



General Assembly

Distr.: General
XX February 2020

English only

Human Rights Council

Forty-third session

24 February–20 March 2020

Agenda item 2

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.

[07 February 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

Background

Western Sahara was under Spanish colonial rule from 1884. In December 1963, the General Assembly¹ 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 Non-Self-Governing Territory (Green March). The same day, the UN Security Council adopted resolution 380, deploring the holding of the march and 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 Saharan 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, member of the UN.

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 wishing to visit.

In its last report on press freedoms in Western Sahara², 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.

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).

¹ UNGA Resolution 1956 (XVIII)

² https://rsf.org/sites/default/files/rapport_sahara_-_final_pdf2.pdf

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 Council³, 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 Sahrawi 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 decision⁴, 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.

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. Those measures can be implemented in Western Sahara only by an independent and credible body. 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 209 undersigned organizations call on:

- A. **all High Contracting Parties** to ensure that the Kingdom of Morocco respects the Fourth Geneva Convention in Western Sahara;
- B. **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);

³ A/HRC/22/53/Add.2

⁴ CAT/C/59/D/606/2014

- 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;
- C. **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.
- D. **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 and by reporting on the impact of armed conflict on human rights defenders in view of ensuring the enjoyment of human rights ;
 - • implement a programme of technical cooperation and capacity building with the representative of the people of Western Sahara, the Polisario Front.

Acción Solidaria Aragonesa (ASA), Adala UK, African Law Foundation (AFRILAW), Agrupación Chilena de Ex Presos políticos, Amigos por un Sahara Libre, Arabako SEAD en Lagunen Elkarte, Asociación de Amigos y Amigas de la R.A.S.D. de Álava, Amal Nancrales, 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 Discapacitados Saharauis, Asociación Ecuatoriana de Amistad con el Pueblo Saharaui (AEAPS), Asociación de Familiares de Presos y Desaparecidos Saharauis (AFAPREDESA), Asociación Hijas de Saguiya y el Rio, Asociación por la Justicia y los Derechos Humanos, Asociación de Médicos Saharaui en España, Asociación Mexicana de Amistad con la República Árabe Saharaui A.C. (AMARAS), Asociación Navarra de Amigos y Amigas de la R.A.S.D. (ANARASD), Asociación Navarra de Amigos y Amigas del Sahara (ANAS), Asociación Panameña Solidaria con la Causa saharai (APASOCASA), Asociación Pro Derechos Humanos de España (APDHE), Asociación Profesional de Abogados Saharauis 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 Saharauis en Alicante, Asociación de Saharauis en Ávila, Asociación de Saharauis en Bal, Asociación de Saharauis en Fuerteventura, Asociación de Saharauis en Jerez de la Frontera, Asociación de Saharauis en Lebrija, Asociación de Saharauis en Navarra, Asociación de Saharauis en Tenerife, Asociación de Saharauis en Valdepeñas, Asociación Um Draiga de Zaragoza, Asociación Venezolana de Solidaridad con el Sáhara (ASOVESSA), Asociación de Víctimas de Minas (ASAVIM), Asociación de Zamur Valencia, Associação Amigos e Solidaridade ao Povo Saharaui (ASAHARA), Associació d'Amics del Poble Sahrauí 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 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, Associazione Jaima Sahrawi per una soluzione giusta e non violenta nel Sahara Occ., Associazione Nazionale di Solidarietà con il Popolo Saharaui, Bentili Media Center, Bureau International pour le Respect des Droits Humains au Sahara occidental (BIRDHSO), Campaña Saharaui 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 Saharaui por la Salvaguardia de la Memoria, Colectivo Saharaui de Defensores de Derechos Humanos (CODESA), Colectivo Saharaui en Estepona, Colectivo Saharaui en Gipuzkoa, Colectivo Saharaui en Jaén, Colectivo Saharaui en Lanzarote, Comisión Ecuamélica 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 Saharaui 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 Saharauis, Comité de Jumelage et d'Echange Internationaux / Gonfreville l'Orcher, Comité de Protección de los Defensores Saharauis – Freedom Sun, Comité de Protección de los Recursos Naturales, Comité Saharaui de Defensa de Derechos Humanos (Glaimim), Comité Saharaui de Defensa de Derechos Humanos (Smara), Comité Saharaui de Defensa de Derechos Humanos (Zag), Comité Saharaui por el Monitoreo de los Derechos Humanos (Assa), Comité de Solidaridad Oscar Romero, Comité Suisse de soutien au Peuple Sahraoui, Comité de Víctimas de Agdaz y Magouna, Comunidad Saharaui en Aragón, Comunidad Saharaui en Castilla y León, Comunidad Saharaui en Castilla la Mancha, Comunidad Saharaui en Catalunya, Comunidad Saharaui en Grenada, Comunidad Saharaui en Las Palmas, Comunidad Saharaui en Murcia, Coordinadora Estatal de Asociaciones Solidarias con el Sáhara (CEAS – Sáhara), Coordinadora de Gdeim Izik para un Movimiento Pacífico, Coordinadora de los Graduados Saharauis Desempleados, Coordinadora d'Organizacions No-Governamentals de Cooperació al Desenvolupament (CONGDIB), Coordinadora de las ONGs en Aaiún, Coordinadora Saharaui 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 Saharaui 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 Saharaui (FEDISSAH), Fondation Frantz Fanon, Forum Futuro de la Mujer Saharaui, Freiheit für die Westsahara e.V., Fundación Constituyente XXI, Fundación Mundubat, Fundación Sahara Libre-Venezuela, Fundación Sahara occidental, Giuristi Democratici, Global Aktion - People & Planet before profit, Groupe Non Violence Active (NOVA SAHARA OCCIDENTAL), Grupo por la renuncia de la Nacionalidad Marroquí, Housing and Land Rights Network, Ibsar Al Khair Association for the Disabled in Western Sahara, Liga de Defensa de los Presos Políticos Saharaui, Liga de Deportistas Saharauis en España, Liga de Estudiantes Saharauis en España, Liga de Mujeres Saharauis en España, Liga Nacional dos Direitos Humanos, Liga de Periodistas Saharauis en España, Liga Saharaui 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 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 Saharaui por el Niño y la Mujer, Observatorio Saharaui de Protección del Niño, Observatorio Saharaui de Recursos Naturales, 1514 Oltre il muro, Organización Contra la Tortura en Dakhla, Organización Saharaui por la Defensa de las libertades y la dignidad, Pallasos en Rebeldía y Festiclown, Plataforma de Organizaciones Chile Mejor Sin TLC, 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, Sindicato Español Comisiones Obreas (CCOO), Solidariedade Galega col Pobo Saharaui (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 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, Werken Rojo - Medio de comunicación digital, Western Sahara Resource Watch España (WSRW España), Western Sahara Times NGO(s) without consultative status, also share the views expressed in this statement.