

New York Support Group for the Independence of Western Sahara

September 1991

Deployment of the MINURSO and effective cease-fire in Western Sahara

**Open Letter to the Members of the UN Security Council and
To the UN Secretary-general**

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On the occasion of the 30th anniversary of the deployment of the first MINURSO's contingent in Western Sahara, the New York Support Group for the Independence of Western Sahara (298 member-organisations) recalls that the terms of the Settlement Plan¹ submitted jointly by the UN Secretary-General and the Chairman of the OAU Assembly of Heads of State and Government, approved by the Security Council², provided that *"the people of Western Sahara will choose, freely and democratically, between independence and integration with Morocco"* and that *"The referendum should be held 24 weeks after the cease-fire comes into effect"*.

As the ceasefire came into force on 6 September 1991, the referendum on self-determination of the Saharawi people should have been held between late February and early March 1992.

The Settlement Plan further envisaged that *"Morocco will undertake an appropriate, substantial and phased reduction of its troops in the Territory"*. Indeed, the Settlement Plan specified that *"To permit the holding of a referendum without military constraints, Morocco agreed to make an appropriate, substantial and phased reduction of its troops in the Territory."*

What are the causes of the current failure of MINURSO and the UN?

1/ The will of the Kingdom of Morocco to annex Western Sahara

The invasion of the Non-Self-Governing Territory of Western Sahara took place the day after the publication of the Advisory Opinion of the International Court of Justice³ which established that there was no link of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco.

¹ S/21360

² Resolution 658 (27/06/1990)

³ Western Sahara, Advisory Opinion, I.C.J. Reports 1975, p.12

The invasion was motivated, on the one hand, by the will of one of the most important political forces in the Kingdom, the Istiqlal Party, created in 1944 with the objective of obtaining Moroccan independence, which carried the ideal of reconstituting a Moroccan territorial integrity that never existed and, on the other hand, by the will of King Hassan II to divert the attention of the army, which had repeatedly attempted to overthrow the Cherifian throne, to the outside world.

Since the entry into force of the ceasefire in Western Sahara, the Kingdom of Morocco has done everything possible to prevent the organisation of the referendum on self-determination of the Saharawi people. All the statements of King Mohamed VI in recent years demonstrate unambiguously that he will never negotiate "without preconditions and in good faith" to achieve a just, lasting and mutually acceptable political solution that will provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the purposes and principles of the United Nations Charter.

2/ The position of the US and France

The two permanent members of the Security Council have strongly supported the invasion of Western Sahara by the Kingdom of Morocco, both militarily and financially.

Even today, the two powers provide the Kingdom of Morocco with almost all of its armaments, which are used against the Saharawi people to maintain an illegal occupation, and they make every effort to convince the other members of the Security Council to endorse resolutions whose substance is increasingly distant from the spirit of resolutions 658 (27/06/1990) and 690 (29/04/1991).

France (former colonial power of Morocco), together with Spain (administering Power *de jure* of Western Sahara), is exerting all its influence within the European Union to impose EU agreements with the Kingdom of Morocco that include the Non-Self-Governing Territory of Western Sahara, although the European Court of Justice has clearly established that the Kingdom of Morocco does not exercise sovereignty over the territory of Western Sahara or its territorial waters.

3/ The attitude of the United Nations

Over the years, the Secretaries-General who have succeeded one another at the head of the organisation, instead of being the guarantors of the UN Charter and reminding all the actors involved of the principles of the Charter and the norms of international law that apply to the Non-Self-Governing Territories, have participated in a semantic drift that is supposed to guarantee an illegal occupation.

The orders coming from above, the staff of MINURSO are at the mercy of the goodwill of the occupying power, the Kingdom of Morocco, which did not hesitate to expel the staff of the Mission when the only UN Secretary General who abided to the international law applicable to the case of Western Sahara dared to speak of occupation of this Territory by the Kingdom of Morocco.

What are the consequences of the current failures of MINURSO and the UN?

1/ Systematic violations of international humanitarian law

The persistent illegal occupation of the Non-Self-Governing Territory of Western Sahara by the Kingdom of Morocco leads to the perpetuation of crimes related to enforced disappearances: hundreds of cases remain unsolved, while mass graves have been discovered in recent years.

The continuous transfer of Moroccan settlers to the Non-Self-Governing Territory of Western Sahara violates article 49 of the Fourth Geneva Convention (1949), the intimidation, reprisals and collective punishment of the population, including in times of pandemic Covid-19, violates article 33 of the same Convention, the use of corporal punishment, degrading treatment and the use of torture violate article 32 of the same Convention.

The trial and detention of Sahrawi political prisoners on the territory of the Kingdom of Morocco, as recognised by international law, constitute a violation of article 76 of the same Convention.

2/ Systematic violations of human rights

The persistent illegal occupation of the Non-Self-Governing Territory of Western Sahara by the Kingdom of Morocco results in the perpetuation of the violation of the inalienable right of the Saharawi people to self-determination, in accordance with UN General Assembly resolution 1514 (XV).

It also entails the violation of the permanent sovereignty of the Sahrawi people over their natural resources.

It also entails the systematic violation of all economic, social and cultural rights, including the right to development, of the 173,000 Sahrawi refugees who are in the Algerian desert waiting to return to their homeland to exercise their right to self-determination safely.

The persistent illegal occupation of the Non-Self-Governing Territory of Western Sahara by the Kingdom of Morocco also results in the systematic violation of the rights to opinion and free expression, to demonstrate and to associate, which too often translates into arbitrary detentions. Victims of discrimination, the Saharawi people suffer systematic violations of their right to education, health, work, etc.

3/ The plundering of natural resources

The persistent illegal occupation of the Non-Self-Governing Territory of Western Sahara by the Kingdom of Morocco allows Moroccan (often directly or indirectly owned by the Moroccan royal family) and foreign companies to make huge profits from the Territory's natural land and fishery resources.

How to avoid the current failure of MINURSO and the UN

There is no justification for the members of the Security Council or the UN Secretariat to deviate from the principles of the Charter and the relevant resolutions adopted by the General Assembly regarding the Non-Self-Governing Territories in the case of Western Sahara.

There is no justification for the members of the Security Council or the UN Secretariat to continue to support in its colonial adventure in Western Sahara the world's largest producer of smuggled cannabis, one of the countries that has supplied the largest number of fighters to Daesh, a country that does not hesitate to use the desperation of its own population as a weapon of migratory pressure towards its neighbours.

The 298 member organisations of the New York Support Group for the Independence of Western Sahara invite the members of the Security Council to oppose, or at least to abstain from, the adoption of any resolution that would deviate from the spirit of resolutions 658 (27/06/1990) and 690 (29/04/1991) and that would not explicitly provide for the free exercise of the right to self-determination and independence of the Sahrawi people.

The 298 member organisations of the New York Support Group for the Independence of Western Sahara call on the UN Secretary General to assume personal responsibility for bringing the two parties to the conflict to the table in order to find a way to put an end to the illegal occupation of the Non-Self-Governing Territory of Western Sahara and thus allow the United Nations to demonstrate its full usefulness in resolving conflicts and keeping the peace.

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* NGOs enjoying UN-ECOSOC status