



*The Statute of the Collective of Sahrawi Human Rights Defenders*

## Historical and legal background of Western Sahara:

### 1/ Historical background:

- Since 1884, Western Sahara was a Spanish colony, known as the Spanish Sahara. It is bordered by the Kingdom of Morocco from the North, the Islamic Republic of Mauritania from the South, the Popular Republic of Algeria from the East, and the Atlantic Ocean from the West.
- In 1974, the Spanish government decided to make a census of the Sahrawi people in Western Sahara, in preparation for organizing a referendum for self-determination in the territory to complete the decolonization process as demanded by the United Nations.
- On October 16, 1975, upon request by the United Nations' General Assembly, the International Court of Justice (ICJ) issued an advisory opinion on the legal status of Western Sahara, confirming the court's rejection of the sovereignty claims made by Morocco and Mauritania. The ICJ concluded that, it did not notice the existence of any legal relationship that allows the amendment of the application of General Assembly Resolution 1514 (XV) in terms of decolonization in Western Sahara, and in particular the principle of self-determination through the free and true expression of the will of the people of the territory.
- On October 31, 1975, the Moroccan army launched a military invasion of Western Sahara before directing thousands of Moroccans towards the territory of Western Sahara in what was called the "Green March", defying by that the advisory opinion of the International Court of Justice which the Security Council declared officially illegal and requested to be stopped.
- On November 14, 1976, the Spanish government secretly agreed with Morocco and Mauritania to withdraw from the territory, and to divide Western Sahara between Morocco and Mauritania under the illegal Madrid Tripartite Agreement.
- On February 26, 1976, the Spanish government abruptly withdrew from the territory of Western Sahara, based on the illegal Madrid Tripartite Agreement, announcing that the territory of Western Sahara would be divided geographically between the Kingdom of Morocco and the Islamic Republic of Mauritania and that its natural resources to be divided by the three parties.
- On February 27, 1976, the Popular Front for the Liberation of Saguia El Hamra and the Valley of Gold (POLISARIO) announced the establishment of the Sahrawi Arab Democratic Republic (SADR), thus filling the legal and administrative vacuum caused by the withdrawal of Spanish without completion of the UN requested decolonization process.
- The invasion of Western Sahara led to the outbreak of war between the Kingdom of Morocco and the POLISARIO Front as the national liberation movement calling for the independence of Western





Sahara, on the one hand, and between the POLISARIO Front and the Islamic Republic of Mauritania on the other hand.

- In 1979, the Islamic Republic of Mauritania withdrew from the Valley of Gold (the southern part of Western Sahara) and signed a Peace agreement with the POLISARIO Front abandoning its illegal sovereignty claims. In 1984, Mauritania decided to recognize the SADR as a state.
- Although the Kingdom of Morocco took control of the Valley of Gold after Mauritania withdrew from it in 1979, it has never acquired the position of authority in charge of administering the territory of Western Sahara according to Article 73 of the UN Charter. The United Nations list of the non-self-governing territories confirms that since the withdrawal of Spain and its abdication of its responsibilities on February 26, 1976, Western Sahara ceased to have any other governing authority reporting its administration to the UN, and the Kingdom of Morocco had never complied with the requirements of Article 73 of the UN Charter, including submission of statistical data of the territory.
- On August 30, 1988, the POLISARIO Front and the Kingdom of Morocco agreed to conduct a self-determination referendum in Western Sahara based on the Spanish census lists made in 1974.
- On April 29, 1991, the United Nations Mission of the Referendum for Self-Determination in Western Sahara (MINURSO) was established by the UN Security Council Resolution 690. A resolution came to organize a referendum within at least 06 months in which the Sahrawi people would choose between independence and joining Morocco. An obstructed referendum that is yet to be organized.

## 2 / Legal background:

- According to the Article 73 of the UN Charter, In 1963, the Spanish Sahara was included in the list of non-self-governing territories. The United Nations' General Assembly called on the Spanish state to take immediate measures to ensure that the Sahrawi people exercise their right of to self-determination, as a right guaranteed by General Assembly Resolution 1514 (declaration 2) adopted in 1960. As the resolution states: "All peoples have the right to self-determination, by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development".
- The Spanish withdrawal in 1976 was considered a conspiracy against the Saharawi people and cannot place the territory of Western Sahara under any administering power. therefore, the United Nations' General Assembly established principles to be respected in that frame mainly those included in the Article 73 of the UN Charter including but not limited to:
  - All countries must comply with the General Assembly resolutions, regarding activities related to foreign economic and financial interests, and should refrain from assisting in the continuation of the colonial situation in the territorial through investments. Therefore, states must avoid any economic activities that could negatively affect the interests of the peoples of non-self-governing territories without their consent.
  - Non-self-governing territories under the Charter of the United Nations shall have a separate status from the territory of the administering power, and this separate and distinct status shall remain in existence until the right to self-determination is fully exercised.





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COLLECTIF DES DEFENSEURS SAHRAOIS DES DROITS DE HUMAINS  
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- Permanent sovereignty over natural resources is an essential component of the right to self-determination.
- Natural resources are the wealth of the peoples of non-self-governing territories. The exploitation and the plunder of the marine and natural resources of these territories not only threaten the safety of these territories and affect their prosperity but also violate the relevant United Nations resolutions.
  - The establishment of the United Nations Mission to Organize the Self-Determination Referendum in Western Sahara (MINURSO) on April 29, 1991, according to Security Council Resolution 690, according to which the referendum would be organized within at least 06 months, through which the Sahrawi people would choose between independence or joining Morocco, but this referendum has not yet been organized.
  - The Security Council, in most of its resolutions, called upon the parties of the conflict, the POLISARIO Front and the Kingdom of Morocco to "continue negotiations under the auspices of the UN' Secretary-General without preconditions and in good faith, with the aim of reaching a just, lasting and mutually acceptable political solution that guarantees the right to Self-determination for the people of Western Sahara in in line with the principles and purposes of the United Nations Charter".
  - The Fourth Committee of the United Nations' General Assembly continues to deal in all its annual sessions with the question of Western Sahara as matter of decolonization, and it is the UN committee mandated to deal with issues related to decolonization. The same committee in addition to the UN Security Council, continues calling the parties to meet their responsibilities and to cooperate with the International Committee of the Red Cross.
  - In this context, the Secretary-General of the United Nations, "António Guterres" at the end of August 2020, confirmed that the UN Security Council continues to consider the reports of the Secretary-General of the United Nations, and that it has taken decisions on the situation related to Western Sahara, noting that the General Assembly has examined the report of The Special Committee on the Situation with regard to the implementation of the Declaration on the Granting of Independence of Colonial Countries and Peoples is also known as the Special Committee on Decolonization. Western Sahara was treated under the paragraph related to the "implementation of the Declaration on the Granting of Independence of Colonial Countries and Peoples" as well as separately in the detailed report on each non-self-governing territory.
  - António Guterres also considered the end of the Third International Decade an important opportunity to assess the progress made in eradicating colonialism, which remains a priority of the United Nations while proceeding with the decolonization plan in line with the principles of the UN Charter and other relevant United Nations resolutions. The same goal that "requires more tightening of the processes for conducting practical dialogues and identifying specific steps that can be implemented in order to generate greater momentum in the implementation of the mandate of decolonization".
  - Finally, António Guterres stated that the United Nations considers the continuation of colonialism in all its forms and manifestations a 'crime' that violates the UN Charter as well as the Declaration on the Granting of Independence to Colonial Countries and Peoples and the principles of international law, as stipulated by the General Assembly in Resolution 2621 (D25), must be terminated.





### 3/ Articles of the statute

#### Article 01:

It was established on: 25<sup>th</sup> September 2020, in the occupied city of Al-Aaiun, Western Sahara, in accordance with international humanitarian law and international human rights law, in relation to the principle of freedom of association. An independent human rights association under the name of:

#### **The Collective of Saharawi Human Rights Defenders**

تجمع المدافعين الصحراويين عن حقوق الإنسان

#### **Le Collectif des défenseurs Sahraouis des droits Humains**

**Collectivo de Defensores Sahrauis de los Derechos Humanos**

Known as (CODESA) in Al-Aaiun, Western Sahara. The establishment of CODESA based on the following international regulations:

#### First: International Humanitarian Law:

- Articles 42 to 56 of the 1907 Hague Regulations (Occupation Law).
- Articles 27 to 34 and articles 47 to 78 of the four Geneva Conventions of 1949, in addition to some provisions of Additional Protocol I and customary international humanitarian law.

#### Second: International Human Rights Law:

- Article 20 of the Universal Declaration of Human Rights (issued by a resolution of the United Nations General Assembly on December 08, 1948).
- Convention No. 87 Concerning Freedom of Association and Protection of the Right of organization (issued on July 09, 1948).
- Article 22 of the International Covenant on Civil and Political Rights (1972).
- Article 08 of the International Covenant on Economic and Cultural Rights.
- Article 05 of the Declaration on the Rights of Human Rights Defenders (issued by a decision of the United Nations General Assembly on 09 December 1998).
- The United Nations General Assembly Declaration on Human Rights Defenders.

#### Third: Regional Instruments:

- Article 10 of the African Convention on Human and Peoples' Rights (1981).





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- Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950).
- Article 12 of the Charter of Fundamental Rights of the European Union, which was adopted by the European Parliament, the Council of Ministers and the European Commission on December 7th, 2000.
- Declaration of the Committee of Ministers of the European Council to strengthen the protection of human rights defenders and to support their activities.
- European Union principal guidelines on Human Rights Defenders.
- A code of good practices for civic participation in the decision-making process, which aims to facilitate the activities of civil society organizations.
- The call sent by the European Council to the Commissioner of the Council responsible of Human Rights in the Council of Europe to strengthen the role and capabilities of his office in order to provide strong and effective protection for human rights defenders through publishing reports, intervening with state authorities and cooperating with other mechanisms.
- Article 16 of the American Convention on Human Rights (1978).

### Article 02:

- The headquarters of the Collective of Saharawi Human Rights Defenders is in Al-Aaiun, occupied Western Sahara.

### Article 03:

- The logo adopted by the Collective of Saharawi Human Rights Defenders - CODESA is:



The logo reflects the spirit of joint cooperation established with those who believe in the global and universality of human rights, and the need to collectively confront who commits HR violations, in a framework characterized by solidarity and cohesion to achieve respect and uphold the human dignity and contribute to spreading and raising the culture of human rights, as well as contributing within this context in Defending the right of peoples to self-determination, including the right of the Sahrawi people to self-determination.



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Areas of work:

Article 04:

- The Collective of Saharawi Human Rights Defenders “CODESA” specifically covers the following geographical areas:
  - The occupied part of Western Sahara.
  - All the other cities in which Sahrawi people are living such as Tarfaya, Tantan, Glaimim, Assa, Zag, Ifni, and Mahamid Al-Ghazlan.
  - Inside the Moroccan territories where Saharwis suffer from grave Human Rights violations related the Moroccan occupation in Western Sahara.

Objectives:

Article 05:

The Collective of Saharawi Human Rights Defenders “CODESA” works to safeguarding human dignity and preserving the respect of all human rights in its universal and holistic dimension, as well as protecting the principles of human rights, defending them, promoting them, disseminating them and spreading the culture of human rights in its territorial scope (Article 04 of the statute), in particular the CODESA aims to:

- Protect Saharawi civilians from systematic repression by the Moroccan occupying power.
- Expose, denounce, confront and report all violations committed by the Moroccan occupying power against Sahrawi civilians in the occupied territories of Western Sahara so as in all the territories that are covered by the CODESA’s territorial scope.
- Support the victims of crimes against humanity, of war crimes and of gross violations of human rights (that are not subject to obsolescence) committed by both occupiers, the Spanish state before its illegal withdrawal from Western Sahara, and the Moroccan occupying power after its invasion of Western Sahara since October 31st, 1975. The CODESA support to victims shall not only by offering solidarity, support, or backup but also by presenting the capacity to submit complaints and the use of various relevant international and regional mechanisms.
- To actively struggle in order to gain the international community support so as to impose the effective implementation of international humanitarian law, with the main goal of empowering the right of Saharawi people to self-determination in accordance with international legality through a free and fair referendum, which has been declared to be applied in the territory since 1974 by the Spanish occupier, and according to international law since 1963 and the political agreement achieved and reaffirmed by the International and African peace plan declared since 1991.





### Methods:

#### Article 06:

The Collective of Saharawi Human Rights Defenders “CODESA” works to achieve its goals by all peaceful and legitimate means of struggle through establishing serious talks and communications with:

- International Committee of the Red Cross and the concerned UN bodies
- Regional and continental bodies in Europe, Africa and America.
- International human rights and humanitarian organizations.
- Research and studies centres related to human rights in the world.
- Local and international media.

But also seeks to :

- Participating in all forms of peaceful protests calling for the effective implementation of international humanitarian law in Western Sahara and in those claiming civil, political, economic, Social and cultural rights.
- Supervising and contributing to lectures, seminars, debates and training courses organised in Western Sahara and abroad.
- Developing relations, coordination and exchange of reports and information with other organizations that have the same goals locally and internationally.
- Adopting all legitimate peaceful means that contribute to defending human rights and those are consistent with the objectives of the Collective of Saharawi Human Rights Defenders “CODESA”.
- Has the capacity to go to justice in demand and in defence to implement its objectives before national, regional, and international courts and bodies. Such decision can be taken by the president of the organisation upon approval from the simple majority of the executive office.

### Membership

#### Article 07:

- The Collective of Saharawi Human Rights Defenders “CODESA” accepts as members those who fulfil the following conditions :
  - Adherence to the CODESA principles, objectives, regulations and its statutes.
  - Have an honourable moral and militant behaviour that makes them worthy of belonging to the collective.
- Membership is lost through resignation, dismissal, expulsion and exemption when the principles and objectives of the collective are violated.

(The Internal regulation specifies the types of memberships, the conditions for vote so as candidacy for responsibilities, the sanctions, and the ways of taking decisions).





Organizational bodies:

Article 08:

The organigrams of the Collective of Saharawi Human Rights Defenders "CODESA" consist of:

- General assembly.
- Administrative committee.
- Executive board.
- Local committees/branches.

General assembly:

Article 09:

- The general assembly is the highest decision-making body of the CODESA, and the congress is held once every 3 years and whenever necessary, at the invitation of two-thirds of the members of the administrative committee or at the request of two-thirds of the members of the executive board.
- The Executive Board proposes the date, place and agenda of the congress and of the members of the preparatory committee to the administrative committee for approval.
- The delegates of the local committees are elected by a direct and secret vote during public local congresses.
- Members of the Administrative Committee and the Preparatory Committee will participate as congress delegates.
- The administrative committee define the program of the congress of CODESA during the period between two congresses.
- The executive board presents the administrative and financial reports prepared by the administrative committee to the general assembly, and after having those reports discussed and approved, the executive board and the administrative committee submit their resignation before during the congress. Among the congress participants and members, a congress leading committee to be formed , composed of a chairman, a rapporteur and an assistant / or three assistants.
- The congress takes its decisions by relative majority.
- The Congress is considered lawful with the presence of a relative majority of members of the general assembly, and if this is not done, it shall be postponed for a period not to exceed one month and the it is to be considered lawful regardless of the number of participants.

(The internal regulation determine the conditions and modalities for the formation of the preparatory committee of the conference and the legal procedure for the election of the participants and the formation of the legal committee responsible for deciding and verifying the membership in the congress and the mandatory legal quorum to schedule the congress)







The Administrative Committee and its competence:

Administrative committee

Article 10:

- The Administrative Committee is the highest decision-making body after the general conference.
- The administrative committee is composed of 41 members, elected directly by members of general assembly during the congress.
- The Administrative Committee is elected either by direct secret vote, or by proposals from an elections Committee formed during the congress to prepare the list of candidates and present it to the Administrative Committee in order to decide on its legitimacy and to be voted by the congress.
- Any candidate for membership in the Administrative Committee should be member for at least a year.
- In the event of death, resignation or exemption of one or more members of the administrative committee, shall be replaced by one or more members participants of the congress of the CODESA proposed by the Executive Board, and approved by two-thirds majority of the current members of the Administrative Committee.
- The Administrative Committee carries out a follow-up of the general progress of the organization between the two conferences.

The competences

Article 11:

The administrative committee is responsible for:

- Discussing, modifying and approving the annual scope of work and activities in order to achieve the objectives of the CODESA.
- Supporting the Executive Board to set up and structure local committees, to visit them and to contribute to their activities and to the implementation of all the its tasks.
- Monitoring and reporting on the activities of the executive board.
- Deciding on the violations that its members and members of the executive board may commit; and taking the necessary measures in accordance with the internal regulation of the CODESA.
- replacing any member of the executive board in the event of death, resignation, dismissal or expulsion (according to the conditions determined by the internal regulation).
- Dissolving local committees that are not active or those violating the fundamental principles and objectives of the CODESA according to the terms and conditions set in the internal regulation.





### Article 12:

The administrative committee meets once every four months at the CODESA office (if available), or at the office of any local committee (if available) or any another useful location. The administrative committee can have exceptional meetings whenever required or upon request from two-thirds of the executive board.

### Article 13:

- The meetings are lawful when simple majority of the members attends "half + one"; otherwise meetings shall be postponed to a period not exceeding 15 days. The meetings then are considered lawful regardless of the number of participants, and decisions will be taken by an absolute majority of participants.
- The Administrative Committee has the right to suspend the activities of any local committee that deviates from the principles and objectives of the CODESA. The suspended local committee has the right to appeal the decision within 30 days of notification of the suspension decision before the administrative committee through the executive board. The appeal is submitted for decision shall be evaluated and decided at the first meeting of the administrative committee.

### *The Executive board, its attributions, its mandate and its functional committees*

#### *The Executive board*

### Article 14:

The executive board consist of 18 members elected by the Administrative Committee from among its members. Members of the executive board divides the tasks between them and chose the president and his vice-presidents, the general secretary and his assistants, the treasurer and his assistants and the advisers.

### Article 15:

The Executive board develops the CODESA's programs and define the measures to implement the decisions of the congress and the decisions of the Administrative Committee and manages the work of the CODESA and its activities at the local and international level between the two congresses. In addition, it approves other activity programs and establishes partnerships.





## Article 16:

In the event of death, resignation, exemption or expulsion of a member or more of the Executive Committee may be replaced by a member or more of the Administrative Committee, according to the conditions determined by the Internal regulation.

### Tasks of the Executive board:

## Article 17:

The members of the Executive board share the following tasks among its members:

- President:
  - is responsible of chairing the Executive board and the Administrative Committee, and ensuring the implementation of the decisions taken by both of them, and representing the CODESA. Certain responsibilities of the president can be delegated when necessary to other members of the Executive board.
  - The President cannot be re-elected for more than two consecutive terms. The duration of each term is determined between two general assemblies.
- Vice(s)-president: They assist the President and exercise his responsibilities in the event of the president's absence.
- Secretary General: supervises the administrative work of the CODESA.
- Vice-Secretary General: assists and takes the place of the secretary General in the event of absence.
- Treasurer: is responsible of preparing a draft budget and finance for the CODESA, and maintaining its financial reports.
- Vice-Treasurer: Support the Treasurer in his tasks and responsibilities and takes his place in the event of absence.
- Consultants assigned to tasks: The Executive Board distributes additional tasks among its members, including those of its functional committees. It also form committees with members of the CODESA to complete those assigned tasks.

### Competences of the Executive board:

## Article 18:

- Represents the Collective of Saharawi Human Rights Defenders during its term.
- Implement a general program of the CODESA
- Monitor the work of local committees.
- Select experts and collaborators that can be accredited individually for the purpose of consulting or carrying out specific missions and tasks in accordance with the internal regulation of the CODESA.
- Grant the status of honorary member or friend of the CODESA to anyone he deems worthy of it.
- Meets once a month and can meet exceptionally whenever necessary.





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- The meeting of the executive board is considered lawful when the majority (half + one) are present. In case of the absence of the majority, the meeting is to be postponed for seven days. After that, the meeting will therefore be considered lawful regardless of the number of participants and its decisions are taken by relative majority.

Functional committees:

Article 19:

The functional committees are divided into seven (7) committees. Each committee has a chairman and a rapporteur from among the members of the executive board or the administrative committee:

- The Committee for the protection of Saharawi civilians: is responsible for following up the grave human rights violations and to prepare reports and statistics of those violations.
- the committee for women and children: responsible for following up the situation of those specific groups
- the committee for Natural resources, the environment and immigration: responsible for following up the plunder of natural resources, the environmental conditions and the immigration.
- The Committee for structures, studies and trainings: is responsible for following up the structure of the CODESA, implementing training programs, and for the studies and researches.
- The land mines committee: specialised in the victims of land mines.
- The Committee of External Relations and Cooperation: responsible for the external relations including those with local and international human rights NGOs, setting up meetings, advocacy and searching for partnerships that can be executed in compliance with the objectives and the principle of the CODESA
- Media and Communication Committee: deals with the media coverage, production of media materials and its distribution and the management of the official web-site of the CODESA and its social media accounts.

(The internal regulation determines the structure of each committee, the number and tasks of their members).

Local Committees: Specialisations and Tasks:

Local committees

Article 20:

- Local committees can be formed in a specific area according to conditions determined by the Internal regulation. Therefore, a preparatory committee is assigned to establish a local committee. The latter chooses from among its members a president and a rapporteur. Those are subject to the Executive board approval.
- The local committees are formed by preparatory committees that consist of 07 to 15 members.



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Competences of the local committees

Article 21:

Members of local committees hold an ordinary meeting at least every one and a half(1.5)year, while its competences are defined as follows:

- Vote on the activities and financial reports and decide about them by voting; and discuss issues related to the activity of the committee.
- Election of Committee Offices, either by approving the list proposed by the election Committee, or by direct secret vote.

Tasks of the local committees:

Article 22:

The Office of the Local Committee distributes tasks among its members as follows:

- Secretary General and his deputies.
- The treasurer and his deputies.
- Consultants that are assigned to tasks specified in the Internal Regulation.

Article 23:

The mission of the Local Committee Office consists of:

- Executing the decisions of the General Assembly without contradicting the ones of the General congress of the CODESA.
- Implement the decisions and directives of the administrative committee and the executive board of the CODESA.

Article 24:

- The local committee meets regularly once a month, and exceptionally whenever necessary.
- This meeting is considered lawful when the majority (half +1) of its members are present.

Article 25:

The internal regulation defines the tasks of the local committees, their functioning mechanisms and other requirements concerning their activities and their relations with the administrative committee and the executive board.





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The budget of the Collective of Saharawi Human Rights Defenders CODESA.

Article 26:

The funds of CODESA are from contributions of its members, donations, and all legally authorized incomes approved by the responsible bodies of the CODESA.

The administrative committee determines the contribution of each local committee to the financing of the CODESA.

General clauses:

Article 27:

- The statute of the CODEAS can only be amended by the general assembly and by an absolute majority of the congress.
- The administrative committee establishes an internal regulation that does not contradict this statute.

Article 28:

The CODESA can only be dissolved by the general assembly and by a two-thirds majority of the congress, then the funds of the CODESA will be transferred to one of the organizations which have the same objectives which shall be determined by the congress.

Al-Aaiun – Occupied Western Sahara

25<sup>th</sup> September, 2020



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