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Human rights situations that require the Council's attention

Joint written statement* submitted by the World Federation of Trade Unions, a non-governmental organization in general consultative status, the American Association of Jurists, France Libertés : Fondation Danielle Mitterrand, the Women's International League for Peace and Freedom (WILPF), non-governmental organizations in special consultative status, International Educational Development (IED), Mouvement contre le racisme et pour l'amitié entre les peuples (MRAP), 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 May 2010]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The protection and promotion of the human rights and freedoms of the Sahraoui people*

On April 30, 2010, the Security Council of the United Nations in adopting Resolution 1920 decided to extend for one year the mandate of the United Nations Mission for a referendum in Western Sahara (MINURSO) which had been established by resolution 690 of April 29, 1991.

MINURSO is the only UN peacekeeping operation that still does not include a section dedicated to the protection and promotion of the human rights despite the fact that his very duty is to implement the right of peoples to self-determination, enshrined in Article I of the UN Charter and the two Covenants (Civil and Political Rights and on Economic, Social and Cultural Rights).

Basically we can only note the contradiction between the concern for human rights by the Secretary General in his report¹ to the Security Council, and the fact that he did not see fit to recommend to include in the mandate of MINURSO the protection and promotion of the human rights of the Saharawi people, despite the request made at the informal meeting in Westchester County (United States) by the delegation of the Frente Polisario.

It is surprising also that the Secretary General's report ignored the harassment suffered by the Sahrawi people peacefully demonstrating in the streets to demand the implementation of UN resolutions and specifically the organization of the referendum: threats, intimidation, police brutality, arrests and often sentences in prison.

The Secretary-General rightly reveals that the Kingdom of Morocco reaffirmed its opposition to the inclusion of a component of human rights "in the mandate of MINURSO"².

When an occupying power, such as the Kingdom of Morocco, imposes its will in this manner on the international community, one can legitimately question the worth of the responsibilities of all States, in conformity with the Charter of the United Nations, to develop and encourage respect for human rights and fundamental freedoms for all³.

It is worthwhile to recall here the explicit words of the Declaration and Programme of Action, adopted 25 June 1993 by the World Conference on Human Rights where in the second paragraph of operative paragraph 2 states that: *"Taking into account the particular situation of peoples under colonial or other forms of alien domination or foreign occupation, the World Conference on Human Rights recognizes the right of peoples to take any legitimate action, in accordance with the Charter of the United Nations, to realize their inalienable right of self-determination. The World Conference on Human Rights considers the denial of the right of self-determination as a violation of human rights and underlines the importance of the effective realization of this right"*.

The Kingdom of Morocco wants to pay attention to the situation in the Sahrawi refugee camps located in the region of Tindouf (Algeria), whose existence is undeniably one of the worst consequences of its occupation of Western Sahara.

* The Association of Humanitarian Lawyers, an NGO without consultative status, also shares the views expressed in this statement.

¹ S/2010/175

² Ibid, par. 16

³ Preamble to the Declaration and Programme of Action, adopted 25 June 1993 by the World Conference on Human Rights

The Kingdom of Morocco pays attention also to the Saharawi civilians who return to Western Sahara after a visit to these camps as an international observer mission that included a representative of the Mouvement contre le racisme et pour l'amitié entre les peuples (MRAP) could witness.

The mission, consisting of five persons of Spanish and French, took place from Sunday 7th to Friday 19th March, 2010. Its purpose was to escort to their homes in the non-autonomous Western Sahara a group of eleven Sahrawi human rights defenders who attended the "First International Forum of the Human Rights Observers at the trials of Sahrawi human rights activists in Morocco and in the occupied Western Sahara (Tindouf, 24 - 25 February 2010). The mission was decided following the incarceration in October 2009 a group of seven Sahrawi human rights defenders who had made the trip to Tindouf.

Upon arrival in El Aaiun, the delegation had been under surveillance by security forces, uniformed or plain clothes, stationed around the homes where the members were lodge.

On Tuesday, March 9, taking advantage of the temporary absence of the five observers, the police violently dispersed a peaceful assembly in the district of Maatallah (El Aaiun). Several people have reported various injuries and contusions. It appears that the police also steeped in some homes near the meeting place and ransacked the premises.

The mission noted that the hospital turned the victims of the police brutal away, refusing to give them the necessary treatment.

On Friday 12th March, the international observers accompanied a group of human rights defenders in the town of Dakhla. The police initially tried to force the door of the home where the group of people was, then crisscross the block. Observers, although they were threatened, decided to accompany the human rights defenders to their respective homes.

On Saturday 13th March, back in El Aaiun, the observers were surrounded by several vehicles of security forces which prevented them from advancing steadily. Upon arrival, the observers noted that a large number of plainclothes policemen tried to prevent access to the house where they were expected and they had to intervene between the security forces and Saharawi civilians.

On Sunday 14th March, in the town of Smara, the observers are still suffering after threats from security forces trying to disperse the meeting to be held in the home. After negotiations, the riot police withdrew and left on-site some monitoring device.

On Monday 15th March, the movements of the international observers in the town of Smara were rendered dangerous by a large number of vehicles of security forces which stand on the road. It is only when the governor of Smara was called by the leaders of the observers that the majority of the security forces vehicles withdrew.

In the afternoon, the observers moved towards the town of Tan Tan in three vehicles. At the entrance to the town, the cars stopped at a police roadblock and are beset by dozens of the Moroccan Association for the Territorial Integrity members. Some of them are members of the police, as the Moroccan Association for Human Rights confirmed to the international observers. One of the Saharawi leaders (Mohamed Tahlel) was attacked by some policemen and tacked away from the road, he was left alone in the dark. When he came back to the cars, the observers saw him covered by swellings due to the hits received by beatings with truncheons, punches and kicks. His left ear showed signs of bite.

Tan Tan is the town of Naama Asfari family, human rights activist well known internationally. He reported to the observers that his cousin was arrested in the afternoon with no charges... he was released several hours later. This practice seems to be very common.

On Wednesday 17th March, the observers collected evidence in the locality Guleimin whereby the visible marks of torture on the body prevent people (and their family members) to be hired: victims of torture, they are marginalized.

On Thursday 18th March, on the road back to El Aaiun the observers had no choice but to pass past Tan Tan. At the police checkpoint the vehicles of the observers were attacked by a group of civilians who slapped on the vehicles and their occupants; the police forces did not intervene.

Determined to suit a complaint to the Court of Tan Tan, observers and accompanying Sahrawi were beaten by police forces at the entrance of the Tribunal. Inside, the public prosecutor refused to accept the international observers, who were invited to file a complaint on plain paper, no official stamp would be affixed to acknowledge receipt. Upon leaving the Court, observers noted that the vehicles were vandalized.

The chairman and the vice chairman of the Tan Tan section of the Moroccan Association of Human Rights were also witnesses of the attacks occurred at both the police checkpoint and at the Tribunal.

In the evening at police checkpoint at the entrance of El Aaiun, the international observers were attacked again by a group of civilians who slapped on the vehicles and insulted the occupants under the indifferent eyes of the law enforcement.

On several occasions throughout the mission, the working tools (books, computers, photo cameras) of the international observers were sequestered, sometimes they were given back after clearing their contents.

Conclusion

The international observers have noted the conditions of harassment and brutality that must endure human rights defenders and supporters of the Sahrawi the referendum for self-determination of non-autonomous territory of Western Sahara. Many testimonies have been received from unjustified detention, ill treatment and torture (physical and psychological). Similarly, the evidence indicates that discrimination in access to education, work, public service careers and violations of fundamental rights of workers are very common.

Recommendations

- The United Nations must protect the freedoms and rights of the Saharawi people living under foreign occupation: it is the mandate of the Commission on Human Rights (A/RES/60/251) and that of the High Commissioner for Human Rights (A/RES/48/141).
- The Kingdom of Morocco must comply with the provisions of the Fourth Geneva Convention concerning the protection of civilians from the occupying Power.
- Each High Contracting Parties to the Fourth Geneva Convention, particularly the depositary (Switzerland), must enforce its provisions in accordance with the spirit and letter of the Convention.