

**Sahrawi National Commission of Human Rights**

**CONASADH**



**CONASADH Contribution to the 3<sup>rd</sup> cycle Universal  
Periodic Review**

**UPR – 27<sup>th</sup> session April/may 2017**

**Kingdom of Morocco**

**September 2016**

**Contact: Mr. Abba Salek Elhassan – [ujsahara@gmail.com](mailto:ujsahara@gmail.com)**

**CONASADH**

1. The National Sahrawi Commission for Human Rights (CONASADH) is the national human rights institution of the Sahrawi Arab Democratic Republic. Established in March 2014, the CONASADH is composed by 33 members representing Sahrawi civil society organisations based either in the Non Self-Governing Territory (NSGT) of Western Sahara occupied by the Kingdom of Morocco or in the non occupied part of the Non Self-Governing Territory (NSGT) of Western Sahara and in the refugees' camps near Tindouf (Algeria).
2. The CONASADH is mandated to assess the situation of Human Rights in Western Sahara, both West of the sand-wall (Berm), occupied by the Kingdom of Morocco, and East of the Berm (the non occupied part of the NSGT) as well as in the Sahrawi refugees' camps near Tindouf.
3. In April 2016, the CONASADH was granted Observer status by the African Commission on Human and Peoples Rights.
4. Despite the difficulties created by the occupation of a great portion of the NSGT, the CONASADH spares no efforts to accomplish its mission, in collaboration with the Saharawi civil society, in order to ensure full respect for Human Rights in Western Sahara, including the inalienable right of the Saharawi people to self-determination.

## **Introduction**

5. *"The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation"*<sup>1</sup>.
6. Western Sahara is the only territory in Africa that has still to finalize its decolonisation process. It is the only NSGT, among the 17 listed by the Special Committee on Decolonisation, that has not an internationally recognized Administering power and which is, according to international law, under foreign occupation.
7. The CONASADH is convinced that all Human Rights violations of the Sahrawi people are the consequence of the 40 years of illegal occupation of a great portion of the NSGT by the Kingdom Morocco and of the denial to the Saharawi people to freely exercise its inalienable right to self-determination, through the holding of a free and democratic referendum, under the auspices of the United Nations.

---

<sup>1</sup> OP1 of UNGA resolution 1514 (XV), containing the Declaration on the Granting of Independence to Colonial Countries and Peoples.

8. This is consistent with the findings of the Human Rights Committee, which considers that the right to self-determination *"is of particular importance because its realization is an essential condition for the effective guarantee and observance of individual rights as well as the promotion and strengthening of those rights"*<sup>2</sup>.
9. In October 2015, the Committee on Economic, Social and Cultural Rights has reiterated its concern about the lack of solution to date regarding, the right to self-determination of the non-self-governing territory of Western Sahara<sup>3</sup>.
10. The CONASADH calls on the attention of the members of the Working Group on the fact that the activities related to Human Rights deployed by the Moroccan authorities in the occupied territory of Western Sahara have no real impact on the enjoyment of Human Rights for the Sahrawi population.

### **Concerns raised during the UPR second cycle on the situation of Human Rights in Western Sahara**

11. Several delegations expressed particular concern about the situation of Human Rights in Western Sahara<sup>4</sup>. Those concerns remain valid and have been shared also by different mechanisms of the Human Rights Council and Committees.

#### **A. Freedom of peaceful assembly and of association**

12. At the second Periodic Review of the Kingdom of Morocco, in 2012, Sweden expressed concerns about the violation of the right to freedom of association and pacific manifestation in Western Sahara.
13. The delegations of Spain, Ireland and Norway called for greater respect of freedom of association in Western Sahara.
14. Moroccan authorities proceeded with the legal registration of ASVDH<sup>5</sup>, a Saharawi Human Rights organisation in July 2015, however, to date, the organisation has not been authorized to lead a plenary public activity.

---

<sup>2</sup> Human Rights Committee, General comment n. 12 (1984)

<sup>3</sup> E/C.12/MAR/CO/4

<sup>4</sup> A/HRC/21/3

<sup>5</sup> Association Sahraouie des Victimes des Violations Graves des Droits de l'Homme Commises par l'État Marocain

15. Moreover, the Moroccan authorities disrupted even closed doors activities organized by the same organization. ASVDH wanted to organize a Human Rights training from 31 July to 05 August 2015. For this purpose, it invited three people from Spain<sup>6</sup> which were deported by the Moroccan authorities.
16. Any public and peaceful assembly advocating for the implementation of the inalienable right to self-determination is promptly interrupted by the Moroccan security forces. Very often women that participate to those assemblies are beaten in the streets and arrested.
17. In the conclusions of his 2013 country visit report<sup>7</sup>, presented at the 22nd session of the Human Rights Council, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (Juan E. Méndez) wrote that *"Regarding Laâyoune, Western Sahara, the Special Rapporteur found that torture and ill-treatment were inflicted during arrest, at police stations and at the prison in Laâyoune. He also found that excessive force was used during demonstrations for the independence of Western Sahara, including kidnappings and abandonments in the desert, in order to intimidate alleged protestors."*
18. The CONASADH stresses that the obstacles to the exercise of the right to freedom of peaceful assembly and of association in Western Sahara are related to the position of the concerned associations in favour of the exercise of the inalienable right of the Saharawi people to self-determination.

## **B. Human Rights Defenders**

19. At the second Periodic Review of the Kingdom of Morocco, in 2012, the Canadian delegation submitted a recommendation in relation to the rights of human rights defenders in the Occupied territory of the NSGT of Western Sahara.
20. The CONASADH has documented several cases of harassment and retaliation against Sahrawi human rights defenders in the Occupied territory of the NSGT of Western Sahara. Some Sahrawi human rights defenders have even been prevented from attending the sessions of the Human Rights Council<sup>8</sup>.
21. The UN Secretary-General in his last report<sup>9</sup> to the Security Council on the situation in Western Sahara states that *"Moroccan authorities continued to harass human rights defenders of and Sahrawi activists"*.

---

<sup>6</sup> Mrs Gloria Guzman, Mrs Irantzu Mendia, from the Basque Network of Support to Saharawi Women and HEGOA Institute, and Mrs. Idoia EIZMENDI, technician in the field of equality in the City of Getxo. The training was on "the role of the Saharawi woman in the conflict, the recuperation of ways of historical memory and effective measures to highlight the role of women in this field"

<sup>7</sup> A/HRC/22/53/Add.2 – par. 84

<sup>8</sup> Cases of Mrs El Ghalia Djimi, Vice President of ASVDH and Mr Hammadi Naciri, President of Freedom Sun Association for protection of Human Rights Defenders

<sup>9</sup> S/2016/355

22. Furthermore, in the same report, the UN Secretary-General highlights that the same remark is relevant for the access of foreign observers to Western Sahara: *"Local authorities continue to restrict access to certain foreign journalists, human rights defenders and activists, by expelling some of them and preventing others from entering."*
23. The CONASADH notes that human rights defenders in Western Sahara that are favourable to self-determination of the Saharawi people are those who most suffer harassment and retaliation.

### **C. Arbitrary detention**

24. At the second Periodic Review of the Kingdom of Morocco, in 2012, the Canadian and the British delegations made recommendations about this sensitive issue.
25. Since the Kingdom of Morocco considers that the NSGT of Western Sahara is part of the its national territory, anyone raising publicly the issue of the self-determination of the Sahrawi people originating from the Territory is arrested and indicted for criminal offense of attempting the security of the State and the integrity of the territory, which of course is a pure fiction when one refers to international law, the 1975 Advisory opinion of the International Court of Justice and the many resolutions of the UN bodies, in particular those of the Security Council and the General Assembly.
26. The cases of Mohamed El Hafedh Iaza, Mohamed Deihani, Embarek Daoudi, Salah Eddine Lebsir, Mahmoud El Haissen and many others confirm this observation.
27. Moreover, the most relevant case is the one related to the prisoners of Gdeim Izik that were sentenced to long period of imprisonment by a military court.
28. The CONASADH wonders about the timing of the announcement of the Moroccan authorities, referring to the transfer of the case of the 26 prisoners of Gdeim Izik to a civil court. The majority of the prisoners of Gdeim Izik were members of the committee that led the dialogue with the Moroccan authorities (Spokespersons of the demonstrators). This decision may be considered as a gesture of "normalisation" of the treatment of Sahrawi political prisoners by the Moroccan authorities.
29. The CONASADH calls on the attention of the members of the Working Group on the violation of the norms of International Humanitarian Law which provide that people originating from an Occupied territory have to be judged, even by a military court, in the Occupied territory and not in that of the Occupying power. Similarly, those convicted have to be imprisoned in the occupied territory and not in that of the Occupying power.

#### **D. Torture and cruel, inhuman or degrading treatment**

30. This concern was reflected in a recommendation of the Spanish delegation at the second Periodic Review of the Kingdom of Morocco.
31. The CONASADH receives on a regular basis, communications alleging torture or inhuman or degrading treatment suffered by Sahrawi in the NSGT of Western Sahara occupied by the Kingdom of Morocco, mostly by members of the Moroccan security services, while exercising their function.
32. In his 2013 country visit report, the Special Rapporteur on torture and other cruel, inhuman or degrading treatments describes the practice of torture as anchored and systematic at the time of arrest and during detention, among others, for people claiming the independence of Western Sahara.
33. In his conclusions, Mr. Juan Mendez also affirms that *“In cases involving State security, such as terrorism, membership in Islamist movements, or supporters of independence for Western Sahara, there is a pattern of torture and ill-treatment by police officers during the arrest process and while in detention, in particular, by agents of the National Surveillance Directorate (DST). Many individuals have been coerced to confess and sentenced to prison on the basis of such a confession. The violations often continue while these individuals are serving their sentences.”*<sup>10</sup>
34. The political positions favourable to the independence of Western Sahara are a pattern of torture and ill-treatment.

#### **Conclusions**

35. Western Sahara is considered by the United Nations as a Non Self-Governing Territory enrolled in a process of decolonization.
36. Although a cease-fire agreement was signed in 1991 between the Polisario Front and the Kingdom of Morocco, the parties<sup>11</sup> are still bound to respect the norms of the International Humanitarian Law.
37. The disregard of the Kingdom of Morocco for international law and the decisions of the UN bodies is the source of widespread, serious and persistent Human Rights violations in the NSGT of Western Sahara illegally occupied by the Kingdom of Morocco.

---

<sup>10</sup> A/HRC/22/53/Add.2 – par. 72

<sup>11</sup> On 23 June 2015 the Swiss Federal Council (depository of the Geneva Conventions) accepted the unilateral declaration of the Polisario Front, on behalf of the people of Western Sahara, that it undertook to apply the 1949 Geneva Conventions and Additional Protocol I

38. The fact that the Kingdom of Morocco considers the NSGT of Western Sahara as part of its own national territory put anyone raising the issue of the independence of Western Sahara at risk of being arrested, convicted and sentenced to imprisonment.

### **Recommendations**

The Kingdom of Morocco should:

39. Strictly respect the norms of International Humanitarian Law when acting in the Occupied territory of Western Sahara.
40. Respect the fundamental rights and freedoms of the Sahrawi people, including its inalienable right to self-determination and its sovereignty over the natural resources.
41. Accept the inclusion of the monitoring and supervision of Human Rights in the NSGT of Western Sahara in the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO).
42. Respect the inalienable right of the Saharawi people originating from the territory to self-determination, through the holding of a free and independent referendum under the auspices of the United Nations.

\*\*\*\*\*