauis en los territorios ocupados, la liberación de todos los presos políticos detenidos, y proteger a la población civil saharaui de las graves violaciones de DDHH que comete el ocupante marroquí en el territorio y su población.

Muchas gracias por su atención.

Hassanna Aalia



Side-event à l'occasion de la 39ème session du Conseil des Droits de l'Homme

Genève, 18 septembre 2018

La liberté d'expression et de la presse au Sahara occidental

L'agression, l'occupation et l'annexion marocaines du territoire constituent une violation grave du droit international et de la résolution 1514 (XV) de l'Assemblée Générale de 1961 qui reconnaît le droit à l'autodétermination à tous les peuples coloniaux ou soumis à domination étrangère. Faut-il rappeler que l'Article 1er de la Résolution 1514 (XV) de l'ONU stipule que : " La sujétion des peuples à une subjugation, à une domination et à une exploitation étrangères constitue un déni des droits fondamentaux de l'homme, est contraire à la Charte des Nations Unies et compromet la cause de la paix et de la coopération mondiales."

Le statut du Sahara Occidental est celui d'un territoire occupé, tel que stipulé par l'AG ONU dans sa résolution 34/37 de 1979. Le Royaume du Maroc occupe actuellement une grande partie (3/4) du territoire suite à l'invasion perpétrée, le 31 octobre 1975, et se livre depuis lors à de multiples violations des droits de l'homme. Pour imposer le fait accompli colonial, le Maroc a imposé un black out total sur les informations liées au droit à l'autodétermination et aux droits de l'homme. Le Maroc se montre extrêmement agressif contre toutes celles et tous ceux qui exprime une opinion différente de ses thèses officielles. Il s'en prend aux sahraouis qui réclament le droit à l'autodétermination, aux sahraouis qui revendentiquent le respect des droits de l'homme et aux sahraouis qui recherchent un parent ou un ami disparu.

Il s'attaque également aux marocains qui défendent le principe à l'autodétermination ou s'oppose aux thèses du Maroc. Il en est de même pour les pays qui prennent position en faveur du peuple sahraoui ainsi que les fonctionnaires internationaux, y compris le secrétaire général de l'ONU.

Dans les territoires occupés, toute manifestation ou expression rejetant l'occupation est durement réprimée. Le simple fait de porter un drapeau de la République Sahraouie ou participer à une manifestation pacifique peut conduire à la détention arbitraire, la torture voire dans certains cas à la disparition forcée. Ainsi de nombreux sahraouis sont parmi les 400 disparus pour le simple fait d'avoir demandé des nouvelles de leurs parents ou amis séquestrés par les forces d'occupation.

Au Maroc même, la publication d'information contraire aux thèses coloniales est simplement interdite. De nombreux journalistes marocains ont été expulsés de leur travail ou poursuivis en justice pour avoir écrit Sahara Occidental ou pour avoir dit que les sahraouis dans la région de Tindouf ne sont pas des séquestrés. A titre d'exemple, Ali Lemrabet, le premier journaliste marocain à se rendre dans les camps de réfugiés de Tindouf, a été condamné en 2005 à dix ans d'interdiction de l'exercice de la profession de journaliste pour avoir déclaré à un hebdomadaire marocain que les sahraouis à Tindouf (Algérie), sont des réfugiés et non des "séquestrés". Abraham Serfaty, leader du mouvement Ila Al Amam (En avant), a été condamné à 18 ans en 1974 à cause de sa position à l'égard du Sahara occidental et son soutien à l'autodétermination du peuple sahraoui. Libéré en 1991, il a été déchu de sa nationalité marocaine et expulsé vers la France. Je viens de rencontrer des jeunes marocains qui vivent justement en France et m'ont expliqué qu'au Maroc ils ne pouvaient pas s'informer sur la situation au Sahara Occidental puisque tous les liens sur internet qui en parle sont bloqués.

Le Secrétaire Général de l'ONU, Ban Ki Moon, a été la cible d'une campagne de dénigrement pour avoir déclaré que le Sahara Occidental est sous occupation que la MINURSO se tenait prête à organiser le Referendum s'il y a accord entre les deux parties au conflit, le Royaume du Maroc et le Front Polisario. Ces déclarations s'est produite lors de la

Dans un communiqué publié le 9 mars 2016, les Nations unies ont notamment tenu à revenir sur l'utilisation du terme « occupation », suite aux reproches du ministère des Affaires étrangères marocain. « Samedi dernier, le secrétaire général a personnellement été témoin d'une situation désespérée dans un camp de réfugiés du Sahara occidental. (...) Il a fait référence à 'l'occupation' pour décrire l'incapacité des réfugiés sahraouis de rentrer chez eux dans des conditions qui incluent des accords de gouvernance satisfaisants en vertus desquels tous les sahraouis peuvent exprimer librement leurs désirs »

La liberté d'expression est totalement inexistante au Sahara Occidental et au Maroc même aux thèmes liés à l'occupation, c'est pourquoi nous appelons le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'expression :

- à donner plus d'intérêt dans ses rapports à la question de la liberté d'expression au Sahara Occidental et
- à visiter le Sahara Occidental en consultation avec le Front Polisario, étant son statut de représentant légitime du peuple et vu le statut de territoire non autonome, distinct et séparé du Royaume du Maroc.

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Side event at the 39th session of the Human Rights Council

Geneva - 18 September 2018

Freedom of Opinion and Expression and Freedom of the Press in Western Sahara

Sahrawi Campaign Against the Plunder (SCAP)

Mrs. Jalihenna Mohamed

According to the Secretary-General of the UN (S / 2017/307 – par. 68) and to various sources from the field, the Moroccan authorities continued to routinely prevent or disperse gatherings focused on the right to self-determination, discriminatory employment policies and other socioeconomic issues during the reporting period. According to the same sources, Moroccan law enforcement officials also blocked access to demonstrations and often used excessive or unnecessary force in repressing demonstrations, including during the OHCHR mission. In several cases, protesters and activists were allegedly subjected to arbitrary arrest, unfair trials and imprisonment on ostensibly trumped-up charges solely for exercising their rights to freedom of expression and peaceful assembly.

Local human rights groups reported that some persons injured during demonstrations were denied or did not receive equal and timely access to medical treatment or services. Others refrained from seeking medical assistance at hospitals out of fear of reprisal from security personnel on the scene” In the paragraph 73 the Secretary-General of the UN added that : “The Moroccan authorities continued to systematically prevent or disperse gatherings in Western Sahara west of the berm. In several instances, protesters and activists were allegedly subjected to arbitrary arrest, unfair trial and imprisonment on trumped-up charges.” In the same report it is noted “that the Government has recognized, in a note verbal to OHCHR dated February 17th, 2017, that 776 protests had been organized in the Western Sahara in 2016, including 343 in El Aaiun.”

The same situation continues to prevail in 2018, according to the latest report of the UN Secretary General on the situation in Western Sahara S / 2018/277.

The persistence of the occupation authorities is explained by the fact that these demonstrations claim, inter alia, the right to self-determination and independence, in accordance with the relevant United Nations resolutions.

The recent case of the torture and attempted murder of activist and human rights defender Sultana Jaya demonstrates the persistence of this deliberate policy to impede freedom of expression. Sultana Jaya participated in a peaceful demonstration in El Aaiun, to demand the end of the plundering of natural resources by Morocco and the European Union. The activist was taken to an side street by elements of the police where she was mistreated, tortured and abandoned in the same place. Other protesters arrived at the scene and found her unconscious in serious condition, her body full of bruises, due to the blows to which she was subjected. After being transferred to the hospital, a Moroccan doctor said that her body had been severely hit especially by the thorax that caused liver damage, broken ribs, waterlogging in the lungs, and internal bleeding affecting the surface of the heart. However, no Moroccan hospital agreed to enter Sultana Jaya who is currently in the Canary Islands to cure the wounds that could have caused her death. It should be recalled that this is not the first time that the activist is attacked by the Moroccan police. In 2007, when she participated in a demonstration in support of the Sahrawi political prisoners, a policeman with his stick completely sucked on her eyeball and tortured her along with other Sahrawis. Sultana calls the community to protect human rights in the occupied Sahrawi territories by extending the mandate of MINURSO to Human Rights.

Today, demonstrations are being organized in all the cities occupied by claiming the responsibility of the international community in the face of the serious situation suffered by the Sahrawi people in regard to the serious violations of human rights and the denial of their right to self-determination.
