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**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

Joint written statement* submitted by American Association of Jurists, Asociacion Cubana de las Naciones Unidas (Cuban United Nations Association), Asociación Española para el Derecho Internacional de los Derechos Humanos AEDIDH, Association Mauritanienne pour la promotion du droit, Association mauritanienne pour la transparence et le développement, Association Nationale des Echanges Entre Jeunes, Centro de Estudios Sobre la Juventud, Fundación Latinoamericana por los Derechos Humanos y el Desarrollo Social, International Association of Democratic Lawyers (IADL), International Fellowship of Reconciliation, Paz y Cooperación, World Barua Organization (WBO), non-governmental organizations in special consultative status, Indian Council of South America (CISA), International Educational Development, Inc., Liberation, Mouvement contre le racisme et pour l'amitié entre les peuples, World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 May 2019]

* Issued as received, in the language(s) of submission only.



Western Sahara: the violations of the economic, social and cultural rights

Historical and legal background

Since 1884, Western Sahara was under Spanish colonial rule. In December 1963, the UN General Assembly (UNGA) added Western Sahara into the list of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples,¹ contained in UNGA resolution 1514 (XV).

On 20 December 1966 the UN General Assembly adopted resolution 2229 (XXI), Inviting “the administering Power to determine at the earliest possible date, in conformity with the aspirations of the indigenous people of Spanish Sahara, the procedures for the holding of a referendum under United Nations auspices ...”

In its Advisory opinion of 16 October 1975,² the International Court of Justice (ICJ) unambiguously stated 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”.

The same day, King Hassan II announced a march to Spanish Sahara “in order to recover the integrity of the Moroccan territory”. The march, preceded by a military invasion, took place on 6 November 1975.

Few hours later, the UN Security Council (UNSC) adopted resolution 380, deploring the carrying 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 Secretary-General³ that as of that date it had terminated its presence in Western Sahara and relinquished its responsibilities over the Territory.

Since Spain withdrew from the Saharan colonized territory, Western Sahara became the only Non Self-Governing Territory (NSGT) that has not an internationally recognized Administering Power. It is also the only Non Self-Governing Territory under the illegal military occupation of a third country.

Subsequently, the UNGA,⁴ urged Morocco to end the occupation of the Territory and recognized the Polisario Front as the legitimate representative of the people of Western Sahara.

Since then, the UNGA has repeatedly reaffirmed its interpretation of the legal status of Western Sahara as a Non Self-Governing Territory, including in its resolution 73/107⁵ where the UNGA reaffirms the responsibility of the United Nations towards the people of Western Sahara.

¹ UN General Assembly 1956 (XVIII).

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

³ https://wikileaks.org/plusd/cables/1976USUNN00744_b.html

⁴ UNGA Resolutions 34/37 (21 November 1979) and 35/19 (11 November 1980).

⁵ “Question of Western Sahara” (7 Dec. 2018).

The illegal occupation and annexation of Western Sahara by Morocco

The Principle of equal rights and self-determination of peoples contained in the UNGA Resolution 25/2625⁶ states, *inter alia*, that subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle, as well as a denial of fundamental human rights, and is contrary to the Charter.

The same Principle, also affirms that the territory of a colony or other Non-Self-Governing Territory has, under the Charter, a status separate and distinct from the territory of the State administering it; and such separate and distinct status under the Charter shall exist until the people of the colony or Non-Self-Governing Territory have exercised their right of self-determination in accordance with the Charter.

Since the invasion and the subsequent military occupation of the Non Self-Governing Territory of Western Sahara, Morocco not only continues to encourage Moroccan civilian population transfer to Western Sahara, thus violating article 49 of the Fourth Geneva Convention, but it has also adopted decrees⁷ which establish the administrative territorial division of the Kingdom that includes the Occupied Territory of Western Sahara, where members of the Moroccan Legislative power are elected: an undeniable case of illegal annexation.

The Moroccan longstanding posture in the negotiations, as well as in the annual King Mohamed VI's speeches celebrating the invasion march of 1975, shows that Morocco has no intention to end its illegal occupation.

The systematic plundering of the natural resources in Western Sahara by Morocco, without the free, prior and informed consent of the internationally recognized representative of the people of Western Sahara,⁸ as well as the serious and persistent violations of the Geneva Conventions, illustrate that the Moroccan authorities have never taken in due account the interests of the people under occupation.

The violations of the economic, social and cultural rights of the Sahrawi people

In 2006, the members of a Mission sent to Western Sahara and the Sahrawi refugees' camps⁹ by the OHCHR stressed in their conclusions that the Sahrawi people are not only denied their right to self-determination, but equally are severely restricted from exercising a series of other rights and that almost all human rights violations and concerns with regard to the people of Western Sahara, stem from the non-implementation of the right to self-determination.

In 2015, the UN Committee on Economic, Social and Cultural Rights¹⁰ reiterated its concern about the failure to find a solution to the issue of the right to self-determination of the Non-Self-Governing Territory of Western Sahara and expressed its deep concern that the Berm¹¹ is preventing the Sahrawis from fully enjoying their rights under the Covenant.

⁶ Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations (24 October 1970).

⁷ The last decree was on 20 February 2015 (no. 2-15-40).

⁸ UNGA res. 34/37 (21.11.1979) recognizes the Polisario Front as the representative of the people of Western Sahara.

⁹ <http://www.arso.org/OHCHRrep2006en.pdf>.

¹⁰ Concluding Observation to the fourth periodic report of the Kingdom of Morocco (E/C.12/MAR/CO/4).

¹¹ A sand-wall fortified by anti-personnel mines built by the Kingdom of Morocco to separate the Moroccan-controlled part of Western Sahara from the rest of the territory.

A recent report,¹² involving a large number of NGOs and the Public University of Navarra (Spain), analyzes the violations of the ESCR in the Occupied Territory of Western Sahara, with a particular focus on the right to work, the right to health and the right to education.

The report stresses that:

The weakness of the labour legislation implemented by Morocco in Western Sahara feeds into a structural violence which crosses over with the express policy of marginalizing the Sahrawi people;

The situation outlined breeds distrust in, and avoidance of, the health system; it also leads to desperation evident in the mood and psychological condition of the patient, in general families are not used to reporting cases of negligence for fear of possible repercussions and reprisals;

The education system in the occupied areas of Western Sahara, as well as in university cities in Morocco, is shown to be rife with inequality, discrimination and repression that represent a direct attack on the Sahrawi identity and the students of that origin.

Another recent report¹³ highlights the effects of the exploitation and plundering of the fisheries resources of Western Sahara. The report underscores that the Spanish fish market is increasingly concentrated in large distribution companies and in a consumption model that is not transparent, nor ecologically unsustainable and that exploits the resources of the Sahrawi population without their consent or benefit.

The responsibility of the Office of the High Commissioner for Human Rights (OHCHR)

UNGA Resolution 48/141¹⁴ gives the responsibility to the High Commissioner for Human Rights to play an active role in removing the obstacles and in meeting the challenges to the full realization of all human rights and in preventing the continuation of human rights violations throughout the world, including the NSGT of Western Sahara.

UNGA Resolution 73/105¹⁵ urges those specialized agencies and other organizations of the United Nations system that have not yet provided assistance to NSGTs to do so as soon as possible (OP 8) and recommends that the specialized agencies and other organizations of the UN system continue to review at the regular meetings of their governing bodies the implementation of General Assembly resolution 1514 (XV).

When reading the reports submitted by ECOSOC's President throughout the years in compliance with ECOSOC resolution 2018/18¹⁶ it appears that, with a single exception in 2004¹⁷, the OHCHR never developed a support programme for NSGTs. Moreover, there is no record about such kind of programme in the annual reports of activities of the OHCHR.

Recommendations

The 191 undersigned organizations call upon the UN High-Commissioner for Human Rights:

¹² https://issuu.com/saharaaskea/docs/agapinthewall_englishreport/50.

¹³ <http://www.odhe.cat/es/los-tentaculos-de-la-ocupacion/>.

¹⁴ High Commissioner for the promotion and protection of all human rights (20 Dec. 1993).

¹⁵ Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the specialized agencies and the international institutions associated with the United Nations (7 Dec. 2018).

¹⁶ Support to Non-Self-Governing Territories by the specialized agencies and international institutions associated with the United Nations (3 July 2018).

¹⁷ E/2004/47.

To resume, without delay, the technical mission to Western Sahara and the Sahrawi refugees' camps and to renew it every six months;

To report regularly to the Human Rights Council on the Human Rights situation in Western Sahara and in the refugees' camps and on the Office activities there;

To develop a specific technical assistance and capacity-building programme with the legal representative of the people of Western Sahara, the Polisario Front.¹⁸

The 191 undersigned organizations also call upon:

The UN Human Rights Council to create the mandate of Special Rapporteur on the Human Rights violations in the Occupied Territory of Western Sahara;

All Special procedures of the Human Rights Council, as well as all Treaty Bodies, to bear in mind the particular legal status of the Non Self-Governing Territory of Western Sahara and its occupation by Morocco, when contemplating to visit Morocco and Western Sahara or revising reports submitted by Morocco; in any case, a meaningful dialogue should be initiated with the Sahrawi National Commission of Human Rights (CONASADH);

The UN Security Council to include the monitoring of Human Rights in the mandate of the MINURSO;¹⁹

The UN Secretary-General to report to the UN General Assembly in accordance with the modalities set for the Administering Powers by Article 73 of the UN Charter.

Acción Solidaria Aragonesa (ASA), Adala UK, African Law Foundation (AFRILAW), Afrika Kontakt , Arabako SEAD en Lagunen Elkartea, Asociación de Amigos y Amigas de la R.A.S.D. de Álava, Amal Nanclores, Asociación Amal Centro Andalucía, ARCI Città Visibili, A.R.S.P.S. - Rio de Oro Onlus, Asociación Amigos del Pueblo Saharaui del Campo de Gibraltar (FANDAS), Asociación Amigos del Pueblo Saharaui de Toledo, Asociación de Amistad con el Pueblo Saharaui de Albacete, Asociación ARDI HURRA, Asociación Asturiana de Solidaridad con el Pueblo Saharaui, Asociación Canaria de Amistad con el Pueblo Saharaui (ACAPS), Asociación de la Comunidad Saharaui en Argon (ACSA), Asociación de Discapacitados Saharaui, Asociación Ecuatoriana de Amistad con el Pueblo Saharaui (AEAPS), Asociación de Familiares de Presos y Desaparecidos Saharaui (AFAPREDESA), Asociación por la Justicia y los Derechos Humanos, Asociación de Médicos Saharaui en España, Asociación Navarra de Amigos y Amigas de la R.A.S.D. (ANARASD), Asociación Navarra de Amigos y Amigas del Sahara (ANAS), Asociación Pro Derechos Humanos de España (APDHE), Asociación Profesional de Abogados Saharaui en España (APRASE), Asociación por la Protección de los Presos Saharaui en las Cárceles Marroquí, Asociación Riojana de Amigos de la R.A.S.D., Asociación Saharaui de Control de los Recursos naturales y la Protección del Medio Ambiente, Asociación Saharaui para la Protección y Difusión del Patrimonio cultural Saharaui, Asociación Saharaui contra la Tortura, Asociación de Saharaui en Alicante, Asociación de Saharaui en Ávila, Asociación de Saharaui en Bal, Asociación de Saharaui en Fuerteventura, Asociación de Saharaui en Jerez de la Frontera, Asociación de Saharaui en Lebrija, Asociación de Saharaui en Navarra, Asociación de Saharaui en Tenerife, Asociación de Saharaui en Valdepeñas, Asociación Um Draiga de Zaragoza, Asociación Venezolana de Solidaridad con el Sáhara (ASOVESSA), Asociación de Víctimas de Minas (ASAVIM), Asociación de Zamur, Associació d'Amics del Poble Saharaui de les Iles Balears, Association des Amis de la RASD (France), Association de la Communauté Sahraouie en France, Association Culture Sahara, Association culturelle Franco-Sahraouie, Association des Femmes Sahraouies en France, Association of

¹⁸ UNGA resolution 34/37 "Question of Western Sahara" (21 Nov. 1979).

¹⁹ The UN Mission for the Referendum in Western Sahara was created by the UN Security Council with the adoption, in April 1991, of resolution 690.

Humanitarian Lawyers, Association for the Monitoring of Resources and for the Protection of the Environment in Western Sahara (AMRPENWS), Association pour un Référendum libre et régulier au Sahara occidental (ARSO), Association Sahraouie des Victimes des Violations Graves des Droits de l'Homme Commises par l'Etat Marocain (ASVDH), Association des Sahraouis de Bordeaux, Association de la vie maghrébine pour la solidarité et le développement (AVMSD), Associazione bambini senza confini – Onlus, Associazione Jaima Sahrawi per una soluzione giusta e non violenta nel Sahara Occ., Associazione Nazionale di Solidarietà con il Popolo Saharawi, Bentili Media Center, Bureau International pour le Respect des Droits Humains au Sahara occidental (BIRDHSO), Campaña Saharawi para la sensibilización sobre el peligro de Minas (SCBL), Cantabria por el Sáhara, Centro Brasileiro de Solidaridad con los Pueblos y Lucha por la Paz, CEBRAPAZ, Centro de Documentación en Derechos Humanos “Segundo Montes Mozo S.J.” (CSMM), Centro Saharawi por la Salvaguardia de la Memoria, Colectivo Saharawi de Defensores de Derechos Humanos (CODESA), Colectivo Saharawi en Estepona, Colectivo Saharawi en Gipuzkoa, Colectivo Saharawi en Jaén, Colectivo Saharawi en Lanzarote, Comisión Ecueménica de Derechos Humanos de Ecuador (CEDHU), Comisión General Justicia y Paz, Comisión Media Independientes, Comisión Nacional de los Derechos Humanos de la República Dominicana (CNDH-RD), Comisión Nacional Saharawi por los Derechos Humanos (CONASADH), Comité d'Action et de Réflexion pour l'Avenir du Sahara Occidental, Comité de Apoyo por el Plano de Paz y la Protección de los Recursos Naturales en el Sáhara Occidental, Comité de Defensa del Derecho de Autodeterminación (CODAPSO), Comité de Familiares de los 15 Jóvenes Secuestrados, Comité de Familiares de Mártires y Desaparecidos, Comité de Familiares de los Presos Políticos Saharawis, Comité de Jumelage et d'Echange Internationaux / Gonfreville l'Orcher, Comité de Protección de los Defensores Saharawis – Freedom Sun, Comité de Protección de los Recursos Naturales, Comité Saharawi de Defensa de Derechos Humanos (Glaimim), Comité Saharawi de Defensa de Derechos Humanos (Smara), Comité Saharawi de Defensa de Derechos Humanos (Zag), Comité Saharawi por el Monitoreo de los Derechos Humanos (Assa), Comité de Solidaridad Oscar Romero, Comité Suisse de soutien au Peuple Sahraoui, Comité de Victimas de Agdaz y Magouna, Comunidad Saharawi en Aragón, Comunidad Saharawi en Castilla y León, Comunidad Saharawi en Castilla la Mancha, Comunidad Saharawi en Catalunya, Comunidad Saharawi en Grenada, Comunidad Saharawi en Las Palmas, Comunidad Saharawi en Murcia, Coordinadora Estatal de Asociaciones Solidarias con el Sáhara (CEAS – Sáhara), Coordinadora de Gdeim Izik para un Movimiento Pacífico, Coordinadora de los Graduados Saharawis Desempleados, Coordinadora d'Organizacions No-Governmentals de Cooperació al Desenvolupament (CONGDIB), Coordinadora de las ONGs en Aaiún, Coordinadora Saharawi de Derechos Humanos de Tantan, DISABI Bizkaia, Emmaus Åland, Emmaus Stockholm, Equipe Média, Federació ACAPS de Catalunya, Federació d'Associacions de Solidaritat amb el Poble Sahrauí del País Valencià, Federación Andaluza de Asociaciones Solidarias con el Sahara (FANDAS), Federación de Asociaciones de Amigos del Pueblo Saharawi de Extremadura (FEDESAEX), Federación de la Comunidad de Madrid de Asociaciones Solidarias con el Sahara (FEMAS Sahara), Federación Estatal de Instituciones Solidarias con el Pueblo Saharawi (FEDISSAH), Fondation Frantz Fanon, Forum Futuro de la Mujer Saharawi, Freiheit für die Westsahara e.V., Fundación Mundubat, Fundación Sahara occidental, Giuristi Democratici, Groupe Non Violence Active (NOVA SAHARA OCCIDENTAL), Grupo por la renuncia de la Nacionalidad Marroquí, Ibsar Al Khair Association for the Disabled in Western Sahara, Liga de Defensa de los Presos Políticos Saharawi, Liga de Deportistas Saharawis en España, Liga de Estudiantes Saharawis en España, Liga de Periodistas Saharawis en España, Liga Saharawi de defensa de Derechos Humanos y Protección de RW-Bojador, Ligue des Jeunes et des Etudiants Sahraouis en France, Ligue pour la Protection des Prisonniers Sahraouis dans les prisons marocaines (LPPS), National Television Team, Norwegian Support Committee for Western Sahara, Observatoire des Médias Sahraouis pour documenter les violations des droits de l'homme, Observatorio Aragonés para el Sáhara Occidental, Observatorio Asturiano de Derechos Humanos para el Sáhara Occidental (OAPSO), Observatorio Saharawi por el Niño y la Mujer, Observatorio Saharawi de Protección del Niño, Observatorio Saharawi de Recursos Naturales, 1514 Oltre il muro, Organización Contra la Tortura en Dakhla, Organización Saharawi por la Defensa de las libertades y la dignidad, Pallasos en Rebellía y Festiclown, Por un Sahara Libre,

Sahara Euskadi Vitoria, Sahara Gasteiz Vitoria, Saharawi Advocacy Campaign, Saharawi Association for Persons with Disabilities in Western Sahara, Saharawi Association in the USA (SAUSA), Saharawi Campaign against the Plunder (SCAP), Saharawi Center for Media and Communication, Saharawi Media Team, Saharawi Voice, Schweizerische Unterstützungskomitee für die Sahraouis, Sindicato Español Comisiones Obreras (CCOO), Solidariedade Galega col Pobo Saharai (SOGAPS), Stichting Zelfbeschikking West-Sahara, Tayuch Amurio, Tawasol Ludio, The Australian Western Sahara Association, The Icelandic Western Sahara Association, The Swedish Western Sahara Committee, Unión de Asociaciones Solidarias con el Sáhara de Castilla y León, Union des Ingénieurs Sahraouis, Unión de Juristas Saharauis (UJS), Unión Nacional de Abogados Saharauis, Unión Nacional de Estudiantes de Saguia El Hamra y Rio de Oro (UESARIO), Unión Nacional de la Juventud de Saguia El Hamra y Rio de Oro (UJSARIO), Unión Nacional de Mujeres Saharauis (UNMS), Unión Nacional de Trabajadores de Saguia El Hamra y Rio de Oro (UGTSARIO), Unión de Periodistas y Escritores Saharauis (UPES), US Western Sahara Foundation, VZW de Vereniging van de Sahrawi Gemeenschap in Belgie, Western Sahara Resource Watch España (WSRW España), Western Sahara Times, NGOs without consultative status, also share the views expressed in this statement.