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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, 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, Fundación Latinoamericana por los Derechos Humanos y el Desarrollo Social, Habitat International Coalition, International Association of Democratic Lawyers (IADL), International Fellowship of Reconciliation, Paz y Cooperación, Right Livelihood Award Foundation, 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.

[16 August 2020]

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



Western Sahara: the systematic use of torture against Sahrawi human rights defenders must be monitored by an independent and credible body

The 245 organizations members of the Geneva Support Group for the Protection and Promotion of Human Rights in Western Sahara¹ endorse this statement.

Background

Western Sahara was under Spanish colonial rule from 1884. In December 1963, the General Assembly² added the Territory to the list of the Ad-Hoc Committee on the Situation in the Non-Self-Governing Territories toward implementation of the Declaration on the Granting of Independence to colonial countries and peoples.

On 6 November 1975, the Kingdom of Morocco invaded Western Sahara militarily and organized a population transfer of thousands of Moroccans into the Territory. The same day, the UN Security Council adopted resolution 380, calling upon Morocco to immediately withdraw all of the participants to the march from the Territory of Western Sahara.

Since Spain withdrew from the colonized Saharawi territory in February 1976, Western Sahara became, and still is today, 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 by a third country.

Foreclosing the Occupied Western Sahara to independent monitoring

The Kingdom of Morocco's longstanding occupation of Western Sahara has led to numerous gross violations of human rights as well as serious and continuous breaches of the Fourth Geneva Convention of 1949.

In particular, the breaches of Articles 31 and 32 (prohibition of coercion, corporal punishment, torture, degrading and inhuman treatments); Article 33 (prohibition of collective penalties, intimidation, pillage, reprisals); Article 49 (prohibition of deportations, transfers, evacuations); Article 53 (prohibition of destruction of real or personal property belonging, individually or collectively, to private persons); and Article 76 (on the treatment of detainees). Some of these breaches may amount to war crimes, crimes against humanity and cultural genocide.

While the Kingdom of Morocco has ratified the International Convention for the Protection of all Persons from Enforced Disappearance in May 2013, it has yet to submit its first report although hundreds of cases have yet to be accounted for.

Those gross violations of human rights and grave breaches of International Humanitarian Law are systematic and inherent in the illegal military occupation of the Non-Self-Governing Territory. In order to avoid external, independent testimonies, the Kingdom of Morocco has barred access to occupied Western Sahara to parliamentarians, lawyers, human rights defenders, journalists and human rights officers of the Office of the High Commissioner for Human Rights (OHCHR) wishing to visit.

In its last report on press freedoms in Western Sahara,³ Reporters Without Borders (RSF) sheds light on a territory cut off from the rest of the world, a veritable news black hole that has become a no-go zone for journalists. The report highlights that the Kingdom of Morocco ranks 135th in the list of 180 countries of the World Press Freedom Index, placing Morocco among the worst countries in the world for journalism, in part due to the repression of journalists in "troublesome" territories, such as Western Sahara.

¹ www.genevaforwesternsahara.org.

² United Nations General Assembly (UNGA) Resolution 1956 (XVIII).

³ https://rsf.org/sites/default/files/rapport_sahara_-_final_pdf2.pdf.

Reporters Without Borders stresses that “Being a journalist in Western Sahara is an act of heroism, and those who practice journalism there often pay for it with frequent arrests, the harassment of their families, defamation, slander, physical abuse, and torture, as well as lengthy and unjust jail sentences.”

Since April 2014, 275 persons from 20 nationalities have been deported from Western Sahara, while 17 people have been expelled from the Kingdom of Morocco because working on Western Sahara related matters. Seven international NGOs have also been deported or forbidden by the Kingdom of Morocco (Amnesty International, Free Press Unlimited, NOVACT, Lawyers without Borders, Friedrich Neumann, The Carter Foundation and Human Rights Watch, the last of these was recently admitted in the territory of the Kingdom of Morocco).

The use of torture against Saharawi human rights defenders and journalists

In the section dedicated to Western Sahara in his 2013 mission’s report to the Human Rights Council,⁴ the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment found that torture and ill-treatment were used to extract confessions and that protestors were subjected to excessive use of force by Moroccan law-enforcement officials.

The Special Rapporteur received numerous complaints indicating a pattern of excessive use of force in repressing demonstrations and in arresting protestors or persons suspected of participating in demonstrations calling for self-determination of the Saharawi people. During the transport to or upon arrival at the police station arrestees are beaten, insulted and forced to reveal names of other protestors. The Special Rapporteur expresses concern about the alleged abandonment of the victims in rural areas after the assaults. Reports indicate that these practices are aimed at punishing and intimidating protestors in order to prevent further support for the call for independence.

The Special Rapporteur received credible testimonies relating to torture and ill-treatment in the Prison of Laâyoune, including rape, severe beating and isolation up to several weeks, particularly of inmates accused of participating in pro-independence activities.

The Special Rapporteur also noted the apparent absence of prompt and thorough investigations into all cases of torture and ill-treatment, prosecution of the perpetrators, and the provision of effective remedies and reparations, including rehabilitation services, for all victims of torture and ill-treatment.

Sadly, the situation has not improved at all since Mr. Méndez visit in September 2012. On the contrary, the Gdeim Izik trial has showed that the judiciary system of the occupying Power, not only violated the Fourth Geneva Convention by keeping the accused Saharawis in detention centers and holding the trials in its own territory, but it was ready to condemn them to long term sentences just on the basis of confessions extorted under torture.

In its November 2016 decision,⁵ the Committee against Torture found that Ennaâma Asfari (condemned to 25 years imprisonment at the Gdeim Izik trial) was victim of torture and urged the Kingdom of Morocco to provide him with fair and adequate compensation, including the means for the fullest rehabilitation possible; to initiate a thorough and impartial investigation into the incidents in question and to refrain from any form of pressure, intimidation or reprisals likely to harm the physical and moral integrity of the complainant and his family.

Sadly, the Moroccan authorities have contested the Committee’s decision and have not implemented its recommendations. On the contrary, Claude Mangin, Ennaâma Asfari’s wife is considered as *persona non grata*, prevented from entering Moroccan territory and therefore to visit his husband.

⁴ A/HRC/22/53/Add.2.

⁵ CAT/C/59/D/606/2014.

The need for an independent and credible monitoring

In its resolution adopted last October (S/2019/2494), the UN Security Council stresses the importance of improving the human rights situation in Western Sahara and the Tindouf camps, and encouraging the parties to work with the international community to develop and implement independent and credible measures. The Moroccan National Council on Human Rights, a political instrument of the occupying Power, cannot be considered, by any means, to be an independent and credible body monitoring or preventing the use of torture by the occupying Power in Western Sahara.

The 245 endorsing organizations call on:

- all High Contracting Parties to ensure that the Kingdom of Morocco respects the Fourth Geneva Convention in Western Sahara;
 - the Kingdom of Morocco to fully respect the Fourth Geneva Convention in Western Sahara;
 - to fully respect the Human Rights of the Sahrawi people, including their right to self-determination and independence, in conformity with UNGA resolution 1514 (XV);
 - to fully respect the Principles of International Law, including the Principle of equal rights and self-determination of peoples(a peremptory norm) and the principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter;
 - the members of the Human Rights Council to create the mandate of Special Rapporteur on the Human Rights violations in the Occupied Territory of Western Sahara;
 - the Special Rapporteur on Freedom of Opinion and Expression to monitor the situation of Sahrawi journalists in Western Sahara;
 - the UN High-Commissioner for Human Rights to resume, without delay, the technical missions to Western Sahara (at least eastern of the Berm) and the Sahrawi refugees' camps;
 - to implement the commitments made by the OHCHR at the World Humanitarian Summit, in particular by publicly condemning serious violations of international humanitarian law and serious violations and abuses of international human rights in Western Sahara and by reporting on the impact of armed conflict on human rights defenders in view of ensuring the enjoyment of human rights;
 - to implement a programme of technical cooperation and capacity building with the representative of the people of Western Sahara recognized by the UN General Assembly, the Polisario Front.
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