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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

**Joint written statement* submitted by France Libertés –
Fondation Danielle Mitterrand, a non-governmental
organization in special consultative status, the Mouvement
contre le racisme et pour l'amitié entre les peuples, a non-
governmental organization on the roster**

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

[4 June 2012]

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

The Kingdom of Morocco must apply the human rights international obligations to respect its constitution*

Last May, during the second periodic review of the Kingdom of Morocco, a certain number of governments have expressed concerns about the precarious human rights records. To some extent it would seem that this country's authorities are prey to a peculiar form of dichotomy between legal written provisions concerning human rights and official spoken assurances regarding the implementation of these same positive legal provisions in Western Sahara.

The statement contained in the preamble of the new 2011 Constitution stipulating that international human rights instruments will take precedence over national law which, obviously, will be consequently modified to this effect, is nothing more than the transcription of a fundamental principle of international law. Yet, more than a year after the Constitution's approval and its coming into effect, the result of the announced reforms seems to be still lingering in a very far and quite misty future; truth be told, the boasted reforms effect is hardly perceivable, to say the least.

The questioning States have touched upon a vast array of the most doleful and hurting elements of the present day situation of human rights in Western Sahara, going from restriction of freedoms of opinion and expression proven by the recent arrest of editors, journalists and bloggers, peacefully voicing their opinion, torture and police brutality against peaceful demonstrators, thus violating the right to freedom of association and assembly in matters concerning the situation and status of the Western Sahara, arbitrary arrest without trial and ill-treatment in detention, denial of registration and license to some civil society organization advocating the Sahrawi people's right to self-determination, refusal to consider setting up a human rights monitoring mechanism in the mandate of the U.N. Peace-keeping mission among others.

Not all of the above States recommendations and concerns, or their almost equal counterpart expressed by NGOs in the alternatives reports have been encompassed in the final draft recommendation document, though an important number has been taken up. Some of the crucial and burning issues have originated astonishing and somewhat out of focus official responses by the Kingdom of Morocco representatives.

It is quite enlightening to quote and analyse them.¹

I. Recommendations enjoying the support of Morocco which considers that they are already implemented or in the process of implementation:

- Take measures to protect human rights defenders, particularly in the Western Sahara, against harassment, repression, arrest or detention, including by granting an official accreditation to the associations working in this field (Canada).
- Give particular attention to all measures to improve the human rights situation in Western Sahara, in particular develop and implement independent and credible measures to ensure full respect for human rights and guaranteeing such basic rights as freedom of association and expression (Ireland).
- Take measures to ensure the adequate protection of human rights in the Western Sahara in light of the reported cases of enforced disappearances, torture and ill-

* The Bureau International pour le Respect des Droits de l'Homme au Sahara Occidental-BIRDHSO, an NGO without consultative status, also shares the views expressed in this statement.

¹ A/HRC/WG.6/13/L.1. Par. 130 and following.

treatment, restrictions on freedom of expression, association and assembly by Moroccan security forces (Spain).

While some legal provisions do exist in law texts, yet concrete enforcement seems to be largely non-existent or quite defective, to say the least, since no substantial change has occurred.

II. Recommendations that did not enjoy the support of Morocco:

- Ensure that the procedures governing registration of civil society organizations, including organizations advocating for the Saharawi people's right to self-determination, are in conformity with international standards (Norway).
- Commute all of the death penalties to prison sentences and abolish, once and for all, death penalty (France).

The lack of support to these recommendations can only be interpreted as a deliberate will to silence any opposition voice.

III. Recommendation rejected by Morocco which considers that it does not fall within the scope of the mandate of the Human Rights Council:

- Accept the establishment of a permanent human rights component in the United Nations Mission for the Referendum in Western Sahara (MINURSO), being the only peacekeeping mission not having this component (Uruguay).

It seems that two terms or concept are true anathema in the Kingdom of Morocco: the first being self-determination and the second being the extension of the MINURSO mandate to the protection of human rights.

In reality, in the very first paragraph of resolution 60/251, the General Assembly reaffirms the purposes and principles contained in the Charter of the United Nations, including developing friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples.

In the sixth preambular paragraph of resolution 60/251, the General Assembly recognizes that development, peace and security and human rights are interlinked and mutually reinforcing.

The Kingdom of Morocco cannot ignore that in operative paragraph 3 of resolution 60/251, the General Assembly gives the mandate to the Human Rights Council to address situations of violations of human rights, including gross and systematic violations, and to make recommendations thereon. The General Assembly decides also that the Human Rights Council should promote the effective coordination and the mainstreaming of human rights within the United Nations system.

When the Kingdom of Morocco affirms that the recommendation put forward by Uruguay does not fall within the scope of the mandate of the Human Rights Council, one can objectively challenge the Moroccan compliance with the principles of cooperation and genuine dialogue that the General Assembly recognizes, in preambular paragraph 10 of resolution 60/251, as the basis for the protection and promotion of human rights.

The whole process of decolonization of the last colony in Africa has dramatically failed and it must start all over again from scratch; from awareness raising and fide digna information disseminated and conscientiously analyzed at bottom level. Foremost, leaving aside any consideration on the economic enormous value of the already illegally exploited resources

of this territory repeatedly denounced by our organizations² and mostly perpetrated by the EU against its own Legal Service opinion³.

Consequent with the preceding remarks, we urge the Kingdom of Morocco to:

- stop bringing Saharawi civilians before martial courts;
- stop using excessive force against peaceful demonstrations;
- stop protecting officials accused or involved in crimes against humanity and human rights violations;
- consider dismantling the wall of shame, which remains one of the major manifestation of occupation and separation of the Saharawis;
- implement, without pre-conditions, the right of peoples to self-determination as a fundamental right of all peoples as enshrined in the UN Charter and the two Covenants;
- stop exploiting the natural resources of Western Sahara without the consent of its legitimate owner, the Saharawi people;
- accept the extension of the MINURSO mandate to the monitoring and protection of human rights by both sides.

We also urge France, the motherland of human rights, not to use its veto in the Security Council with the aim of impeding the extension of the MINURSO mandate to the monitoring and protection of human rights by both sides.

² HRC/10/NGO/3; HRC/13/NGO/25; HRC/14/NGO/41; HRC/18/NGO38.

³ Avis du Service Juridique du Parlement Européen. SJ-0085/06.