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Human rights situations that require the Council's attention

Note verbale dated 17 March 2021 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

The Permanent Mission of the Republic of South Africa to the United Nations Office at Geneva and other international organizations in Switzerland hereby draws the attention of the Office of the United Nations High Commissioner for Human Rights to the attached correspondence from the Frente POLISARIO pertaining to the humanitarian assistance needed as a consequence of the resumption of the armed conflict in the occupied Non-Self-Governing Territory of Western Sahara (see annex).

The Permanent Mission of the Republic of South Africa requests that the present note verbale and the annex thereto* be issued as a document of the Human Rights Council and circulated to all Member and observer States of the Council, under agenda items 2 and 4.

* Reproduced as received, in the language of submission only.

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Annex to the note verbale dated 17 March 2021 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

The Frente Popular de Liberación de Saguía el Hamra y Río de Oro (Frente POLISARIO), created in May 1973 as a National Liberation Movement, with the aim to achieve independence from Spanish colonial rule and recognized since 1979 by the UN General Assembly as the representative of the people of Western Sahara[1], strongly condemns the deployment, on 13 November 2020, of the Moroccan occupying forces in the demilitarized buffer zone of Guerguerat, opposing a peaceful demonstration of a group of Saharawi civilians, which led to the breaking of the ceasefire that was in force since 1991.

In this context, the Frente POLISARIO also strongly condemns the systematic and serious violations of human rights and International Humanitarian Law norms committed by the Kingdom of Morocco, the Occupying Power of the Non Self-Governing Territory of Western Sahara.

The Frente POLISARIO, recalling that the Saharawi Arab Democratic Republic is a founding member of the African Union, deeply regrets that a group of African countries[2] undersigned a statement delivered in front of the Human Rights Council on 25 February 2021. This statement addressed presupposed Moroccan sovereignty over Western Sahara, which is in contradiction with the internationally recognized legal status of the Non Self-Governing Territory of Western Sahara and the numerous resolutions of the UN General Assembly and Security Council. Furthermore, and of greater concern is that the statement violates the principles enshrined in Article 4 of the African Union's Constitutive Act and may provide cause for other border disputes on the African continent.

This kind of declaration also seriously challenges the good faith in which the Kingdom of Morocco is ready to negotiate in the framework of the UN Secretary General's initiatives for a just and lasting solution which should provide for the exercise of a very fundamental right of the Saharawi people, namely the right to self-determination as well as the independence of the indigenous people of a Non Self-Governing Territory, as provided for by UN General Assembly resolution 1514 (XV).

Indeed, the illegal military occupation of Western Sahara by the Kingdom of Morocco, initiated in November 1975, has been and continues to be the source of a numerous, serious and systematic violations of human rights and breaches of the International Humanitarian Law, including the Fourth Geneva Convention.

The Frente POLISARIO expresses its deepest concern at the refusal by the Kingdom of Morocco's authorities to implement the recommendations made in November 2016 by the Committee Against Torture concerning the case of Ennaâma Asfari[3], as well as of those made in recent times by the Working Group on Arbitrary Detention[4], which considers the detention of several Saharawi human rights defenders and journalists politically motivated and a tool of a discriminatory policy. In this regard, the Frente POLISARIO also expresses its concern at the undefined delay, since March 2019, of the envisaged visit to the Kingdom of Morocco by the Special Rapporteur on the independence of judges and lawyers (Mr. García-Sayan)[5].

The Frente POLISARIO also expresses its deepest concern at the refusal by the Kingdom of Morocco to allow the OHCHR's technical missions be renewed, as agreed in 2015, and to

[1] UNGA resolution 34/37 (21/11/1979).

[2] Burkina Faso, Burundi, Central African Republic, Comoros, Côte d'Ivoire, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Gabon, Gambia, Guinea, Guinea-Bissau, Sao Tomé-et-Principe and Senegal.

[3] CAT/C/59/D/606/2014.

[4] See WGAD Opinions 60/2018, 23/2019, 67/2019, 52/2020, 68/2020.

[5] https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24356&LangID=E.

include a human rights mandate in the UN Mission for the Referendum in Western Sahara (MINURSO) mandate.

The Frente POLISARIO expresses its serious doubts concerning the Moroccan "voluntary and deep constructive interaction" with the UN human rights system. It is the sincere hope of the Frente POLISARIO that the renewed annual contribution of the Kingdom of Morocco to the OHCHR will not jeopardize the Office's independence, neutrality and objectivity concerning the human rights violations in the occupied Non Self-Governing Territory of Western Sahara.

Since the breaking of the ceasefire last November, the Moroccan Occupying Forces have increased the harassment, beatings, arbitrary arrests, torture and illegal house arrests of several Saharawi human rights defenders and journalists and their families' members. They also have taken restrictive measures against the Saharawi political prisoners, impeding the International Committee of the Red Cross's delegates to visit them, while some of them do not have the appropriate treatments for healing their serious medical diseases. Some of them have been placed in contact with Moroccan common law prisoners affected by Covid-19.

The Frente POLISARIO, while recalling the illegality of the presence of the Moroccan Red Crescent in the Non Self-Governing Territory of Western Sahara, calls upon the International Committee of the Red Cross to enhance cooperation with the Frente POLISARIO in order to better protect the victims of the systematic violations of human rights and International Humanitarian Law committed by the occupying Power of the Non Self-Governing Territory of Western Sahara.

The Frente POLISARIO, while recalling the illegality of the presence of the Moroccan National Council on Human Rights Commissions in the Non Self-Governing Territory of Western Sahara (outside the internationally recognized boundaries of the Kingdom of Morocco) calls upon the OHCHR to implement the commitments made at the World Humanitarian Forum (Istanbul, 2016) in relation to the current situation in Western Sahara.

The Frente POLISARIO also requests the OHCHR to urgently dispatch an observation mission in the occupied Self-Governing Territory of Western Sahara and to report at the 47th session of the Human Rights Council.

The Frente POLISARIO further requests the OHCHR to properly implement Operative Paragraph 8 of the UN General Assembly resolution entitled "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"[6], by offering a specific technical cooperation and capacity building program to the recognized representative of the people of Western Sahara[7], the Frente POLISARIO.

The Frente POLISARIO calls upon the members of the Human Rights Council to implement Operative Paragraph 5 of the UN General Assembly resolution entitled "Universal realization of the right of peoples to self-determination"[8], which "requests the Human Rights Council to continue to give special attention to violations of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation" as applicable to the current situation in Western Sahara.

The Frente POLISARIO, while recalling that Western Sahara is the only Non-Self-Governing Territory that has no internationally recognized administering Power, holds the international community, notably the UN and its members, as well as the ICRC, responsible for the protection of the Saharawi people living under the illegal military occupation of the Kingdom of Morocco.

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

Geneva, 16 March 2021
Ms. Omeima Abdeslam

[6] A/RES/75/104 (10/12/2020).
[7] A/RES/34/37.
[8] A/RES/75/173 (16/12/2020).

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and other international organisations in Switzerland