

## General context

The Sahrawi Observatory for Media and Human Rights<sup>1</sup> presents an information report on cases related to the past of the massive violations of human rights committed in the Sahrawi refugee camps in Tindouf<sup>2</sup>, southwest Algeria, which the region was the scene of, in the absence of various international, regional and national monitoring mechanisms.

The report also contains a comprehensive analysis of the obligations of the State of Algeria as a host country for these camps since their establishment, especially with regard to the status of asylum, and the legal and judicial protection of Sahrawi refugee persons residing on the national territory of the Republic of Algeria.

This information includes a large number of the outputs of the work of the human rights civil society in the Tindouf region and Western Sahara, which is involved in assessing the state of rights and freedoms, whether in the Sahrawi refugee camps or in the Western Sahara region, specifically with regard to cases of extrajudicial killings, enforced disappearances, torture and abusive and degrading practices humanity, not to mention the restrictions and harm to basic rights such as the right to opinion, expression, association and peaceful assembly.

The members of the Saharawi Observatory for Media and Human Rights aim to assess the level of the Algerian National Human Rights Institution's advocacy for the rights of the Sahrawi refugees, as well as the possibilities for them to enjoy just remedies, in a context closed to the outer space of the camps, including visits by special procedures of Human Rights Council and international organizations working in the field of human rights.

The report also includes an inventory of cases of grave violations against women in the Sahrawi refugee camps, and their detention against their will for long periods.

### I. Regarding to the past of gross violations

1. The residents of the Sahrawi refugee camps in southwestern Algeria are still reeling from the tragedies of massive human rights violations committed since the establishment of those camps, by a political and military organization that received a comprehensive mandate to manage the affairs of these refugees without any monitoring from the host country or the supervision of the mechanisms of the United Nations or its specialized agencies.

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<sup>1</sup> The Saharawi Observatory for Media and Human Rights is a non-governmental civilian body, concerned with media and press freedoms in Western Sahara and the Sahrawi refugee camps in Tindouf, and it works on human rights issues in the region.

<sup>2</sup> The Sahrawi refugee camps in the Tindouf region are camps that contain more than 90,000 Sahrawi refugees since 1975, against the background of the conflict over sovereignty over the territory of Western Sahara between the Kingdom of Morocco and the military organization of the Polisario supported by the State of Algeria.

<sup>3</sup> See Appendix No. 01: A non-exhaustive list of Sahrawi victims extrajudicially murdered in the Tindouf camps.

2. As a result of this general mandate granted to the Polisario to manage the Tindouf camps in southwestern Algeria, many Sahrawis<sup>3</sup>, Mauriticians<sup>4</sup> and others<sup>5</sup> were subjected to extrajudicial killing campaigns, either on the basis of ethnicity, racism, or identity<sup>6</sup>. In the face of this systematic policy to silence all voices and dynamics that would criticize the theses of the Polisario organization<sup>7</sup>, or demand a change in the totalitarian structures of the organization, Polisario officials resorted to allocating many irregular detention centers<sup>8</sup> to expand the scope of the operations of brutalizing, killing and torturing civilians away from the eyes of the camp residents. Sometimes these violations are marketed as a necessary act to block the path of espionage and treachery networks and attempts to weaken the promised revolutionary project.

3. Gross violations of human rights were and still prevailing practices over four decades, represented in widespread campaigns of extrajudicial killings, kidnappings, enforced disappearances, arbitrary detention, torture, intimidation, cruel and abusive treatment, writing with sharp instruments on the body of victims, rape and other forms of violations.

4. These are all crimes that have been left without research or scrutiny due to the impossibility of allowing the United Nations protection mechanisms or international organizations working in the field of human rights to enter the Sahrawi refugee camps to investigate these allegations, in addition to the atmosphere of blackout and the media and military siege imposed on the camps by its leadership.

5. Within the framework of the efforts of the state under review to put an end to the past of the gross violations of human rights in the country, following the clashes and struggle that took place in Algeria during the black decade, and the concomitant cancellation of the country's political and democratic process, the Sahrawi refugee camps remained outside the attention of the Algerian political elite, and the country's national reconciliation project did not include the grave violations committed in the Sahrawi refugee camps.

6. The scope of the application of the Algerian Charter for Peace and Reconciliation focused on the violations that occurred on the entire Algerian national territory, with the exception of the Tindouf camps in southwestern Algeria. It is noted that the reports of the Working Group on Enforced or Involuntary Disappearances did not include in its study of enforced disappearances in Algeria the victims of secret prisons in the Tindouf camps in southwestern Algeria.

7. After the Sahrawi Observatory for Media and Human Rights monitored what is happening in the Sahrawi refugee camps in Tindouf between the third and fourth sessions of the UPR mechanism of the state of Algeria, it documented, through its focal points in the camps, the continuation of cases of

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<sup>3</sup> See Appendix No. 01: A non-exhaustive list of Sahrawi victims extrajudicially murdered in the Tindouf camps.

<sup>4</sup> See Appendix No. 02: A non-exhaustive list of Mauritanian victims extrajudicially killed in the Tindouf camps.

<sup>5</sup> See Appendix No. 03: A non-exhaustive list of foreign victims killed extrajudicially in the Tindouf camps.

<sup>6</sup> In the seventies and eighties, the Sahrawi refugee camps became the scene of widespread kidnappings and enforced disappearances, including cadres, fighters, and those who joined under names such as "Gleibat Al-Fula network", "Tekna network" and "Mauritanian network", which generated discontent among the population whose negative effects still exist even right now.

<sup>7</sup> Polisario security forces kidnapped three Sahrawi bloggers in the camps for criticizing the organization's policies on social media. They were imprisoned in the horrific prison of Edhhibiya, after organizing a wave of protests condemning their kidnapping during July and August 2019. The case is related to the activists: Moulay Aba Bouzid, Fadel El Mehdi Breika and the blogger Mahmoud Zeidan.

<sup>8</sup> The Polisario operates several irregular detention centers such as Edhhibiya prison, Azem al-Rih, Hamdi Aba al-Sheikh, Said Barhi, al-Ghazwani, al-Shahid Lehdad, Dakhla, Center 5, Al-Hilal, and the former 12th October Center.

extrajudicial killings, torture and arbitrary detention without the victims or their families being able to enter to national remedies in Algeria<sup>9</sup>, whether it comes to the Algerian courts or the National Council for Human Rights.

8. The systematic policy of killing the Sahrawis in the camps, or forcibly disappearing them, has no justification other than to clamp down on opponents and youth movements calling for a radical change in the hierarchy of power of the Polisario organization, or cases that perished after their strenuous search for sources of livelihood through subsistence trade, selling smuggled petroleum or searching about gold, in light of the obstruction of any prospect for a just solution to the Western Sahara conflict or allowing the enjoyment of the rights contained in the Convention on the Status of Refugees, as well as its annexed protocol.

9. The presentation of cases of extrajudicial killings during that period between the two reviews helps in a deep understanding of the frequency of this grave violation, namely:

- Mohamed Ould Khatri Ould Al-Wali, killed in 2017.
- Abdullah Abdo Ahmed Bibout, killed in 2017.
- Amha Hamdi Sweilem, burned by the Algerian army in October 2020.
- Alain Idrissi, was burned by the Algerian army in October 2020.
- Mohamed Fadel Ould Lamam Ould Chagaibin, killed in November 2021.
- Obeidat Awlad Bilal, was killed in December 2021.

#### **Recommendation:**

**In view of the large number of cases of extrajudicial killings and their frequency in the Sahrawi refugee camps in Tindouf, and the Algerian state's delegation of its legal jurisdiction to the Polisario organization, the Sahrawi Observatory for Media and Human Rights draws the attention of the state under review to the need to open a comprehensive and independent investigation into all cases of extrajudicial killings committed in the Sahrawi refugee camps in Tindouf, south Western Algeria, and revealed the truth of what happened regarding the above-mentioned cases.**

## **2. The legal status of the Sahrawi refugees**

10. Since allowing the establishment of Sahrawi refugee camps on its territory at the end of 1975, the Algerian authorities have not wanted to allow an accurate census to be carried out through the individual dialogue mechanism for all camp residents to know and identify the Sahrawis coming from the territory of Western Sahara following the outbreak of the armed conflict between the Kingdom of Morocco and the Polisario organization, which is supported militarily and politically by the host country.

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<sup>9</sup> The Sahrawi refugees are prohibited from resorting to the Algerian courts to submit their grievances and complaints before the Algerian judiciary. The reason for this is that the State of Algeria has delegated its legal and judicial mandate to the military Organization of Polisario, and its administrative functions for the various aspects of life in the camps.

<sup>10</sup> Security Council resolutions 1920 and 2218, for the year 2010 and 2015, which emphasize the need to carry out a census of camp residents, that any settlement of their legal status requires determining who are the persons entitled to refugee status from the total population of the camps.

11. The Security Council has more than once issued resolutions urging a census of refugees<sup>10</sup>, with the aim of organizing their affairs in a tight manner, as well as clearly defining their humanitarian and living needs, away from the conflicting information provided regarding the number of refugees who are actually present in the camps, as well as the number of Sahrawis who are entitled to refugee status, who are not from southern Algeria, northern Mauritania or southern Morocco.

#### **Recommendation:**

**The Saharawi Observatory for Media and Human Rights notes the existence of problems related to the legal situation of the Sahrawi refugees in the Tindouf camps, which affects their enjoyment of the rights stipulated in the 1951 Convention on the Status of Refugees and its annexed protocol. Based on that, he recommends the State under review to allow a general census of the camp population through the individual dialogue mechanism, to identify the Saharawis of Western Sahara from other arrivals from other regions, as well as to know their human needs.**

### **3. Regarding to the civil and political rights**

12. Although the State of Algeria is authenticated to the majority of the fundamental international human rights conventions and submitting follow-up reports to monitor its compliance with the obligations contained in the relevant conventions, which is a party, this commitment does not include Sahrawi refugees living in camps in southern West Algeria.

13. The review of the human rights situation in the Republic of Algeria before the Human Rights Committee under Article 40 of the International Covenant on Civil and Political Rights, to monitor its compliance with the articles of the Covenant, did not miss the opportunity for the Committee's experts to ask questions about the grave violations committed in the Sahrawi refugee camps in Tindouf, such as Extrajudicial killings, and violations of the right to life and physical integrity as rights that are not subject to any limitations under the Covenant and represent the existence of persons.

14. Considering that these persons residing in refugee camps do not have any legal protection, due to their lack of a legal status that guarantees their enjoyment of the rights stipulated in the Convention on the Status of Refugees and its protocol, any talk about their access to political and civil rights lacks objectivity and accuracy.

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<sup>10</sup> Security Council resolutions 1920 and 2218, for the year 2010 and 2015, which emphasize the need to carry out a census of camp residents, that any settlement of their legal status requires determining who are the persons entitled to refugee status from the total population of the camps.

15. In this regard, the state hosting the camps did not assume its legal responsibilities stipulated in international law in relation to the protection of these refugees, but delegated the management of their security affairs and personal status to a military organization, which imposed comprehensive measures and procedures that prevented from the first moment the camps were established, any talk about The transfer of representative power for refugees, or political pluralism, or any opportunity for the emergence of civil society organizations concerned with working on issues of democracy, development, and human rights outside the strict control of the Polisario organization.

16. Following the delegation of the state under review to a non-state military body, the legal status of refugees has been greatly affected by the spread of statelessness among camp residents, and the obstruction of any horizons before them, such as enjoying rights guaranteed by the International Covenant on Civil and Political Rights such as political participation, freedom of opinion and expression and freedom of association and peaceful assembly, and the absence of a civilian space guarantee a margin of movement and an effective response to the aspirations of human rights defenders in the camps and local activists.

**Recommendation:**

**The Sahrawi Observatory for Media and Human Rights notes the absence of any possibility for Sahrawi refugees to enjoy the rights contained in the International Covenant on Civil and Political Rights as a result of the transfer of the competences of the Algerian state to a non-state military organization in disavowal of any international obligations in the field of human rights, and accordingly the Observatory encourages the Algerian authorities to revoke the delegation of their powers to the organization of the Polisario, and calls for the creation of an atmosphere conducive to the work of civil society organizations inside the camps and the protection of the right to peaceful assembly in them.**