

New York Support Group for the Independence of Western Sahara

Open Letter to the Members of the UN Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

New York / Bir Lehlu, 21st April 2022

« During its visit to the Territory, the Mission did not encounter any groups supporting the territorial claims of neighbouring countries ...the Mission was able, despite the shortness of its stay in the Territory, to visit virtually all the main population centres and to ascertain the views of the overwhelming majority of their inhabitants. From all of these" it became evident to the Mission that there was an overwhelming consensus among Saharans within the Territory in favour of independence and opposing integration with any neighbouring country.»
Report of the UN visiting mission to Spanish Sahara (10/10/1975)

The 308 organization-members of the New York Support Group for the Independence of Western Sahara took note of the last Working paper prepared by the Secretariat on Western Sahara¹.

The fifth paragraph of the document points out that in his last report to the Security Council, the Secretary-General informed it that the situation in Western Sahara had significantly deteriorated and that the resumption of hostilities between Morocco and the Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro (Frente POLISARIO) had considerably changed the operational environment of MINURSO, limiting the Mission's ability to implement its mandate.

In reality, the Kingdom of Morocco's formal opposition to the organisation of a free a fair referendum of self-determination of the Saharawi people² is not just limiting, rather impeding MINURSO to fulfil its core mandate, the organisation of a free and fair referendum of self-determination for the people originating from Western Sahara.

The King's peremptory affirmations like "*The Moroccanness of the Sahara is an immutable and indisputable fact.*" and "*Morocco is not negotiating over its Sahara. The Moroccanness of the Sahara never was - and never will be - on the negotiating table.*" disregard the call of the Security Council to the parties to negotiate without preconditions and in good faith³.

¹ A/AC.109/2022/17

² See King Mohamed VI speech to the Nation on the occasion of the 46th anniversary of the Green March (06/11/2021) at <https://www.diplomatie.ma/en/his-majesty-king-delivers-speech-nation-46th-anniversary-green-march>

³ S/RES/2602 – Operative par. 4

The Working paper also refers to the US presidential proclamation of 10 December 2020 (par. 20) recognizing "Moroccan sovereignty over the entire Western Sahara territory", which violates the Purposes and Principles of the United Nations, as well as General Assembly resolutions 1514 (XV), 1803 (XVII) and 2625 (XXV).

The recent, similar declaration of the Spanish Prime Minister also violates international law and is particularly serious on the part of the *de jure* administering Power, which had been committed to organizing the referendum on self-determination in the 1960s and which, in the only case to date, has violated its historical and legal responsibility, thereby abandoning thousands of Spanish nationals to the armed repression of the occupying Power, the Kingdom of Morocco.

It is worth to remember the position of the Spanish authorities as presented in the report of the 1975 UN visiting mission to Spanish Sahara: *"It was explained to the Mission during its discussions in Madrid that the administering Power fully subscribed to the view that the basis for decolonization of Spanish Sahara should be the free exercise by the indigenous population of its right to self-determination in accordance with the principles contained in the Declaration on the Granting of Independence to Colonial Countries and Peoples, as set out in resolution 1514 (XV)."*

Paragraph 32 of the Working paper published by the Secretariat addresses the issue of the socioeconomic situation in the refugee camps and the shortage of humanitarian aid provided to the 173'000 refugees. The occupying Power's persistent lobbying of the relevant bodies of the United Nations system and the European Union to reduce this aid must be highlighted and condemned.

Furthermore, the longstanding illegal military occupation of the Non-Self-Governing Territory of Western Sahara not only affects the fundamental right to self-determination and independence of the Saharawi people, but all economic, social, cultural, civil and political rights, including their right to development, their sovereignty over natural resources and their right to peace.

In paragraph 38 of the Working paper, it is recalled that the Office of the High-Commissioner for Human Rights (OHCHR) had been unable to conduct any visits to the region for the sixth consecutive year and that lack of access by OHCHR to Western Sahara had continued to result in substantial gaps in human rights monitoring in the Territory.

It is worth emphasizing that since 2015 hundreds of independent human rights defenders, jurists, lawyers, academicians, parliamentarians and journalists have been denied access to the Non-Self-Governing Territory of Western Sahara occupied by the Kingdom of Morocco.

A refusal that was also recently opposed to the new Secretary-General Personal Envoy for Western Sahara, Mr. Steffan de Mistura.

The longstanding illegal military occupation of the Non-Self-Governing Territory of Western Sahara has been the cause, and continues to be the cause, of systematic and serious breaches of International Humanitarian Law that may amount to war crimes and crimes against humanity for which, sooner or later, the responsible have to account.

Paragraph 44 of the Working paper reminds that the Secretary-General remained confident that a solution was possible and that now more than ever, finding a just, lasting and mutually acceptable political solution that would provide for the self-determination of the people of Western Sahara requires strong political will from the parties, as well as from the international community.

The Kingdom of Morocco's political will and that of the Permanent members of the Security Council are instrumental to find a solution in accordance with international law and all provisions related to the Non-Self-Governing Territories.

But in this particular context of a Non-Self-Governing Territory that has not an acting administering Power and which is under illegal military occupation, the UN Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples should also fully assume its responsibilities and act with a strong political will.

The Special Committee has been entrusted by the General Assembly⁴ with the task to make suggestions and recommendations on the progress and extent of the implementation of the Declaration on the Granting Independence to Colonial Countries and Peoples.

The Special Committee cannot limit itself to a role of spectator, listening year after year some dozens petitioners. The 1975 mission dispatched to the Non-Self-Governing Territory of Western Sahara, before the invasion of the Territory by the Kingdom of Morocco, made a substantial contribution in the self-determination process of the Saharawi people, which was disrupted by the Moroccan invasion of the Territory.

The 308 undersigning organization-members of the New York Support Group for the Independence of Western Sahara call upon:

- the Secretariat to provide the members of the Special Committee with all the elements of assessment of the situation in the occupied Non-Self-Governing Territory of Western Sahara, including all relevant human rights and humanitarian considerations, taking in due consideration the fact that the majority of the Territory is under illegal military occupation;
- the Members of the UN Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to fully assume their responsibilities towards the people of Western Sahara and
- to consider dispatching a new visiting mission to Western Sahara, after 46 years of illegal military occupation of the Territory.

⁴ General Assembly resolution 1654 (XVI), 27 November 1961

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* NGOs enjoying UN-ECOSOC status