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HUMAN RIGHTS COUNCIL  
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**HUMAN RIGHTS SITUATIONS THAT REQUIRE  
THE COUNCIL'S ATTENTION**

**Written statement\* submitted by International Educational Development (IED), Inc.,  
a non-governmental organization on the Roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2009]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

### **The situation in Western Sahara<sup>1</sup>**

1. Continuing political difficulties have prevented the un-administrated referendum, agreed upon in 1990 and in which the people of western sahara will vote on their political future, from taking place. Neither current special representative harton nor force commander major general zhao of the united nations mission for the referendum in western sahara (minurso)<sup>2</sup> appear to have made any meaningful progress. Minurso' s mandate was extended by the security council for the period 1 july 2008 – 30 june 2009 at a cost of \$47.7 million.<sup>3</sup> this security council resolution repeats yet again the same call to the parties, the kingdom of morocco and the frente polsario, to continue negotiations to carry out the referendum “which will provide for the self-determination of the people of western sahara.”

2. Regrettably, neither the resolutions nor the reports of the Secretary-General indicate any discussions about the human rights situation of persons under Moroccan control who indicate support for UN program, including the referendum and the right to self-determination of the Sahrawi people. A number of Sahrawi people have been detained for expressions of this nature. There are many credible reports of mistreatment of detainees, as well a sweeping denials or violation of many of the rights guaranteed in Articles 9, 10, 14 and 22 of the International Covenant on Civil and Political Rights.

3. Morocco has justified detentions of this type, citing Article 19 of its Constitution of 1996 which provides that “the King guarantees . . . the territorial integrity of the Kingdom and its true borders.” However, in contravention of *The Western Sahara Case*<sup>4</sup> and UN Security Council resolutions since, Morocco takes the position that what it refers to as its southern provinces are in fact part of Morocco. Morocco claims it will only forward the option of “autonomy within Moroccan sovereignty” in the referendum because it asserts Western Sahara is indeed part of the national Moroccan territory. Those who in its view seek to “sever the national territory” are treated very harshly. Free speech in the form of written word, protests and peaceful demonstrations are restricted and even denied outright. The Sahrawi people suffer continuous harassment. Those arrested are, of course, subjected to arbitrary arrest. This occurred several times in El-Ayoun in 2006 and 2007. Those people arrested have often been the victims of beatings and ruthless physical and mental torture. Suits seeking remedies for severe mistreatment have been dismissed as “groundless.”<sup>5</sup> In criminal trials, there are numerous irregularities. For example, a Sahrawi militant, Moustafa Abdel Dayem, was condemned to three years in prison on the basis of what he defined as false evidence against him. The minutes drafted in the course of his questioning at the Gendarmerie Royal bore his signature, while the document presented at the trial, in which he supposedly confessed crimes he had never committed let alone confessed to, did not bear his own signature. The law court refused to require that the Gendarmerie Royale present the document the defendant actually signed. During the appeal trial he was denied the assistance of his legal counsel -- in fact, members of the defence team declared that they had not even been summoned to the hearing held at the Agadir Court of Appeal. Both the request to

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<sup>1</sup> The Association of Humanitarian Lawyers also shares the views expressed in this statement.

<sup>2</sup> MINURSO was established by the Security Council in its resolution 690 of 29 April 1991.

<sup>3</sup> S/RES/1813 of 30 April 2008.

<sup>4</sup> 1975 Int'l Court of Justice Reports 12.

<sup>5</sup> For example, actions against police sergeant Ichi Abou el Hassan, police officer Mustapha Kamouri and Chief of Police Aziz Annouche of El-Ayoun were dismissed in this fashion.

postpone the second hearing to a later date so as to ensure the presence of his lawyers and to be availed of the possibility of appointing another defence team were denied. From these few examples, It is clear that Morocco is using the “national security” defence to seek to subdue the Saharan people and their full legal rights, perhaps hopeful that if this succeeds the UN will give up on the referendum plan.

4. It should be patently obvious that without substantial international pressure, and the removal of the interests of certain States that both helped create the situation in the first place and have kept the referendum program a stalemate, it will linger on at a cost of millions of dollars and many more victims of human rights abuses. The Council could play a meaningful role in this situation. Most importantly, the Council should seek a human rights component to the work of Special Envoy Harston and MINURSO as a whole. Other United Nations mandate holders could address the situation in a way more conducive to the resolution of the underlying cause of human rights violations – the failure to carry out and enforce the referendum. The Council should also re-examine the issue of self-determination with an aim to give this right a significantly higher profile in its work. As there are now significant changes in the international community, including a change of regime in the United States that under former administrations was a major obstacle to resolving the Western Sahara situation, the referendum can take place and the Sahrawi people afforded their full rights.

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