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مجلس حقوق الإنسان

الدورة الثالثة والأربعون

24 شباط/فبراير - 20 آذار/مارس 2020

البند 2 من جدول الأعمال

التقرير السنوي لمفوضية الأمم المتحدة السامية لحقوق الإنسان

وتقارير المفوضية السامية والأمين العام

مذكرة شفوية مؤرخة 11 شباط/فبراير 2020 موجهة من البعثة الدائمة لجنوب أفريقيا لدى مكتب الأمم المتحدة في جنيف إلى رئيس مجلس حقوق الإنسان ومفوضية الأمم المتحدة السامية لحقوق الإنسان

تهدى البعثة الدائمة لجمهورية جنوب أفريقيا لدى مكتب الأمم المتحدة في جنيف والمنظمات الدولية الأخرى في سويسرا تحياتها إلى رئيس مجلس حقوق الإنسان ومفوضية الأمم المتحدة السامية لحقوق الإنسان، وتشرف بأن توجه انتباههما إلى الرسالة المرفقة الموجهة من جبهة البوليساريو بشأن تنفيذ مجلس حقوق الإنسان القرار 95/74 المتعلق بتنفيذ الوكالات المتخصصة والمؤسسات الدولية المرتبطة بالأمم المتحدة إعلان منح الاستقلال للبلدان والشعوب المستعمرة (انظر المرفق).

وتطلب البعثة الدائمة لجمهورية جنوب أفريقيا إصدار هذه المذكرة الشفوية ومرفقها* بوصفها وثيقة من وثائق مجلس حقوق الإنسان وتعميمهما على جميع الدول الأعضاء في المجلس في إطار البند 2 من جدول الأعمال.

* استُنسخ المرفق كما ورد، وباللغة التي قُدم بها فقط.



الرجاء إعادة الاستعمال

GE.20-02669(A)



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Annex to the note verbale dated 11 February 2020 from the Permanent Mission of South Africa to the United Nations Office at Geneva addressed to the President of the Human Rights Council and the Office of the United Nations High Commissioner for Human Rights

A Spanish protectorate since 1884, Spanish Sahara was included in 1963 in the list of Non-Self-Governing Territories under Chapter XI of the Charter (A/5514, annex III). Since then, UN General Assembly Resolution 1514 (XV), which contains the “Declaration on the Granting of Independence to Colonial Countries and Peoples” fully applies to Western Sahara.

The Moroccan occupation’s war (1975-1990) has killed and wounded thousands of Sahrawis, while about 165,000 people were forced to flee to neighbouring refugee camps around Tindouf (Algeria); hundreds of Sahrawis have disappeared and many of those cases have yet to be resolved.

The longstanding Moroccan occupation of Western Sahara has led to a number of gross violations of human rights, as well as serious and continuous violations of the Fourth Geneva Convention of 1949, some of which may amount to war crimes, crimes against humanity and cultural genocide.

The Frente Polisario denounces the obstruction exerted by the occupying Power against the International Committee of the Red Cross, which is prevented from carrying out its mission, in particular to visit political prisoners illegally detained in the territory of the occupying Power and to investigate the hundreds of Sahrawis who have disappeared since the 1970s and 1980s.

The Frente Polisario recalls that the UN General Assembly constantly reaffirms the inalienable right of the people of Western Sahara to independence, in accordance with the principles set forth in the Charter of the United Nations and General Assembly Resolution 1514 (XV). The Frente Polisario also recalls that, since 1979, the UN General Assembly has recognised it as the sole legitimate representative of the people of the Non-Self-Governing Territory of Western Sahara (UNGA Res.34/37).

In this context, the Frente Polisario calls upon all Special Procedures that are willing to monitor the human rights violations in the Occupied Territory of Western Sahara, to contact the Frente Polisario representatives.

The Frente Polisario, recalling that in conformity with UNGA Resolution 2625 (XXV), a Non-Self-Governing Territory has a status separate and distinct from the territory of the State administering it (not mentioning that of an occupying Power), also denounces the continuing violation of the right to development of the people of Western Sahara and their permanent sovereignty over their natural resources.

In his letter dated 29 January 2002 addressed to the President of the Security Council, the Under-Secretary-General for Legal Affairs, the Legal Counsel, Mr. Hans Corell underscored 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.”

Furthermore, in its December 2016 Judgement, the Grand Chamber of the Court of Justice of the European Union ruled that the Association Agreement and Liberalisation Agreement between the EU and Morocco was not applicable to Western Sahara. The Grand Chamber stressed that the Saharawi people must give their consent for any international agreement to be applicable to the territory of Western Sahara and its natural resources (§ 106).

Hundreds of Sahrawis regularly hold peaceful protests in the streets of the occupied cities of Western Sahara against the plundering of their natural resources and for the implementation of their right to self-determination and independence: they are systematically harassed by the Occupying Forces, beaten, arrested and often tortured. Sahrawi journalists are also often harassed, arrested, beaten and tortured.

The Frente Polisario recalls that the political prisoners of the Group of Gdeim Izik were all condemned to long-term prison sentences on the basis of confessions obtained under torture. The Frente Polisario also recalls that one of them, Ennaâma Asfari, has been recognised by the Committee Against Torture as victim of torture (CAT/C/59/D/606/2014) and that the Kingdom of Morocco has fallen short in failing to implement the recommendations made by the Committee.

Political activists, human rights defenders and journalists denouncing the abuses of the occupying Power are systematically accused of separatism and for threatening the integrity of the Moroccan territory, while the Kingdom of Morocco is at the most basic level an occupying Power in the Non-Self-Governing Territory of Western Sahara, since the United Nations does not even recognise it as an administering Power.

In this context, the Frente Polisario expresses its deep concern at the classification of the Kingdom of Morocco by the Human Rights Committee as among the five top-ranked states for the implementation of selected recommendations. The Committee specifies that “Morocco was rated 'A' for the adoption of the law on the national mechanism for the prevention of torture, designating its National Human Rights Council as the operative body.”

First of all, it is surprising to learn that among the 170 State parties to the Covenant, the Human Rights Committee chooses to rank an occupying Power among the top five for the implementation of selected recommendations.

It is even more surprising, if not shocking, to learn the reason why an occupying Power received that honour: the adoption of the law on the national mechanism for the prevention of torture, designating its National Human Rights Council as the operative body.

The Frente Polisario draws the attention of the members of the Human Rights Committee firstly to the fact that adopting a law does not mean that a brutal practice like torture has in fact been banned in the practice of the said State, in particular in the Occupied Territory of Western Sahara. Secondly, the Frente Polisario recalls that the mandate of each National Human Rights Institution is limited to the territory of its own Country; therefore, the activities deployed by the Moroccan National Human Rights Council are to be considered illegal in the occupied Territory of Western Sahara.

The Frente Polisario calls upon the members of the Human Rights Committee not to buy into the political machinations of some Permanent Members of the UN Security Council that do not facilitate the achievement of a just, lasting, and mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara.

The Frente Polisario, recalling UNGA Resolution 74/95 on the “Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the Specialized Agencies and the International Institutions Associated with the United Nations”, which urges those specialised agencies and other organisations of the United Nations system that have not yet provided assistance to Non-Self-Governing Territories to do so as soon as possible, calls upon the Office of the High-Commissioner for Human Rights (OHCHR) to constructively enhance cooperation with the Frente Polisario.

The Frente Polisario strongly denounces the obstruction of the Kingdom of Morocco to the renewal of the OHCHR’s Technical Missions in the Occupied Territory of Western Sahara, and invites the OHCHR to visit the liberated Territory of Western Sahara and the Sahrawi refugee camps.

As long as the occupying Power, supported by France, prevents the Security Council from including a chapter for the monitoring of Human Rights in the MINURSO mandate, the Frente Polisario requests the High Commissioner for Human Rights to include in her

annual report a section dedicated to the violations of Human Rights in the Occupied Western Sahara.

I would be most grateful if you would bring the present letter to the attention of the members of the Human Rights Council.

Geneva, 10 February 2020

Ms. Omeima **Abdeslam**

Representative of the Frente Polisario to the United Nations
and other international organisations in Geneva
