

## **General context**

On the occasion of the Fourth Universal Periodic Review of Algeria, the African Human Rights Monitoring Organization (Africa Watch)<sup>1</sup> is submitting this parallel report to the Human Rights Council in coordination with Defenders for Human Rights<sup>2</sup>, Sahrawi association against impunity in the Tindouf camps (ASIMCAT)<sup>3</sup>, International Committee for the Respect and the Application of the African Charter of Human and Peoples Rights (CIRAC)<sup>4</sup> and Memory and Justice Association (MJA)<sup>5</sup>. The organizations mentioned above will be referred to as the “NGO Coalition”

The NGO Coalition herein present a thorough examination of the compliance of the Algerian Government with its international commitments relating to human rights across its national territory including the Sahrawi Refugee Camps in Tindouf, in connection with the past gross violations such as the extrajudicial killing, the enforced disappearing, torture, the arbitrary detention and all other adverse human rights practices.

In the occasion of reviewing the situation of human rights and freedoms in Algeria within the framework of the Fourth Cycle of the Mechanism of Universal Periodic Review, the NGO Coalition analyses the completion of the State under review of its international commitment regarding the aforementioned cases, in addition to the issues of self-determination, refugee status, work of the national institution for human rights and the civil society space.

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<sup>1</sup> The African Human Rights Monitoring Organization (Africa Watch), is a civil non-governmental organization, comprising a group of human rights defenders in North Africa. It seeks, with the support of partner organizations in the Sahara and North Africa region, to provide protection to victims of serious violations in the Sahrawi refugee camps in Tindouf and the Western Sahara region. The organization focuses on peace, democracy and human rights issues and actively engages with international human rights mechanisms in both contractual and non-contractual aspects. The organization also carries out awareness raising and education activities on international human rights and humanitarian law. The organization assists victims and represents them before judicial authorities, in proceedings and in the filing of complaints.

<sup>2</sup> Human Rights Defenders is a non-governmental human rights organization founded in 2015. It works for the defense of civil, political, economic, social and cultural rights as defined in the Universal Declaration of Human Rights.

<sup>3</sup> The Sahrawi Association Against Impunity in Tindouf Camps (ASIMCAT), is a non-governmental organization based in Spain that speaks for the victims of gross human rights violations perpetrated by Frente Polisario in Tindouf refugee camps and their relatives, in the south-west of Algeria.

<sup>4</sup> International Committee for the Respect and the Application of the African Charter of Human and Peoples Rights is an African non-governmental organization with ECOSOC consultative status, committed to ensuring respect for human rights and international humanitarian law and promoting peace on the African continent.

<sup>5</sup> Memory and Justice Association, a civic body, brings together Mauritanian citizens who are victims of crimes against humanity and flagrant violations committed by the Polisario organization, as well as the kidnapped on Mauritanian soil and in the Tindouf camps.

In parallel, it proceeds to the evaluation of the Algerian government's implementation of the recommendations presented during the Third Session of the Mechanism of the Universal Periodic Review related to these issues, in addition to providing a number of recommendations.

The examination of the national report of the State of Algeria during the Third Cycle of the Mechanism of the UPR along with the recommendations presented by the UN Members State and the information presented by the stakeholders generated the following: 229 resolutions received by the Algerian delegation 177 of which had the support of the State under review. The State of Algeria gave also clarifications regarding 16 other resolutions and underlined having noted 36 resolutions<sup>6</sup>.

This huge number of rejected resolutions represented an issue of concern for the NGO Coalition not just in terms of the increase of its percentage if compared to the second session but also regarding the importance of the recommendations presented relating to the ratification of the international instruments considered by the coalition of high importance so as to enhance and protect human rights in Algeria and also an indicator on the presence or not of the political will of the administration to meet its international commitments relating human rights.

#### **I. Regarding the past of gross violations, reconciliation and the policy of impunity**

1. The Algerian authorities enacted a legislative package and laws<sup>7</sup> aimed at stopped the acts of violence committed on the Algerian territory since ten years now after the intervention of the military institution in the political operation and its attempt to undermine the political process and pluralism within the country along with manipulating the results of the 1992 elections; the fact that fueled the power struggle between the Islamic groups and the Algerian army that claimed the lives of 200.000 people from various segments of the Algerian society and mortgaged the future of the country for decades.
2. The legislation relating to the reconciliation project in Algeria is aimed at building the guaranties of impunity for the authors of the gross violations regardless of their form or the region where they are committed within the country subject to review including the

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<sup>6</sup> The report of the Working Group on the Universal Periodic Review shows that many recommendations relating to the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the International Convention against Torture, the Optional Protocol to Convention on the Rights of the Child related to complaints, the Rome Status of the International Criminal Court and all the other instruments depict how far the States are meeting their commitments in terms of International Human Rights Law and International Humanitarian Law.  
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<sup>7</sup> Since the outbreak of violence in Algeria following the cancellation of the country's election process in 1992, the Algerian authorities have been trying to put an end to the spiral of power struggle. However, initiatives such as national reconciliation under President LIAMIN ZERWAL and the Mercy Act have not been able to meet the expectations of Algerians to freedom, the building of a democratic society governed by institutions, decent living, and apologizing to the people for the gross violations committed. It will be followed by the civil harmony act, which constituted the first steps towards Algerian national reconciliation.

Tindouf Sahrawi refugee camps in southwest Algeria.<sup>8</sup>

3. The launching of the project “peace and reconciliation” including the amnesty along with the unveiling of the truth, the reparation of the injured be it individually or collectively, and the presenting of guaranties for the non-repetition were not to be adopted in a democratic society without including the Tindouf region where the Sahrawi refugee camps have been standing since 1975; the camps that the Algerian State has stopped to protect since their creation through the delegation of its legal and jurisdictional mandate to a military organization<sup>9</sup>. This fact made of this region a huge detention center where prevail the extrajudicial killings, enforced disappearances, torture, inhuman and degrading treatment, arbitrary detention, and all the other systematic gross violations, all out of the control of the UN or the international human rights organizations for the impossibility to monitor or document these violations in a tightly sealed context.
4. Notwithstanding the recognition of the Algerian State of the acts of violence and the gross violations committed when the power struggle raged on within the country despite the enactment of laws and legislations to put the painful past to rest. However, the violations that occurred in the Sahrawi refugee camps remained forgotten, and the Algerian government worked to ignore it, and turned a blind eye to what was happening in those camps, by transferring its competencies in the field of protecting the refugees present on its territory.<sup>10</sup>
5. Resorting to extrajudicial killing, enforced disappearing, torture and inhuman degrading treatment to extract confessions is an approach adopted by the security services of the Polisario to staying power and intimidating the opposants, journalists, human rights defenders and civilians in the total absence of the rule of law and through the

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<sup>8</sup> The protection afforded by the Algerian Peace and Reconciliation Law includes not mentioning, following, or writing about political and security officials and their assistants on any of their murders, enforced disappearances or torture. These laws have even included explicit criminalization of criticism of the serious violations and have made no significant progress in cases of enforced disappearance and other grave violations. This is explicitly set forth in Section 46 of the Charter, which provides that all security organizations shall not be prosecuted or brought to justice individually or collectively, and explicitly orders the judicial authorities not to accept complaints or report on such violations, and even imposes severe penalties for violators of this law.

<sup>9</sup> The Sahrawi refugee camps in the Tindouf region of southwestern Algeria are run by the Polisario Front, a military organization established on April 29<sup>th</sup> 1973 in the town of Zouerate in northern Mauritania. It has contested militarily the Kingdom of Morocco over the sovereignty of Western Sahara until the 1991 ceasefire.

<sup>10</sup> The Algerian authorities do not consider the transfer of its competence for the protection of Sahrawi refugees on their national territory to be a violation, but rather confirms that the delegation of its legal mandate to organize the military Polisario was based on its own convictions, that the management of the camps should be carried out by the Sahrawis in full respect of their traditions and customs, in flagrant violation of the rules of international law.

It is noteworthy that the Human Rights Committee drew the attention of the Algerian State to the illegality of transferring its competences to a military organization that has committed serious violations since the creation of the camps, and in its concluding remarks has recommended the immediate termination of this mandate and the assumption of its responsibilities in the protection and safeguarding of these refugees.

See the report of the Human Rights Committee during the review of the fourth report of the State of Algeria before the Committee. CCPR/C/DZA/CO/4

protection ensured by the country hosting the camps along with stopping any international control through the human rights mechanisms adopted by the UN or of any other international organizations except of some infiltrations qualified by “exceptional” that have rigorously monitored the violations committed in the Polisario’s informal detention centers.<sup>11</sup>

6. It was widely felt that not all of whom were captured by the security services of the Polisario escaped, since the Polisario is not controlled at all by the Algerian authorities or any UN body and de-facto controlling the affairs of the camps.

The heavy toll of human life<sup>12</sup> in the camps since the establishment gave a general feeling of insecurity within all the Sahrawi refugee concentrations in Tindouf<sup>13</sup> after that the security forces mistreated the opposants and civilians and imposed unfair security measures aimed at controlling the camps and stifling the voices calling for change and liberty.

7. Based on this, the Sahrawi refugee camps stood out of the dispositions referred to in the Charter for Peace and National Reconciliation in Algeria and the page of the past gross violations in the camps has never been turned, the victim’s right to know the truth and providing remedies and redress to them are still played down along with adopting a systematic strategy for impunity to the perpetrators of the gross violations.

### **Recommendation**

**We note the non-inclusion of the Sahrawi victims in the Algerian national reconciliation process leaving them with no protection or redress. Based on these facts, we call the Algerian authorities to start a process of transitional justice ensuring the unveiling of the truth about what happened to the Sahrawi refugees in the camps and providing remedies and redress to them along with giving guaranties of not repeating what they were subject to within the framework of a comprehensive national reconciliation and ensuring that those responsible do not go unpunished.**

## **II. Regarding the principle of the Self determination**

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<sup>11</sup> See the report of the Human Rights Committee during the examination of the fourth report of the Algerian State before the Committee. [www.arso.org/flrappport\\_tindouf.pdf](http://www.arso.org/flrappport_tindouf.pdf)

<sup>12</sup> The serious violations committed in the Sahrawi refugee camps have resulted in hundreds of deaths, enforced disappearances and torture victims, and their lists have not been enumerated to this date due to the fact that it is impossible, given the continuation of the Polisario organization in abusing the Sahrawis in the camps, and in closing the camps to every entity or independent organization that seeks to independently monitor the human rights situation in this region. See the non-exclusive list of Sahrawi victims of extrajudicial executions in the Sahrawi refugee camps.

<sup>13</sup> The Sahrawi refugee camps are divided into five centers named after Western Saharan cities: Boujdour, Dakhla, El-Ayoune, Aousserd and Smara.

8. The position of the Polisario Front as a non-State actor imposes to deal with its case as an organization still moving towards the proper application of Resolution 1514 relating to the granting of independence to colonized countries and peoples. The view of the African Union to the Polisario Front as a member state in this regional body is not corresponding to the principle of self-determination since this latter is considered a precondition for the membership in any organization, be it regional or international; the fact that complicates the understanding of the position of the Polisario Front whether it is an organization aiming at gaining the right to the principle of self-determination or a member in an international regional union.
9. The Algerian authorities internationally plead on the right of the Polisario Front to request the application of the rights of peoples in self-determination along with attempting to confirm its positioning as a State within the bodies of the African Union, the fact that raises the question of alignment with one party over the other in the conflict on the Western Sahara. Every intervention of the Algerian government in the dispute between the Kingdom of Morocco and the Polisario Front is considered as undermining the UN's efforts to peacefully sort-out the dispute and highly detrimental to the negotiation process.
10. Based on this, it would be logical to call the State of Algeria to respond to the aspirations of the Kabyle People<sup>14</sup> and open a meaningful dialogue with their legal representatives to see to their self-determination and create a space of freedom to empower them to build their beliefs regarding their just requests to be protected from the brutal repression and marginalization along with meeting the demands of the population of the Kabyle Region relating to development and the official recognition of the Kabyle language and culture.

### **Recommendation**

**The NGO Coalition recommends that the State under review should enable the Kabyle People to exercise their right to self-determination and respect their aspirations to freedom, dignity, and development along with protecting the population of the region from the gross violations committed by the State's military and security services.**

### **III. Regarding the cooperation with the UN Mechanisms for protection of Human Rights**

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<sup>14</sup> For decades, the people of Kabylie have been demanding self-determination and separation from Algeria, following the discrimination and repression they have suffered at the hands of various factions of the Algerian military and security apparatus. Most recently, in August 2021, the security services abused large groups of the Kabyle people for the reason that one of the people of the region had set fire to the forests and caused the death of a young man. The total population of Kabylie is 5 million.

Drawing on the long history of repression, murder, torture and restriction of freedoms in the region of Kabylie by the Algerian security authorities, the Kabyle leaders demanded the proper implementation of the right to self-determination and announced the birth of Movement for the self-determination of Kabylie (MAK) calling for secession from the Algerian Republic.

11. The interaction of the Algerian authorities with the United Nations mechanisms for the protection of human rights is still characterized by the temperament sometimes and other times by hesitation because of the absence of a political will at the highest level to enhance human rights and put them at the center of all the national policies and strategies aimed at improving the status of rights and liberties within the country.
12. The unclarity in observing the commitments of the Algerian authorities underlined in the conventions to which they are a party, should be blamed at the non-granting of the international conventions for protecting the human rights a higher position in the national legislations.<sup>15</sup>

The NGO Coalition notes a very slow response by the Algerian government to the requests of the Human Rights Council's special procedures to organize visits to the country, which may extend to two decades, as is the case with the requests submitted by the Working Group on Enforced or Involuntary Disappearances<sup>16</sup> or the Working Group for Arbitrary Detention<sup>17</sup>.

### **Recommendation**

**The NGO Coalition hopes that the State of Algeria could provide facilities to the Working Group on Enforced Disappearance and the Working Group on Arbitrary Detention to visit the country as soon as possible to assess the allegations received, within the framework of fulfilling their UN mandates.**

13. Within the framework of reviewing human rights in Algeria during the 3<sup>rd</sup> Cycle of the UPR, many countries have underlined the need to ratify the Optional Protocol to the International Convention on Civil and Political Rights relating to the banning of the death penalty, the Optional Protocol to the Convention against Torture creating the national mechanism for protection against torture, and the Optional Protocol to the Convention on Rights of the Child related to Complaints.

### **Recommendation**

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<sup>15</sup> Article 154 of the Algerian constitution states that the international agreements transcend the law and not the text of the constitution, and any convention whose terms are contrary to the text of the constitution will not be ratified by the Algerian authorities, according to article 198.

<sup>16</sup> The Working Group on Enforced or Involuntary Disappearances has submitted a request for a visit to the Algerian authorities since August 25, 2000, the request was renewed several times, the last of which was on January 7, 2022, with no definitive approval by the state under review.

<https://spinternet.ohchr.org/Search.aspx?Lang=en&MandateRefID=46>

<sup>17</sup> The Working Group on Arbitrary Detention has been waiting for the Algerian government's response to the request submitted to visit the country since January 16<sup>th</sup>, 2009, with no response, which does not contradict the statements of the Algerian delegation in Geneva regarding the recommendations made to set cooperation with the UN mechanisms of human rights since the State confirmed that it effectively cooperate with the United Nations mechanisms, yet the working groups says the opposite. <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&country=DZA&Lang=en>

**The NGO Coalition recommends that the State of Algeria ratify the following instruments:**

- 1. The International Convention for the Protection of all Persons from Enforced Disappearance.**
- 2. The Optional Protocol to the International Covenant on Civil and Political Rights related to the abolition of death penalty;**
- 3. The Optional Protocol to the International Convention against Torture creating the national mechanism of the protection against torture;**
- 4. The Optional Protocol to Convention on the Rights of the Child related to complaints;**
- 5. The Rome Protocol Of the International Penal Court.**

#### **IV. Impunity**

14. No progress has been made by the Algerian State in investigating the numerous gross violations committed within the Tindouf camps, including the killings, the kidnapping, the enforced disappearances, and torture done by the military group of the Polisario, since the establishment of the camps in 1975. The Algerian State continues to evade its international obligations and commitments related to Human Rights as it did not remedy any of the human rights legacy built up by the crimes committed by the Polisario against the population in the camp.
15. The impunity policy has entrenched significantly because of the non-treatment by the national reconciliation legislations of the cases of gross violation in the Sahrawi refugee camps located in the territory of the State<sup>18</sup> along with conserving the individuals responsible for these violations in their positions.<sup>19</sup>
16. The Sahrawi victims do not have the right to resort to the Algerian National courts to look for reparation from the violations they were subject to (killing, torture and enforced disappearance), because of the fact that the hosting country's competences in the camps were waived to the military group of the Polisario, without the slightest control of their administration of these camps. Any gross violation allegation will never be relayed to a protective party, be it national or international, since the camps are tightly closed and none can disclose the heinous acts the refugees are subject to, the facts that has been granting a complete immunity from the human rights violations committed

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<sup>18</sup> The Government has been enacting legislations to stop the cycle of violence in Algeria and pave the way for reconciliation since 2005. However, Algerian authorities have excluded violations committed in Sahrawi refugee camps from reconciliation measures, regardless of the victims' demands to reveal the truth about what happened, to compensate the victims individually and collectively, to provide guarantees of non-repetition, and to punish the perpetrators.

<sup>19</sup> The Human Rights Watch report clarifies, beyond any doubt, the lack of accountability for past violations in the Tindouf camps in its report "Off the Radar: Human Rights in the Tindouf Refugee Camps" in 2014, and the Amnesty International report in 2012.

<https://www.hrw.org/ar/report/2014/10/18/267930>

<https://www.amnesty.org/en/wp-content/uploads/2021/06/pol100012012en.pdf>

since the establishment of the Tindouf Camps where the Polisario forces extensively carried out torture operations, hundreds of extrajudicial executions and enforced disappearance which are all considered crimes in pursuance of the International Law.

17. The failure to punish the responsible ones for these violations contradicts Algeria's international commitment to investigate these crimes and punish the criminals; and thus, the victims as well as their families are deprived of their right to effective remedy of the mistakes that they were subject to.

### **Recommendation**

**The NGO Coalition encourages the State under review to terminate its delegation of its legal and jurisdictional mandate to the Polisario and hold the responsible for the gross violations of human rights in the Tindouf camps since their establishment accountable before courts.**

## V. **Enforced Disappearances**

18. The Working Group for Enforced or Involuntary Disappearance received from reliable sources information relating to the obstacles they faced in the application of provisions of the Declaration on the Protection of All Persons from Enforced Disappearance in Algeria.<sup>20</sup>

19. The sources unveiled gross violations of the human rights in the Sahrawi refugee camps near Tindouf City in Algeria systematically committed by the forces of the Polisario. These violations took different forms, to wit: Enforced or Involuntary Disappearance, extrajudicial killing and torture.

20. The Polisario Front has organized several forced displacements of hundreds of Sahrawis, including women and children from different regions of the Western Sahara and neighboring countries, with an aim to fill the camps.

Algeria's relinquishment of its legal mandate to protect refugee camps to the Polisario organization had a significant impact on the ugliness and diversity of these violations, as this measure left a large number of people victims of enforced or involuntary disappearance in the Sahrawi refugee camps.<sup>21</sup>

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<sup>20</sup> The Algerian authorities have not yet ratified the International Convention for the Protection of All Persons from Enforced Disappearance.

<sup>21</sup> Hundreds of people were brought from the Western Saharan towns of Ouad Ed-Dahab, El-Ayoun, Smara, Tan-Tan, Assa, Beirat, Mahbes and Zag. At the beginning of the camp's reconstruction operations, Polisario officials used intermediaries in Mauritania to send hundreds of people from Mauritania, Mali and Niger, either through mass abductions, or by enticing them to obtain economic benefits or by blackmailing them into kidnapping family members.



21. The Polisario's officials carry out enforced disappearance against any Sahrawi refugee who has expressed an opinion different than the ones promoted by the organization. The victims are sent to secret centers<sup>22</sup>, killed thereafter, and buried in secret burial grounds.

The detainees (children and men) are thrown in hole-like cells blindfolded, handcuffed and feet tied to apprehend them. Many of these victims are still bearing scars caused by the brutal torture, particularly the ones who served detention time in the horrible Prison of Errachid and the Prison of Eddahiba – only a small number of detainees survived the brutal torture carried out within the said centers along the unhealthy detention conditions such as the malnutrition, the absence of property, the prolonged exposure to sunlight in summers and to cold in winters, the spread of diseases amongst the detainees without offering them the slightest treatment, not to mention the prolonged solitary confinement, the isolation from the outside world and the denial of the right to communication with their families.

22. It appears from the close monitoring and the documenting of the gross violations in the Sahrawi refugee camps for a decade now that the authorities of the Polisario did not stop to resorting to enforced disappearance, to harass and suppress the opposition voices. Many Malians were subject to extrajudicial enforced disappearance as it was the case for the former advisor of the Secretary General of the Polisario Khalil Ahmed Braih who has suffered enforced disappearance since 2009 and who was delivered to the Algerian Authorities to be detained in the Military Blida Prison.<sup>23</sup>

23. The report of the Work Group on Enforced Disappearance – cases of the year 2016 included, within the framework of the standard procedure, information on the enforced disappearance of Khalil Ahmed Braih in Algeria since 2009.<sup>24</sup>

24. The kidnapping and enforced disappearance operations are still carried out in the Tindouf Sahrawi refugee camps whenever peaceful protests denouncing the restrictions on freedoms and calling to open the painful history of gross violations are organized. Within this context, elements of the polisario kidnapped three Sahrawi activists on a

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<sup>22</sup> Numerous testimonies from survivors of the secret detention centers' hell in the Tindouf camps have been repeated, describing the informal prison of Rasheed as home to multiple torture practices that often result in victims' deaths, with 130 cases of enforced disappearances from inside this secret center reported to the group concerned with enforced or involuntary disappearances.

In addition to this center, there are other unregulated detention places, such as: Adhebiyeh Prison, Azem al-Rih, Hamdi Aba al-Sheikh, Saeed Barhi, al-Ghazwani, al-Shahid Lahdad, Dakhla, Center 5, Al -Hilal, and the Center of October 12. Other secret detention centers are located in the military territories of the Polisario organization, in the regions of Duquej, Aguinette, Mijek, Amheres, Atfariti, Bir Lahlou and the region of Zouk.

<sup>23</sup> The Working Group on Enforced Disappearance has written to the Algerian authorities regarding the case of disappearance of Khalil Ahmed Braih since 2014 and has not received a response to date. However, the head of the delegation has denied to the Algerian authorities any knowledge of his disappearance.

<https://media.un.org/en/asset/k1n/k1nko6h2hn>

<sup>24</sup> Refer to the 2016 report of the Working Group on Enforced Disappearances.

Monday of June 2019 in the Tindouf camps because of their human rights activities, blogging, and the belonging to youth movements calling for change and fighting the corruption of the Polisario's officials. They were fallaciously accused with insult and libel, prejudice to others, sedition, and humiliation.<sup>25</sup>

25. The NGO Coalition called to quickly conduct a neutral investigation into the conditions and circumstances of the cases of extrajudicial killings of youngsters in the refugee camps in Tindouf between the third and fourth cycle of UPR of the State of Algeria, to wit:

- i. MOHAMED OULED KHATRI OULED AL OUALI, at the beginning of March 2017;
- ii. SAHRAWI HAFIDHAHOU ALLAH ABDOU AHMED BIBOUTE, on Wednesday 04 May 2017;
- iii. LARBASS YAHDIH ABDERRAHMANE, on June 22<sup>nd</sup> 2018 by elements of the Algerian army in southwest Algeria;
- iv. AMHA HAMDY SOUILEM and ALINE IDRISSE who were burned by a unit of the Algerian army while gold-digging in a deep well on October 19<sup>th</sup> 2020 at night;
- v. LAKBIR OULED MOHAMED SIDI AHMED OULED AL MARKHI, shot dead by the Algerian army on November 20<sup>th</sup> 2021;
- vi. MOHAMED EL FADEL OULED LEMMAM OULED CHAGHIBEN, killed by the Algerian Army on June 20<sup>th</sup> 2021;
- vii. The killing of ABIDATE OULED BILAL and the wounding of FALI OULED BARKA on December 07<sup>th</sup> 2021 when they were gold-digging in a vicinity nearby the Dakhla Camp.

### **Recommendation**

**Faced with the continuation of enforced disappearances and extrajudicial killings, and with a desire to ensure the protection of Sahrawi refugees from these violations, the NGO coalition encourages the Algerian authorities to open an independent and transparent investigation into the cases of extrajudicial killings and enforced disappearances in the Tindouf camps referred to, and to unveil the fate of the forcibly disappeared, whose names appear in the Reports of the Working Group on Enforced or Involuntary Disappearances.**

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<sup>25</sup> The three Sahrawi activists were abducted in the Sahrawi refugee camps in 2019 – whose whereabouts were determined only after massive protests in the camps – to be imprisoned in the notorious prison of Idhibiya. The case is related to the activists Moulay Aba Bouzid, Fadil Al-Mahdi Brika and the blogger Mahmoud Zidan.

## VI. Regarding cases of Statelessness in the Sahrawi Refugee Camps in Tindouf

26. Since the establishment of the Sahrawi refugee camps, Sahrawis have suffered the absence of a framework act ensuring their legal status and enjoyment of the rights granted by the 1951 Convention on the Status of Refugees and the Protocol on the Status of Refugees.
27. The NGO Coalition noted that these refugees were neither registered nor censused; they do not have refugee cards<sup>26</sup>; the Polisario authorities manage the camps' affairs including security, justice, and civil status in breach of the provisions of the international law that call upon the hosting countries of refugee camps to protect and co-supervise with the UNHCR and bearing their full responsibility by virtue of its legal and jurisdictional mandate.
28. Since the State of Algeria has waived its competences to the Polisario, this latter delivers to Sahrawi refugees ID documents such as birth and nationality certificates issued by the authorities of the Polisario confirming that their main place of residence is the refugee camps in Algeria. These documents are considered valid in a small number of countries recognizing this entity only.
29. Algeria issues passports to refugees of the camps so they could travel to the countries which are not recognizing the Polisario as a State. Even though the Algerian citizenship is clearly referred to on the identification page of the passport, this does mean that these Sahrawis with these short validity passports are Algerian citizens. It is to be underlined that the passports delivered by the Algerian authorities through the Polisario bear the code 09 unlike the passports of the Algerian nationals. Usually, these documents are delivered for human considerations.
30. As per the declarations of the refugees, the delivery of an Algerian passport could take months if not years. Upon their return to Algeria, these passports are confiscated and could be delivered later. On this basis, the Algerian authorities do not want to grant any legal status to Sahrawis on its territory on the account of waiving its competences to the Polisario.
31. To exercise their right to movement, the Sahrawi refugees should receive an authorization issued by the Algerian authorities with a three-month validity to travel

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<sup>26</sup> The residents of the camp have not been subjected to a census through the mechanism of individual dialogue to sort and identify Sahrawis belonging to the Western Sahara region, from others coming from Mauritania, southern Algeria, Mali and elsewhere. The Security Council has stressed in several resolutions the need to allow the census of Sahrawi refugees in order to determine their humanitarian needs and quickly meet them.

outside the camps. These authorizations are subject to the prior consent of the Algerian Military Liaison Bureau in Tindouf upon a request submitted by the Polisario Coordination Bureau in Tindouf.

32. Since the majority of Sahrawis are lacking a legal status be it within the camps or outside, the Spanish Supreme Court confirmed that the Sahrawis in the Algeria-based camps are stateless after a lawsuit had been filed by a Sahrawi refugee who was not able to renew her passport after its validity came to an end against a decision of the Ministry of the Interior. Algeria does only deliver passports with short validity to travel for medical treatment or family reunion purposes.

Within the same context, the Polisario requests every year collective authorizations for thousands of children to travel to Spain, Venezuela, Cuba, Italy and many other countries for medical treatment and schooling among host families as a sign of solidarity.

### **Recommendation**

**We draw the attention of the State of Algeria to the need to settle the legal status of the Sahrawi refugees by allowing their census in pursuance of the UNSC's resolutions and supervising their legal position in cooperation with the UNHCR to ensure their enjoyment of the rights referred to in the Convention on the Status of Refugees and the relating protocol.**

## **VII. Regarding the work and the mandate of the Human Rights Council of the State of Algeria**

The National Council for Human Rights of the State of Algeria issued a biased statement to the Algerian executive authorities regarding the allegations of Algeria and the responsible parties to the organization of the Polisario, claiming that the Royal Moroccan Army forces carried out hostile acts against two civilian trucks intended for the international transport of goods between Algeria and Mauritania.

The incident was classified as a terrorist without obtaining confirmed information about the facts and awaiting the completion of the criminal investigation by the Algerian authorities and MINURSO experts to determine the truth of what happened on November 01 in the Bir Lahlou buffer zone.

The implicit reference to the Kingdom of Morocco as a perpetrator of the attack and describing it as malevolent and seeking settlement expansion in the region and opposing human rights and

freedoms in the region, by a national human rights institution, raises concern about the tasks and responsibilities of the Algerian National Institution for Human Rights, which are completely incompatible with the need to fully comply with what was stated the principles relating to the status of national human rights institutions (the Paris Principles) in relation to the pillars of pluralism, independence, competence and broad mandate in human rights issues.

From this standpoint, the establishment of the Algerian National Council for Human Rights itself as an accusation body for a state party to a regional conflict in which Algeria is a principal party is contrary to its competencies in accordance with the Paris Principles, which are mainly related to working to provide guarantees for the promotion and protection of human rights, respecting the role of national human rights institutions in their dedication to Preventing and resolving conflicts, instead of spreading hate speech, glorifying war and incitement against a neighboring country, in line with the hostile stances of the Algerian government against Morocco, which are mainly related to the developments of the Western Sahara conflict.

The appreciation of the National Council for Human Rights for the presidential statement of the need to direct a harsh response to the attack is a step for an official human rights institution that cannot be justified, for its flagrant violation of the language of human rights that the said institution must speak, and the principles of independence from authority, and a confusion between the work of the Council as an independent institution and cooperation with the Algerian government.

#### **Recommendation**

**Based on the foregoing, the NGO coalition calls on the Algerian authorities to draw the attention of the National Council for Human Rights in Algeria to the need to respect the Paris Principles and to fully comply with their requirements in relation to independence, pluralism, efficiency, impartiality, transparency and effectiveness in working to promote and respect human rights on Algerian soil and to cooperate effectively with International mechanisms for the protection of human rights regarding the mechanism of reports and complaints of individuals, especially the refugees in the Tindouf camps in southwestern Algeria, who are out of his control radar.**