

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	312
Land:	Marokko-Vestsahara
Kilde:	International Fellowship of Reconciliation (IFOR)
Titel:	Collectif des défenseurs sahraouis des droits de l'homme au Sahara occidental (CODESASO)
Udgivet:	Marts 2022
Optaget på baggrundsmaterialet:	18. januar 2023

**Human Rights Council
Working Group on Universal Periodic Review
41st session**

Kingdom of Morocco

**Freedom of association and peaceful assembly
in the occupied Western Sahara**

March 2022

***Collectif des défenseurs
sahraouis des droits de
l'homme au Sahara
occidental***

The “Collectif des défenseurs sahraouis des droits de l’homme au Sahara occidental” (CODESASO) is one of the oldest non-governmental organisations for promotion and protection of human rights in the occupied Non-Self-Governing Territory of Western Sahara.

Many of its members, thanks to the support of international NGOs participated in Human Rights Council’s sessions.

Some of its members have been and continue to be victim of the arbitrary repression by the Moroccan occupying forces.

Contact:

elmahjoub.maliha@gmail.com

IFOR INTERNATIONAL FELLOWSHIP
OF RECONCILIATION

Founded in response to the horrors of war in Europe, the International Fellowship of Reconciliation-IFOR has taken a consistent stance against war and its preparation throughout its history.

Perceiving the need for healing and reconciliation in the world, the founders of IFOR formulated a vision of the human community based upon the beliefs that love in action has the power to transform unjust political, social, and economic structures.

Today IFOR has branches, groups, and affiliates in over 40 countries on all continents. Although organized on a national and regional basis, IFOR seeks to overcome the division of nation-states which are often the source of conflict and violence. Its membership includes adherents of all the major spiritual traditions as well as those who have other spiritual sources for their commitment to nonviolence.

IFOR is an NGO in Consultative Status with the ECOSOC since 1979.

IFOR advocates at the UN for human rights and other relevant issues for a Culture of Peace such as the right to conscientious objection to military service, right to peace, right to life, refugees’ rights, freedom of expression, disarmament and others.

Contact:

office@ifor.org

www.ifor.org

INTRODUCTION

1. This report attempts to tackle some aspects of public freedoms, especially those related to the freedoms of assembly, association, and freedom of movement in the occupied Non-Self-Governing of Western Sahara, in addition to the sufferings of the Sahrawi human rights defenders in this territory, as reported from the ground and first-hand experienced by the CODESASO.
2. Western Sahara, which was a Spanish colony from 1886 to 1975, is pending decolonization under international law since it was included in the list of Non-Self-Governing Territories by the UN General Assembly (UNGA), in accordance with UNGA resolution 1514 (XV)ⁱ.
3. Western Sahara has been under the Moroccan occupation since 31 October 1975ⁱⁱ, despite the Kingdom of Morocco and the Frente POLISARIO reached an agreement under the auspices of the United Nations and the Organization of the African Unity on a Settlement Plan that provided for the organization of a free referendum of self-determination, which was conducive to the creation in 1991 of the UN Mission for the Referendum in Western Sahara (MINURSO)ⁱⁱⁱ.

THE VIOLATIONS OF THE RIGHT TO FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY

4. Since the beginning of its invasion of Western Sahara, the Moroccan occupying authorities have systematically practiced multiple forms of oppression aimed primarily at depriving and preventing Sahrawi people from the right to demonstrate and protest peacefully and from their right to freedom of expression^{iv}.
5. Hundreds of civilians have banned from demonstrating peacefully demanding the right of the Sahrawi people to decide its fate and the guarantee of its economic, social and cultural rights in the cities of Western Sahara and in the Moroccan universities where Saharawi students are carrying out their studies. This ban is extended to include:
 - ceremonies of the reception of the kidnapped activists and recently released Saharawi political prisoners from various Moroccan prisons;
 - commemoration of the international days adopted by the United Nations General Assembly;
 - peaceful sit-ins in solidarity with the Sahrawi political prisoners^v and those who are imprisoned based on illegal, unjust processes.
6. The Moroccan occupying authorities impose limitations on the right of Sahrawi people to freedom of opinion and expression, and on the right to association and peaceful assembly^{vi} by:
 - maintaining police and military siege on specific places where peaceful sit-ins take place including imposing house-arrest. Sahrawi political and human rights activist Sultana Sidi Ibrahim Khaya^{vii} has been under house arrest since November 19, 2020 inside her family's home in the occupied city of Boujdor^{viii};
 - subjecting Saharawi demonstrators to torture, sexual harassment and dragging them in public spaces;
 - exposing Sahrawi activists to arrest, investigation, violence, physical and psychological torture, obliging them to admit police reports under pressure and coercion, while

appearing before unfair trials based on false and fabricated charges;^{ix}

- kidnapping, death threatening, arresting, sexual harassing and raping, with collective punishment of family members;
- expelling human rights defenders and bloggers and banning unemployed Saharawi people from work because of their advocacy for the Saharawi people's right to self-determination and independence and the right of permanent sovereignty over their natural resources;
- suspending social assistance, such as the unemployed monthly assistance, denying taxi-drivers and food suppliers the necessary permissions and licenses, in addition to preventing Saharawi people from obtaining administrative documents;
- breaking into houses, damaging their contents, pouring and staining them with toxic substances and cutting off water and electricity;
- breaking, expropriating and taking control of the demonstrators' cars;
- stealing mobile phones and cameras.

THE VIOLATIONS OF THE RIGHT TO FREEDOM OF ASSOCIATION

7. The Moroccan occupying authorities systematically prevent the establishment of associations in the occupied Non-Self-Governing Territory of Western Sahara, which adopt the universality of human rights, especially in the relation to the peoples' right to self-determination and the permanent sovereignty over their natural resources.
8. Despite the Moroccan authorities expressed their commitment to freedoms of association, of assembly and protection of human rights defenders' rights in May 2012, during the adoption of the UPR Working Group report by the Human Rights Council, the violations are being committed in the occupied Non-Self-Governing Territory of Western Sahara.
9. In this regard, since 2007 CODESA has not been allowed to organize training sessions and form Sahrawi human rights defenders group, because it adopts documents advocating for the right of the Sahrawi people to self-determination and for its denunciation of war crimes and crimes against humanity committed by the occupying Power in the Non-Self-Governing Territory of Western Sahara.
10. The Moroccan occupying authorities remain reluctant to accredit CODESA, despite of many interventions and requests from international human rights organizations, the European Parliament and some diplomatic missions accredited in Rabat (Morocco).
11. On 25th October 2020, the Organization of the Collective of Sahrawi Human Rights Defenders in Western Sahara CODESASO held its constitutive meeting at the home of the Sahrawi human rights defender Ali Salem Tamek.
12. The meeting established the first legal bureau elected by delegations attending the General Assembly. The Constitutive Assembly adopted the bylaws with a new vision that includes International Humanitarian Law, including the 1907 Hague Convention and the Fourth Geneva Convention for the Protection of Civilian Persons in Time of War^x.
13. In the following days, the Moroccan occupying forces started a campaign targeting the members of the Executive Bureau of CODESASO: Babouزيد Mohamed Said Lebihi President of the organization was banned from working and expelled from the port of the occupied city of Dakhla.^{xi}

14. The Moroccan occupying forces also threw stones at the house hosting the constitutive meeting and put many people under siege and surveillance.
15. Mohamed Said and two other activists were expelled from Sultana Khaya's house in the occupied city of Boujdor.
16. Since November 2020, Sultana Khaya and her family are under arbitrary *de facto* house arrest^{xii} for her pro-independence and self-determination activism.
17. The Moroccan occupying forces targeted a group of CODESASO's local committee working on the politically motivated arbitrary detention and illegal trials including of Jamal Aharouch, Hamza Bouhrika and recently-released political prisoner Jalal Bouchaab cases.^{xiii}
18. It is worth mentioning that the Moroccan occupying forces used Pegasus spyware to target Saharawi human rights activists^{xiv} such as the case of Mahjub Mleiha, foreign relations officer in CODESASO.
19. Although the Moroccan occupying authority has accredited the Saharawi Association of Victims of Grave Human Rights violations (ASVDH), after many years of pressure from international NGO's, they subsequently besieged the association's headquarters preventing its members to organize any activities and imposing restrictions on a group of its members.
20. On 5th March 2022, Moroccan security forces denied the access to the headquarters to CODESASO's members, when the ASVDH's General Assembly was to be held in order, inter alia, to renew the Executive Bureau.
21. In 2012, the Moroccan occupying authorities refused to give accreditation to the Saharawi Observatory for Children and Women and banned its members from getting the required documents to hold its constitutive General Assembly in the occupied city of El-Ayoun.
22. The Saharawi Association for the protection of natural resources was also not granted accreditation and banned from holding its Constitutive General Assembly in 2012.
23. The Association of the unemployed Saharawis established in March 2002 in the occupied city of El-Ayoun is not allowed to carry out its activities after the arrest and trial of some of its members.^{xv}
24. The ban on Sahrawi human rights associations and organizations makes it difficult for branches of some associations to work because of the many restrictions imposed on their activists. Among these associations:
 - The branch of the Moroccan Association for Human Rights^{xvi} in the occupied city of El-Ayoun, which was denied the right to access its depository, has its headquarters sealed off. The association is not allowed to use public halls and spaces to organize its activities. The Moroccan occupying force launching a campaign of arrests and unjust trials that targets a group of its activists; issuing a life sentence against Ibrahim Al-Ismaili.^{xvii}
 - The branch of the Moroccan Association for Human Rights in Tan-Tan: one of its members is still in Akhenifra prison (Morocco), another member Yahya Muhammad Al-Hafiz Oza was sentenced to 15 years in prison following an unfair trial.^{xviii}
 - Sheikh Benka, a member of the Moroccan association for Human Rights in Assa, detained in Bouzkaren Prison (Morocco)^{xix} after being sentenced to 30 years in the framework of the Gdeim Izik case^{xx}. He is also a member of CODESASO.

THE VIOLATIONS OF THE RIGHT TO FREEDOM OF MOVEMENT

25. The international humanitarian law and international human rights law guarantee the right to residence and freedom of movement, enshrined in article 13 of the Universal Declaration of Human Rights and in article 12 of the International Covenant on Civil and Political Rights.
26. Although the Kingdom of Morocco ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in 1979, the Saharawis under its control are still subjected to a set of arbitrary and discriminatory restrictions^{xxi}, like:
 - provocative searches and arrests at checkpoints and in the borders against Sahrawi human rights defenders, bloggers, former kidnapped activists and Sahrawi political prisoners;
 - Imposition of curfew, banning and destruction of Saharawi traditional tents on the beaches and in the country-sides;
 - damaging ID and vehicles documents;
 - blockade and provocative searches at the airports of Casablanca (Morocco) and El Ayoun (Western Sahara) whenever a group of Sahrawi civilians was going to or coming back from the Sahrawi refugee camps in Algeria (this happened even before the resumption of the armed conflict between the Frente POLISARIO and the occupying forces of the Kingdom of Morocco).

THE VIOLATIONS OF PUBLIC FREEDOMS BY THE MOROCCAN OCCUPYING AUTHORITIES IN THE OCCUPIED NON-SELF-GOVERNING TERRITORY OF WESTERN SAHARA

27. The Moroccan constitution states that "...aware of the need to conduct its duties within the framework of international organizations, the Kingdom of Morocco, an active member in these organizations, is committed to the principles, rights and duties stipulated in its constitutions and affirms its adherence to human rights as they are recognized internationally...."
28. However, the Kingdom of Morocco systematically violate fundamental freedoms and rights of the Saharawi people, as well as the norms of International Humanitarian Law, committing war crimes and crimes against humanity, like enforced disappearance^{xxii}, torture^{xxiii}, transfer of Moroccan nationals into the occupied Non-Self-Governing Territory of Western Sahara in order to perpetuate the colonization of the Territory^{xxiv}.
29. The following articles of the Moroccan Constitution^{xxv} are systematically violated by the Moroccan occupying authorities in the occupied Non-Self-Governing Territory of Western Sahara:
30. Article 21
All have the right to security of their person and of their relatives and to the protection of their *assets*.
31. Article 22
The physical or moral integrity of anyone may not be infringed, in whatever circumstance that may be, and by any party that may be public or private.
No one may inflict on others, under whatever pretext there may be cruel, inhuman, or degrading treatments or infringements of human dignity.

The practice of torture, under any of its forms and by anyone, is a crime punishable by the law.

32. Article 23

No one may be arrested, detained, prosecuted or condemned outside of the cases and the forms provided by the law.

Arbitrary or secret detention and forced disappearance are crimes of the greatest gravity. They expose their authors to the most severe sanctions.

Any detained person has the right to be informed immediately, in a manner, which is comprehensible to him, of the reasons of his detention and of his rights, including that of remaining silent. He must benefit, as well, from judicial assistance and the possibility of communication with his relatives, in accordance with the law.

The presumption of innocence and the right to an equitable process are guaranteed.

Any detained person enjoys the fundamental rights and humane conditions of detention. He must benefit from programs of instruction and reintegration.

All incitement to racism, to hatred and to violence is prohibited.

Genocide and all other crimes against humanity, the crimes of war and all the grave and systematic violations of the rights are punishable by the law.

33. Article 24

Any person has the right to the protection to his private life.

The domicile is inviolable. Searches may only intervene in the conditions and the forms provided by the law.

Private communications, under whatever form that may be, are secret. Only justice can authorize, under the conditions and following the forms provided by the law, the access to their content, their total or partial divulgation or their summons at the demand of whosoever.

The freedom to circulate and to establish oneself on the national territory to leave it and to return, in accordance with the law is guaranteed to all.

34. Article 25

The freedoms of thought, of opinion and of expression under all their forms are guaranteed.

The freedoms of creation, of publication and of presentation in literary and artistic matters and scientific and technical research are guaranteed.

35. Article 28

The freedom of the press is guaranteed and may not be limited by any form of prior censure.

All have the right to express and to disseminate freely and within the sole limits expressly provided by the law, information, ideas and opinions.

The public powers encourage the organization of the sector of the press in an independent manner and on democratic bases, as well as the determination of the juridical and ethical rules concerning it.

The law establishes the rules of organization and of control of the means of public communication. It guarantees access to these means respecting the linguistic, cultural and political pluralism of the Moroccan society.

In accordance with the provisions of article 165 of the constitution, the High Authority of Broadcasting sees to respect for this pluralism.

36. Article 29

The freedoms of reunion, of assembly, of peaceful demonstration, of association and of syndical and political membership, are guaranteed. The law establishes the conditions of the

exercise of these freedoms.

The right to strike is guaranteed. Any organic law establishes the conditions and the modalities of its exercise.

CONCLUSION AND RECOMMENDATIONS

37. The repressive policies implemented by the Moroccan occupying authorities in the Non-Self-Governing Territory of Western Sahara against Saharawis advocating for the free exercise of the right to self-determination, as enshrined in UN General Assembly resolution 1514 (XV) are conducive to a systematic violation of all fundamental human rights of the Saharawi people^{xxvi}.
38. The undersigning organizations recommend that the Kingdom of Morocco:
 - fully complies with its international commitments and obligations, notably the Fourth Geneva Convention (1949), including in the occupied Non-Self-Governing Territory of Western Sahara;
 - implement all provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, including in the occupied Non-Self-Governing Territory of Western Sahara;
 - release all Saharawi arbitrarily detained in the Moroccan jails, condemned to heavy sentences because of their human rights and political activities in defense of the fundamental right to self-determination, as enshrined in UN General Assembly resolution 1514 (XV).

ⁱ <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-granting-independence-colonial-countries-and-peoples>

ⁱⁱ <https://www.rulac.org/browse/conflicts/military-occupation-of-western-sahara-by-morocco>

ⁱⁱⁱ <https://minurso.unmissions.org/>

^{iv} <https://www.hrw.org/news/2020/12/18/western-sahara-morocco-cracks-down-activists>

^v <https://www.spsrasd.info/news/en/articles/2017/06/12/9223.html>

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- vi <https://www.hrw.org/news/2020/12/18/western-sahara-morocco-cracks-down-activists>
- vii <https://www.europarl.europa.eu/news/en/headlines/eu-affairs/20210916STO12702/sakharov-prize-2021-the-nominees>
- viii <https://www.amnesty.ie/urgent-action-free-sahrawi-activist-sultana-khaya-from-house-arrest/?id=15697>
- ix <https://www.hrw.org/news/2020/12/18/western-sahara-morocco-cracks-down-activists>
- x https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33_GC-IV-EN.pdf
- xi <https://porunsaharalibre.org/2021/05/18/moroccan-occupation-forces-abduct-and-torture-three-sahrawi-human-rights-activists/?lang=en>
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- xvi <https://www.hrw.org/news/2017/02/20/morocco-obstruction-rights-group>
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- xxiii A7HRC722/53/Add.2 and CAT7C759/D606/2014
- xxiv Fourth Geneva Convention, 1949 – art. 49.
- xxv https://www.constituteproject.org/constitution/Morocco_2011.pdf?lang=en
- xxvi <https://www.hrw.org/report/2008/12/19/human-rights-western-sahara-and-tindouf-refugee-camps>