



# General Assembly

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## Human Rights Council

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Agenda item 2

**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of the  
High Commissioner and the Secretary-General**

**Joint written statement\* submitted by American Association of Jurists, Asociación Española para el Derecho Internacional de los Derechos Humanos AEDIDH, Association Mauritanienne pour la promotion du droit, Association mauritanienne pour la transparence et le développement, Association Nationale des Echanges Entre Jeunes, December Twelfth Movement International Secretariat, Freehearts Africa Reach Out Foundation, Fundación Latinoamericana por los Derechos Humanos y el Desarrollo Social, Habitat International Coalition, International Association Against Torture, International Association of Democratic Lawyers (IADL), International Fellowship of Reconciliation, Paz y Cooperación, Plataforma Mulheres em Acção, Society for Threatened Peoples, World Barua Organization (WBO), non-governmental organizations in special consultative status, Indian Council of South America (CISA), International Educational Development, Inc., Liberation, Mouvement contre le racisme et pour l'amitié entre les peuples, World Peace Council, 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.

[19 May 2022]

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\* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



## **Western Sahara: Arbitrary Detention And the Use Of Torture by Morocco Against Saharawi Human Rights Defenders and Journalists Need The United Nations High Commissioner For Human Rights And The Human Rights Council's Action**

The 308 member-organizations of the Geneva Support Group for the Protection and Promotion of Human Rights in Western Sahara(1) share the views expressed in this statement.

### **BACKGROUND**

Western Sahara classified as Non-Self-Governing Territory since December 1963 (UNGA res. 1956-XVIII), pending self-determination in accordance with the UN Charter principles and UNGA resolution 1514 (XV) entitled “Declaration on the granting of independence to colonial countries and peoples”.

In 1966, UNGA invited the administering Power – Spain – to determine at the earlier possible date the procedures for the holding of a referendum with a view to enabling the indigenous population of the Territory to exercise freely its right to self-determination.

In its Advisory opinion (October 1975) the International Court of Justice determined that "The inferences to be drawn from the information before the Court concerning internal acts of Moroccan sovereignty and from that concerning international acts are in accord in not providing indications of the existence... of any legal tie of territorial sovereignty between Western Sahara and the Moroccan State." Moreover, the Court stated that it “has not found legal ties of such a nature as might affect the application of resolution 1514 (XV) in the decolonization of Western Sahara...”

In November 1975, Morocco invaded and subsequently illegally occupied and annexed the great majority of the Non-Self-Governing Territory of Western Sahara. The armed conflict between Morocco and the Frente POLISARIO lasted until the two parties accepted the Settlement Plan proposed by the UN Secretary-General and the President of the Organisation for African Unity, which led to the establishment of the UN Mission for the referendum in Western Sahara by the Security Council in 1991.

In November 2020, the armed conflict resumed following the intervention of the Moroccan Army in the demilitarized buffer zone of Guerguerat (south-west of Western Sahara), those breaking the ceasefire agreement.

### **REPRESSION AND ISOLATION**

During the ceasefire period (1991 to 2020) Morocco’s security apparatus has always monitored and repressed Saharawi human rights defenders calling for the organisation of the UN promised referendum of self-determination and independence, as part of the colonial policy preventing the organisation of such referendum.

The repressive policy of the occupying Power was reinforced after the protest events of 2010 that saw about 15’000 Sahrawis gathering peacefully in a month-long standing camp in Gdeim Izik (desert location outside Western Sahara's capital city of El Aaiún). The main purpose of the peaceful manifestation was to protest conditions under Moroccan occupation, including fierce repression and social and economic discrimination against the Sahrawi population of Western Sahara.

In his 2011 report on Western Sahara, the UN Secretary General concluded that due to its size, the apparent unification of the Saharawi people and their social demands related to the right to benefit from their own natural resources based on the right of self-determination, the protest camp had the “potential to alter the conflict’s status quo” (S/2011/249).

The demonstration was violently repressed by the Moroccan occupation forces that set fire to hundreds of tents, causing general panic, dozens of injuries and deaths, both among the Saharawi demonstrators and the occupying forces themselves. Hundreds of peaceful Saharawi protesters were arrested and twenty-five of them were retained as the leaders of the protest movement.

Three years later, the group was brought in front of a Military Court that sentenced them to long prison terms on the basis of confessions signed under torture. The sentences were to a large extent confirmed by a civilian court in 2017, before they were upheld by the Moroccan Court of Cassation in November 2020.

Mohamed Bani, Sidi Abdallah Abbahah, Mohamed El Bachir Boutinguiza, Brahim Ismaili, Abdulahi Lakfawni, Sid` Ahmed Lemjeyid, Abdeljalil Laroussi and Ahmed Sbaai have been condemned to perpetuity. Enaàma Asfari, Mohamed Bourial and Banga Chikh are servicing 30 years imprisonment. , Mohamed Lamin Haddi, Mohammed Khouna Babait, Mohamed Embareh Lefkir, Hassan Eddah and El Houssin Ezzaoui are servicing 25 years imprisonment. Abdullahi Toubali, El Bachir Khadda and Mohamed Tahlil are servicing 20 years imprisonment.

Between their arrest and their appeal in 2017, the Gdeim Izik prisoners were arbitrarily detained under alarming prison conditions. Following the proceedings before the Court of Appeal in 2017, the 19 prisoners were dispersed and taken to six different prisons on Moroccan soil, hundreds (even more than a thousand) kilometres far away from their native place in Western Sahara, thus breaching articles 5 and 75 of the Fourth Geneva Convention (1949).

Once there, they reported being subjected to physical and psychological torture, harassment and increased isolation as reprisals against all of them for their open advocacy in favour of the right to self-determination and their cooperation with the UN and human rights organizations.

Since 2015, while hundreds of human rights defenders, jurists, lawyers, journalists and parliamentarians (including members of the European Parliament) have been denied access to or deported from Morocco or Western Sahara, Morocco has stopped the programme of technical visits by UN Office of the High-Commissioner for Human Rights (OHCHR).

In his last report to the Security Council (S/2021/843), the UN General-Secretary stressed that OHCHR was unable to conduct any visits to the region for the sixth consecutive year.

In its 2019 report on press freedoms in Western Sahara(2), Reporters Without Borders (RSF) sheds light on a territory cut off from the rest of the world, a veritable news black hole that has become a no-go zone for journalists.

## UN MECHANISMS' CONCERNS

Morocco submitted its last report to the Committee Against Torture in 2009. In its Final observations, the Committee stressed that Morocco should put in place stronger measures for ensuring prompt, thorough, impartial and effective investigations into all allegations of torture or ill-treatment of prisoners and persons taken into custody or in any other situation.

While waiting for the fifth Moroccan periodic report, the Committee has taken several decisions concerning complaints submitted by Saharawis. In all cases the Committee found that Morocco violates a series of articles of the Convention and urged Morocco to provide the victims with fair and adequate compensation and to initiate a thorough and impartial investigation into the incidents in question (CAT/C/59/D/606/2014 – CAT/C/72/D/650/2015 – CAT/C/72/D/871/2018 – CAT/C/72/D/923/2019).

In his 2013 Mission report (A/HRC/22/53/Add.2), the Special Rapporteur on torture found that torture and ill-treatment were used to extract confessions and that Saharawi protestors were subjected to excessive use of force by Moroccan law-enforcement officials (para 62).

In its 2014 Mission report (A/HRC/27/48/Add.5), the Working Group on Arbitrary Detention (WGAD), while regretting that its meetings with civil society in Laâyoune were monitored

(par. 67), found that torture and ill-treatment were used to extract confessions and that Saharawi protestors were subjected to excessive use of force by law enforcement officials (para 63).

In recent times, the WGAD has issued a number of Opinions concerning Saharawi human rights defenders, stressing that their detention is directly linked to their political activities in favour of the free exercise of the right of self-determination of the Saharawi people and therefore that their detention violates international law (A/HRC/WGAD/2019/23 – A/HRC/WGAD/2019/67 – A/HRC/WGAD/2020/52 – A/HRC/WGAD/2020/68 – A/HRC/WGAD/2021/46).

Several Special Procedures have issued joint communications concerning Saharawi human rights defenders and journalists (AL MAR 1/2019 - AL MAR 5/2020 - UA MAR 5/2021 - AL MAR 4/2021).

None of the initiatives undertaken by the Treaty Bodies or the Special Procedures have been favourably received by Morocco, which persists in denying the facts and providing inconsistent explanations.

## CONCLUSION AND RECOMMENDATIONS

The 308 undersigning organisations deeply regret the military, economic and diplomatic support offered in particular by Spain, France, the European Union and the United States of America to Morocco's illegal occupation and annexation of large part of the Non-Self-Governing Territory of Western Sahara.

The 308 undersigning organisations call upon:

- the UN High-Commissioner for Human Rights to disclose the findings of her Office remote surveillance of the human rights violations in the occupied Western Sahara;
- the UN Human Rights Council to address the situations of violations of human rights, including gross and systematic violations in the occupied Western Sahara, and make recommendations thereon, in accordance with OP3 of UN General Assembly resolution A/RES/60/251;
- the UN Human Rights Council to give special attention to violations of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression and occupation of the Non-Self-Governing territory of Western Sahara by Morocco, in accordance with OP5 of UN General Assembly resolution A/RES/76/152 and to consider creating a mandate of Special Rapporteur on the situation in the occupied Western Sahara.

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(1) [www.genevaforwesternsahara.org](http://www.genevaforwesternsahara.org)

(2) [https://rsf.org/sites/default/files/rapport\\_sahara\\_-\\_final\\_pdf2.pdf](https://rsf.org/sites/default/files/rapport_sahara_-_final_pdf2.pdf)