

Shadow Report for the Third Universal Periodic Review of Morocco 2017

Submitted by the Sahrawi Association of Victims of Grave Human Rights Violations
Committed by the Moroccan State ASVDH



El-Aaiun, Western Sahara: 20/09/2016

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About ASVDH :

The Sahrawi Association of Victims of Grave Human Rights Violations Committed by the Moroccan State is a non-governmental association (ASVDH) was founded in May 07th, 2005. Since then, ASVDH was not able to get the final receipt that confirms the registration till 22/08/2015 after ten years of a ban imposed on it. ASVDH opened its headquarter in El-Aaiun in 07/05/2016. Its objectives are: to protect and defend human rights in their universality and comprehensiveness, to promote peace and human rights, culture and work, to protect the rights of victims of grave violations of human rights and the defense of their demands, to provide victims with legal assistance, to demand the release of political detainees and the disclosure of the fate of the abductees unaccounted for and the orientation of young people to make them aware of their rights in addition to encouraging them to stick to the principles of peaceful action.

An introduction:

This parallel report by the Sahrawi Association of Victims of Grave Violations Committed by the Moroccan State aims to reveal infractions of the Moroccan state in the territory of Western Sahara, non self-governed territory, and its international obligations in the sphere of human rights in addition to investigating the extent of the implementation of what the Moroccan state pledged willingly while attending the second review of the UPR in 2012.

1-The legal status of the territory of Western Sahara:

The Moroccan state de facto administers parts of the territory of Western Sahara since October 31st, 1975. The territory has been listed since 1963 by the Fourth Committee for decolonialism among the 16 non-autonomous territories. Since the cease-fire in 1991, the United Nations have been supervising the peace process between the conflict parties : The Popular Front for the Liberation of Saguia Elhamra and Rio De Oro (POLISARIO front) and the Kingdom of Morocco. Since then, there is a UN mission in the territory of Western Sahara named: the United Nations Mission for the referendum in Western Sahara (MINURSO), and is the only mission that lacks the human rights monitoring in its mandate.

2-: Civil and political rights

Human rights defenders and international observers:

Moroccan authorities continue to crack down on Sahrawi activists in Western Sahara by hindering them from carrying out their duties and banning them from traveling as it is the case of the human rights defenders: MbarkAalina Abaali, Hammadi Nassiri, H'mad Hammad and Sidi Mohamed Daddach. The human rights defender Ghalia Djimi was also barred from traveling to attend the proceedings of the 2016 March session of the human rights Council. The Moroccan authorities tend to detain several human rights defenders for continuous hours without any charges

and without giving any explanations as to why they have been detained as it is the case of Mr. Brahim Sabbar who was held by the Moroccan police in Guelmim , south Morocco in 13 \ 08 \ 2013. In spite of the fact that Morocco supported the recommendations of the Universal periodic review of the year 2012 on the protection of human rights defenders in Western Sahara, the Moroccan state has not committed itself to do so by continuing in the practice of systematic harassment against activists through their expulsion from work as it is the case of Mohamed Mayara or Elwali Maouelainin who was deported to the Moroccan city of Fez while his salary has been freezed since July 2013. There is also the case of Saleh Elbachra who was barred by the Moroccan authorities from getting a job between 2010 and 2013

The Moroccan state still prevent international observers from entering the territory of Western Sahara to monitor the violation. ASVDH documented ,from 2014 onward, the deportation of nearly 69 international observers from different nationalities and who were prevented by the Moroccan government from entering the territory.

Arbitrary Arrest:

The estimated number of Saharawi political prisoners in the prisons of Morocco during the period between 2012 to 2016 up to 245 prisoners .

The Working Group on Arbitrary Detentions's visit to the territory and to Morocco in 2013, issued many recommendations were issued regarding the case of the former Saharawi political prisoner: Mohamed Daihani under No. 19/2013. This recommendation called upon Morocco to release him and to open an investigation into the circumstances of his arbitrarily. It also called for the trial of those perpetrators involved in his arrest and torture. The same working group mentioned the case of the Saharawi political detainees of the Gdeim Izik group whose confessions were extracted under extreme torture during interrogation at the police stations and the detention centers. Moroccan law enforcement agencies always break the law during the process of arrest and detention. The Moroccan Justice system tends to rely on the confessions extracted under torture in total breach and violation of the article 293 stated in the Moroccan penal law. Moroccan authorities do not open any investigation regarding the complaints filed by detainees alleging being subjected to torture while under custody or during the sentence serving in the prison.

The status of Saharawi political prisoners in Moroccan prisons:

The situation of the Sahrawi political prisoners in the prisons of Morocco is very dire. There are many serious violations of prisoners' rights a result of the prevailing thought shared among Moroccan officials that the Saharawi political prisoners are "supporters of the Polisario,". On this basis, it is a common practice to discriminate against Saharawi prisoners. signs of torture are still visible on the body of Political

prisoner Elbarray whose body bears the marks of burns and which date back to September 29th, 2015. No investigation was ever opened. There is also the case of death while being incarcerated in the same prison of Dakhla: Hassanna Elwali on September 28th. He was later buried without the consent of his family in October 4th, 2014. Most Saharawi political prisoners are detained in remote prisons far away from their families. A good illustration of this is the case of the prisoners of Gdeim Izik group who were transferred to the Aarijat prison north of Sale City in August 31st, 2016. This miserable situation would sometimes lead the prisoner to start a hunger strike demanding the right to be near from his family residence. This is illustrated in the example of Saharawi political prisoner : Yahya Mohamed Hafed Iaaza.

The right to peaceful demonstration and the freedom of founding association:

The right to peacefully demonstrate is always denied through the violent intervention of the Moroccan police in Western Sahara :

Between 2012-2015, the ASVDH documented 60 peaceful demonstrations organized by the Sahaawis activists in El-Aaiun, and 90 peaceful sit-ins organized by the unemployed Sahrawi graduates demanding their right to employment and to benefit from the territory's natural resources. Such demonstrations are always dispersed violently by the local police using many tactics such as lynching in the streets (the case of activist Mina Baali, Lalla Khaidouma Joumani, Sultana Khaya and Salka Leili) and slapping (HR activists: Brahim Dahane, and his deputy Ghalia Djimi) during the visit of the UN special envoy to W.S Mr .Christopher Ross to El-Aaiun (march 23rd, 2013). and in many other cases, some of the peaceful protestors would be kidnapped by the police, tortured and then thrown out in the outskirts of the city as in the case of: Ali Saadouni, Bachri Bentaleb, and ASVDH members: Hsanna Duihi and Hasanna Abba during the visit of the UN special envoy to Western Sahara , to El-Aaiun, march 23rd, 2013.

With regard to the right to founding associations, the Morocco continues to deny Sahrawis the legal right to register associations, as it is the case for : The Association for the Monitoring of the Resources and for the Protection of the Environment in Western Sahara , The Saharawi Observatory for Children and Women, The Sahrawi Association for the Defense of Human Rights and the Protection of Natural Resources in Boujdour, and the Dignity and Justice organization. The Moroccan authorities prevented the Sahrawi association: CODESA from holding their founding gathering.

Freedom of expression and of press:

Morocco obstructs the freedom of the press in the territory of Western Sahara by attacking the Sahrawi journalists while carrying out their duties in the coverage of the demonstrations where Saharawi protesters demand the right to self-determination and independence. This even extends to the unfair continuous trials

of Sahrawis and indicting them with heavy sentences such as in the case of the following reporters: Mohammed Banbari, member of Equipe Media, sentenced to 06 years in prison on 12.1.2016, and Salah Labsir, a reporter for the RASD TV, in Smara / Western Sahara sentenced to 04 years on 09/30/2015.

The use of violence against these media activists led to many injuries as it is the case of media activist :Afaf al-Husseini hit on the right arm in 19.10.2013 , the media activist: Mammen Hashemi who was beaten in public in 01.28.2015, and the case of Nazha ElKhalidi who was scolded, detained with her camera seized when she was filming a peaceful demonstration at the beach of foun Elwad, El-Aaiun, Western Sahara in 21/08/2016.

The government deliberately cuts off the flow of internet frequently, especially during the days of major events in the territory, and exercise repressive policies on the freedom of expression on websites, and would censor and hack Sahrawi activists and journalists web pages . Saharawi activists are faced with detention at the exit airport and usually asked for their email and computers password. A good case to illustrate this would be that of ASVDH Secretary General : Brahim Sabbar at the Mohamed V airport n August 23,2014.

The territory of Western is under total media blockade where foreign journalists are denied entry to the area, especially when they are not defending the moroccan position. Moroccan authorities expel them outside the territory or deport them upon their arrival . A good case on this would be that of the Spanish journalist who works for Radio CADENA SER: Jose Maria Santana, who was expelled from El-Aaiun airport on 05.21.2014. There is also the case of :the two Polish journalists: Anna Olczak and Dominik Sipinski on 05/06/2016 . Another example is the case of the and the Spanish journalist Axie Javier Hernandez, who was expelled from El-Aaiun on 24/07/2016.

The right to Justice and Equity:

The Moroccan state confiscates the right of the Saharawi people in the access to the justice. Although there are many complaints filed against the members of the Moroccan public forces by the Saharawis demanding justice, we noticed that this right is absent and ineffective.

Forced disappearance:

So far, there is fact findings about many of the forced disappearance cases of Saharawi political prisoners since the occupation of the territory by Morocco in 1975. These cases include: No truth about the case of the disappearance of 15 young Sahrawis in 2005. In addition to this, ASVDH documented the case of the mass graves discovered in 2013 and which was mentioned in the report of the Equity and Rconciliation Commission where it stated that the victims died in a secret detention center in Smara city.

3- Economic , social and cultural rights:

The right to work and the rights of workers:

The number of unemployed Sahrawi territory of Western Sahara by is increasing reaching 15% when compared to Morocco 10%. In El-Aaiun, there are more than 12,000 unemployed Saharawis with Masters degree, Bachelors degree and diplomas from vocational institutes. Demonstrations demanding the right to work are always faced with repression and are banned. Workers enlisted in the National Promotion program are not eligible for health coverage or compensation for their children. There is no law regulating their work.

The right to health:

Territory of Western Sahara does not have any university hospital. The nearest university hospital is in Marrakech/Morocco, far away for about 950 km. The Moroccan state refuses to build a university hospital in the territory of the Western Sahara. Most cities in Western Sahara have a shortage of specialized doctors .

The right to education:

Moroccan state continues to deny Sahrawi students to pursue their graduate studies and register in the doctorate programs. This targets specifically human rights defenders such as in the case of M'Hamed Hali, Elwali Maouelainin and Hasanna Abba, in addition to Saleh Elbachra. There are no Universities in the territory while there is more than one university in the nearby Moroccan cities.

The majority of secondary and high schools in the territory schools have been placed under security siege and put under surveillance by Moroccan plain-cloth policemen. they would chase pupils, intimidate them, arrest them and bring them to trial. As an illustration, there is the case of the Saharawi student :Ahmed Alaichi in Smara. Most of the schools in Western Sahara are heavily crowded.

Cultural rights:

Moroccan state continues to blur the Saharawi cultural identity through the seizure of public spaces ,the prohibition of building tents at the beach and in the countryside Authorities deliberately destroy the historical monuments such as Villa Cisnero in Dakhla.

Women's rights:

The Moroccan state violates the rights of the Sahrawi women. More than 574 women have been victims of harassment and ill-treatment. There are many cases of such a violation such as the cases of activists: Mbarka Alina Abaali, Khaidouma

Joumani, Sultana Khaya and Leila Leili. This violation represents an act of a flagrant breach of the CEDAW treaty.

Children Rights:

Children are very often harassed and threatened with rape as in the case of the minor: Salam Hammiya who filed a complaint in 12/02/2012. Beatings and insults and being run over by the police car are common occurrences as in the case of the minor: Fadil Boubakr who filed a complaint with prosecutor in El-Aaiun in 06/04/2012.

The rights of persons with special needs:

The Moroccan state continues to harass this category of people in Western Sahara. It also freezes their salaries as in the case of :Hussein Nasser who was pushed for daring to visit the refugee camps in Tindouf, Algeria as a member a delegation from the occupied territory. There is also the case of Said Haddad and Hammadi Salam. Amjad Leili is another case as he was abused at Hassan I airport in El-Aaiun. He filed a complaint at the local court under file N:76/3126/16 dated 08/30/2016.

The right to a healthy environment:

The Moroccan State is constantly in breach of these environmental laws in the Western Sahara .The waste is thrown and burnt near residential areas in all cities of Western Sahara. This causes odors spreading, carbon dioxide emission and the multiplication of harmful insects. The underground water is being contaminated ,i.e Dakhla city.

Waste water is dumped in the Saguia Elhamra river in El-Aaiun. In Dakhla, it is dumped into the ocean. Morocco is building a thermal power plant, just 03 kilometers west of the city of El-Aaiun which will operate using heavy fuel (Diesel). This poses a threat to the environment and will impact the underground water beside polluting the air causing chronic diseases.

Natural Resources:

Morocco has been continuously depleting the natural resources in Western Sahara, especially the phosphate where up to 03 million tons are produced annually. Moroccan government deliberately recruit Moroccan labor excluding the people of the Western Sahara territory. Just recently, 500 were hired and only 50 Saharawis taken.

Bringing unnecessary Moroccan labor to the territory of Western Sahara is done on purposes to change the demographics of the territory. This aims to affect the future self determination process. Furthermore, the main beneficiary of the natural resources are the Moroccan settlers.

The fish stocks in the coast of Western Sahara is over-exploited as a result of decades of intensive fishing by Moroccan and foreign fleets.

Water sources quantities are shrinking due to the establishment of large agricultural estates in the region of Tawarta located in Dakhla region. Its products are exported without mentioning the country of origin where Moroccan nationals are brought to work at these farms.

Recommendations:

- The respect of the legal status of the territory of Western Sahara as a non-self-governed and non autonomous territory.
- To work with the United Nations in order to organize a referendum that would enable Saharawis exercise their right of self-determination.
- To stop the plundering of the territory s natural resources.
- The respect of the Geneva Conventions and to stop the settlements and the seizure of saharawi lands.
- To open territory of Western Sahara in front of international observers and the media.
- To expand the mandate of the United Nations and adopting the recommendations of the committees , working groups of the UN and the special rapporteurs.
- To protect the Saharawi human rights defenders in the territory of Western Sahara.
- To open an investigation into allegations of torture and inhumane treatment, and the trial of the law enforcement agents and Moroccan officials held accountable for such atrocities.
- The lifting of restrictions on all Sahrawi associations working in the field of human rights, including those calling for the right of self-determination.
- To ensure the cultural rights of the Sahrawis, including their lifestyles, the names of their choice and other components of their identity.
- To ensure the right to education work , and to create universities.
- To protect Saharawi women from scoldings and discrimination , and to put into effect articles included in the CEDAW treaty.