

NGOs Geneva Support Group for the Protection and Promotion of Human Rights in Western Sahara

PRESS RELEASE

International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims

UN General Assembly resolution 65/196 (21/12/2010)

The Geneva Support Group for the Protection and Promotion of Human Rights in Western Sahara (GSGPPHRWS) pays tribute to the Human Rights Council and the UN General Assembly for the designation of 24 March as "International Day for the Right to the Truth about Gross Violations of Human Rights and for the Dignity of the Victims".

The SRSGDHSO recalls that the Special Rapporteur on the Independence of Judges and Lawyers has recognized the right to the truth, its scope and application (E/CN.4/2006/52), and that the Human Rights Committee and the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1999/62) recognized that victims of gross human rights violations and their families have the right to know the truth about the events that occurred, including the identity of the perpetrators.¹

The GSGPPHRWS also recalls that, according to the International Convention for the Protection of All Persons from Enforced Disappearance, "victim" means the disappeared person and any natural person who has suffered direct harm as a result of an enforced disappearance. The Convention establishes that every victim has the right to know the truth about the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person, and that each State Party shall take appropriate measures in this regard. It further provides that each State Party shall take all appropriate measures to search for, locate and release disappeared persons and, in the case of death, to locate, respect and return their remains.

The GSGPPHRWS also recalls the importance of the work carried out by the two successive Special Rapporteurs on the promotion of truth, justice, reparation and guarantees of non-repetition, Mr. Pablo de Greiff and Mr. Fabian Salvioli.²

The situation in Western Sahara

The invasion and war of occupation (1975 - 1990) of the Non-Self-Governing Territory of Western Sahara by the Kingdom of Morocco, condemned by both the Security Council³ and the UN General Assembly⁴, as well as the continuing illegal military occupation, have caused and continue to cause serious systematic violations of human rights and grave breaches of the norms of International Humanitarian Law.

¹ Human Rights Council resolution 12/12 (1st October 2009)

² <https://www.ohchr.org/EN/Issues/TruthJusticeReparation/Pages/Index.aspx>

³ Resolution 380 (6 November 1975)

⁴ Resolutions 34/37 (21 November 1979) et 35/19 (11 November 1980)

From the end of 1975 until 1977, the Moroccan army conducted a campaign of looting, arrests and expulsion of nomads who were in the desert. With these cases of looting, it is also necessary to add the cultural impact to the economic impact, because the strategy of seeking out the population and settling down, as well as the construction of a 2,700 km. wall riddled with millions of anti-personnel mines, has largely affected the socio-economic structure of the Saharawi people for decades.

These practices can constitute war crimes, crimes against humanity and cultural genocide as defined by international law.

By widely practicing coercion, corporal punishment, torture, degrading and inhuman treatment on members of the Polisario Front prior to the 1990 ceasefire agreement and on the Saharan civilian population to the present day, the Kingdom of Morocco has seriously violated and continues to violate articles 31 and 32 of the Fourth Geneva Convention.

By deporting the original people of Western Sahara during the military campaign of invasion of Western Sahara and by continuously promoting on a large scale the transfer of Moroccan citizens to the Occupied Territory of Western Sahara, the Kingdom of Morocco has also been in constant violation, since 1975, of article 49 of the Fourth Geneva Convention.

Since 31 October 1975, the enforced disappearance of Saharan soldiers and civilians has been widely practised by Moroccan troops. The lowest estimates are around 1000 cases, 80% of which occurred between 1975 and 1977. While the Association of Families of Saharawi Prisoners and Disappeared (AFAPREDESA) has registered more than 4500 cases, today, more than 400 cases are still unresolved, of which 351 have been identified by the Moroccan National Human Rights Institution in 2010.

Enforced disappearance is an offence that continues to be committed until the fate and whereabouts of the victim are clarified and reliable information is provided on the fate of disappeared persons and their families. Refusing to provide information to the families on the fate of missing persons is a violation of their psychological integrity, a form of psychological torture, as it deprives the relatives of the possibility of dealing with their grieving.⁵

At the end of the 1980s, the discovery of clandestine detention centres such as the PCCMI Laayoune, Galaat Magouna and Tazmamert led to the launch of a campaign to reveal the whereabouts of missing persons. On 22 June 1991, 322 missing Sahrawis were released thanks to international pressure.

Enforced disappearance has survived until today in Western Sahara, even if on a smaller scale and for shorter periods of time. Enforced disappearance is a multiple violation of several human rights and constitutes a form of torture.

In recent years, several mass graves have been discovered in Western Sahara, containing victims identified by Spanish experts.⁶

The responsibility of the Kingdom of Morocco

The Kingdom of Morocco ratified the four Geneva Conventions on the Protection of Victims of Armed Conflicts (1949) on 26 July 1956 and the First Additional Protocol on 3 June 2011: as such, the Kingdom of Morocco is bound to respect and apply the four Conventions and the Additional Protocol.

In November 2016, in adopting its Concluding Observations on the sixth periodic report of the Kingdom of Morocco, the Human Rights Committee recommended that the State party should continue and accelerate its efforts to elucidate all cases of enforced disappearance, including those related to Western Sahara, and that it should proceed without delay with investigations with a view to identifying, trying and punishing those responsible for enforced disappearances.

⁵ PhD. C. M. Beristain and PhD. E. G. Hidalgo – The Oasis of Memory: Historical memory and human rights violations in the Western Sahara – Edited by Universidad del País Vasco and Instituto de Estudios sobre Desarrollo y Cooperación Internacional (2012); p. 47–www.hegoa.ehu.es

⁶ [http://publicaciones.hegoa.ehu.es/assets/pdfs/235/Meheris_SUMMARY_\(Ingles_Frances_arabe\).pdf?1488539792](http://publicaciones.hegoa.ehu.es/assets/pdfs/235/Meheris_SUMMARY_(Ingles_Frances_arabe).pdf?1488539792)

It should be stressed here that under no circumstances can the work of the Moroccan Equity and Reconciliation Commission or the financial compensation granted to a number of Saharan families be interpreted as a mechanism for transitional justice in Western Sahara, because on the one hand, the original people of the Non-Self-Governing Territory have not yet exercised their right to self-determination in accordance with UN General Assembly resolution 1514 (XV)⁷ and, on the other hand, the Territory is still under the illegal military occupation of the Kingdom of Morocco.

It should also be stressed that any activity of the Moroccan National Human Rights Institution in the Non-Self-Governing Territory of Western Sahara must be considered illegal since the mandate of each National Institution is limited to its national territory.

The Kingdom of Morocco acceded to the International Convention for the Protection of All Persons from Enforced Disappearance in 2013, but has not yet submitted its first report to the Committee on Enforced Disappearances.

Solemn appeal

On the occasion of the International Day for the Right to the Truth about Gross Violations of Human Rights and for the Dignity of the Victims, **the Geneva Support Group for the Protection and Promotion of Human Rights in Western Sahara** honours the peaceful struggle of the Saharawi People and their legal representative (Polisario Front), for the implementation of their inalienable right to self-determination and independence and calls upon:

- **the Secretary-General of the United Nations** to appoint without delay a new Personal Envoy in order to complete the negotiation process reactivated by former President Horst Köhler so that the People of Western Sahara can freely exercise their inalienable right to self-determination and independence;
- **the United Nations Security Council** to make every effort to ensure that the United Nations Mission for the Referendum in Western Sahara established in 1991⁸ completes its mission as soon as possible, which was to be carried out no later than nine months after the establishment of the Mission;
- **the United Nations Human Rights Council** to establish the mandate of Special Rapporteur on the situation of human rights in the Occupied Territory of Western Sahara;
- **the relevant Special Procedures of the UN Human Rights Council**, in the framework of their respective mandate, **and the Treaty Bodies** to pay particular attention to the gross violations of human rights and international humanitarian law in Western Sahara, the dignity of the victims and their right to the truth;
- **the Office of the High Commissioner for Human Rights** to set up a technical cooperation and capacity building programme with the legal representative of the People of Western Sahara, the Polisario Front;
- **the Kingdom of Morocco** to submit without delay the first report to the Committee on Enforced Disappearances and to continue negotiations with the Polisario Front in good faith and without preconditions so that the People of Western Sahara can freely exercise their inalienable right to self-determination and independence, in accordance with resolution 1514 (XV) and in compliance with the Principles of the Charter of the United Nations.

Bir Lehlu / Geneva, 24 March 2020

On behalf of the GSGPPHRWS, the coordinators :

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⁷ Declaration on the Granting of Independence to Colonial Countries and Peoples

⁸ Resolution 690

SIGNATORIES (210 NGOs)

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NGOs enjoying UN - ECOSOC Status