



Contribution to the preparation of a report on
“Freedom of opinion and expression and sustainable
development”

February 2023

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The **Sahrawi National Commission for Human Rights** (CONASADH) is an independent institution with a legal personality. The Commission, whose mandate is four years, was established in conformity with presidential decree number 05/2014, dated 8 March 2014, and is composed of 33 members including activists and members of civil society in the occupied territory of Western Sahara, in the refugee camps, in the liberated territory, representatives of the Sahrawi parliament and the Consultative Council, representatives of the wilayas and representatives of the diaspora.

On 9 April 2016, CONASADH obtained the status of observer member of the African Commission on Human and Peoples' Rights, in accordance with resolution No. 31 98 (XXIV).



The **American Association of Jurists** was founded in 1975, having national branches in a number of American countries. AAJ enjoys consultative status with the Economic and Social Council of the United Nations since 1989.

Its main goals and area of action are the struggle for peoples' self-determination, full economic independence, and the sovereignty of the state over its natural wealth and resources, the action against imperialism, colonialism, fascism, neo-colonialism, racial discrimination, discrimination against women, aborigines and national minorities, the defence of effective peace based on the principle of peaceful coexistence between states of different social and economic systems, the defence and promotion of human rights and the realisation of better and more effective guarantees of protection. AAJ promotes the establishment of fraternal relations and common actions among jurists from all over the world, and their organisations, committed to similar objectives to those enunciated here.



Equipe Media is an organization composed by journalists, photographs and film-makers, who are committed to document the systematic violations of International Humanitarian Law and human rights in the Non-Self-Governing Territory of Western Sahara occupied by the Kingdom Morocco.

Many members of Equipe Media have already been beaten, arrested, tortured and sentenced to prison terms by the occupying Moroccan authorities; 3 of them are currently imprisoned. Some have lost their employments because of their activism.



The **Mouvement contre le racisme et pour l'amitié entre les peuples** was born in the underground and in resistance to Nazism and fascism, MRAP was created in 1949, on the initiative of former resistance fighters and deportees. It was then called Movement against Racism, Anti-Semitism and for Peace.

It became the Mouvement contre le racisme et pour l'amitié entre les peuples in the early seventies and it has never ceased to fight all forms of racism, to act for friendship among peoples and for equal rights for all human beings.

MRAP enjoys consultative status with the UN Economic and Social Council since 1974.

MRAP is a national association of popular education, member of the French National Consultative Commission on Human Rights.

Introduction

The undersigning organisations intend to focus in particular on the situation prevailing in the occupied Non-Self-Governing Territory (NSGT) of Western Sahara.

On 11 December 1963, in adopting resolution 1956 (XVIII), the UN General Assembly (UNGA) included Western Sahara in the list of Non-Self-Governing Territories, pending decolonisation, to which the UN General Assembly resolution 1514 (XV) on the “Declaration on the Granting of Independence to Colonial Countries and Peoples” applies.

On 20 December 1966, in adopting resolution 2229 (XXI), the UN General Assembly invited the administering Power (Spain) to determine at the earliest possible date, in conformity with the aspiration of the indigenous people of Western Sahara, the procedures of the holding of a referendum under United Nations auspices with a view to enabling the indigenous population of the Territory to exercise freely its right to self-determination.

On 26 February 1976, Spain informed the UN Secretary-General that as of that date it had terminated its presence in Western Sahara and relinquished its responsibilities over the Territory, without fulfilling its mandate as administering Power.

Since then, Western Sahara became the only NSGT that has not an acting internationally recognized administering Power.

Meanwhile, the Kingdom of Morocco invaded Western Sahara at the end of October 1975, and engaged in a war with the Polisario Front, which was already fighting for independence, against the Spanish colonial Power.

Since then, Western Sahara became the only NSGT that is under illegal military occupation¹.

Over the last ten years, hundreds of lawyers, human rights defenders, journalists, academicians and politicians have been denied access to or deported from the Non-Self-Governing Territory of Western Sahara.

Nowadays, the Office of the High-Commissioner for Human Rights and the UN Secretary-General Personal Envoy for Western Sahara (Mr. de Mistura) do not have free access neither to the victims living in the occupied Western Sahara nor to the political prisoners (human rights defenders, journalists) detained on the soil of the Kingdom of Morocco.

Although the Kingdom of Morocco is member of the core group promoting the safety of journalists in the Human Rights Council, its policy towards journalists has led to a generalized feeling of fear that leads everyone to exercise a form of self-censorship. Several well-known Moroccan journalists are imprisoned; some have preferred to go into exile² to avoid imprisonment and to be able to express their opinions freely from abroad.

¹ UN Security Council resolution 380 (6 Nov. 1975) and UN General Assembly resolution 34/37 (21 Nov. 1979)

² See Annex 1

In this context, the submitting organisations call the attention of the Special Rapporteur on the **resolution adopted by the European Parliament (EP) on 19 January 2023, following the corruption scandal that is shaking the European Union institution**, with several euoperliamentarian being investigated (including former Vice-president of the European parliament Ms. Eva Kaili).

Resolution P9_TA(2023)0014 entitled “Situation of journalists in Morocco, notably the case of Omar Radi” stresses that *«press freedom in Morocco has been continuously deteriorating»* and notes that *«in 2020 Reporters Without Borders raised concerns with the UN Special Rapporteur on violence against women and girls regarding the misuse of sexual assault charges to discredit journalists»*.

The EP *«strongly condemns the misuse of allegations of sexual assault to deter journalists from performing their duties; believes that this misuse endangers women’s rights»* and *«urges the Moroccan authorities to end their surveillance of journalists, including via NSO’s Pegasus spyware, and to enact and implement legislation to protect them»*.

In adopting resolution 41/128, the UNGA declared that **the human right to development implies the full realization of the right of peoples to self-determination**, which includes the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.

The UNGA also declared that States shall take resolute steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations such as colonialism, foreign domination and occupation, aggression and threats against territorial integrity.

The social and economic traditional structures of the Saharawi people have been destroyed by colonialism and occupation and the persistent occupation of the Territory makes it impossible for them to exercise their right to development.

The longstanding illegal military occupation of Western Sahara by the Kingdom of Morocco has led to an increased crisis of poverty of the Saharawi people, both sides of the Berm³ and in the refugee camps.

While Western Sahara’s natural resources could potentially ensure a sustainable development of the Saharawi people, the occupying Power has managed to control the exploitation of the natural resources mainly for the benefit of Moroccan companies, many of them owned by King Mohamed VI family, through the Siger⁴ holding.

Nowadays, **the fourth generation of Saharawis refugees is living in the Algerian desert**, suffering physically and psychologically due to malnutrition and the absence of real perspective for their life. While waiting to be able to return safely to their homeland and to freely exercise their right to self-determination and independence, more than 170’000 Saharawis are deprived of their civil, political, economic, social and cultural rights, including the right to self-determination and the right to development.

³ A 2’700 km. long sand and rocks wall constructed in the 80’s by the Kingdom of Morocco in order to control the richest part of Western Sahara (in particular phosphate and fishery).

⁴ Reversal of the Latin word « regis », meaning the king.

Restrictions to freedom of expression or access to information of Saharawi people that affect achievement of economic, social and cultural rights in the Non-Self-Governing Territory of Western Sahara

The adoption, on 15 August 2016, of a new **Moroccan Penal Code article (275 e/)** has narrowed the space for freedom of expression and increased the repression of media professionals and people who criticise the policies of the king or the government.

Article 275 e/ states that "anyone who insults the Muslim religion, the monarchy or incites against the territorial integrity of the Kingdom shall be punished by six months to two years' imprisonment and a fine of 20,000 to 200,000 dirhams⁵, or one of these two penalties".

As a consequence of the illegal annexation of the part of Western Sahara territory the Kingdom of Morocco occupies and in line with the Moroccan policy, the Moroccan authorities consider that territory as part of the Kingdom. Therefore, any public expression (online and offline) advocating for the implementation of the right to self-determination, in accordance with UN General Assembly resolution 1514 (XV) and all relevant resolutions of different UN bodies, is considered as an attempt to the Kingdom's territorial integrity.

Over the past four years, the Kingdom of Morocco has carried out severe repression against Saharawi citizen journalists. **Arbitrary arrest and detention**⁶, prosecutions on trumped-up charges, physical abuse and confiscation of equipment are common for those who report on events taking place in occupied Western Sahara.

Judicial sentences for Saharawi human rights defenders and journalists, rendered only on the base of confessions extorted under torture are common⁷.

The Working Group on Arbitrary Detention has taken up several complaints by Saharawi human rights defenders and noted that the Moroccan criminal judicial system relies heavily on confessions as the main evidence to support conviction and recommended reviewing criminal convictions that have been based solely on confessions in order to identify cases in which the conviction was based on confessions obtained under torture or ill-treatment, and to take the appropriate remedial measures.

The WGAD constantly finds the deprivation of liberty of the cases submitted to it as arbitrary and requests the Government of Morocco to release the complainants without delay and to take all the measures necessary to remedy the serious material and moral harm they have suffered by providing comprehensive compensation.

Saharawi **human rights organisations cannot freely operate in the occupied Western Sahara**, being victim of harassment and physical threat. A large number of international human rights defenders and journalists have been refused entry to or deported from the occupied Territory of Western Sahara or from Moroccan soil⁸.

In its last report on press freedom in Western Sahara, entitled "**Western Sahara: a desert for journalists**"⁹, Reporters Without Borders sheds light on a territory cut off from the rest of the world, a veritable news black hole that has become a no-go zone for journalists.

⁵ 100 dirhams are equivalent of 9,85 USD

⁶ A/HRC/WGAD/2019/23 and A/HRC/WGAD/2020/68

⁷ See Annex 2

⁸ See LPPS / AFASPA document

⁹ https://rsf.org/sites/default/files/rapport_sahara_-_final_pdf2.pdf

The Moroccan authorities also use modern technologies in order either to cut off human rights defenders and journalists from outside world or to illegally obtain information. Saharawi human rights defenders and journalists, as well as foreign human rights defenders and lawyers supporting Saharawi victims have been (and may be still) targeted by the **NSO's Pegasus spyware**.

Conclusion and Recommendations

With all fundamental rights beings violated, starting with the right to self-determination and the right to development, **none of the SDGs, including SDG 16, can be implemented by the Saharawi people in their homeland.**

Only the **implementation of all relevant UN resolutions** on the right to self-determination of the Saharawi people and the fulfillment by the UN Mission for the Referendum in Western Sahara (MINURSO) of its main mandate – the **organization of a free and democratic referendum of self-determination** – can ensure the realization of the SDGs by the Saharawi people.

The submitting organizations take this opportunity to call upon the Special Rapporteur to continue monitoring the violations of the right to freedom of opinion and expression in the occupied Western Sahara.

ANNEX 1

Non exhaustive list of Moroccan journalists imprisoned and/or exiled

- 1. Ali Lmrabet**, director and founder of the weeklies "Demain" (banned in 2000), "Demain Magazine" and "Doumane" (banned in 2003), sentenced to 4 years in prison in 2003, imprisoned for 8 months and then exiled to Spain.
- 2. Aboubakr Jamaï**, director and founder of the weeklies "Le Journal" (banned in 2000) and "Le Journal Hebdomadaire", "Assahiha", sentenced to millionaire fines in repeated trials, ruined, he closed down his last two weeklies and went into exile in 2007 in the United States and then in France.
- 3. Ahmed Reda Benchemsi**, director and founder of the weeklies "Tel Quel" and "Nichane" (self-dissolution), forced to sell his shares in "Tel Quel" (which continues) after repeated trials, exiled to the United States since 2010.
- 4. Ali Anouzla**, director and founder of the website "Lakome", imprisoned for 1 month in 2013, closed his website from prison and still facing a trial; silenced in Morocco.
- 5. Hicham Mansouri**, imprisoned for 10 months in 2015, then exiled in France since 2016.
- 6. Samad Aït Aïcha**, prosecuted in the case of Professor Maâti Monjib, has since gone into exile in France.
- 7. Hamid Mahdaoui**, director of the website "Badil", convicted in 2017 and imprisoned for 3 years.
- 8. Rabie El Ablak**, sentenced to five years in prison in 2017, detained for two years and then released. He has recently been summoned by the police.
- 9. Taoufik Bouachrine**, director and founder of the daily newspaper "Akhbar Al Yaoum" (which had to close down after the imprisonment of its director and editor-in-chief), sentenced to 15 years in prison in 2018.
- 10. Afaf Bernani**, sentenced to 6 months in prison in 2018, exiled in Tunisia, then in the United States.
- 11. Hajar Raissouni**, sentenced to 1 year in prison in 2019, imprisoned and then exiled in Sudan.
- 12. Soulaïman Raissouni**, editor-in-chief of "Akhbar Al Yaoum", imprisoned since 2020 and sentenced to five years in prison.
- 13. Omar Radi**, imprisoned since 2020, recently sentenced to six years imprisonment.
- 14. Imad Stitou** (Omar Radi's witness, who became a defendant for refusing to change his testimony to accuse him). Sentenced to 1 year in prison, of which 6 months are firm, exiled in Tunisia.

ANNEX 2

CASE LAW OF THE UN HUMAN RIGHTS MECHANISMS

UN Working Group on Arbitrary Detention

- Opinion No. 68/2020, 23-27 November 2020, concerning Walid Salek El Batal
- Opinion No. 52/2020, 24- 28 August 2020, concerning Ali Saadouni
- Opinion No. 67/2019, 18-22 November 2019, concerning the Student Group/Group of El Wali
- Opinion No. 23/2019, 24 April – 3 May 2019, concerning Ndor Laaroussi
- Opinion No. 60/2018, 20-24 August 2018, concerning Mbarek Daoudi
- Opinion No. 31/2018, 17-26 April 2018, concerning Mohamed Al-Bambary
- Opinion No. 11/2017, 19-28 April 2017, concerning Salah Eddine Bassir

Communications of the UN Special Procedures

- Communication AL MAR 4/2021 dated 16 June 2021, concerning Naâma Asfari and Khatri Dadda
- Communication UA MAR 5/2021 dated 10 June 2021, concerning Sultana Khaya, Luara Khaya, Babouzeid Mohamed Said Labbihi, Essalek Baber, Khalid Boufrayoua, Elghalia Djimi, Hassana Abba, Lahcen Dalil, Mina Baali, Laaroussi Lafqir, M'birkatte Abdelkrim, Hmad Hammad and Maâti Monjib
- Communication AL MAR 5/2020 dated 7 January 2021, concerning Naziha El Khalidi, Aminatou haidar, Mahfouda Bamba Lafgir (Lekfir), Yahya Mohame Elhafed Iaazza, Al-Hussein Al-Bashir Ibrahim, Mohamed Radi Elili, Ali Saadouni and Nour Eddin El Aargoubi
- Communication AL MAR 2/2020, dated 7 September 2020, concerning Hussein Bachir Brahim
- Communication AL MAR 3/2020, dated 21 July 2020 concerning Khatri Dadda
- Communication AL MAR 3/2019 dated 8 November 2019 concerning Walid Salek El Batal
- Communication AL MAR 2/2019 dated 4 June 2019 concerning Naziha El Khalidi
- Communication AL MAR 1/2019 dated 3 April 2019 concerning Naziha El Khalidi
- Communication AL MAR 3/2017 dated 20 July 2017 concerning the Gdeim Izik Group
- Communication AL MAR 5/2016 dated 12 December 2016 concerning Amidan Said and Brahim Laajail
- Communication AL MAR 2/2016 dated 6 May 2016 concerning expulsion of defence lawyers
- Communication AL MAR 1/2016 dated 22 March 2016 concerning El Ghalia Djimi
- Communication AL MAR 6/2015 dated 3 August 2015 concerning Fatimetou Bara, Ghalia Djimi and Alouat Sidi Mohamed
- Communication JAL AL MAR 7/2014 dated 13 November 2014 concerning M. Hassanna al-Wali
- Communication UA MAR 5/2014 dated 30 July 2014 concerning Mahmoud El Haissan
- Communication MAR 2/2014 dated 9 April 2014
- Communication JUA 1/2013 dated 24 May 2013
- Communication MAR 1/2012 dated 23 March 2012 concerning ASVDH
- Communication MAR 8/2011 dated 29 November 2011 concerning ASVDH
- Communication MAR 6/2011 dated 4 November 2011
- Communication MAR 1/2011 dated 3 February 2011 concerning the Gdeim Izik camp

UN Committee against Torture

Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 606/2014 – CAT/C/59/D/606/2014 (15/11/2016)

Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 650/2015 – CAT/C/72/D/650/2015 (19/11/2021)

Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 923/2019 – CAT/C/72/D/923/2019 (19/11/2021)

Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 871/2018 – CAT/C/72/D/871/2018 (24/11/2021)