



General Assembly

Distr.: General
14 September 2020

English, French and Spanish only

Human Rights Council

Forty-fifth session

14 September–2 October 2020

Agenda item 8

Follow-up to and implementation of the Vienna Declaration and Programme of Action

Written statement* submitted by Mouvement contre le racisme et pour l'amitié entre les peuples, a non-governmental organization 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.

[18 August 2020]

* Issued as received, in the language(s) of submission only.

GE.20-11772(E)



* 2 0 1 1 7 7 2 *

Please recycle A small graphic of a recycling symbol, consisting of three chasing arrows forming a triangle.



Western Sahara: Activities of the Moroccan National Council for Human Rights are illegitimate

Introduction

Since 1963, Western Sahara has been recognized by the General Assembly as a Non-Self-Governing Territory to which resolution 1514 (XV) containing the Declaration on the Granting of Independence to Colonial Countries and Peoples applies.

Since the armed invasion in November 1975, the Kingdom of Morocco has illegally occupied a large part of the Non-Self-Governing Territory, which has been condemned by the Security Council (resolution 380) and the General Assembly (resolution 34/37).

Since the withdrawal of the administering Power (Spain) in February 1976, Western Sahara became the only Non-Self-Governing Territory without an internationally recognized administering Power that submits a report in conformity with Article 73 of the Charter of the United Nations (UN).

The Non-Self-Governing Territory of Western Sahara is therefore under the primary responsibility of the United Nations.

Illegitimate activities of the Moroccan National Council for Human Rights in Western Sahara

In 1993, the UN General Assembly adopted Resolution 48/134, in which it stressed the important role that national human rights institutions can play at the national level in the promotion and protection of human rights and fundamental freedoms.

This resolution and the Paris Principles, contained in its annex, limit, as it could not be otherwise, the scope of activities of these national human rights institutions at the national level of each State.

The Office of the UN High Commissioner for Human Rights (OHCHR), when providing secretariat services for national human rights institutions and for the entities that manage them, cannot ignore the respect for the national environment in which each institution operates, enshrined in the principles that guide their constitution.

The Human Rights Council and OHCHR, in their role of monitoring and following up on obligations under international human rights law and international humanitarian law, should take fully into account the separate and distinct status of Non-Self-Governing Territories which exist until the people of Non-Self-Governing Territory have exercised their right of self-determination in accordance with the Charter (General Assembly - Res.2625/XXV).

Where a national human rights institution operates outside the internationally recognized borders of the State concerned, which acts as an occupying Power in violation of the international legal status of a given Non-Self-Governing Territory, OHCHR must ensure that its technical assistance to that national institution does not undermine the exercise of the inalienable right to self-determination of the people of that Non-Self-Governing Territory.

The activities carried out by the Moroccan National Council for Human Rights in Western Sahara openly violated the most basic norms of international law and international humanitarian law. The protection and promotion of the fundamental rights of a people under military occupation cannot be entrusted to a body belonging to the legal sphere of the occupying Power, which acts in a systemic framework of serious violations of international human rights law and international humanitarian law.

Independent bodies such as the Human Rights Council and OHCHR, each within the framework of the mandate entrusted to them by the General Assembly, were indeed responsible for monitoring respect for fundamental rights and freedoms in a territory under military occupation and regularly reporting on violations.

Delegating to a private law entity the function of monitoring whether or not national human rights institutions comply with the Paris Principles does not exempt the Human Rights Council and OHCHR from their responsibilities.

When the stringency of the Paris Principles requirement for the accreditation of national human rights institutions varies from country to country, alarm bells should be rung. Treating national human rights institutions differently, depending on the State to which they belong, is not consistent with the principle of equal rights.

The Human Rights Council and OHCHR should be more vigilant with regard to the accreditation activities carried out by other entities that have been entrusted with such a mission, since failure to do so could contribute to the maintenance of a situation resulting from an unlawful international act.

Recommendations

The Mouvement contre le racisme et pour l'amitié entre les peuples calls upon:

- the Office of the High Commissioner for Human Rights to implement the commitments made by OHCHR at the World Humanitarian Summit with regard to the situation in the occupied territory of Western Sahara;
- to resume without delay the Technical Missions initiated in 2015 to Western Sahara and the refugee camps;
- to set up a programme of technical assistance and capacity building with the legal representative of the People of Western Sahara, the Polisario Front¹, in accordance with General Assembly resolution 74/95 ;
- the Human Rights Council to establish the mandate of Special Rapporteur on the situation of human rights in the occupied territory of Western Sahara;
- the members of the Security Council to respect the terms of General Assembly resolution 48/134 and the internationally recognized borders of the occupying Power (Kingdom of Morocco) and the Non-Self-Governing Territory of Western Sahara.

¹ A/RES/34/37.