

**Follow-up Report of the Universal Periodic Review Mechanism
Mid-Term Review – Algeria
November 2019**

Laayoune, Western Sahara

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Introduction:

The Observatory of Sahara for Peace, Democracy and Human Rights (OSPDH) is an independent body founded in February 2015. It aims to establish a collective working experience to discuss a range of issues related to democracy, peace and human rights at the Sahara and Sahel level.

As a mechanism that combines field monitoring with thought-based research and studies related to issues of peace, democracy and human rights, the Observatory aims to track and monitor what is happening at the regional level, relying on the preparation and advocacy of reports and research papers, both at the level of the countries concerned and at the international level. The Observatory also aims to establish projects for the promotion and protection of human rights at the level of Western Sahara.

Context:

- The present follow-up report represents the mid-term review as part of the third periodic report submitted to the Human Rights Council under the Universal Periodic Review (UPR). The present reports sheds light on the situation of human rights in Algeria, in light of the May 2017 recommendations. It also aims to provide an overview of the State's progress in implementing the recommendations made in the report of the UPR Working Group.

During the session of 8 May 2017, and on the occasion of the report discussion, the State of Algeria received 229 recommendations: 177 of which were accepted by the Government of Algeria; 64 recommendations were originally initiated; and 12 were rejected on the basis of incompatibility with the Constitution, the Algerian reality and the customs and traditions of Algeria.

- Working with victims of grave violations in the Tindouf camps in the south-west of Algeria; drawing on reports¹, testimonies and communications received on the situation in the camps, the Observatory of Sahara will hold Algeria accountable for its commitment to the implementation of the recommendations that are the subject of its mandate ; namely, those related to cooperation with special procedures and international human rights organizations, freedom of assembly, freedom of expression and association, realization of economic rights and conditions of asylum.

- On the basis of the universality and indivisibility of human rights, based on the rules and provisions of international law that oblige the State to extend and

¹ The Observatory of the Sahara submitted a series of reports to the Human Rights Committee at both the 118th and 123rd sessions as well as the UPR mechanism at the 27th session.

protect human rights for all persons within its jurisdiction without any discrimination; considering the grave violations as crimes with no statute of limitations

- The Observatory of Sahara (OSPDH) ; which submitted its observations and recommendations to the State of Algeria during its discussion of its national report on the human rights situation during the third round before the universal periodic review mechanism² as coordinator of the NGO Alliance ; recommends, in principle, that the Government of Algeria comment on the recommendations referred to in the mid-term report of the universal periodic review submitted to the United Nations Human Rights Council.

Cooperation with special procedures and international human rights organizations:

Implemented Recommendation:

129.29 Respond positively and without delay to requests to visit Algeria submitted by United Nations Human Rights experts and mechanisms (Norway).

Recommendations for information:

129.30 Permanent invitation to all special procedures of the Human Rights Council (Uruguay).

129.31 Strengthen cooperation with special procedures through a standing invitation (Peru).

The State of Algeria considers recommendation 29, made by the State of Norway concerning the positive and timely reply to the requests for visits by United Nations human rights experts and mechanisms, to be already in force; as Algeria considers that it cooperates fully with the special procedures of the Human Rights Council. The Observatory of Sahara, since its third report, notes that, with the exception of the visit of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the right to education³, Algeria continues to ignore requests for visits by the special procedures of the Human Rights Council.

² As a coordinator of the NGO Alliance, the OSS presented a report on the occasion of the discussion of the State of Algeria during its third round, with the following link:

https://www.upr-info.org/sites/default/files/document/algeria/session_27_-_may_2017/js2_upr27_dza_e_main.pdf

³ The Special Rapporteur on the right to education and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of mental and physical health visited Algeria in 2015 and 2016, respectively

To date, and despite successive reminders, the Working Group on Enforced Disappearances has not fulfilled the visit it has requested since the year 2000⁴. Algeria has also not responded to pending requests for visits by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment and punishment and the special Rapporteur on the right to freedom of peaceful assembly and of association.

The Observatory of Sahara regrets that the State of Algeria does not support recommendations 30 and 31, submitted by Belgium, Uruguay, Georgia, Bosnia and Herzegovina and Peru for a permanent invitation to all special procedures mandate holders. The authorities continue to refuse to cooperate with the special procedures of the Human Rights Council. Algeria has not yet received any visit⁵.

The State of Algeria also categorically rejects visits by international human rights organizations and research missions; despite the urging of the Special Rapporteur on the right to freedom of opinion and expression⁶ the Algerian Government to "allow members of international human rights organizations to enter Algeria to carry out their legitimate activities, in the exercise of their right to freedom of opinion and expression." Algeria has refused the visit of Amnesty International and the EMHRN⁷.

The Observatory of Sahara works to draw attention to the systematic ban of Algeria on the visits of international Human Rights organizations to the Tindouf camps. The host country of the Frente POLISARIO strongly rejects visits by the regional and international NGOs to the camps, thus preventing any investigation of the committed crimes.

The refusal of the State of Algeria to cooperate with the international monitoring mechanisms negatively affects the implementation of the decisions issued by these mechanisms.

Recommendations:

I. full cooperation with the Human Rights Council;

⁴ See the annual report of the Working Group on Enforced or Involuntary Disappearances of 18 December 2000, para. 14, E / CN. 4/2001/68

⁵ The following table shows the visits of the Special Procedures of the Human Rights Council to the State of Algeria and the repeated reminders since 1998:

https://spinternet.ohchr.org/_layouts/15/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en

⁶ During the visit of the Special Rapporteur on the right to freedom of opinion and expression to the State of Algeria in 2011

⁷ Since 2016, the EMHRN's visit to Algeria has been hampered three times. The first time, visa applications received late responses. The second time, the visa application for at least one member of the delegation was denied. The third time, the delegation was able to obtain a visa, just to learn, 10 days before the visit, through the Algerian Embassy in Brussels that the visas were cancelled. Algerian authorities have committed to send an explanatory letter, which has not yet been received.

2. Permanent invitations to United Nations experts and human rights task forces, and the expeditious implementation of their recommendations;
3. Issuing visas to representatives of research teams and international organizations for the defense of human rights;
4. Allow human rights associations and research groups to visit the camps, in order to investigate and communicate with the population.

Freedom of assembly, expression and association

Accepted recommendations:

129.95 Implement the freedom of expression, freedom of association, assembly and peaceful demonstration in accordance with the International Covenant on Civil and Political Rights (Kenya);

129.96 Take other measures to ensure the right to freedom of expression, assembly and association and the right to belief (Australia);

129.99 Amend administrative and other regulations and practices in order to implement the provisions of the Constitution with regard to freedom of the press, as well as clarify and apply the law on defamation to ensure freedom of opinion and expression (Sweden).

While OHCHR welcomed encouraging Algeria to bring its national legislation in line with its Human Rights obligations; particularly with regard to freedom of assembly, expression and association⁸, the Algerian authorities are still working to curtail these freedoms by arresting and prosecuting human rights activists and bloggers. The said arrestations were coupled with diverse charges, such as incitement to unauthorized assembly, communication with a foreign state, and defamation of public officials.

While Article 49 of the 2016 Constitution guarantees the right to freedom of assembly, the practice and application of laws render this provision ineffective. Algerian authorities continue to violate this right as the penal code punishes the organization or participation in an unauthorized demonstration in a public place⁹.

In October 2017, a court in Ghardaia issued various charges against six human rights and political activists for protesting in front of the court building against a human rights trial, and on June 26 acquitted them of all charges¹⁰.

⁸ See paragraph 3 of a compilation prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (b)

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/034/78/PDF/G1703478.pdf?OpenElement>

⁹ The Algerian Penal Code, in article 89, p. 35, punishes imprisonment for up to one year for organizing or participating in an unauthorized demonstration; see the following link

<https://www.wipo.int/edocs/lexdocs/laws/ar/dz/dz027ar.pdf>

¹⁰ See Human Rights Watch HRW Report on Algeria for 2019:

<https://www.hrw.org/ar/world-report/2019/country-chapters/326018>

The Polisario monopolizes the political discourse in the camps. Opposition of their main objective of the political self-determination of Western Sahara is rarely heard from. Political parties are constitutionally prohibited¹¹. Since its inception, the Polisario has adopted an unprecedented offensive policy on the right to organize by prohibiting the establishment of any NGO that goes against its ideology. The movement of Khat Chahid has been struggling since 2003 to spread its reformist ideas within the Polisario. Moreover, the 5 March movement, which called for reforms at the level of administration, officials and the rule of national law, was subjected to oppression and arrests by the Polisario Front.

The Polisario also severely restricts freedom of expression by seeking to harass human rights defenders, journalists¹², activists¹³, and opinion-makers¹⁴ to muzzle their voices to undermine the country's freedom of expression.

The Polisario organization has imposed a state of emergency in and around the camps and tightened surveillance. The organization's leadership has repeatedly made it known that all forms of protests and sit-ins are completely forbidden. The Polisario also arrests¹⁵ participants and advocates of peaceful protests, subjects them to unfair trials, and sentences them to long prison terms ranging from six months to a year. Another way the Polisario represses protesters is through arbitrary arrests, torture¹⁶, and intimidation and defamation campaigns¹⁷.

¹¹ Human Rights Watch report Following the visit to the Tindouf camps in 2013 regarding "Human Rights in the Tindouf camps:

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

¹² On Monday June 17, 2019, in Chahid Al-Hafid, Polisario security forces arrested the journalist Moulay Aba Bouzid, while he was participating in a protest before the UNHCR in Rabouni

¹³ On Tuesday, June 18, 2019 in Rabouni, Fadel Braika, an activist of the Sahrawi Initiative for Change in the Sahrawi refugee camps, was arrested. Details:

<https://futurosahara.net/?p=50651>

¹⁴ As part of the Polisario kidnapping campaign against some voices known to criticize corruption in the Tindouf camps, blogger Mahmoud Zidan was kidnapped on Wednesday 19 June 2019. Details:

<https://futurosahara.net/?p=50657>

¹⁵ The arrest of a large number of protesters during the 2014 and 2015 demonstrations. See page 13, paragraph 2, of the parallel report of the Observatory of Sahara for Peace, Democracy and Human Rights on the implementation of the articles of the International Covenant on Civil and Political Rights by the State of Algeria on the occasion of its fourth report to the Human Rights Committee / Geneva, 6 June 2018 During the 123rd session. Report link:

https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/DZA/INT_CPR_CSS_DZA_31386_E.docx

¹⁶ The children of Maa Al-AinainSouid were arbitrarily arrested and subjected to torture during the events of the dismantling of the peaceful protest calling for freedom of movement on 29 April 2019.

¹⁷ Activists of the peaceful protest against the violation of freedom of movement organized a peaceful demonstration on Wednesday, April 10, 2019, in the camp of Samara against the decision of the Minister of internal affairs to limit the number of cars allowed per day with a list delivered to the Algerian transit center. The protest aimed to debunk the defamation and deception campaigns promoted by the leadership through a speech, which can be found in following video link:

<https://www.youtube.com/watch?v=uO8InSTp9UM>

Recommendations:

5. Repeal or revise all legislation of Algerian law that violates freedom of expression, association and assembly;
6. Halt the legal persecution of human rights defenders and journalists, as well as prosecutions based on repressive articles of legislation that arbitrarily restrict freedom of expression;
Allow the establishment of political parties and NGOs in the Tindouf camps;
8. Lift the state of emergency in the camps, and have the population enjoy the right of peaceful away from the campaigns of treason and defamation against protesters;
9. Stop all forms of harassment and persecution of all forms of dissent and human rights defenders, contrary to the Polisario's vision;
10. Release Moulay Aba Bouzid, Fadel Braika and Mahmoud Zidane - prisoners of conscience in connection with the recent events in the Tindouf camps;
11. Expedite the initiation of judicial follow-up on the exposure of some detainees to violence and torture in light of recent events in the Tindouf camps, and ensure that the perpetrators are punished.

Realization of Economic Rights

Implemented Recommendations:

129.66 Continue to promote sustainable development in the economic and social fields and gradually improve the living standards of the population with a view to laying a solid foundation for the enjoyment of all human rights (China);

129.67 Increase its development efforts in the most disadvantaged areas (Côte d'Ivoire).

Algeria considers both recommendations 66 and 67 to be implemented, but the Observatory of Sahara would like to draw attention to the fact that since their establishment, the Tindouf camps have been left out of the development plans of the host country and have not been linked to the necessary services. The Algerian authorities have continued to deal with the situation inside the camps as a matter that does not fall within the scope of their international responsibilities and obligations. Since 1993, the EU has been providing an annual assistance program in coordination with other international donors to prevent duplication.

Refugees in the Tindouf camps¹⁸ have many problems with respect to the realization of the right to food. Since the establishment of the camps, the population has been dependent on humanitarian assistance, which has been controlled by the Polisario in cooperation with the Algerian authorities. The population's receipt of the assistance depends on the extent of their proximity to the leadership. The assistance has known major misappropriation¹⁹ over the years. The goods are substituted with ones of lesser quality, get stolen or sold in the camps, Algeria²⁰ or neighboring countries²¹ by the leadership. A consequence of these practices is a major shortage in essential food items, including necessary items for babies and newborns.

The dilemma does not only reside in the realization of the right to food, but also in the services related to its realization. Although the UNHCR and the Solidaridad Internacional Andalucía Organization, which operate in the water and sanitation sector and build and maintain the water supply system in each of the four camps, access to drinking water remains a difficult issue because water quality remains largely unsatisfactory or polluted or because of water scarcity compared with the demand. The camp population often expresses their demand of safe water supply through peaceful protests; however, it is met with repression²² from the Polisario leadership.

Recommendations:

12. Integrate the Tindouf camps into the development plans of the host country Algeria;
13. Ensure the right to an adequate standard of living for the population of the Tindouf camps;

¹⁸ Tindouf camps are located in the far southwest of Algeria, where the weather conditions are harsh with temperatures exceeding 50°C during the summer and water scarcity. Therefore, it is classified among the most deprived areas.

¹⁹ European Anti-Fraud Office (OLAF) issued a report in 2007 on the basis of the results of the investigation carried out in 2003. This report bears heavy accusations, citing the names of some Algerian officials and the Polisario leadership, involved in the misappropriation of the European Union humanitarian aid for the Tindouf camps:

<https://saharanews24.files.wordpress.com/2015/02/jk45as912ws-150203082157-conversion-gate01.pdf>

²⁰ Video documenting a group of women expressing their anger about the illegal sale of tents provided as humanitarian aid:

https://www.youtube.com/watch?time_continue=13&v=q3zIKGOUgmE

²¹ Video documenting the sale of goods, provided by the European Union as humanitarian aid to the camps of Tindouf, on the Mauritanian markets:

<https://youtu.be/NAPRetuINYE>

²² Polisario forces intervened against demonstrators demanding drinking water in Rabouni camp:

<https://www.facebook.com/SAHARAU100/videos/pcb.2279287402131458/2279287332131465/?type=3&theater>

14. Deliver humanitarian assistance to the population of the Tindouf camps and combat all forms of misappropriation and diversion, while improving basic services.

Conditions of Asylum:

Accepted recommendations:

129.222 Adopt national legislation to implement the 1967 Convention relating to the Status of Refugees and its Protocol in order to establish a functioning system for the processing of refugee applications in accordance with international law and the protection of refugees identified and recognized as such by the Office of the United Nations High Commissioner for Refugees (Sweden);

129.226 Grant and recognize refugee status to all persons under the mandate of the United Nations High Commissioner for Refugees, in particular by granting them the necessary national documents for that purpose (Portugal).

The classification of the Tindouf camps as refugee camps comes with a lot of complexities, especially in terms of the distinction between the population, leadership and members of the Polisario Front. Although these camps are the longest-standing in the world, they have never been subjected to census despite UNHCR's repeated requests²³ to the host country, Security Council Resolutions²⁴ on the matter, and the European Union's recent request²⁵.

Despite the fact that the host country promotes the Saharawi refugees' international discourse, the State of Algeria refuses to recognize the population in the Tindouf camps as refugees, as well as to exercise the resulting rights in fulfillment of their obligations under the Convention and the Protocol relating to the Status of Refugees.

Denial of refugee status for those who have been living in the camps for more than 40 years directly hinders them from enjoying their civil, political, economic, social, cultural and environmental rights.

Recommendations:

15. Recognize the population of the Tindouf camps as refugees;

²³ UNHCR has repeatedly requested the host country - Algeria, in 1977-2001-2005 - to hold census of the Tindouf camps.

²⁴ The Security Council reiterated to Algeria, as the host country of the Tindouf camps, in the reports 1920, 2218, 2285, of the years 2010, 2015 and 2016, respectively, the importance of the census of the Tindouf camps. Efforts were made in this direction through resolutions 2351, 2414 and 2486 of the years 2017, 2018 and 2019, respectively.

²⁵ The European Union expressed, before the Fourth Committee of the United Nations General Assembly in 2017, its support for UNHCR's census of the Tindouf camps on Algerian soil.

16. Enforce the rights arising from the recognition of refugee status in the camps by the State of Algeria in fulfillment of its obligations arising from its ratification of the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees;

17. The State of Algeria shall ensure that the population of the Tindouf camps, by virtue of the fact that they are on its territory, are subject to its jurisdiction and ensure their enjoyment of all civil, political, economic, social, cultural and environmental rights, including the right to development.