



تجمع المدافعين الصحراويين عن حقوق الإنسان
COLLECTIF DES DEFENSEURS SAHRAOUI DES DROITS HUMAINS
COLECTIVO DE DEFENSORES SAHRAUIS DE LOS DERECHOS HUMANOS
THE COLLECTIVE OF SAHARAWI HUMAN RIGHTS DEFENDERS

The Collective of Saharawi Human Rights Defenders

The founding congress

Al-Aaiun / Occupied Western Sahara

Guideline

For the Collective of Saharawi human rights defenders founding conference

**Congress in honour of the two martyrs of political detention in Moroccan prisons, "Hasanna Taleb Buya
Al-Wali and Ibrahim Mohamed Saika"**

*Which is held under the slogan "For a mass, militant, united, renewed and continuous" Saharawi
human right movement*

Dated: 25th September 2020, in Al-Aaiun / Occupied Western Sahara

Introduction:

The aim of this paper is to provide a clear answer on the course that should frame the work of the Collective of Saharawi Human Rights Defenders, CODESA, after it had been operating in a temporary executive office for about 12 years due to the confiscation of its right to organize and assemble on 07th October 2007 by the Moroccan occupying power when the CODESA was prevented from holding its founding conference in the occupied city of Al-Aaiun, moreover that this paper aims at setting up a road map for this independent human rights organization for future functioning considering:

- ✓ The discussions and expanded contacts that were initiated for more than two and a half years ago by a group of members of the temporary executive office of the Collective of Saharawi Human Rights Defenders (CODESA), with different Saharawi activists who are members of the CODESA and from outside it, as a reflection of their collective conviction and the urgent need to move to a new stage of Human rights work under different conditions and contexts, thus inaugurating an open and realistic dynamic that tries to accommodate all actors who share the views on developing the committed and founded Saharawi human rights activism, and raising it to the level of challenges and the stakes raised through the hoped-for serious and professional actions.
- ✓ The new and fundamental developments that are witnessed through the general situation, especially in the field of monitoring and reporting on the human rights situation in the occupied part of Western Sahara, in all the Saharawi areas and within the Moroccan territories, where Saharawi civilians are located, and who are victims of grave human rights violations related to the context of the political and military occupation that is occurring in the Western Sahara.
- ✓ Many legal experts, jurists, Saharawi actors, and others international activists, have solid conviction for the necessity for the effective implementation of the international humanitarian law and its applications in dealing with the situation in Western Sahara, given



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the fact of its clear legal status, and the obligations and responsibilities towards the Saharawi people as outcomes of the implications of this legal status.

References:

- United Nations Security Council Resolution No. 380 of November 06, 1976, General Assembly Resolution No. 37/34 of November 21, 1979, General Assembly Resolution 19/35 of November 11, 1980.
- The Council of Ministers of the Organisation of the African Union Resolution CM/Res. (XXVII) (1976).
- The AU Commission, 1st Progress Report of the Chairperson of the Commission on the situation in Western Sahara, EX.CL/788(XXIII)-Rev.1, 19 – 23 May 2013 and Report of the Chairperson of the Commission on the evolution of the Peace Process in Western Sahara and other related issues, PSC/PR/2. (CDXCVI), 27 March 2015.
- The resolution of the Assembly of Heads of State and Government of the African Union, Assembly/AU/Decl.7(XXIV) of 30 - 31 January 2015, Assembly/AU/Dec.598(XXVI) of 30 - 31 January 2016, Assembly/AU/Dec.629(XXVIII) of (30 - 31 January 2017

[First: The legal status of Western Sahara and the necessity to implement effectively the international humanitarian law:](#)

[1/ The International Humanitarian Law:](#)

The international law may be one of the most intricate and complex man-made laws and most affected by development on one hand, and by political circumstances and positions on the other hand.

When delving into the international law in general, it is necessary to start from what is general towards specifications and not the opposite, because the general and basic rules of the international law remain valid and are applicable in all circumstances.

With regard to the situation in Western Sahara, firstly, we must start from defining the nature of the Moroccan presence in Western Sahara, where we can go through the details and the reflections of this presence from the legal angle.

In principle, there are three characteristics by which the international law defines generally the presence of states in territories, and those are:

1. **Sovereignty**: When the international community recognizes the sovereignty of a country over a specific territory, and that territory becomes an integral part of its national territory, and subjects to its laws and its administration in an absolute manner. This recognition also grants full rights and imposes all duties of the state.





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However, The right to self-determination of the people and the separate and distinct status of Western Sahara that derives from it precludes Morocco from establishing sovereignty over Western Sahara. Sovereignty over Western Sahara belongs to the Sahrawi people.

2. Administering power: It is an adjective in which states are administrators of territories outside the borders of their national territory that appeared during a certain period in history, in which the occupation bore a "decoration" characteristics such as colonialism, mandate or protectorate, which ended with the end of the era of these types of occupation and the emergence of peoples' right to Self-determination as one of the principles of the international law for decolonization. In some territories, there is a continuation of administration with the consent of the peoples of those territories (the French presence in New Caledonia and the British presence in Gibraltar ...etc). Administering power is the modern way to designate colonial power.

Here we must mention that the international law prohibits the transfer of this quality – administering power - to one or more parties without the consent of the peoples of the territories occupied or subjected to foreign administration.

This is why Spain, as the colonial and administering power of Western Sahara, has not and could not transfer lawfully its administration to Morocco or Mauritania, and remain according to international law as the administering power in Western Sahara. In fact, Spain still control the airspace of Western Sahara and benefit from the duties paid by airlines crossing the airspace of Western Sahara.

As Spain could not transfer its status to any other State, Morocco could not become the administering power of Western Sahara.

3. Occupying power: This is when a specific country controls territories outside its official and internationally recognized borders and has no sovereignty and no legal title to administer these territories as an administering power. In the case of occupation, the international law, through the international humanitarian law and the law of occupation (the law of the Hague of 1907) and the Geneva Conventions imposes on the occupying countries to form a local authority (military or under military supervision in most cases), outside of the structure of their own national government, to manage the territories they occupy, and here it is possible to refer to the case of the American and British occupation in Iraq, where the two countries intended to establish a transitional government under the supervision of the American and British armies to not to contradict the requirements of the international law (law of occupation) to justify and legalize the invasion and the military presence in Iraq.

Concerning the need to recognize the occupation status by the occupying power, the lack of such recognition in and of itself is a flagrant violation of the requirements of the international humanitarian law, which obliges the occupying powers to this recognition.

Also, these same principles apply to the cases of Russian presence in Crimea, and Turkey in a part of Cyprus, but the difference with the case of Western Sahara is that the occupied countries, in the previous



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examples, sought to rely on the principle of self-determination in these territories, while Morocco insists on forced annexation of Western Sahara, despite its acceptance, along with the POLISARIO Front, in 1991, with the United Nations-African settlement plan, according to which the United Nations mission for the Organization of the Referendum in Western Sahara (MINURSO) is present by UN Security Council's Resolution No.690.

The International law considers Western Sahara a separate and distinct territory from the territory of any other country, including the Kingdom of Morocco (European Court of Justice ruling in Case No. C-104/16 P), and since the beginning of the twentieth century, the borders of Western Sahara has been recognized internationally, which are the borders That were agreed upon in the Lisbon Agreement between Morocco and the POLISARIO Front in 1997.

And since the illegal Madrid Agreement cannot pass the powers of administration to Morocco, and that Morocco cannot obtain this capacity by simply occupying a non-self-governing territory, the Moroccan presence in Western Sahara is a military occupation and will remain as such, and it is basically framed by the occupation law from the International Humanitarian Law.

The International law classifies Western Sahara as a territory under decolonization process that is yet to be completed, and the same law denies the sovereignty of Morocco over Western Sahara, as Morocco and Western Sahara are considered to be two separate and distinct territories in all judicial decisions and legal advice since the advisory opinion of the International Court of Justice, which has stated that there are no ties between the two territories historically, politically and legally, and this is confirmed by:

- United Nations General Assembly in the two resolutions
 - 34/37 issued on November 21, 1979.
 - 19/35 of November 11, 1980.
- The High Commissioner for Human Rights (formerly the Human Rights Council): Recommendation 4 of Resolution XXXVI (1980) and Recommendation 12 of Resolution XXXVII:(1981)
- Decision of the European Court of Justice in December 2016 that referred to The General Assembly Resolution 34/37 in Paragraph 35 of the case numbered C-104/16 P.
- The opinion of the Prosecutor of the European Court of Justice in 2018 in paragraphs extending from 234 to paragraph 250 of his opinion in Case No. C-266/16.
- The British court in a case brought by the association "Campaign for The Western Sahara" in paragraphs 18, 39 and 43 of the decision issued on October 19, 2015.
- The decision of the Spanish court in the genocide case brought by the Association of the Guardians of the Saharawi Detainees and Missing AFAPREDESA (Juzgados Centrales de Instrucción, Audiencia Nacional, Madrid, 9 April 2015, p. 2 and p. 5 to 8).
- Resolutions and recommendations of continental and international parliaments, the most recent of which was the decision of the scientific research services of the German parliament Bundestag in March 2019.



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2/ Occupation law as part of The international humanitarian law:

The law of occupation is an essential part of the international humanitarian law and is regulating the duties and rights of the occupying powers in their relationship with the territories and the people they occupy. The requirements of this law can be referred to through:

- The Hague Regulations issued in 1907 relating to the rules and regulations of war on the ground, specifically Article 42 and subsequent articles (texts can be found through this link: <https://ihl-databases.icrc.org/ihl/INTRO/195>)
- The Fourth Geneva Convention of 1949 related to the Protection of Civilians in the Time of War <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=AE2D398352C5B028C12563CD002D6B5C&action=openDocument>

Therefore, the concept of the law of occupation can be used to express the international humanitarian law in the case of occupation, which is the actual reality in Western Sahara, and this law remains effective as long as the occupation continues regardless of the state of peace or the state of war in the occupied territory (*Article 2 of the Fourth Convention of Geneva, which stipulates the application of the occupation law and the international humanitarian law even if the occupation is not being faced by any form of armed resistance*), considering that the reality of occupation remains an imposed and temporary reality and cannot alter the legal status of the occupied territory, and the United Nations has not, and cannot grant the Moroccan occupation the legal status of administering the territory of Western Sahara.

The occupation in Western Sahara remains a fact and actual control of the part of the territory, in which the occupying power enjoys only the limited military rights, which are inferred from the international humanitarian law, which defines this presence as occupation and the occupying state as an occupying power.

In addition, the reality of the occupation and the actual military control imposed have multiple legal consequences and obligations:

- The occupying power must establish a local administrative system in the occupied territory, in order to exercise effective power. Rather, the continued denial of the occupying power to its occupation of a territory outside its internationally recognized borders, and its refusal to establish a local administrative system or its annexation of the occupied territory deprives it of the privileges guaranteed by the international humanitarian law. While the same law imposes on it all the obligations of the status of an occupying power. In short, the occupying power must act on the basis that it is so, and acting otherwise renders all its actions illegal, null and void.
- The occupying power cannot obtain sovereignty over the occupied territory, and based on the same principle, it cannot become an administering power for the occupied territory by merely occupying a non-self-governing territory (Article 42 of the law of the Hague 1907).





In addition, there is no need for an official recognition of the occupation by the United Nations or the Security Council to consider the presence of foreign forces in a territory as an occupation. For example, the European Union considers South Ossetia and Georgian Abkhazia to be occupied areas, despite the absence of any United Nations resolution denouncing the Russian occupation of Georgia or describing The Russian presence in these areas as occupation.

Therefore, the recognition and the commitment of the occupying power to the requirements of the international humanitarian law is meaningless, because its presence remains an occupation as long as it controls territories that is not within its internationally recognized borders.

Based on all of that, we can draw the following points as basic conclusions about the legal status in Western Sahara:

- The international humanitarian law and the law of occupation remains applicable as long as the occupation continues.
- The military occupation cannot change the legal status of the territory.
- The occupying power enjoys only limited rights of effective control as listed in the international humanitarian law if it accepts to act in its capacity as occupying power.
- The occupying power must establish a local governing system for the occupied territory, and it cannot change or cancel the existing regulations and laws in the occupied territory.
- The occupying power cannot obtain sovereignty over the occupied territory, and for the same reasons, it cannot become an administering power for the territory only because it occupies a non-self-governing territory.
- The military occupation is a reality and its recognition does not require official recognition from the United Nations or even recognition from the occupying power itself.
- The law of occupation remains in effect in the occupied territories, whether these occupied territories belong to an existing and recognized state, or territories owned by a non-self-governing people with the right to self-determination.

Second - The premise:

This paper / visualization is based on what was collected and summarized from previous discussions of a group of members of the Interim Executive Office, members of the Collective of Saharawi Human Rights Defenders (CODESA), and other Saharawi activists, about the necessity for the renewal of the structures of this organization and the opening to new and full of energy militants. It will also try to touch the historical contributions of this organization to legally expose the crimes against humanity and gross violations of human rights committed by the Moroccan occupying state, by studying:

- The circumstances and surroundings of the CODESA, with all its components and different levels.





- The internal bodies and evaluation of performance to deduce the weaknesses and strengths of the CODESA.
- Building a strategy to be the roadmap for the CODESA members and highlighting its most important current and future concerns and issues, based on the available opportunities to develop and overcome weaknesses, as well as employing strengths to confront the dangers and constraints surrounding it.

1- Questions that must be asked:

- What do we mean by the Collective of Saharawi human rights defenders, CODESA?
- When and how did the activists of the CODESA work?
- Why has the CODESA been working for a long time in human rights work without holding its founding congress or renewing its structures?
- What is the paradigm shift that frames the work of the CODESA in relation to the deteriorating human rights situation in Western Sahara?
- Will its current human rights work and activities constitute the beginning of a new phase, or will it be only a replication of the work that has been plagued by many problems and imbalances, in addition to the narrow and diversified areas of work?

2- A brief definition of the Collective of Saharawi human rights defenders:

- The Collective of Saharawi Human Rights Defenders - CODESA, is an independent Saharawi human rights organization.
- It is considered to be an extension and a continuation of an exceptional struggle experience represented in the perception of Saharawi activists who were members of Sahara branch of the Moroccan forum for Truth and Equity, which was established in 2000 in the occupied city of Al-Aaiun, and was banned by the Moroccan occupation authorities and sealed its local office in 2003 after arrest, displacement and expulsion from work, which affected most of its members.
- His activists, in coordination with other Saharawi activists who come from various organizational and struggle experiences, began to work in the form of "Saharawi human rights activists" since 2002, by issuing complaints, statements, reports, correspondence, appeals and memoranda of demands, concerned with the situation of human rights in its entity and comprehensiveness in the occupied Western Sahara.





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- The announcement of the "Collective of Saharawi Human Rights Defenders " was in June 2006, represented by the secretariat as a temporary organizing mechanism, most of its members were released from the occupied El-Aaiun prison two months earlier.
- A Preparatory Committee was formed on April 25, 2007, to prepare for the holding of the founding congress of the Collective of Saharawi human rights defenders.
- The Moroccan occupation forces prevented the Collective of Saharawi human rights defenders from holding its founding congress in the occupied Al-Aaiun on October 07, 2007.
- The Collective of Saharawi Human rights Defenders "CODESA", after the confiscation of their right to organize and establish, had to form an executive office as a temporary form to manage the after-ban period.
- A preparatory committee was formed in January 2019 as result of internal discussions that lasted for more than two years within the framework of a deep critical review of the experience, and development of a vision aimed at renewing, rejuvenating and expanding the organization's structures, and opening up to the activists, students, women, unemployed, kidnapping victims, former political detainees and Saharawi civilians victims of the suppression of the Moroccan occupation.
- The Collective of Saharawi Human Rights Defenders aims at being a Saharawi civil rights framework to contribute to:
 - Empowering the Saharawi people's right to self-determination.
 - Preserving Saharawis dignity and respecting all of their rights in their universal and holistic sense, also protecting, disseminating and promoting these rights through the promotion and education of human rights values and culture.

Therefore, the organization, and through all these years, has started a process of observing, monitoring and tracking the human rights situation in Western Sahara through all struggle, peaceful organizational and legitimate means to support the victims on one hand, and expose all crimes against humanity and gross violations of human rights on the other hand, through reporting these crimes to a number of international human rights associations and organizations. Also, the United Nations mechanisms, the International Red Cross and others interested associations in human rights in the world.

The Collective of Saharawi Human Rights Defenders, CODESA, has issued a series of annual and other reports since 2005, which included, but are not limited to, two detailed reports on the trial of the "Gdeim Izik" detainees before the Moroccan "military court" in 2013 and before The Moroccan "civil court" in 2017, also issued other thematic reports, such as the report entitled "The Truth that can't be buried " issued in 2013 in response to the report made by the Moroccan Equity and Reconciliation Commission, in addition to fulfilling joint reports and statements with a number of international human rights organizations.



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- A group of its members participated in international meetings and seminars and framed bright and formative activities in the field of human rights.
- The organization has a wide network of relations with all Saharawi, Moroccan and international human rights organizations and democratic bodies that believe in human rights, which makes them part of the global progressive movement.

3- The Saharawi human rights movement, reality and prospects:

The history of human rights is only a continuation of the human struggle against authoritarianism and tyranny, for dignity and freedom. The human rights culture has its philosophical, political and social backgrounds. The serious and responsible human rights act is a daily practice, and correlation with the people's concerns.

That is why analysing the human rights movement in the territory will inevitably lead us to accept the existence of Saharawi human rights and unions' activism, but they do not rise to the level of specialization, despite their involvement in some battles and struggle occasions that allow measuring the movement's means, goals, objectives and results.

In order that, none the contents of what we are saying would carry any narrow interpretation or misunderstanding, we must point out what is meant by the Saharawi human rights movement. It is the collection of the human rights product of human rights organizations based on the international humanitarian law and international law for human rights, with what it includes of charters, instruments and covenants and declarations, and they are organizations and entities whose focus of work and performance in general does not exceed the following elements:

- Publicizing the ideas, values and disseminating the culture of human rights.
- Protecting Saharawi civilians and monitoring the crimes against humanity and gross violations of human rights committed against them by the Moroccan occupation, confronting it, reporting it and pleading about it in front of the relevant international mechanisms.
- Work to realize these rights in reality and push the international community to exert pressure on the Moroccan occupation in order to stop crimes against humanity and various gross violations of human rights and respect the human rights in the occupied territory of Western Sahara, foremost among which is empowering the Saharawi people of their right to self-determination in accordance with the international law and all relevant international charters and covenants.

Hence, despite the fact that the Saharawi human rights movement was established within the conditions of persecution, and a difficult conditions that is still surrounded and besieged by the Moroccan occupation, it (meaning the Saharawi human rights movement) is trying, with simple tools, to deal professionally with the human rights situation, which made it a significant player, after it had accumulated a respectable and balanced work, thus, it imposed its respect by many international human rights organizations and societies, and it even reached a distinguished place on all levels, according to the following:





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- A public and popular acceptance through which it has become a haven for victims, persecuted and organizations to seek help and support on one hand, and to verify some information about the Moroccan occupying power's crimes against humanity and gross violations of human rights on the other hand.
- Contributed to spreading the values and culture of human rights through issuing reports, statements, communications and declarations that led to the revitalization of the media platforms and websites, and to increase participation in the peaceful protest that are wagged by the Saharawi people, thus pushing human rights associations and regional, international and united nation entities to visit the territory on more than one occasion (The High Commissioner for Human Rights - The Working Group against Torture - The Working Group against Arbitrary Detention - The Working Group for Economic, Social and Cultural Rights - The European Parliament - Amnesty International - Human Rights Watch, Frontline Defenders - The F. Robert Center Kennedy Center for Justice and Human Rights - Moroccan Association for Human Rights ...etc).
- It has generated human rights activists and militants who contributed to the definition of this movement, through awareness-raising visits to many European, African, Latin American countries and to the United States of America, to find a place for itself within the international human rights networks.

On the other hand, it must be acknowledged that there are basic and central obstacles against the development of transformative and fundamental changes in human rights conditions, and resolving this requires studying and analysing the reflections of cultural, social and political specificities on the human rights discourse, accepting it and understanding the system of Human rights values and principles, in addition to economic, social and cultural factors, which is explained on the practical and procedural level by:

- The limited human rights cultural background, and an apparent lack of ability to implement the human rights discourse among human rights actors.
- The systematic use of the social and cultural hierarchy by the Moroccan occupation as part of the sociocultural framework of the Saharawi society, and the use of the successive changes that he created forcibly in a way caused harming to the depth of the social structure, by flooding the territory with thousands of Moroccan civilian and military settlers in order to change the demographic situation of the territory and to eradicate the Saharawi identity, facilitating the depletion and plunder of the Saharawi people's natural resources.
- Weak interest in vulnerable social groups, and closed-minded work methodology, which made it an upper and elite job far from being open to the people.
- Weakness and absence of a democratic culture.
- The question of activism legitimacy that appeared on the surface since the uprising – Intifada of 2005 in Western Sahara.



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The main issue in the human rights situation of the Saharawi human rights movement can be understood through knowing that yesterday's conditions are not the same as today, as the rapid and successive transformations that the world has known under the system of globalization undoubtedly threaten the right of peoples to determine their political and economic future.

It also reflects on the implementation of the international humanitarian law, especially in its aspects related to the law of occupation and the fourth Geneva Conventions, and on applicable components of the international human rights law in aspects related to economic, social, cultural and even civil and political rights.

Faced with all this, central questions and problems are raised within the core of the work of the committed Saharawi human rights movement:

- How does the Saharawi human rights movement manage itself to carry out the tasks and functions required by reality in building democracy, managing differences, coordinating and establishing a responsible civil society?
- What is the role of the Saharawi human rights organizations and committees within the general legal and human rights context framed for working with the international humanitarian law in the occupied Western Sahara?
- Is working within a human rights framework a goal or a tool, or both?
- To what extent the assertion that the progress of the struggle remains dependent on the ability of the organizations and activists in the occupied territories to create and develop formulas of struggle work and to keep pace with it with programs and perceptions that take into account the profound changes that have occurred in the pattern of thinking and the living, social and ethical reality of the Saharawis?
- How is the struggle experience with all its tributaries profoundly reviewed and evaluated, and from there searching for ways to restore that struggle and provide it with the elements and conditions for its success and continuity?
- Is the Saharawi human rights work ruled by a reformist, restorative spirit crystallized by the moment, or an intellectual and militant organizational vision aimed at serving the Saharawi people and establishing a civil society capable of preserving the principles and foundations and possessing the organizational and struggle tools to ensure that it is present and engaged in the causes of the public in this reality?
- Has the human rights activism become a profession that is practiced by some, and a cover that provides a kind of self and moral presence, which is mainly, linked to the exploitation of personal relationships at the expense of human rights organisations?
- Is the Saharawi human rights work an elite, superior, isolated work, and a closed framework that is distanced from the issues, concerns and suffers of the Saharawi people?



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- Is the Saharawi human rights work separate or independent from people's struggle or part of it?
- Does the human rights work in the occupied territories suffer from sick cases that have emerged and surfaced that embody the dominant and monopolistic tendency and the transformation of the Saharawi human rights organizations into personal ownership that claims legitimacy, in the face of calls for renewal, review, rejuvenation and opening to all groups?
- Has not the time come yet for the Saharawi human rights movement to change its operation pattern, its approach and resolve with the core contentious issues in the struggle circles, but in the context of rooting the debate and recalibrating concepts and placing them properly, so that they contribute to solid coordination and the ability to unite efforts?
- How, and with what perception, tools, can the committed Saharawi human rights struggle, as a mean of struggle, contribute to uncovering the crimes against humanity committed by the Moroccan occupation against Saharawi civilians and confronting them with struggle, and not only get enough with condemning and shaming those violations?
- How can the Saharawi human rights work constitute a space for framing and acquiring a rich and varied organizational and protest struggle culture to enrich and fertilize the emerging Saharawi civil society movement on one hand, and to establish a creative break with the prevailing organizational structures and tightly prevailing traditional mechanisms, and horizontally and strategically tabulating the culture of citizenship as a sublime ambition on the other hand?
- Have the Saharawi human rights frameworks in the occupied territories under these crippling conditions become traditional elites transcending, or are they, by virtue of their experience despite their shortcomings, able to continue their struggle and historical tasks, assess the stakes of the political moment and be aware of its requirements, by adapting to the changes and developments, and undertaking a bold self-criticism is a possible radical review that could shake its position?

Posing these questions seems legitimate, especially since the Moroccan state, as an occupying power, has been resorting for more than a decade to polish its image and alleviate international pressures, by mis-using human rights quotes and concepts in its official discourse, and in the media of all kinds, and establishing what it called the National Council for Human Rights – CNDH. In addition, the Moroccan occupying forces now supervise the establishment of the so called human rights organizations and committees that have nothing to do with human rights and push them to be present in continental and international gatherings and forums for the purpose of white washing its image, to dilute and distort the human rights activism.

Perhaps this is what makes us conclude that the Saharawi human rights work has been subjected to confusion by the occupying power that has already violated human rights in the Western Sahara since the military invasion on October 31, 1975, and this raises multiple constraints that must be strongly addressed.

On this basis, the Saharawi human rights movement is required to:



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تجمع المدافعين الصحراويين عن حقوق الإنسان
COLLECTIF DES DEFENSEURS SAHRAOIS DES DROITS HUMAINS
COLECTIVO DE DEFENSORES SAHRAUIS DE LOS DERECHOS HUMANOS
THE COLLECTIVE OF SAHARAWI HUMAN RIGHTS DEFENDERS

- Work to create conditions for a quantum leap in the foundations of the proposed work methodology, in the usual approaches, and in developing and diversifying the overall performance.
- Transitioning from isolated work and cyclical and factional arrangements to institutional, local arrangements or networks in which everyone's right to initiative and participation is granted, and an international network through which communication with various democratic and progressive forces and all actors who believe in human rights, is developed in theory and in practice.
- Contributing to the global struggle in order to protect, develop and adhere to gain achievements at the level of international standards, references and mechanisms, in implementation of the universal principle of human rights, and this requires the creation of a strong human rights movement that fights for peoples' right to self-determination at all levels.
- The implementation of international standards in dealing with all cases, especially the case of Western Sahara, by enabling the Saharawi people to determine their own future and benefit from their natural resources, and the issue of crimes against humanity and gross violations of human rights, through the implementation of the principle of accountability and non-impunity, According to the international humanitarian law.
- Pushing the human rights movement to open up to its surroundings and strengthen its ranks with women, youth, workers, and democratic intellectuals, by communicating with the largest number of Saharawi citizens, aiming at assimilating their creativity in creating and modernizing means of struggle.
- Developing the performance of the human rights movement in the field of advancing human rights by developing its ability to place human rights education mechanisms, especially among children and youth.
- Standing against the attempts to contain the serious and effective human rights movement, through making it a voice for the human rights movement and a vivid conscience of the Saharawi people, away from narrow personal calculations.
- Radically reviewing the public perception that controls the human rights struggle in the occupied territories, and reaffirming the relevance of the roadmap of the Collective of Saharawi human rights defenders, proposed in 2009, which called for the necessity to create a mechanism for consultative and coordination purposes, by promoting the Saharawi human rights movement with all its components to work in a unified and joint form on the underlined program "the common denominators program" and on common files with specific and agreed upon mechanisms: (Fact-finding committees / joint press seminars / reports on human rights situations in regular or emergency cases / joint work teams / joint support before trials for victims and political detainees And their families / the intervention mechanisms of joint correspondence, notes, statements, communications and publications / joint formative and shining sessions / follow-up of the situation of the families of the martyrs, as well as the cases of the wounded, kidnapped and released political detainees and their health and social situation / preserving, documenting and stimulating



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memory to produce and write, experience of kidnapping and political detention and biographies / studies and thematic reports.

- The necessity to deepen and provide elements of a clear vision and to crystallize it regarding the activation of the international reference of international humanitarian law in the modalities of its applications, harmonizing it with intellectual and scientific concepts with the reality and peculiarities of the occupied territories, and evoking the rich historical struggle' records of the committed Saharawi human rights movement, considering that the international humanitarian law highlights the constant political essence of the conflict as being linked to the Moroccan occupation.
- Putting an end to disorganization that characterizes the struggle acts and the randomness of activism, and the restructuring of all active factional struggle components (media professionals, unemployed, trade unionists, families of the current Saharawi political detainees, people expelled from work and victims of the Moroccan occupation' oppression ...etc) and framing them in an organizational form and a unitary coordination that takes into account specialization and devotes the conditions of organization and unity of the struggle effort, facing of the rising wave of repressions by the Moroccan occupation.
- The need to expand the circle of opening up according to a deep and new strategic vision that draws on the values and principles of human rights in their universality and comprehensiveness, and in dealing and coordinating with the human rights forces of Morocco, Maghreb, Arab and African countries.

4- Difficulties facing the committed human rights work at the occupied Western Sahara:

No one doubts that the human rights situation in the occupied Western Sahara is becoming more dangerous and aggravating at all levels due to the Moroccan occupation's confiscation of:

- The Saharawi people's right to self-determination and its 29-year hindrance awaiting a free and fair referendum under the supervision of the United Nations.
- The right to express, demonstrate, and other basic rights.

This is what has been confirmed by most international HR organisations and the united nations human rights reports, in a central conclusion that all the grave violations of human rights that the Saharawi civilians have been subjected to are intrinsically linked to the confiscation of the Saharawi people's right to self-determination (the report of the High Commissioner for Human Rights for the year 2006).

In addition to the Moroccan occupying power's crimes of kidnapping, torture, rape, raids of Saharawi students' rooms, raids of Saharawis' houses and arrests that included all categories of the Saharawi people, especially the elders, children, women, human rights defenders, bloggers, media professionals, students and the unemployed Saharawis.





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This comes as a result of the escalation of the peaceful protests demanding the self-determination of the Saharawi people and to stop the plunder of their natural resources, the eviction of the Moroccan occupation from Western Sahara, the release of Saharawi political prisoners and the respect of human rights in Western Sahara.

Therefore, we, as a Saharawi human rights movement, struggle in difficult circumstances, characterized by the following:

- The growing of people's struggle for the recognition of human rights in their universality and comprehensiveness against a global system that is characterized by the persistence of violating people's right to self-determination in all areas, despite existence of international treaties related to decolonization.
- The increase in crimes against humanity committed by the Moroccan occupying power, especially in the Western Sahara, which results in the increase of victims, the increase in organized violence against them, the violation of freedom of movement and the continued depletion of the territory's natural resources, with the absolute deprivation of any access to these resources leading to the spread of unemployment and the increase Extreme poverty at a rapid and frightening pace among all groups of the Saharawi people who are divided geographically by the Moroccan military berm and its millions of anti-persons land-mines and thousands of Moroccan military forces armed with various light and heavy weapons.
- Increasing political oppression against the Saharawi people who are demanding self-determination and the eviction of the Moroccan occupation, this oppression that extended to universities inside Morocco where Saharawi students organizes peaceful demonstrations demanding respect of the Saharawi people's right to self-determination, and also extended to include Saharawi political prisoners in Moroccan prisons, in retaliation from the political positions and slogans expressed in mock and unfair trials.
- The continuation of the military, police and media siege of the Western Sahara, which is accompanied by many degrading and humiliating assaults and practices, exceeding individuals level to attacking entire families, raiding homes and schools, arresting pupils and torturing them in mysterious circumstances and throwing them out of the urban sphere of the cities.
- The continuation of the flagrant violation of women's rights which has reached the limits of extrajudicial killing, kidnapping, arrest, torture, rape and causing permanent disability.
- Continued kidnapping and political arbitrary detention because of expressing opinions and confiscation of freedoms and suppression of the right of expression, demonstration as exercising those rights is faced by torture which has led to murder in many occasions.
- Depriving human rights organizations and trade unions from their right to express, organize, conferences, and peacefully demonstrate on the public street.



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In spite of this, the Collective of Saharawi human rights defenders, CODESA, and because all of these facts and others, have been fighting since 2002, as they were issuing statements and reports and monitoring a range of grave human rights violations committed by the Moroccan occupation.

For this reason and other reasons, the Moroccan occupying power has committed many repressive and shameful practices against a group of its activists and their families, such as kidnapping, torture, political detention, rape, forced displacement, exclusion and expulsion from work, confiscation of passports and the denial of the right to education and launch Propaganda campaigns, which bypass individuals to families and friends, especially those who are human rights activists.

5-Topics and field of work of the Collective of Saharawi Human Rights Defenders:

Based on the basic principles of human rights, which are mainly manifested in dealing with human rights issues in an objective and credible manner, and considering the methodology and perception that frames the work of the Collective of Saharawi Human Rights Defenders - CODESA, which (i.e. the work) framed within the international humanitarian law and the international human rights principles and standards, the CODESA aspires to cover and monitor various crimes against humanity and Human rights violations in all its dimensions, by paying attention to the following areas:

A- Civil and political rights:

Civil and political rights pertain to the person as a citizen, and for this they are closely linked to citizenship, meaning the rights of the citizen, as the person who is considered being able to think about the concerns of his society and contribute to the administration of his country and determine its fate in a manner dictated by his opinions and his conscience, contributing to the foundation his country is built on and to define its future through laws that guarantee his rights and protect him from the excesses of those in power in the horizon of establishing a society based on freedoms, justice and equality before the law, a society in which discrimination between citizens is absent.

Although these rights are framed with international background, they are mainly defined in:

- 1- Articles 3, 5, 7 and 9 of the Universal Declaration of Human Rights.
- 2- Articles 6, 7 and 9 of the International Covenant on Civil and Political Rights.
- 3- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The territory of Western Sahara considered as a question of decolonization, the Saharawi civilians continue to suffer from the presence of the Moroccan occupation, which has continued, since its military invasion of the territory, in complete violation of these international conventions, committing crimes that, in their entirety against humanity, without been subjected to International condemnation, accountability and punishment in accordance with the international humanitarian law up to now.





The various violations of these rights are identified in:

The right to life: There are many forms of violations of the right to life in the Western Sahara that were committed against Saharawi civilians by the Spanish colonial state before its illegal withdrawal. The same violations carried on by the Moroccan occupier, and became directly responsible for many violations such as deaths in secret and public detention centres, deaths in hospitals resulting from negligence, deaths caused by run-overs by police cars and bullet shootings at Saharawi civilians.

The right to physical integrity and personal safety: These violations are the most common due to the interference of the Moroccan occupation forces to disperse or prevent demonstrations organized by Saharawi civilians, in protest against their political and social conditions, and this is done with violence, accompanied by verbal and physical torture, which cause permanent wounds and physical disabilities, and civilians are often arrested by police patrols and subjected to rape, violence and severe beatings during arrest inside police cars and at Moroccan police stations.

Also, these rights deal with:

Follow-up and criminalization of kidnapping cases: The crime of kidnapping, or what is called in the United Nations procedures as enforced disappearance, one of the most serious crimes, as it confiscates many rights such as the right to physical integrity, personal safety, the right to freedom ... etc. and all this affects the families of the victims and the society as a whole. The same violations makes the society live in terror and fear of an unknown fate. That is why the United Nations General Assembly issued a declaration on the protection of persons from enforced disappearance, on December 18th, 1992.

In this context, the Collective of Saharawi Human Rights Defenders – CODESA recorded the crime of kidnapping committed by the Spanish state against the Saharawi citizen and the leader of the Zamlah uprising, "Sidi brahim Basiri", whose fate remains unknown for nearly 50 years. The CODESA has also recorded hundreds of kidnappings against Saharawi civilians committed by the Moroccan occupying power Since October 31st, 1975, those kidnappings have sown terror and fear, and many members of the Saharawi people are still suffering from the effects of these kidnappings, as they included all groups of the Saharawi people in their various areas of presence, and resulted in the death of dozens of abductees, including the elderly, children and women.

Publicizing the issue of political detention and denouncing its practice: It is related to the political detainee, who is the person to whom the specific international standards for the concept of political detention are applied, and the most important of which is his detention due to exercising some of the fundamental rights and freedoms stipulated by the international human rights conventions, such as freedom of expressing opinions or expression of political position or trade unionist ...etc. And is a person whose action is not associated with violence when expressing his or her views.

The Collective of Saharawi Human Rights Defenders also recorded that the Spanish state committed a series of political arrests against Saharawi civilians, those who were calling for independence, and some of them were transferred to its prisons in Spain.





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Since 1977, the Moroccan occupying power has practiced political detention against groups of Saharawi students, who were tried in Moroccan civil and military courts. After the year 1992, it continued to arrest hundreds of Saharawi civilians who ended in Moroccan prisons with harsh and unfair sentences because of their demand for independence and their defence of the Saharawi people's right to self-determination.

- Monitoring violations affecting the public freedoms, such as freedom of opinion and expression, freedom of the press, freedom of association, freedom of assembly, ensuring fair trials and the right to movement ... etc.

Therefore, the Collective of Saharawi human rights defenders, will keep:

- ✓ Demanding that the fate of the kidnapped Saharawi citizens - whose fate is unknown – to be revealed, and that political detainees to be unconditionally and immediately released, as their detention is a clear violation of freedom of opinion and expression, and violation of the right to peaceful protest and the right to political opinion and other human rights, based on the general principles of Human Rights and the international humanitarian law.
- ✓ Dealing with these rights affirmed in the relevant international covenants and international law in relation to the legal status of the Western Sahara, as it is a case of decolonization, ruled by international humanitarian law.

B - Economic, social and cultural rights:

Violation of economic, social and cultural rights occurs when a state acts or neglects to adopt a policy or a practice to obstructs or neglects contractual obligations.

Given this, the International Covenant on Economic, Social and Cultural Rights provides the most important legal and international framework for the protection of these basic human rights, and the rights contained in this covenant, which the Collective of Saharawi human rights defenders will try to address in details and always within the framework of the legal status in the Western Sahara and the occupation situation:

- The right to self-determination includes people's freedom to determine the political and social destiny of their country and the development of its culture. People also have the right to own their natural resources according to international law and trade it within in economic cooperation based on mutual benefit, and this right also includes the right to self-determination and termination of all forms of colonialism.

In this context, the position of the Collective of Saharawi Human Rights Defenders on the issue of the Western Sahara remains consistent with the international legitimacy that called for respecting the right of the Saharawi people to self-determination, based on the Charter, decisions and regulations of the United Nations, the advisory opinion of the International Court of Justice, the decisions of the African Union, And the rulings of the court of justice of the European - CJEU.



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In this regard, the CODESA records its deep concern about the delay in the decolonialisation process in Western Sahara by the United Nations, which prolonged the occupation and separated Saharawi families, despite the attempt to organize a self-determination referendum in 1974 that was aborted during Spanish colonialism due to the latter's conspiracy. Despite of the existence of the United Nations - African plan in 1991 and the Houston Agreement of 1997 and the subsequent United Nations and UN Security Council resolutions, especially Resolution 1495, a referendum is yet to be organised.

- The right to sovereignty over natural resources, as the Moroccan occupation violates the international humanitarian law in this matter and continues to plunder the natural resources of western Sahara without the consent of the Saharawi people expressed by their sole legitimate representative, the POLISARIO Front, which are requirement set according to:
 - The United Nations General Assembly which recommends that all economic activities be subordinated to assisting the people of this occupied territory to exercise their right to self-determination (the advisory opinion of Hans Corel, representative of the general secretary for Legal Affairs and Legal Adviser to the President of the Security Council in a letter dated January 29 / January 2002
 - The judgments of the European Court of Justice since the issued judgment of 10 December 2015 up to the latest judgements of 2018.
 - The judgement of the high court of South African court on 23rd February 2018 in relation with the phosphate cargo ceased at the south African Port of Elisabeth.
- All exploitation of the Saharawi people's natural resources remains illegal as long as it does not have the consent of the Saharawi people through their legal and sole representative, the POLISARIO Front and regardless of the question of benefits according to international law and as stipulated by the Court of Justice of the European Union in its rulings

C: Women's rights:

It is considered one of the collective rights as it plays an important role in development and achieving balance, but often many of women rights are absent, and consequently women are marginalized, and sometimes extorted and even trafficked, due to the existing policy of discrimination between women and men in the political, economic, social and cultural fields.

This situation is inconsistent with human rights that contradict the discrimination between human beings on the basis of their gender. Therefore, the United Nations General Assembly has worked since 1950 to conclude many conventions to reduce this discrimination, including the "Convention on the Elimination of All Forms of Discrimination Against Women" and on December 18 December 1979, there was a recognition of comprehensive equality of rights between men and women in the political, economic, social, cultural and civil rights, as well as in the fields of education, employment, and salaries.

However, the Collective of Saharawi human rights defenders recorded in this regards the continuation of the various services of the Moroccan occupying power committing killings, kidnappings, tortures, rapes,



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arrests, beating and dragging Saharawi women on the streets and practicing various forms of discrimination against them due to their participation in peaceful protests demanding the right of the Saharawi people to independence and self-determination. Where they became the most targeted group and the most suffering ones due to the systematic repressive policy of the Moroccan occupation during its invasion and occupation of western Sahara and after the outbreak of the uprising (Intifada) in 2005.

It may be noted that despite the crimes and violations committed against the Saharawi women, the conservative culture prevalent in the Saharawi community regarding the status of women remains an obstacle and limitation to disclose and expose these crimes.

D- children's Rights:

Childhood is a central issue in the concerns and discussions of various human rights and trade union organizations and associations, especially Resolution 1368 of November 20, 1959, where the General Assembly issued the Declaration on the Rights of the Child "to enable him to enjoy a happy childhood in which he lives in comfort, for his own good and for the good of the society, with the rights and freedoms established in this declaration"

The United Nations General Assembly adopted its resolution 55/44 of 20 November 1989 and offered to sign, ratify and accede to the Convention on the Rights of the Child, which has come into force, in accordance with Article 49 of the Convention since September 1990.

Therefore, and in front of these miserable conditions of childhood in the occupied Western Sahara, and the deterioration it witnesses in the various fields, in light of the systematic policy of the Moroccan occupying power, which aims mainly to undermine the right to life, the high rate of poverty, the growing cases of torture, sexual assaults and violence against children of both sexes. Because of their participation in the peaceful demonstrations demanding the right of the Saharawi people to self-determination and other peaceful and diverse forms of struggle.

These violations are accompanied by various degrading and humiliating practices against human dignity, in addition to systematically targeting this vulnerable group by flooding the territory with drugs, encouraging irregular migration, besieging and militarizing educational institutions, which is negatively reflected in the psychological status and behaviour of Saharawi children.

The Collective of Saharawi human rights defenders starts from what the children are suffering from including crimes against humanity and gross violations of human rights, which started since the Moroccan invasion with the kidnapping and killing of groups of minors in military barracks and shooting them with live bullets in addition to physical torture and various humiliating practices and degrading of human dignity, which prompted many of them to forcibly boycott schools and board death boats towards an unknown fate (clandestine immigration), especially after the uprising (the Intifada) in 2005, in which Saharawi protestors demanded the right to self-determination and independence.

The Collective of Saharawi human rights defenders puts its priorities on focusing on childhood, as it is a central issue within the core and fundamental concerns, which the CODESA aims to track and touch its





various issues aiming at granting children their fundamental rights always within the frame of the legal status of Western Sahara as an occupied territory.

E- Labours' rights:

Labours' rights have been recognized in the Universal Declaration of Human Rights and in a number of international human rights declarations and covenants, especially the International Covenant on Economic, Social and Cultural Rights, and in the conventions and recommendations issued by the International Labour Organization.

Based on the above, the Collective of Saharawi Human Rights Defenders will try to touch the various issues of the Saharawi workers by addressing the various violations that affect their rights in light of:

- The continuation of the Moroccan occupying power to deprive the Saharawi people from their right to choose their political future and their right to sovereignty over their natural resources with no mean for them to access these resources.
- Growing unemployment, widespread poverty and extreme poverty for Saharawi civilians, thousands of whom were forced to board death boats for fear of political persecution and in search of living far from their occupied homeland. Before that, thousands of these people were forced to flee and seek refuge in the desert of Tinduf refugee camps, in Algeria because of The Moroccan invasion, conspiring with the Spanish colonial power, which continues to bear the moral and legal responsibility as the administering power of Western Sahara according to the international humanitarian law, especially the Hague Regulations issued in 1907.
- The continuation of the Moroccan occupying power to flood the occupied cities of Western Sahara with thousands of Moroccan settlers and grant them many facilities and incentives that encourage them to stay and settle and contribute to the plunder of natural resources and changing the demographic structure of the territory, within which the Saharawi people became a notable minority.

F- Environmental protection:

The right to a healthy and sound environment is a fundamental right, and any violation of this right may make it hard to exercise any other rights, whether it is individual or collective right, given that the right to a healthy environment is an expansion of the concept and content of the right to life, and this also applies to the right to peace, in harmony with the contemporary concept of the right to life, which is based on the fact that this right is not only limited to protection against arbitrary deprivation of life, but also includes its obligation on front of the international community, as it requires the adoption of policies designed to secure and guarantee access to means of subsistence for all persons and peoples simultaneously, It is for this reason that states are obligated to prevent massive environmental damages.

Based on Article 28 of the International Covenant on Civil and Political Rights and the right to a clean environment, the Human Rights Committee concluded in its General Comment No. 23 of 1994 that the





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environment remains a basic condition for the protection of the people's culture in science and their lifestyle.

Although that the protection of the environment is not absolutely directly included in the provisions of the International humanitarian law, but the Human Rights Committee has stipulated that any measures that could do harm to the traditional environment of minorities to be of a necessity, reasonable and of limited impact.

In this regards, the Collective of Saharawi Human Rights Defenders notes:

- Pollution of the aquifer and seawater, due to the wastewater that goes into the sand dunes and valleys.
- Unsafe burying and fetching solid toxic waste.
- Establishment of wastewater treatment plants in populated areas within the occupied cities.
- Establishing industrial zones within the occupied Western Sahara and other Saharawi areas, and most of these industries contain toxic waste harmful to health.
- Continuing to plunder the fisheries resources illegally by vessels belongs to the Moroccan occupying power, conspiring foreign countries, and Moroccan fishermen settling in fishing villages built along the coastline of the occupied Western Sahara.
- Changing the form and nature of immovable property by the Moroccan occupying power while the law of occupation prohibits making any such changes,

From this standpoint comes the work of the Collective of Saharawi human rights defenders in this field in order to achieve a comprehensive and complete content of human rights, consistent with the general framework of the international humanitarian law, and in the face of various environmental phenomena, it will make its attention not only in the aspect that presents Reports and statements denouncing the danger of the environment and the surrounding disasters. Rather, it aspires to complete reports on areas threatened by the danger of natural phenomena, and this will only be achieved by:

- Respecting the natural, economic, social and cultural balances violated by the Moroccan occupying power in Western Sahara.
- Maintaining a balance in the wild animals and plants, given that this ecological balance should not be destroyed, and the same is true for human interest, which is what the Moroccan occupying power continues to crack down in an obscene and harmful way to the wild animals and plants which is driven to its extinct.
- Adopting the position of respecting nature and everything that is going on in its orbit of plants, animals and groups of living species, and contributing to making it also enjoy legal protection, although we may encounter great difficulty in answering how to solve the conflicts that arise from



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the conflict between our respect for people in the field of human morals And our respect for nature in the field of environmental ethics.

- Realizing that our environmental problems are global in its scope, and that the environment itself require balanced and effective international cooperation that should focus primarily on the completion of the decolonization of Western Sahara.
- Advocating for the protection of archaeological and natural sites, forests, water sources and natural reserves.
- Encouraging and forming effective committees from interested people and from civil society to think about establishing areas for protecting ecosystems, as well as for protecting vast free areas of nature aiming at creating practical coordination regarding data and advocating for them in front of the international community, regarding the fact that the people of the western Sahara have not decided their fate.
- Seeking to create relationships with active associations and frameworks in the environmental field in order to introduce the matter and to carry out presentations and research on various aspects related to the environment and the risks of a group of its phenomena, always linked to the international legal status of the Western Sahara.
- Investing the CODESA media capabilities to introduce environmental issues and develop a vision in the field of the right to a healthy environment. In addition, opening up to researchers and academics in the field of economic, social, cultural and environmental rights, and to benefit from their potential in training and advocacy.
- Spreading the culture of the environment and its goals in community circles.

G- Clandestine Migration:

Clandestine migration has grown rapidly among Saharawi citizens, in the last ten years, especially among young people, women and children, some of them succeed in entering Spain or other European countries, while hundreds of them ended up dying in sea water, the thing that caused many serious tragedies, which also happens to those who succeeded in crossing to the other side, where the majority of them suffer from violence, discrimination and a life full of dangers in the streets of foreign countries, and they may be get arrested by the Spanish police or any other European country, which usually places them in crowded and unsanitary housing centres, and are often deprived of the educational and health benefits guaranteed by Spanish and European law.

They may be assaulted by employees or other entities, and moreover, they may be deported to Morocco, where many of them are severely beaten by the Moroccan police, while the Moroccan occupying power remains not interested in following up and prosecuting those responsible for organizing the immigration in the occupied territories of Western Sahara, especially in the previous years after the peaceful demonstrations demanding the right to self-determination of the Saharawi people since May 21, 2005, resulting in the expansion of the migration process, to reach in a period of two months after that date,



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more than 500 candidates, only a few arrived, while the corpses of many of them were thrown to the shore by the sea, while the fate of others remained unknown. The same as the fate of 15 young Saharawi men, their families accuse the Moroccan occupying power of kidnapping them since December 25, 2005.

In recent years, the territory has become a vital place for crossing into Spanish territories, especially by African immigrants, whom the Moroccan occupying power often seize hundreds of them, as reports, data and complaints are submitted on the matter, at a time when there is complete silence concerning Saharawi immigrants, whose news is only heard when the death boats sunk.

On this basis, the Collective of Saharawi human rights defenders will try to cover this file, which constitutes a thorny and dangerous issue that requires intensified efforts to reduce it. It will also stop at various violations related to the status of migrants and the extent of violation of their rights, based on the relevant charters, decisions and international human rights covenants taking into consideration the clear legal status of Western Sahara.

H- Crimes against humanity committed against Saharawi civilians:

The Saharawi people has suffered and still suffering from all kind of crimes against humanity including war crimes committed against the people of Western Sahara since the Spanish occupation who used weapons against peaceful protestors in the Zemlah protest on 17th Junes 1970, in the occupied city of Al-Aaiun resulting killed and injured Saharawis and the kidnapping of the protest leader Sidi Brahim Basiri who's fate still unknown.

The illegal presence of the Moroccan occupation before the Spanish withdrawal from Western Sahara and the Moroccan invasion of the territory on 31st October 1975, brought crimes against humanity such as: illegal killings, kidnapping, torture, rape, arbitrary detention, poisoning of water wells, stealing and confiscation of cattle, ... etc. and war crimes with eradication purpose by using prohibited weapon (i.e Phosphorus and napalm bombs), in addition to throwing Saharawis alive from airplanes, shooting individual and grouped civilians to death and burying civilians alive in mass graves.

In this context, the experience of the work of a group of activists from the Collective of Saharawi Human Rights Defenders, within the Forum for Truth and Equity - Sahara Branch, provided access to many files related to crimes against humanity and gross human rights violations committed by the Moroccan occupying power since October 31 / October 1975.

The Collective of Saharawi human rights defenders is not aiming to present the various crimes against humanity and war crimes, as much as it will try to address its position on the way to be treated and the general strategy of the human rights approach, taking into account the developments related to the reality of the Moroccan occupation, in which it bears full responsibility for all crimes against humanity that cannot be folded by time, and on the other hand highlights the Spanish moral and political responsibility after withdrawing from Western Sahara in a fraudulent manner, leaving its people exposed to a military invasion and bombardment with napalm and white phosphorous, and for the most heinous violations of human rights.



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تجمع المدافعين الصحراويين عن حقوق الإنسان
COLLECTIF DES DEFENSEURS SAHRAOIS DES DROITS HUMAINS
COLECTIVO DE DEFENSORES SAHRAUIS DE LOS DERECHOS HUMANOS
THE COLLECTIVE OF SAHARAWI HUMAN RIGHTS DEFENDERS

Therefore, The CODESA will focus on:

- The Moroccan occupying power's handling of its gross violations of human rights, through the "Moroccan Equity and Reconciliation Commission", has not been and will not be able to close this file as these violations are still happening in an organized manner in the occupied territories of Western Sahara, also this treatment cannot be applied to an occupied territory listed by the United Nations General Assembly among the world's territories that are still awaiting decolonization.
- Sticking to the principle of non-impunity, and the necessity for the United Nations, through all its mechanisms and agencies, to assume its responsibility to follow up on Moroccan officials involved in crimes against humanity and gross violations of human rights against Saharawi civilians.
- The International Red Cross intervention with the Spanish state to reveal the fate of the Saharawi kidnapped "Sidi brahim Basiri" who was kidnapped since June 18, 1970, and with the Moroccan occupying power to reveal the fate of hundreds of kidnapped Saharawi civilians, whose fate is unknown. In addition to its intervention to follow up on all arbitrary detentions and all grave human rights violations against Saharawi civilians under imposed occupation.
- Rehabilitation of victims, reparation, and material and moral compensation in accordance with the international standards based on the international humanitarian law. In a manner that guarantees their dignity and their right to appeal and resort to international judicial and human rights mechanisms.
- The Spanish state, as the administering power of the occupied Western Sahara, bears the direct responsibility for revealing the full truth of the crimes against humanity committed by Spain and by the Moroccan occupying forces against Saharawi civilians.
- Restoring the honour of the Saharawi society and reparation for collective damage in accordance with the agreed standards in similar experiences related to the state of occupation, preserving memory, starting with preserving centres of kidnapping, arrest and secret detention.

As for landmines victims, despite the fact that the use of landmines is prohibited in accordance with the principles of the international humanitarian law in general and the Convention on the Prohibition or Restriction and use of certain weapons in particular, these weapons still pose a threat to the Saharawi people as individuals and as nation.

This is why and due to the increasing number of Saharawi victims throughout all stages of the ongoing conflict, and the consequent tragedies that are reflected in the lives of the individuals, the families, and then people as a whole.

Whereas, the Moroccan occupier continues to neglect the victims of landmines and does not pay attention to their treatment with the urgency and necessity of removing those landmines from the areas in which they have placed it, in order to protect people and their properties, and in response to the humanitarian crisis caused by anti-personnel mines.



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The international community supported the boycott of these weapons, as this led to the adoption in 1997 of the Ottawa Convention, which completely prohibits the use of anti-personnel mines and calls on states to destroy them and their stockpiles.

Focusing also on the three treaties that constitute the international legal framework aimed at preventing and confronting the human suffering caused by landmines and explosive remnants of war.

The Collective of Saharawi human rights defenders, CODESA, has a limited experience as it is still in its beginning in this file. It will try to find out about counting the victims and creating a database, and looking into their files in order to educate people about the dangers of landmines.

On this basis, the CODESA focus will be on the following:

- Exposing and confronting of the continuation of the Moroccan military berm as a crime and its dangerous repercussions on the psychology of the Saharawi people and its division for more than four decades, which constitutes a flagrant manifestation of the Moroccan occupation and a reflection of its military structure and arsenal, as well as the fact that it includes millions of types of cluster and fissile anti-personnel landmines and anti-vehicles.
- Calling upon the Spanish state, as the administering power of Western Sahara, to assume its legal responsibility in identifying and removing landmines from Western Sahara and all its neighbouring areas under the supervision of international experts from the United Nations specialists.
- Strengthening the relationship with those interested in fighting landmines, especially from the International Committee of the Red Cross, which has branches in the Saharawi refugee camps.
- Monitoring and following up on the files of the Saharawi victims, and the extent to which the reparations for material and moral damage granted to some of them by the Moroccan occupier, are consistent with the applicable international standards in this regard.
- Forming a working committee to assist, frame and organize the landmine victims, defining them and their demands, and allocate special study day for their cases.
- The allocation of a program aimed at educating people about the danger of landmines, especially those living in the countryside and Saharawi villages located near the separation sand-wall.

Finally, we present to the congress attendees a draft of this paper - which we sincerely hope will form a basis for a deep and productive discussion with the aim of enriching it with observations and criticisms, so that all members of this organization can review, scrutinize and approve it, and at the same time we are considering the pressure of the strong political and human rights situation, hoping that it would make it a pivotal paper, thanks to your positive contribution, and thus a qualitative addition to the literature and legacy of the Collective of Saharawi human rights Defenders CODESA and to the Saharawi struggle movement, so that it establishes a new strategy for human rights work and delineates its future prospects, according to specific conditions and a clear context that allows us to interact with the work environment and its different and varying opinions, which remains a healthy sign, given that the concept



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and the human rights movement is not a static and rigid movement, but rather a dynamic act that develops with the time and is subject to the givens of each era, as it remains a concept dependent on the level of development of democratic culture prevailing in the country and which vary according to different circumstances and historical experiences.

Based on this, we believe that it is necessary for the participants to raise and simplify a set of legitimate questions to provoke an objective debate in a humble attempt to contribute from our struggle to formulate answers to the troubling problems and concerns that dominate our organization and the Saharawi human rights movement in general, and it is an occasion for struggle favourable to the implementation of the tool of constructive criticism to resolve and correct the situation with goal that we chart the correct intellectual and legal path for ourselves.

Important Note:

After discussions during the founding congress of the Collective of Saharawi Human Rights Defenders – CODESA, the congress proposed amendments to this Guideline, All amendments are incorporated in this final version of the guideline.

Al-Aaiun / The occupied Western Sahara

25th September, 2020



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