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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

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.

[10 August 2022]

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



Western Sahara: the right to development of the Sahrawi people denied by the persistent illegal military occupation of Morocco(1)

1/ Background

In 1963, the UN General Assembly (UNGA) approved(2) 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 (C24) 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 UNGA(3) invited the Administering Power (Spain) to determine at the earliest possible date the procedures for the holding of a referendum.

On 6 November 1975, when Morocco invaded the Non-Self-Governing Territory of Western Sahara, the UN Security Council(4) deplored the holding of the march and called upon Morocco to immediately withdraw from the Territory all participants to the March.

In 1979, the UNGA(5) deeply deplored the aggravation of the situation resulting from the continued occupation of Western Sahara by Morocco and urged Morocco to terminate the occupation of the territory of Western Sahara.

In 1991, after 15 years of war between the Polisario Front and Morocco, the parties agreed on a cease-fire and the holding of a referendum. Thereafter, the UN Security Council approved the creation of the UN Mission for the Referendum in Western Sahara (MINURSO)(6).

The referendum was supposed to be held within six months after the MINURSO deployment in the Territory. The Mission was deployed on 1st September 1991, therefore the referendum should have take place by the end of February 1992. Thirty years later the Sahrawi people are still waiting to freely express their will on the future political structure of their land.

The long-standing illegal military occupation and annexation of the majority of the Non-Self-Governing Territory of Western Sahara is the cause of the violation of the inalienable right to self determination, enshrined in the Principles and spirit of the UN Charter, the UNGA resolution 1514 (XV), the UNGA resolution 1803 (XVII), the UNGA resolution 2625 (XXV), the International Covenant on Civil and Political rights, the International Covenant on Economic, Social and Cultural Rights, as well as in numerous resolutions adopted by the UNGA on the “Universal realization of the right of peoples to self-determination”.

2/ The violation of the right to self-determination

A. Spanish administering Power mandate

In resolution 2072 (XX), of 16 December 1965, the UNGA requested the administering Power to take immediately all necessary steps for the liberation of the Territories of Ifni and Spanish Sahara from colonial domination.

In resolution 2229 (XXI) of 20 December 1966, the UNGA took note of the statement of the administering Power (Spain) of 7 December 1966 relating to Spanish Sahara, in particular with regard to the sending of a special UN mission to the Territory and the free exercise by the indigenous population of its right to self-determination. The General Assembly invited the administering Power to create a favourable climate for the referendum and to refrain from any action likely to delay the process of decolonisation of Spanish Sahara.

In accordance with paragraph 5 of UNGA resolution 3292 (XXIX), of 13 December 1974, following the Spanish Government's invitation and on the basis of the consultations held by its Chairman, the C24 decided that a three-member mission would visit Spanish Sahara.

The Visiting Mission went to Spain, Algeria, Mauritania, Morocco and Western Sahara. In its report to the UNGA(7) the Mission stressed that “At every place visited, the Mission was met by mass political demonstrations and had numerous private meetings with representatives of every section of the Saharan community. From all of these” it became evident to the Mission that there was an overwhelming consensus among Sahrans within the Territory in favour of independence and opposing integration with any neighbouring country.” (p. 59 - par. 202).

According to Ms. Marta Jiménez Martíñez, member of the Visiting Mission, “Spain, for its part, was aiming at independence as a solution.” (p. 120 – par. 71)

Nonetheless, on 14 November 1975, a Declaration of Principles on Western Sahara was concluded in Madrid between Spain, Morocco and Mauritania (“the Madrid Agreement”).

As stated by Mr. Hans Corell, UN Under-Secretary-General for Legal Affairs, in his letter dated 29 January 2002(8), addressed to the Security Council, “The Madrid Agreement did not transfer sovereignty over the Territory, nor did it confer upon any of the signatories the status of an administering Power, a status which Spain alone could not have unilaterally transferred.”

On 26 February 1976, Spain informed the Secretary-General that as of that date it had terminated its presence in Western Sahara and relinquished its responsibilities over the Territory. Nevertheless, Spain remains the de jure administering Power of the Non-Self-Governing Territory of Western Sahara.

B. The Moroccan invasion, illegal occupation and annexation

On 16 October 1975, the International Court of Justice (ICJ) released its Advisory Opinion(9) 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 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.

On 6 November 1975, the Moroccan army opened the way to the Moroccan population for the occupation of Western Sahara.

In the eighties, the occupying forces of Morocco built a 2’700 kilometres long separation wall from the north to the south of the Non-Self-Governing Territory of Western Sahara and disseminated millions of landmines around it.

In 1991, after 15 years of war between the Polisario Front and Morocco, the parties agreed on a cease-fire and the holding of a referendum. Thereafter, the UN Security Council approved the creation of the UN Mission for the Referendum in Western Sahara (MINURSO).

While the UN Security Council constantly calls the parties to resume negotiations under the auspices of the Secretary-General without preconditions and in good faith, the King of Morocco persists in declaring that “The Moroccaness of the Sahara is an immutable and indisputable fact, be it on account of history, legitimacy, the strong will of the Moroccan people.”

C. The 2006 OHCHR Mission Report

The main conclusion of the Mission that took place between 15 and 23 May 2006 and on 19 June 2006 was that “...the right to self-determination for the people of Western Sahara must be ensured and implemented without any further delay... almost all human rights violations and concerns with regard to the people of Western Sahara, whether under the de facto authority of the Government of Morocco or of the Frente Polisario, stem from the non-implementation of this fundamental right.”

3/ The systematic violation of the right to development of the Sahrawi people

In adopting resolution 41/128, the UNGA declared that the human right to development implies the full realization of the right of peoples to self-determination, which includes the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.

The UNGA also declared that States shall take resolute steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations such as colonialism, foreign domination and occupation, aggression and threats against territorial integrity.

The long-standing illegal military occupation and annexation of the Non-Self-Governing Territory of Western Sahara by Morocco structurally and systematically deny the right to development of the Sahrawi people (living in the occupied territory or in the refugee camps), allowing the illegal plundering of their natural resources by Moroccan and foreign companies, with the political support of third powers like France, the European Union and the United States of America.

4/ Recommendations

The 309 undersigning organisations(10) call upon:

- the members of the Expert Mechanism on right to development to pay a particular attention to the consequences of the illegal military occupation of the Non-Self-Governing Territory of Western Sahara by Morocco on the exercise by the Sahrawi people of their right to development;
- the Human Rights Council to continue to give special attention to the violation of the right to self-determination, resulting from foreign military occupation of Western Sahara (in accordance with OP5 – UNGA res. 76/152) and to establish the mandate of a Special Rapporteur on the situation of human rights in the occupied Western Sahara.

(1) The present document benefited from the cooperation of the « Comité de défense du droit à l'autodétermination du peuple du Sahara occidental » (CODAPSO).

(2) UNGA resolution 1956 (XVIII).

(3) UNGA resolution 2229 (XXI).

(4) UN Security Council resolution 380.

(5) UNGA resolution 34/37.

(6) UN Security Council resolution 690.

(7) OFFICIAL RECORDS : THIRTIETH SESSION – SUPPLEMENT No. 23 (A/10023/Rev.).

(8) S/2002/161.

(9) Western Sahara, Advisory Opinion, I.C.J. Reports 1975.

(10) See the list, including also the organizations submitting this statement, at www.genevaforwesternsahara.org/members-miembros-membres