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Joint written statement* submitted by World Federation of Democratic Youth (WFDY), non-governmental organization in general consultative status, American Association of Jurists, Federacion de Asociaciones de Defensa y Promocion de los Derechos Humanos, France Libertes : Fondation Danielle Mitterrand, Habitat International Coalition, International Association of Democratic Lawyers (IADL), International-Lawyers.Org, World Barua Organization (WBO), non-governmental organizations in special consultative status, International Educational Development, Inc., Liberation, 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.

[29 August 2016]

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

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Western Sahara: the illegal occupation of the Non Self-Governing Territory by the Kingdom of Morocco

Background

In 1963, the UN General Assembly approved¹ the report presented by the the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and thereafter included Western Sahara in the list of Non Self-Governing Territories paving the way for the People originating from the Territory to freely exercise their inalienable Right to Self-determination.

In 1966, the General Assembly² invited the Administering Power (Spain) to determine at the earliest possible date the procedures for the holding of a referendum.

In 1973, the General Assembly³ reaffirmed the legitimacy of the struggle of colonial people and expressed its full solidarity with the people of the Sahara under Spanish administration.

On 16 October 1975, the International Court of Justice (ICJ) released its Advisory Opinion⁴ determining that the materials and information presented to the Court do not establish any tie of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco. The very same day, King Hassan II of Morocco announced the launching of the Green March in order “to recover the integrity of the Kingdom’s territory”, thus disregarding the conclusions of the ICJ.

The very same day the Green March was launched and the Moroccan army opened the way to the Moroccan population for the occupation of Western Sahara, the Security Council adopted by consensus resolution 380 (6 November 1975), which noted with grave concern the deterioration of the situation in Western Sahara, deplored the holding of the march and called upon «Morocco immediately to withdraw from the Territory of Western Sahara all the participants in the march».

On 26 February 1976, Spain informed the Secretary-General⁵ that as of that date it had ended its presence in Western Sahara and relinquished its responsibilities over the Territory. After Spain withdrew from the Saharan colonized territory, Western Sahara became the only Non Self-Governing Territory listed by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples that does not have an internationally recognized Administering Power.

It is worth look into the historical connections between the end of a dictatorial regime in Spain (General Franco died on 20th November 1975) and the popular demonstrations of discontent that lasted several months in the Kingdom of Morocco. A significant part of the military joined pushing King Hassan II to try to expand the territory of his kingdom, give the military a new role and unite the people behind a new conquest.

Forty years later, Mohamed VI has succeeded his father Hassan II, and the illegal occupation of the Non Self-Governing Territory of Western Sahara continues.

The UN Security Council established in 1991⁶ the United Nations Mission for the Referendum in Western Sahara in accordance with the UN Secretary-General report⁷ which contains the main elements of the Implementation plan for the Settlement Proposal as accepted by the Frente Popular para la Liberación de Seguí el-Hamra y de Río de Oro

¹ UN General Assembly resolution 1956 (XVIII)

² UN General Assembly resolution 2229 (XXI)

³ UN General Assembly resolution 3162 (XXVIII)

⁴ Western Sahara, Advisory Opinion, I.C.J. Reports 1975

⁵ https://wikileaks.org/plusd/cables/1976USUNN00744_b.html

⁶ UN Security Council resolution 690

⁷ S/22464 (19 April 1991)

(Polisario Front) and the Kingdom of Morocco, contained in the previous report⁸ of the UN Secretary-General, which was approved by the UN Security Council⁹.

Throughout the last 25 years the Kingdom of Morocco has done everything possible to undermine the implementation of the UN Secretary-General's Settlement Plan approved by the UN Security Council and prevent the population originating in the Non Self-Governing Territory of Western Sahara to freely exercise its inalienable Right to Self-determination.

Nonetheless, the UN Security Council persists in calling upon the parties to continue negotiations without preconditions and in good faith.

King Mohamed VI's position and the threat to peace and stability

Notwithstanding all UN General Assembly's and Security Council's resolutions adopted mostly by consensus throughout the last 50 years, as well as the 1975 International Court of Justice's and the 2002 UN Legal Adviser's legal opinions related to the issue of Western Sahara, King Mohamed VI of Morocco persists in affirming that the Non Self-Governing Territory of Western Sahara belongs to his Kingdom.

Over the last twelve months, King Mohamed VI has spared no occasion to reaffirm his point of view about the issue.

On 6th November 2015, on the occasion of the 40th anniversary of the illegal occupation of the Non Self-Governing Territory of Western Sahara (Green March), he affirmed that "Morocco will also face up to all attempts that seek to cast doubts on the legal status of the Moroccan Sahara or question our country's right to exercise its powers and prerogatives fully on its land, in the southern provinces, just as it does in the northern part of the country."

On 20th April 2016, one month after having expelled the great majority of the civil and political component of the MINURSO from Western Sahara, King Mohamed VI addressed a message to the Morocco-Gulf Cooperation Council Summit, held in Riyadh (Saudi Arabia) in referring to the UN Secretary-General declaration of March 2016 concerning the legal status of the Non Self-Governing Territory of Western Sahara occupied by the Kingdom of Morocco asserted that "The hostile plots which seek to undermine our stability are continuing... and the most recent of these conspiracies has been hatched against the territorial integrity of your second home, Morocco... Morocco's opponents are using every means, directly or otherwise, as part of their thinly-veiled maneuvers... they try to delegitimize Morocco's presence in its Sahara..."

On 30th July 2016, on the occasion of the 17th anniversary of the King's accession to the throne, King Mohamed VI addressed a message to the nation stressing that "the foreign policy of the Kingdom is based on the diplomacy of the word and the act, including concerning the defense of the Moroccan Sahara." Furthermore, in referring once again to the UN Secretary-General declaration of March 2016, King Mohamed VI added that "the Kingdom faced with the greatest firmness, the misleading statements and irresponsible behavior that marred the management of the Moroccan Sahara issue."

On the occasion of the last African Union's Summit (17th July 2016), King Mohamed VI addressed a message expressing the wish of his Kingdom to reintegrate the continental organization and to see the Sahrawi Arab Democratic Republic, one of its founding members, expelled from it: a move that may jeopardize the unity of the continent. He argued that "The African Union is completely out of step with developments in the Sahara issue at the level of the United Nations Organization. A process is underway, under the auspices of the UN Security Council, to reach a final political solution to this regional dispute."

As King Mohamed VI said, the Moroccan diplomacy is based on word and acts. In 2016, the Kingdom of Morocco expelled the great majority of the civil and political component of the MINURSO from Western Sahara. In mid-August 2016, because of the open support of Mauritania to the Polisario Front claim for the holding of a free referendum in Western Sahara, King Mohamed VI decided to break the cease-fire and ordered his occupying troops to cross the line and take control of the region of Gargarat (near Lagouira), which is critical to Mauritania's economic prosperity as the

⁸ S/21360 (18 June 1990)

⁹ UN Security Council resolution 658

world's largest merchandise train crosses it, carrying thousands of tons of Iron core and other minerals, which Mauritania heavily depends on to keep the economic wheel rolling.

Conclusion and Recommendations

The longstanding and persistent position of the Kingdom of Morocco in affirming that the Non Self-Governing Territory of Western Sahara belongs to the Kingdom is contrary to international law, to the 1975 ICJ's opinion and to the numerous decisions of the United Nations. This position seriously calls into question the good faith of the Kingdom in the negotiation process.

The recent political and military moves by the Kingdom of Morocco constitute a concrete threat to the credibility and the functioning of the United Nations, as well as to the peace and stability of the region and the security of the Islamic Republic of Mauritania.

The undersigned Non-Governmental Organizations call upon:

- the UN Security Council (particularly its Permanent Members) to consider using other mechanisms, including those provided by Chapter VII of the Charter, to finally ensure that the people originating from Western Sahara can speedily and freely exercise their inalienable Right to Self-determination;
- the UN Secretary-General to ensure that the UN General Assembly longstanding resolution on "Economic and other activities which affect the interests of the peoples of the Non-Self-Governing Territories" and ECOSOC's longstanding resolution on "Support to Non-Self-Governing Territories by the specialized agencies and international institutions associated with the United Nations" are duly implemented throughout the whole UN system;
- all special procedures of the UN Human Rights Council to take promptly action on any human rights violation that occurs in the Non Self-Governing Territory of Western Sahara illegally occupied by the Kingdom of Morocco.

Association of Humanitarian Lawyers (USA), Coordinadora Estatal de Asociaciones Solidarias con el Sahara (Spain) and Lega Italiana per i Diritti e la Liberazione dei Popoli (Italy), NGOs without consultative status, also share the views expressed in this statement.
