



*Organización No Gubernamental con estatuto consultivo ante el ECOSOC y
representación permanente ante la ONU de Nueva York y Ginebra*

**Intervention of the American Association of Jurists before the Fourth
Committee on Special Political and Decolonization of the General Assembly
Question of Western Sahara: October 10-11, 2019**

Mr. President and delegations:

We appreciate the opportunity to address the Fourth Committee of the General Assembly. I'm making this statement on behalf of the American Association of Jurists and the NGOs Geneva Support Group for the Protection and Promotion of Human Rights in Western Sahara, which counts more than 200 organizations* around the world.

We fully support the principle of self-determination of the peoples, the sovereignty of the State over their wealth and natural resources, the defense of human rights and the action against colonialism.

Western Sahara is clearly a case of decolonization and of an illegal military and civil occupation. We sustain that the Saharawi people have the inalienable right to self-determination and independence in accordance with Resolution 1514 (XV) of 1960, "Declaration on the granting of independence to colonial countries and peoples", which is the legal basis for self-determination processes. The Declaration recognizes, as an inherent right of the colonized peoples, the right to resist the colonial Powers that repress their aspirations for freedom and independence. Resolution 1514 (XV) mandates Member States to implement a decolonization process and the General Assembly to assume its responsibility with respect to the territories in which it has not been fully applied. In addition, United Nations numerous resolutions have specifically reaffirmed the inalienable rights to self-determination and independence of Western Sahara and the responsibility of the United Nations towards the people of Western Sahara in resolutions A\73\105, A\73\107, and A\73\123.

Western Sahara is a non-autonomous territory illegally occupied, militarily and civilly, by the Kingdom of Morocco since November 1975 in flagrant violation of international law. Since Morocco invaded and continues to illegally occupy the Non-Self-Governing Territory of Western Sahara with a heavy military presence and, further considering the declaration deposited on June 23, 2015 by the Polisario Front in conformity with Art. 96.3 of Additional Protocol I, International Humanitarian Law fully applies to Western Sahara. The longstanding occupation and colonization violate International Humanitarian Law and consequently, the Sahrawi people originating from the territory have to be considered as “protected persons”, in accordance with article 4 of the Fourth Geneva Convention. We call on all High Contracting Parties to respect the Geneva Conventions in Western Sahara.¹ The occupation of Western Sahara has led to systematic gross violations of human rights and serious violations of the International Humanitarian Law, some of which may constitute war crimes, crimes against humanity and cultural genocide.

In the advisory opinion of the International Court of Justice of October 16, 1975² on the case of Western Sahara, the court dismissed the sovereignty claims of the Kingdom of Morocco. The illegal occupation occurred shortly thereafter, and 44 years later, a militarized, mined wall erected by Morocco is still standing in the desert, partitioning the territory of Western Sahara.

Subsequently, the Office of the Legal Counsel of the UN concluded in an advisory opinion to the Security Council on February 20, 2002 (S/2002/161) that, “In recognizing the inalienable rights of the peoples of Non-Self Governing Territories to the natural resources in their territories, the General Assembly has consistently condemned the exploitation and plundering of natural resources and any economic activities which are detrimental to the interests of the peoples of those Territories and deprive them of their legitimate rights over their natural resources.”

¹ The longstanding Morocco’s illegal military occupation of Western Sahara has led to a number of serious and continuous violations of the Fourth Geneva Convention of 1949. In particular, it is to be highlighted the violations 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 violations may amount to war crimes, crimes against humanity and cultural genocide.

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

The illegal exploitation of the natural resources of Western Sahara by the Kingdom of Morocco, or its facilitation to corporate groups has continued without the free, prior and informed consent of the representative of the people of Western Sahara, the Polisario Front. Morocco must cease and desist in entering into agreements with foreign states or transnational corporations for the exploration or exploitation of natural resources, such as fishing and phosphate, on the occupied territory. The judgments of the Court of Justice of the European Union of December 21, 2016 and February 27, 2018 specified that agricultural and fisheries agreements between Morocco and the European Union are not applicable to Western Sahara and that no agreement may apply to Sahara Western without the free, prior and informed consent of the Polisario Front. It is the responsibility of the United Nations to reaffirm and take action against the existence of colonialism in any form, including economic exploitation, which is incompatible with the UN Charter, as affirmed in Resolution A/73/123.

Almost all human rights violations regarding to the people of Western Sahara stem from the non-implementation of the right to self-determination.³ In a report to the Security Council⁴, the UN Secretary General stressed that “gaps in reporting on the situation of human rights in Western Sahara persist owing to the lack of access of OHCHR to the Territory.” International observers also are denied access to Western Sahara, particularly after the dismantlement of the protest camp of Gdeim Izik in 2010, and hundreds of foreign parliamentarians, jurists, human right defenders, and journalists have been denied access to or deported from the territory.

In its Opinion concerning Ndor Laaroussi, the Working Group on Arbitrary Detention (WGAD), found that his detention constituted a violation of Articles 1, 2, 14, 19, 26 and 27 of the International Covenant on Human Rights. civil and political rights.⁵ The Working Group underscored that Laaroussi had been subjected to political prosecution in response to and as reprisal for his work as a Saharawi journalist. In his report to the Human Rights Council, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment indicated that “... Moroccan police forces regularly raid private

³ <http://www.arso.org/OHCHRrep2006en.pdf>

⁴ S/2019/282.

⁵ A/HRC/WGAD/2019/23 - Whilst noting the systematic practice of discrimination against Saharawis, the Working Group concluded that Laaroussi had been arrested, tortured, and detained in response to his political opinions in support for the right to self-determination, constituting discrimination, breaching the equality of human rights

homes of alleged or known supporters of the independence of Western Sahara, in procedures that include beating and ill-treatment of the inhabitants.”⁶

We remind this Committee that about 165.000 people were forced to flee to neighbouring refugees’ camps around Tindouf in Algeria and that a recent assessment of UNHCR indicates that 173.600 are still living in those camps, while some thousands more have seek refuge in Europe and elsewhere.

We also remind this Committee that there are 46 Saharawi political prisoners in Moroccan jails, and hundreds of Sahrawis have disappeared since the beginning of the armed conflict.

We support the Settlement Agreement Plan of 1990, which was accepted by the Kingdom of Morocco and the Polisario Front in 1991 under the auspices of the United Nations, as the framework for holding a referendum of self-determination and decolonization, which guarantee transparency and be supervised by the United Nations. Moreover, the UN has a primary responsibility over Western Sahara, which is the only non-autonomous territory that does not have an internationally recognized administrative Power; although Spain remains, *de jure*, the administering Power.

We call upon you to:

- Monitor the effective implementation by all concerned parties of the resolutions the UN General Assembly adopts concerning the Non-Self-Governing Territories;
- Assume your responsibility in protecting the rights to self-determination and independence of the people of Western Sahara, as well as their political, civil, economic, social and cultural rights;
- Condemn the violations of International Humanitarian Law by the occupying Power and take concrete steps to ensure accountability of perpetrators when these acts amount to crimes under international law;
- Call upon the Kingdom of Morocco to cooperate with the International Committee of the Red Cross, to coordinate visits to political prisoners;

⁶ A/HRC/22/53/Add.2.

- Call upon the Kingdom of Morocco to end all military activities in Western Sahara, in conformity with the provisions of UNGA resolutions 73/160;
- Call upon all Governments and organizations of the United Nations system to take all possible measures to ensure that the permanent sovereignty of the peoples of Western Sahara over their natural resources is fully respected and safeguarded, as provided by resolution A/73/104;
- Organize United Nations visiting and special missions to Western Sahara and the refugee camps to ascertain the situation of the peoples of the Territories, in conformity with the provisions of UNGA resolutions 73/123;

Thank you.

*Acción Solidaria Aragonesa (ASA), Adala UK, African Law Foundation (AFRILAW), Agrupación Chilena de Ex Presos políticos, Arabako SEAD en Lagunen Elkartea, Asociación de Amigos y Amigas de la R.A.S.D. de Álava, Amal Nanclares, Asociación Amal Centro Andalucía, ARCI Città Visibili, A.R.S.P.S. - Rio de Or, 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 Chilena de Amistad con la República Árabe Saharaui Democrática, Asociación de la Comunidad Saharaui en Argon (ACSA), Asociación Cultural Peruano Saharaui, Asociación de Discapitados Saharaui, Asociación Ecuatoriana de Amistad con el Pueblo Saharaui (AEAPS), Asociación Española para el Derecho Internacional de los Derechos Humanos (AEDIDH), 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 Sahaui de les Illes Balears, Association des Amis de la RASD (France), Association de la Communauté Sahaouie en France, Association Culture Sahara, Association culturelle Franco-Sahaouie, Association des Femmes Sahaouies en France, Association of Humanitarian Lawyers, Association Mauritanienne pour la Promotion du Droit, Association Mauritanienne pour la Transparence et le Développement – ATED,

Association for the Monitoring of Resources and for the Protection of the Environment in Western Sahara (AMRPENWS), Association Nationale des Echanges entre Jeunes (ANEJ), 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, 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, Central Unitaria de Trabajadores de Chile, 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 de Estudios sobre la Juventud, 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 Ecuánica 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 Saharais, Comité de Jumelage et d'Echange Internationaux / Gonfreville l'Orcher, Comité de Protección de los Defensores Saharais – 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 Saharais 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 Constituyente XXI, Fundación Mundubat, Fundación Sahara Libre-Venezuela, Fundación Sahara occidental, Fundación Latinoamericana por los Derechos Humanos y el Desarrollo Social (Fundalatin), Giuristi Democratici, Global Aktion - People & Planet before profit, Groupe Non Violence Active (NOVA SAHARA OCCIDENTAL), Grupo por la renuncia de la Nacionalidad Marroquí, Habitat International Coalition, Housing and Land Rights Network, Ibsar Al Khair Association for the Disabled in Western Sahara, Indian Council of South America (CISA), International Association of Democratic Lawyers (IADL), International Educational Development, Inc., International Fellowship of Reconciliation (IFOR), Liberation, Liga de Defensa de los Presos Políticos

Saharai, Liga de Deportistas Saharais en España, Liga de Estudiantes Saharais en España, Liga Nacional dos Direitos Humanos, Liga de Periodistas Saharais en España, Liga Saharai 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), Mouvement contre le racisme et pour l'amitié entre les peuples (MRAP), National Television Team, Norwegian Support Committee for Western Sahara, Observatoire des Médias Saharaouis 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 Saharai por el Niño y la Mujer, Observatorio Saharai de Protección del Niño, Observatorio Saharai de Recursos Naturales, 1514 Oltre il muro, Organización Contra la Tortura en Dakhla, Organización Saharai por la Defensa de las libertades y la dignidad, Pallasos en Rebeldía y Festiclown, Plataforma de Organizaciones Chile Mejor Sin TLC, Paz y Cooperación, 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, Sandblast, Schweizerische Unterstützungskomitee für die Sahraouis, Sindacato Español Comisiones Obreas (CCOO), Solidariedade Galega col Pobo Saharai (SOGAPS), Stichting Zelfbeschikking West-Sahara, Tayuch Amurio, Tawasol Lludio, The Australian Western Sahara Association, The Icelandic Western Sahara Association, The Swedish Western Sahara Committee, TIRIS - Associazione di Solidarietà con il Popolo Saharawi, Unión de Asociaciones Solidarias con el Sáhara de Castilla y León, Union des Ingénieurs Sahraouis, Unión de Juristas Saharais (UJS), Unión Nacional de Abogados Saharais, 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 Saharais (UNMS), Unión Nacional de Trabajadores de Saguia El Hamra y Rio de Oro (UGTSARIO), Unión de Periodistas y Escritores Saharais (UPES), US Western Sahara Foundation, VZW de Vereniging van de Sahrawi Gemeenschap in Belgie, Werken Rojo - Medio de comunicación digital, Western Sahara Resource Watch España (WSRW España), Western Sahara Times, World Barua Organization (WBO), World Peace Council.