

Algeria - Angola – Botswana - Cuba - Mozambique - Namibia –Nicaragua

South Africa - Tanzania - Timor Leste - Venezuela - Zimbabwe

Members of the

Geneva Support Group for Western Sahara

*Invite all delegations to the 43rd session of the UN Human Rights Council
to a High-Level side-event on*

Strengthening the cooperation between the African and the UN Human Rights mechanisms

Wednesday 24th February 2020 – 13:30 to 15:00 – Room XXIII

Panelists:

Mr. Francisco Dionisio Fernandes – Chargé d'affaires a.i. of Timor Leste

H.E. Ms. Lidwina N. Shapwa – Deputy Minister of Justice, Republic of Namibia

*H.E. Mr. Oubi Bouchraya Bachir – Minister for Europe, Sahrawi Arab Democratic
Republic*

Mr. Donald O. Deya – CEO, Pan African Lawyer Union

Ms. Aminatou Haidar – President, Collective of Sahrawi Human Rights Defenders

Mr. Hasan Mulid –Sahrawi National Commission of Human Rights (CONASADH)

Moderator:

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

Oriental buffet will be served before the meeting

English / French interpretation



**PERMANENT MISSION OF THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE
TO THE UNITED NATIONS OFFICE AND OTHER INTERNATIONAL ORGANIZATIONS IN
GENEVA**

**High-Level Side-event at the 43rd session of the HRC
26 February 2020**

***Strengthening the cooperation between the African
and the UN Human Rights mechanisms***

**Statement delivered by Mr. Francisco Dionisio Fernandes
Chargé d'Affaires of Timor-Leste**

Honourable, Ms. Lidwina Ndeshimona Shapwa, Deputy Minister of Justice of the Republic of Namibia,

Your Excellency Oubi Bouchraya Bachir, Minister for Europe of the Sahrawi Arab Democratic Republic,

Your Excellencies,

Distinguished panellists,

Ladies and gentlemen,

Dear colleagues,

It is an honour for me to welcome you all to this High-Level side event in my capacity as Chair of the Geneva Support Group for Western Sahara. I wish to remember that this Group is composed of thirteen countries (Algeria, Angola, Botswana, Cuba, Mozambique, Namibia, Nicaragua, South Africa, Tanzania, Timor-Leste, Uganda, Venezuela and Zimbabwe). The Polisario Front and the American Association of Jurists are also part of the Group.

It is a particular privilege for me and my country to coordinate for the second time this Group. As you know, historical similarities and fraternity mark the relation between Timor-Leste and the Sahrawi Arab Democratic Republic. The Government and the people of Timor Leste have always shown a very strong commitment to the Saharawi people and the authorities of the Sahrawi Arab Democratic Republic.

Timor-Leste was too a Non-Self-Governing Territory and like the Saharawi people we went through a painful period of war that caused more devastation than anyone can imagine, but we finally succeeded after a long quest for exercising the right to self-determination and achieved independence in 2002.

The African continent knows well the struggles I am describing, and often we turned to them, hoping to learn from past experiences and looking for ideas to shape the way forward. At that time, our national movement for liberation looked, for example, at the movements taking place in Angola and Mozambique.

For Timor-Leste, giving up was never an option not even when we were facing the most daunting challenges. There were times where we felt forgotten, but there were others where we felt the support of the international community, including the support of the former colonial power. The support we felt encouraged us even more and Timor-Leste knows, first-hand, how important is the support we are all giving up today to Western Sahara, just by being present in this room, and for that I thank you.

Fifty-four years after the UNGA asked Spain, in its capacity as Administering Power, to organize a referendum in Western Sahara allowing the Sahrawis to exercise their right to self-determination and to independence, and 29 years after the establishment of MINURSO, the people of Western Sahara hasn't yet been given the opportunity to exercise their right to self-determination.

Western Sahara remains the last colony in Africa, a Territory that the United Nations recognizes to be under the illegal occupation.

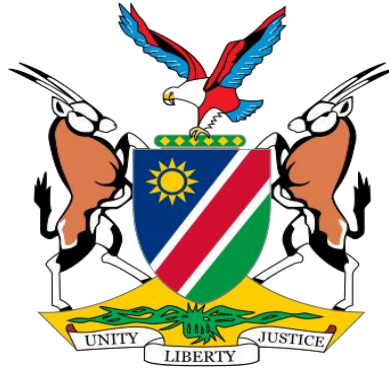
Sixteen years of war and 45 years of occupation of Western Sahara have caused and continue to cause, systematic and serious violations of human rights.

Only a few months separate the unilateral declarations of independence of Timor-Leste and Western Sahara. While we were fighting for our independence either on the battlefield and/or in the international forums, we often thought that, well, Western Sahara is going to be independent first and then us... now, 45 years have passed for our brothers and sisters of Western Sahara and little or no advances have been made, which lead us to ask: where are we, nations, regional and multilateral organisations failing?

Timor-Leste appeals to the countries involved in the conflict to enter into a constructive and genuine dialogue, with the support of the African Union and others African Human Rights Organisations.

It is in this spirit that we decided to focus this High-Level Side-event on the "Strengthening of the cooperation between the African and the UN Human Rights mechanisms" and I look forward to hear all the presentations of the Panel.

Thank you.



**Statement by Honourable Lidwina N. Shapwa
Deputy Minister of Justice of the Republic of Namibia**

**High-Level Side Event on
Strengthening the Cooperation Between the African and the UN
Human Rights Mechanisms**

The Case of Western Sahara

Palais des Nations

Geneva, 26 February 2020

Thank you, Mr. Chair.
Excellencies,
Distinguished Delegates,
Ladies and Gentlemen,

Allow me from the onset to thank the Ambassadors of the Geneva Support Group for their tireless efforts and unwavering commitment for the struggle of the people of Western Sahara to exercise their right to self-determination and independence. Freedom as President Hage G. Geingob, President of the Republic of Namibia, aptly said during the SADC Solidarity Conference for Western Sahara, is the birth right of the people of Western Sahara. No one can bestow freedom on the Sahrawi people, and it should not be up for negotiation.

It is indeed a privilege and honor to speak at this side event organized to reflect on how to strengthen cooperation between the UN and the African Regional Human Rights Mechanism on the Case of Western Sahara.

Mr. Chair,

There are quite a number of UN Resolutions that encourage cooperation between the United Nations and regional arrangements in the promotion and protection of Human Rights.

In fact, the World Conference on Human Rights in 1993, endorsed efforts to establish, strengthen and increase the effectiveness of regional and sub-regional arrangements while at the same time stressing the importance of their cooperation with the UN human rights system. Of course, such cooperation arrangements already exist.

There are several recorded joint activities between the UN and the African Human Rights System. On 3 March 2017 for example, the UN Special Rapporteur on Freedom of Expression together with the African Commission on Human and Peoples Rights and the OSCE issued a Joint Statement on Fake News and the role of government and media outlets.

In May 2017, the African Commission on Human and Peoples' Rights adopted Resolution 373 endorsing the Regional Action Plan on Albinism to address attacks against Persons with Albinism in Africa. The Regional Action Plan was developed by the UN Independent Expert on the enjoyment of human rights by persons with albinism.

On 17 September 2019, the Office of the UN High Commissioner for Human Rights and the African Commission on Human and Peoples' Rights signed a formal agreement to cooperate and collaborate in areas of common interest. It is the third such agreement between the Office of the UN High Commissioner for Human Rights and key African human rights institutions.

Mr. Chair,

I am of the view that this formal agreement between the OHCHR could be used to cooperate on Human Rights issues in the territory of Western Sahara. The exchange of information and joint action are pillars of this agreement. State reports prepared by African Commission could always be shared with the OHCHR and the Treaty Bodies. The information can in turn be used by the OHCHR in preparing its summaries for the Universal Periodic Review etc.

The Treaty bodies can use such information when reviewing the practices of State Parties to the Human Rights Treaties. Let's take for example the illegal exploitation of resources in Western Sahara. We know that there are quite a number of companies from various countries collaborating with Morocco in Western Sahara. A State report from the African Commission could be used by the Treaty Bodies to make recommendations to States to encourage their companies to cease their operations and withdraw from Western Sahara. The Commission could also advise the Treaty Bodies on the implementation of recommendations.

I am also aware that the current dynamics are not that straight forward. While Morocco has rejoined the African Union, it has not acceded to the African Charter on Human and Peoples' Rights also known as the Banjul Charter which creates the African Commission on Human and Peoples' Rights. This means that they have no reporting obligations towards this very important instrument of the African Union.

But as the saying goes there are many ways to kill a cat. The Saharawi Arab Democratic Republic (SADR) is a State party to the Banjul Charter having acceded to the instrument in 1986. The State reports submitted to the Commission by the SADR can be used in any cooperative arrangements with the UN Human Rights System. I do of course acknowledge the limitations of SADR when it comes to the preparation of state reports given that they are a Government in exile. Last time I checked there were 4 reports outstanding to the Commission.

I am further of the view that the special mechanisms of the African Commission on Human and Peoples' Rights can always cooperate on the situation in Western Sahara. Information can be shared between Special Rapporteurs and the Independent Experts.

It would be interesting to hear from the rest of the panelist on whether joint visits can be undertaken by the UN Human Rights Special Mechanisms and the Special Mechanisms of the African Commission on Human and Peoples' Rights given that Morocco is not a State Party to the Banjul Charter and the fact that the UN recognizes Western Sahara as a Non-Self Governing Territory and the African Union recognizes SADR as a member state of the African Union. And what are the challenges of such a joint initiative?

Mr. Chair,

Allow me to conclude by calling upon the states that recognize SADR to remain steadfast in their diplomatic and material support for the struggle of the People of Western Sahara for their right to self-determination and independence. We should sustain and increase the pressure in order to ensure that this inalienable right is realized for the People of Western Sahara.

Let's use every possible mechanism within the UN, at regional and national level to ensure that our Saharawi brothers and sisters are freed from colonialism. I further call upon those who do not support self-determination for the People of Western Sahara to reconsider because it is an international duty to support this right for those who are state parties to international human rights instruments such as the International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights.

If you subscribe to the relevant UN Resolutions, including the Declaration on the Granting of Independence to Colonial Countries and Peoples, and the Advisory Opinion of the International Court of Justice in 1975, than you have no choice but to support the struggle of the People of Western Sahara.

I thank you Mr. Chair.



Saharawi National Commission for Human Rights

Mr. Hassan Boutzegart

Strengthening the cooperation between the African and the UN Human Rights mechanisms

Wednesday 24th February 2020 – Palais des Nations (Geneva)

Excellencies, ladies and gentlemen, colleagues and friends,

First of all, I would like to thank the organizers of this meeting for giving the Saharawi National Human Rights Commission the opportunity to meet here.

The African Charter on Human and Peoples' Rights is the foundation on which the African Commission is built and on which it develops its noble tasks for the promotion and protection of human and peoples' rights in Africa. Furthermore, all other institutions and instruments of the African Union refer to the Charter as their fundamental source.

The African Charter on Human and Peoples' Rights was ratified and adopted by the Assembly of Heads of State and Government in June 1981 in Nairobi, Kenya. Currently, 54 of the 55 member states of the African Union have acceded to the Charter; the only exception is the Kingdom of Morocco, which continues to ignore AU recommendations calling on it to accede to the African Charter on Human and Peoples' Rights.

Compared to similar documents that preceded it, the African Charter on Human and Peoples' Rights has the particularity of recognising and guaranteeing, alongside individual rights and freedoms, rights to peoples as such:

- the right to existence and self-determination (art. 20),
- the right to freedom from colonial domination or oppression by all means recognized by the International Community,

- the right to the free disposal of their wealth and natural resources, and in the event of Spoliation, the right to the legitimate recovery of looted property, as well as to adequate Compensation (art. 21).

The Saharawi Arab Democratic Republic ratified the African Charter on Human and Peoples' Rights on 23 May 1986 and has opened a relationship of cooperation and constructive dialogue with the African Commission on Human and Peoples' Rights.

Since that date, the Saharawi Republic has regularly informed the Commission of the human rights situation in the Occupied Territories and has provided it with reports. The Saharawi Government has asked the Commission to pay particular attention to the grave human rights situation in the Occupied Territories, given the Commission's responsibility and mandate in the field of protection and respect for human rights.

The Saharawi Republic has raised the issue of human rights violations on the occasion of several meetings of the Summit of Heads of State and Government of the African Union, which resulted in several relevant decisions.

The Executive Council of the African Union, in January 2012, had requested the African Commission on Human and Peoples' Rights to carry out a mission to the Occupied Territories of the Saharawi Republic to investigate human rights violations and to report to the next session of the Executive Council in January 2013.

The Executive Council of the Union, in January 2013, had adopted a decision, in which it requested the Commission to take all necessary measures for the organization of the referendum, in accordance with the decisions of the OAU and the resolutions of the United Nations.

In implementation of this decision, the African Commission on Human and Peoples' Rights, on 28 April 2012, sent a Note Verbale [Ref: ACHPR/CHAIR/MRC/SAHWI/PM/353/12] to the Government of the Kingdom of Morocco requesting it to grant it security of passage to the Occupied Territory of the Sahrawi Republic. A second Note Verbale [Ref: ACHPR/CHAIR/RASD/670/12] was sent on 8 August 2012. No reply has been received to date from the Moroccan authorities. The Commission was therefore unable to visit the Occupied Territory of the Sahrawi Republic.

In accordance with the Decision of the Executive Council of the African Union requesting the African Commission on Human and Peoples' Rights to undertake a mission to the Occupied Territories of the Sahrawi Republic to investigate human rights violations, a delegation of the Commission undertook a fact-finding mission to the Sahrawi Republic from 24 to 28 September 2012. The delegation was chaired by Commissioner Dupe Atoki - Chairperson of the African Commission.

On the other hand, pursuant to Article 62 of the African Charter, the Saharawi Republic submitted two periodic reports on the human rights situation in the Saharawi State. The first report was submitted in May 2013 and the second in May 2014.

This cooperation also included relations with the African Court on Human and Peoples' Rights, the Pan-African Parliament, the Committee of Experts on the Rights of the Child and other mechanisms. In this context, a delegation from the African Court on Human and Peoples' Rights visited the Saharawi State between 7 and 10 February 2018¹.

It should be noted that the Commission issued several recommendations and statements mainly concerning some of these violations by the Moroccan occupation authorities.

¹ The Saharawi Arab Democratic Republic ratified the Protocol to the Charter on Human and Peoples' Rights on the African Court on Human and Peoples' Rights on 27 January 2014.

On the basis of these decisions as well as the recommendations of the Commission following its visit to the Saharawi Republic, contained in the report it submitted to the African Union Summit in 2013, the Saharawi National Human Rights Commission launches an urgent appeal to the African Union:

- to act with the Kingdom of Morocco for the release of all political detainees and the clarification of the fate of more than 400 missing Sahrawis;
- to make the issue of self-determination of the Saharawi people one of the priority items on its agenda and to open a monitoring office in Western Sahara;
- to act with the UN Security Council for the resolution of the Saharawi issue through the realization of the referendum on self-determination without further delay;
- to advocate for the creation of a special humanitarian regime to meet the needs of the Saharawi refugees who are the oldest refugees in Africa.

The AU should encourage its Member States and African humanitarian organizations to contribute financially to humanitarian efforts in the refugee camps and offer scholarships for higher education to Sahrawi students.

Relationship between the African Commission and the UN High Commissioner for Human Rights

The United Nations Human Rights Office and the African Commission on Human and Peoples' Rights (ACHPR) signed in Geneva on 17 September 2019, a formal agreement of cooperation and collaboration in areas of common interest. This is the third such agreement concluded between the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the main African human rights institutions.

Under the terms of the Memorandum of Understanding signed by the United Nations High Commissioner for Human Rights, Michelle Bachelet, and the Chairperson of the ACHPR, Soyata Maïga, the two organizations agreed to cooperate in the full implementation of the mandate entrusted to the ACHPR - enshrined in the African Charter - and in particular in the following areas:

- sharing good practices in areas such as human rights standards, international and regional human rights jurisprudence and the practice of international and regional bodies;
- capacity-building of human rights institutions;
- support for joint actions between international human rights mechanisms and the African Commission on Human and Peoples' Rights ;
- the use of the expertise of the Commissioners of the African Commission for commissions and fact-finding missions established by United Nations organs, as well as the expertise of United Nations human rights mechanisms/bodies for commissions and fact-finding missions established by the African Union;
- the joint commitment to work with the African Union Peace and Security Council, the United Nations Security Council, the General Assembly and the Human Rights Council on issues of common interest by country or by theme, with a view to contributing to early warning and prevention.

The agreement complements two previous memoranda of understanding signed by the UN Human Rights Office with the African Union Commission (1 February 2010) and with the African Court on Human and Peoples' Rights (9 February this year).

In this context, the Saharawi National Human Rights Commission calls on the Office of the High Commissioner for Human Rights to set up a technical cooperation and capacity-building programme with the legal representatives of the Saharawi people and human rights defenders' organisations.

Strengthening the cooperation between the African and the UN Human Rights mechanisms

Geneva, 24th February 2020

Mr. Donald O. Deya – CEO, Pan African Lawyer Union

Time is getting to the essence.

I am grateful to my colleagues deputy Minister and Hassan Mailid, who has said a lot of things I was going to say, which hopefully should make us go quicker.

Both has referred to the African human right system and let me just add that in our context, in Africa, the African human right system exists at three levels:

- the National level
- the regional level and sometimes we call sub-regional level and
- the continental level.

As the deputy Minister said, at the continental level the core of the African human rights system consist of the African commission of human and peoples' rights which has both a promotional and protective mandate, it's consist on court of human and peoples' rights which exist to complement the commissions protective mandate. And has the African committee on experts on the rights and welfare of the child, sometimes called children's committee, which focuses on the rights and welfare of the child.

It's very important to note that the African commission of human and peoples' rights, which has both a promotional and protective mandate, has several special mechanisms as it does the UN: including reporters both on geographic and thematic basis, as well as Working groups. Both standing working groups and ad hoc groups and the human rights system is embedded in a larger ecosystem which we call the African governance architecture, which then has other part of the African union including the Pan African Parliament, at the regional level and the regional economic communities.

The African human right system, as the Honourable Minister said, takes a very expansive view of human and peoples' rights. *And what is called a human rights instruments*

For instance the African Court has found that our Charter on democracy governance and elections is a Human rights instrument for Africa.

Honourable moderator

in terms of cooperation between the African human right system and UN human rights mechanism as deputy minister Shakua said, the African Court the African Human Rights Committee frequently said and implemented legal instruments of United Nations human rights standards and the jurisprudence of soft law of several UN mechanisms.

The African Commission and the Child Committee have a track record of cooperation and coordination of the contra parts of the UN and also at the office of the High-Commissioner for

Human Rights and as Deputy Minister said this includes joint workshops, through joint reports and missions and joint statements such as an example given of joint statements of the special Rapporteur on freedom of expression at the Level of the UN and the OSCE, the Organization for Security and Cooperation in Europe and their contra parts in African Union commission of people's rights.

And as Deputy Minister also highlighted, the OHCHR is a significant actor for the capacity building on issues of peoples and human rights at the three levels of work of the African human rights commission for people's rights system, meaning their work with national governments and all the three other levels of work of the African commission: the executive, the legal, the judiciary, the national human rights institutions, lawyers and lawyers association and civil society, at that level...

At the continental level they have recently signed or renewed a memorandum of understanding for the two bodies the African commission and the court and also just point out that African commission for human rights just recently signed a memorandum of understanding with his keys contra-parts; that is the

European court on human rights and inter American court on human rights,

Honourable moderator,

With regard to Western Sahara again as is was pointed out by my colleague Mailid, Western Sahara is a party to the key human rights instruments of the African Union, its a party of the charter of African human rights and peoples' rights, since 23th May 1986, to the protocol of the African charter establishing an African court and human and peoples' rights, since 27 January 2014 is also a party to the African Union Convention on protection and assistance of internally displaced persons, our IDP convention, since 20 January 2014 and party of the African convention on preventing and combating corruption, also since 20 January 2014 and African charter in democracy and governance also in 20 January 2014, has signed but not yet ratified the protocol of women in Africa, and we encourage it to do so.

It has also signed but not ratified the protocol and welfare of the child, and we encourage it to do so.

As has been pointed out, it has faithfully submitted the state reports under the African charter under the human and people's rights commission in Banjul.

Nevertheless and I will not forget what honourable Aminetu Haidar said: graves human rights and humanitarian crisis persists, and we as Africa and as a community of Nations, seems to be unable yet, to decisively intervene to ensure a sustainable solution of this crisis, at least after 45 years after it begin.

With regard to the Kingdom of Morocco, which has been allowed by his sisters nations to rejoin African Union in January 2017 without any preconditions what so ever regrettably, Morocco is not a party to any of the keys human rights instruments of the continent, not the Charter of humans and peoples' rights, that's every other states including the youngest states, Republic of South Sudan has signed.

Morocco is the only states that is not a party of the Charter neither to its protocols, on women rights or in establishing the Court, neither the protocol of the protection and welfare of child, or the convention of the protection of internally displaced persons or combating corruption, or on democracy elections and governance.

As has been pointed out, it has ignored and defied several decisions, several resolutions and several recommendations of actually each body in Africa.

Decisions of AU heads of states and governments, with regard to Western Sahara, of the executive council of ministers, of the peace and Security Council of the African Union, of the African commission of human and peoples' rights, of the child rights committee on the issue of Western Sahara, and because it is not part of the Charter or the Protocol establishing the Court, it cannot been held directly accountable before them.

In terms of some dynamic reasons, and also has been pointed out, the African commission under the direction of the executive council of ministers, undertook a fact finding mission to the people of Western Sahara, but it was not allowed to access significant part of Western Sahara that are under Moroccan control,

Nevertheless it produce a report with recommendations, which went back to the policy organs of the African union, the executive council of ministers, And the assembly of the heads of states and governments, who directly undertake a fallow up mission, which was not able to successfully do, because of the kingdom of Morocco defies decision to not allow this AU bodies to Access the Territory.

I think Honourable Minister spoke about the International Court of Justice, I think It is important that the European Court of Justice which is called European Court of Justice, has ruled in at least three occasions on the issue of Western Sahara and has found that the bilateral agreements that are signed by Morocco with other parties, including the European Union and with regard to the territory Western Sahara are unlawful, and that this policy cannot allowed to continue, at least one other international court which is Europe has ruled definitively in the issue of western Sahara, so what then we do?

As I said we in the African human rights system is embedded in a larger body of African governance architecture and the panafrican parliament was mentioned, and I will add that the panafrican parliament like its sisters institutions I mentioned before, should undertake its own examination on the situation in Western Sahara specially the defines of lawful orders by organs and institutions of African Union and make more robust and wide range of recommendations or a call for action for upper bodies of the African Union, like assembly of heads of states and the council of Ministers, and this bodies should also activate their own mechanisms for sanctions for non implementation of their decisions by a member state.

Since the Kingdom of Morocco is not a part of the Court of human and peoples' rights of Africa, 30 states are members, and this court can also issue an advisory opinions, like the one taken by the international court of justice and we add the they can consider moving to the African court to get an advisory opinion on what are the obligations of other states of African Union towards the citizens of Western Sahara.

And we also add the must been more jointly work between the special mechanisms of the human rights system in Africa and the system of the UN Mechanisms of human rights on the crisis of Western Sahara such us joint statements, fact finding missions, petitions and so on ...and finally to the citizens, at the time when our states seems are unable to move robustly, we call for a new solidarity among African citizens and global citizens to take up a campaign for the humans and peoples rights of people of Western Sahara more actively.

I thank you very much.

Strengthening the cooperation between the African and the UN Human Rights mechanisms

Geneva, 26th February 2020

Ms. Aminetu Haidar

Robert F. Kennedy Human Rights Award 2008

Right Livelihood Foundation Award 2019

Ladies and Gentlemen,

Allow me first of all to express my gratitude for inviting me among you today to give you my testimony on the human rights situation in Western Sahara under Moroccan occupation. I would also like to talk a little about what the United Nations and its competent institutions have done or not done to protect the Saharawi people, who remain, it must be recalled, a militarily occupied people whose protection falls within the competence of the United Nations as long as the Saharawi issue is on the agenda of the Fourth Committee of the General Assembly, the Decolonization Commission.

Honourable Audience,

The Moroccan military occupation of Western Sahara on 31 October 1975, turned everything upside down for the Saharawi people who were fighting against Spanish colonialism, and who were on the verge of gaining their independence in 1975. Instead, they found themselves under attack by their neighbours, Morocco and Mauritania, who cowardly signed a tripartite agreement with Spain to share our country as spoils of war. This double aggression caused much suffering and tragedy to my people.

It should therefore be emphasized that since 1975, the Kingdom of Morocco has continued to systematically violate all human and peoples' rights. This military aggression has not only caused the illegal occupation of a large part of the country, but it has also generated the oldest case of political refugees in Africa since 1975, and the latest case of decolonization in Africa.

As a result, my people find themselves torn apart and divided into two parts by a wall 2,700 km long, squared by thousands of anti-personnel mines that cause the death of hundreds of Sahrawi civilians, thousands of animals and deform the environment.

The Sahrawi civilians who were unable to flee the invasion, they are still living through the horrors of Moroccan repression under occupation, neglected by the international community, which too often praises tolerant Morocco, exemplary Morocco, Morocco which enjoys the position of advanced partner of the European Union, for example, of course, because France, Spain and multinationals are also profiting from this abominable act of colonisation.

Violations of International Humanitarian Law

Morocco is well known as an illegal Occupying Power in Western Sahara. It is described as such by the UN General Assembly in its resolutions 34/37 of 1979 and 35/16 of 1980. It is also clearly identified as an Occupying Power by the African Union in the Legal Opinion issued by the Office of the Legal Adviser of the African Union in 2015.

As an Occupying Power, Morocco has violated and continues to violate the provisions of the Fourth Geneva Convention, beginning with a persistent attempt to change the demographic situation in the country, accentuated by economic and social policies aimed at forcing Saharans to flee their country. Not forgetting, of course, that the occupier continues to deny the Saharans their inalienable right to self-determination and independence.

Ladies and Gentlemen,

According to credible testimonies collected from some survivors of the first years of the military invasion, dozens of Sahrawis were buried alive in mass graves by the Moroccan army, while others were simply thrown in free fall from helicopters, or were coldly shot and buried in mass graves.

In addition, the fate of hundreds of Sahrawi civilians remains unknown and Morocco refuses to provide concrete information on the circumstances of their disappearance even after acknowledging in 2010 its responsibility for the deaths of more than 300 of them.

Honourable audience,

Enforced disappearance remains one of the most common violations in Western Sahara since 1975. Hundreds of Sahrawi civilians, of all ages and both sexes, have been victims of this crime against humanity. The periods of their disappearances have ranged from a few months to 16 years. They were sequestered in secret places in Morocco and Western Sahara where they were subjected to the most ferocious methods of physical and mental torture without being able to speak of the acts of nudity and rape of which they were victims, particularly women. Many even died under torture or because of the atrocious and inhuman conditions of imprisonment.

Personally, at the age of 20 I was a victim of this crime against humanity, I was among a dozen women, we were subjected daily, for 4 years, to the most barbaric forms of torture. During the whole period of our confinement in El Aaiun, we were always blindfolded and totally isolated from the outside world.

The situation today is far from improving. Morocco continues to commit human rights violations and abuses against Sahrawi civilians. Even after the ceasefire in Western Sahara was declared on 6 September 1991, these violations continue to be committed with the knowledge and in view of the United Nations Mission for the Referendum in Western Sahara (MINURSO) present in the Non-Self-Governing Territory of Western Sahara.

The Saharawi people are today waging a civil struggle to enjoy their right to self-determination, independence and respect for their legitimate rights. Despite the peaceful aspect of this popular resistance and despite the appeals launched by foreign governments and various international human rights organisations, Morocco still refrains from honouring its commitments to respect human rights in Western Sahara and continues to maintain a military-to-medical checkpoint in the occupied territories of Western Sahara and to prohibit all forms of free expression, association and peaceful demonstrations.

Thus, the excessive and systematic use of force is still practiced by the Moroccan authorities to repress Sahrawi demonstrators peacefully demanding respect for their legitimate rights.

Torture and degrading treatment are still practised against Saharawi civilians arbitrarily arrested by the Moroccan police. Women and minors are not spared by this repression.

The Moroccan justice system still refuses to open investigations into cases of torture, which are the subject of complaints lodged by Sahrawi civilians, thus guaranteeing total impunity for Moroccan officials involved in these acts of torture and degrading treatment.

Similarly, Morocco still resorts to the arbitrary arrest of Saharawi civilians expressing their political opinion in favour of the Saharawi people's right to self-determination and independence.

At present, 44 Sahrawi political prisoners are being held in deplorable prison conditions, in particular the 21 prisoners of the Gdeim Izik group and the young woman Mahfouda Lefkir, mother of two children. Their only sin is to have peacefully demanded respect for their legitimate rights and those of their People.

These prisoners and their families need your solidarity and support to enjoy their human right to freedom.

I am a witness to these atrocities, as I myself have been a victim of Moroccan repression and arbitrary detention on several occasions. The last time was a month ago, after my return from Stockholm, where I was awarded the Alternative Nobel Prize by the Swedish Livelihood Rights Foundation.

Ladies and Gentlemen,

Western Sahara is still a Non-Self-Governing Territory under the authority and responsibility of the United Nations, as it is under occupation and awaiting decolonisation. But instead of protecting the Saharawi People from the violations of the Occupying Power, the UN and its Peace Mission, as well as other relevant institutions, such as the Human Rights Council, seem to prefer to satisfy the demands of the Occupying Power.

Since 1963, when Western Sahara was included in the list of Non-Self-Governing Territories, the UN has never reported on the situation of this People. Worse still, it was not until 2006 that the Office of the High Commissioner for Human Rights sent its first mission to the Territory. Indeed, it visited the Occupied Territory and then the refugee camps and met hundreds of victims of human rights violations. But, strangely enough, her mission report is still under embargo.

Two or three other visits by special mechanisms have done the same, but without any follow-up. Morocco, apparently a major donor to the Office of the High Commissioner for Human Rights, had always managed to buy silence on its violations. There had even been reports of concrete cases of corruption in the high spheres of the Office of the High Commissioner.

It should be pointed out that all the missions that had visited the occupied territories had been eyewitnesses to Moroccan violations. However, even the fact of testifying is apparently not enough to hold Morocco responsible, because its friends in the United Nations jealously protect it from any condemnation. It is sad to acknowledge this, but it seems that Morocco is untouchable. It can do what it wants against the Saharawi people and yet it is still described as an example to be followed by governments that claim to be democratic.

It is sad to say that the Saharawi people feel truly abandoned by the UN and delivered to a colonialist, barbaric and violent regime. Abandoned and left alone to face these crimes without any attention or support.

Ladies and Gentlemen

Despite all the forms of intimidation practiced against them by the Moroccan authorities, Sahrawi human rights defenders continue with determination to denounce and publicize the violations committed by Morocco against the Sahrawi population. But how long can they hold out? And until when can they convince young Sahrawis to maintain their peaceful struggle? I can tell you that we are under great pressure as pacifists, because the new generations no longer believe in the neutrality of the UN. For them, the UN, its agencies and its employees are all in the service of the occupation, and only help Morocco to keep us under occupation.

Honourable audience,

Given the seriousness of human rights violations in the occupied Sahrawi territories, given the precarious living conditions of Sahrawi citizens, given also that the UN Mission (MINURSO) has no competence to protect human rights in Western Sahara and in the face of the military-media siege, maintained by Morocco and which does not allow access of international observers to this territory, I then solemnly appeal to you that international organizations and institutions and all free and conscious people carry out actions in favour of the promotion of the values of Peace, Freedom, Independence and Stability in Occupied Western Sahara.

Finally, I would like to thank you for giving me this opportunity to briefly outline the human rights situation in the Occupied Territory of Western Sahara and the concerns of my People.

I hope that the work of this conference and that of the United Nations Human Rights Council can contribute to the restoration of peace and respect for human rights and international law relating to decolonisation in Western Sahara.



Sahrawi Arab Democratic Republic

H.E. Mr. Oubi Bouchraya Bachir
Minister for Europe – Ministry of Foreign Affairs

Strengthening the cooperation between the African and the UN Human Rights mechanisms

43rd session of the UN Human Rights Council
High-Level side-event
Palais des Nations - 26th February 2020

Excellencies, colleagues, distinguished guests, ladies and gentlemen,

It is my honour and great pleasure as EU Representative of the POLISARIO Front and the Government of the SADR to be among you today. Let me begin by expressing my gratitude to the members of the Geneva Support Group for Western Sahara for their tireless support and for having invited me to contribute to this important discussion. I should express my Government gratitude to the previous Chair of the Geneva Support Group, Ambassador Mxakato-Diseko of South Africa and to the newly nominated, Mr. Fernandes of Timor Leste.

I also extend my gratitude to the distinguished panellists, H.E. Ms. Shapwa, Deputy Minister of Justice of the Republic of Namibia, Barrister Deya from the Pan African Lawyer Union, my sister Aminatou Haidar and my brother Hasan Mulid of the Sahrawi National Commission of Human Rights for their extremely valuable contributions to the conference, which allow me to highlight some essential points in relation to the situation prevailing in the Non-Self-Governing Territory of Western Sahara and the relationship with the African Union and the United Nations.

Last week, at the opening of the 2020 session of the Special Committee on the Situation with regard to the implementation of the Declaration on the Granting of Independence of Colonial Countries and Peoples, the UN Secretary-General recalled that Timor-Leste was the last Territory removed from the list, in 2002.

He stressed that the concerns of the peoples of the Territories are varied, and it is our collective responsibility to amplify their voices. Many of them face real and pressing challenges.

Indeed, the Sahrawi people are facing a great number of pressing challenges: all of them are related to the prolonged illegal military occupation of Western Sahara by the Kingdom of Morocco and the consequent systematic violations of all Human Rights.

In fact, the history of the Sahrawi Arab Democratic Republic is much linked to both the African Union and its predecessor the Organisation of African Unity, as well as to the United Nations.

The Sahrawi Arab Democratic Republic was founded on 27 February 1976 and joined the Organisation of African Unity in 1982.

I have to recall here that on 6 November 1975, the UN Security Council, in adopting resolution 380 requested Morocco to withdraw immediately all the participants in the march from the territory of Western Sahara. Since 1979, the UN General Assembly, while deeply deploring the continued occupation of Western Sahara, urged the Kingdom of Morocco to end the occupation of the Territory.

Sadly, the war in Western Sahara lasted for fourteen years and left behind thousand of death and injured, while hundreds of Sahrawis disappeared and their whereabouts have still to be known; thousands of Sahrawis have sought refuge in neighbouring Algeria, where the third generation is actually growing up in a mixture of sentiments, including resignation and revolt.

A 2,700 km wall, built by the Occupying power in the eighties, full of millions of anti-personnel mines that have caused and continue to cause casualties and which separates from north to south the Sahrawi people, participates to the destruction of the social and economic structure of the Sahrawi society.

At its 19th Summit, in June 1983, the Organisation of African Unity adopted the OUA Peace Plan on Western Sahara which urged the parties to the conflict, the Kingdom of Morocco and the POLISARIO Front, to undertake direct negotiations with a view to bringing about a cease fire to create the necessary conditions for a peaceful and fair referendum for self-determination of the people of Western Sahara and requested the United Nations in conjunction with the OAU to provide a Peace Keeping Force to be stationed in Western Sahara to ensure peace and security during the organization and conduct of the Referendum.

At that time, the Kingdom of Morocco was member of the Organisation of African Unity, but short after the adoption of the Peace Plan, it decided to withdraw from the Organisation.

It is only in January 2017 that the Kingdom of Morocco integrated the actual regional organisation, the African Union. It is unfortunate that since then it has yet to adhere to the African Charter on Human and Peoples' Rights, that the Sahrawi Republic has ratified in 1986.

It is also unfortunate that since it has integrated the regional organisation, the Kingdom of Morocco has constantly advocated for the exclusion of the Sahrawi Republic; those breaching some fundamental principles of the Charter of the African Union, namely:

- the sovereign equality and interdependence among Member States of the Union;
- the respect of borders existing on achievement of independence and
- the prohibition of the use of force or threat to use force among Member States of the Union.

Last 6 November, in celebrating the infamous march that led to the illegal occupation of Western Sahara, King Mohamed VI reaffirmed that the Autonomy Initiative - of Western Sahara within the framework of the Kingdom - is the only possible way to achieve a settlement of the conflict, with full respect for the national unity and territorial integrity of the Kingdom.

In this context, anyone is allowed to seriously doubt that the Kingdom of Morocco resumes negotiations without preconditions and in good faith, as requested by the UN Security Council.

It is to be noted that even the United Nations – African Union Task force on Peace and Security, which held its heightened consultative meeting last February 11 in Addis-Ababa reiterated its attachment to international legality and encouraged the parties to participate constructively and without preconditions in the political process in Western Sahara.

The Organisation of African Unity, which took many initiatives and decisions with regard to Western Sahara situation, was naturally associated to the negotiation process that led to the ceasefire agreement and subsequently to the creation of the UN Mission for the Referendum in Western Sahara in 1991. Today, the members of the UN Security Council have decided to exclude the regional organisation from the process.

The Sahrawi Arab Democratic Republic and the POLISARIO Front deeply regret that the African Union has accepted to set aside from this long political process that its predecessor initiated in 1983.

The Sahrawi Arab Democratic Republic and the POLISARIO Front also deeply regret that in recent time, some African countries have accepted to participate to economic or sport events organized by the Occupying Power in the occupied Western Sahara; some of them have even accepted to open a consulate there, which is simply illegal and contrary to the principles and the spirit of the UN Charter and the African Union Charter.

In recalling that the 1993 Vienna World Conference on Human Rights considers the denial of the right of self-determination as a violation of human rights, I wish to stress that the UN General Assembly, last December, in recognizing that the enhancement of international cooperation and genuine dialogue contributes to the effective functioning of the international human rights system, considered that international cooperation in the field of human rights, in conformity with the purposes and principles set out in the Charter of the United Nations and international law, should make an effective and practical contribution to the urgent task of preventing violations of human rights and fundamental freedoms².

Excellencies, ladies and gentlemen,

In concluding, I take this opportunity:

- to call upon France, the motherland of Human Rights, to let include a Human Rights chapter in the MINURSO mandate;
- to call upon the African Commission on Human and Peoples' Rights and its mechanisms to continue to carefully monitor the Human Rights violations in the Occupied Western Sahara;
- to call upon the UN High-Commissioner for Human Rights to resume without delay the Technical missions initiated in 2015, at least east of the Berm and in the refugee camps and to implement a specific Programme of Technical cooperation as requested by the UN General Assembly 74/95.

I thank you for your kind attention.

² A/RES/74/153 – "Enhancement of international cooperation in the field of human rights"