



General Assembly

Distr.: General
5 May 2023

English only

Human Rights Council

Fifty-second session

27 February–31 March 2023

Agenda item 3

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

Written statement* submitted by Il Cenacolo, a non- governmental organization in special consultative status

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

[5 February 2023]

* Issued as received, in the language of submission only.



Civil and Political Rights: Silenced Voices In Tindouf Refugee Camps

Introduction:

The situation of Sahrawis in the Tindouf refugee camps is atypical and nonconforming with regard to international human rights and humanitarian laws. The taking hostage of entire populations, men, women and children, for political purposes; the perpetuation, for half a century, of a situation which, by its nature, should presumably be temporary; the military management of these populations; and the absence of exact figures on the number of those sequestered in these camps, despite the many calls to carry out a census there, are all factors that give the situation in Tindouf refugee camps an unusual character, unparalleled at the international scale.

Tindouf refugee camps have become a zone of unlawfulness, with the absence of a clear legal framework governing the condition of the Tindouf populations, living in an exceptional and unprecedented situation with regard to international law.

Algeria, the host country, refuses to comply with its obligations with regard to international humanitarian law regarding the protection of the camps population, and refuses, despite repeated calls by the UNHCR (2001, 2003, 2005 and 2009) and the relevant UN Security Council resolutions, to proceed with the census and registration of these Sahrawis in the camps.

The camps population, weakened by the absence of a legal framework for the management of the camps, are subject to daily and systematic violations of their fundamental rights, without any means of redress or judicial recourse.

Violations of Fundamental Freedoms of Expression, Association and Assembly:

The Tindouf refugee camps are a glaring illustration of the denial of civil and political rights for an entire generation of Sahrawi men, women and children. As stipulated in international conventions, these freedoms are only matched by the right to life and are the very basis for the exercise and full enjoyment of all other rights in any democratic environment.

With the striking case of the Tindouf refugee camps in Algeria, where thousands of Sahrawis have been living for decades in inhuman conditions and endure closure and blackout without any action to alleviate their suffering, it is inconceivable that the international community still turns a deaf ear to these Sahrawis, who have been living for about five decades in makeshift camps, besieged and deprived of any right to express themselves or to move freely.

Non-governmental organizations and independent media are systematically barred from entering the area of the camps in southwestern Algeria, with the unrelenting climate of strict control imposed around the camps by the Polisario Front backed by Algerian army units.

The statutes of the Polisario Front expressly ban the creation of political parties or associations and consider anyone expressing a contrary opinion as a traitor. The Polisario Front however does not hesitate to create entities under its authority, and present them as actors of the civil society, while they stand as structured political instruments that reproduce the propaganda around its political project, to which the majority of people still living in the camps do not adhere and no longer embrace, if not in a forced way, for fear of reprisals.

In an attempt to break the silence over the violations of basic rights and freedoms of Sahrawis on the Algerian territory, many bloggers, opinion leaders and activists have led campaigns denouncing the human rights situation in Tindouf refugee camps. Indeed, in 2019, the Polisario Front kidnapped the three activists, El Fadel Breka, Mahmoud Zedan and Moulay Abba Bouzid, because of their opinions and their participation in the protests organized at the camps, demanding the release of the former leader El Khalil Ahmed Braih. They were detained in Dhaibia prison for "high treason and espionage activity with the enemy", tortured

and exposed to ill-treatment by Polisario Front , even under the supervision of Algerian investigators.

These activists and bloggers have observed during the same year, hunger strikes inside their place of detention, to draw attention to their case, and call on the international community to take action against the prevailing impunity in Tindouf refugee camps. HRW had also issued a statement in June 2019, calling on the Polisario Front to release these activists for lack of evidence, while stressing that Algeria should not illegally delegate de facto to the Polisario Front, its jurisdictional authority and remain indifferent to violations committed by this armed groups on its territory.

Worth noting that even under covid-19 pandemic, many Sahrawi medical doctors who used social media to denounce the diversion of medical aids, have been targeted, detained and interrogated by the Polisario Front, who considered social media campaigning a prejudice to the camps population morale. They were exposed to intimidation and humiliating treatment, and coerced into making inaccurate statements about the covid-19 development in the camps.

Cases Reviewed by the UN Mechanisms:

On June 5, 2020, the United Nations Working Group on Arbitrary Detention (WGAD) adopted Opinion 7/2020, declaring the detention of Fadel Breika arbitrary. Of Sahrawi origin and residing in Spain, Breika was arrested by the Polisario Front while visiting his ailing mother in the Smara camp in Tindouf, Algeria. During his secret detention, Mr. Breika was tortured in an attempt to make him renounce his commitments as a human rights defender.

In its decision, the WGAD reaffirmed Algeria's responsibility for the violations committed against Breika on its territory by a non-state actor (Polisario Front), and reiterated its concerns about the government's de facto transfer of administrative and jurisdictional authority over certain regions of the country to the Polisario Front, including the Smara camps in the Tindouf region of southeast Algeria.

The UN Human Rights Committee has also adopted at its 134th session, held in June 2022, an opinion against the Algerian state pertaining to the complaint filed on behalf of Mrabih Ahmed Mahmoud Adda, a Sahrawi who was illegally detained and tortured by the Polisario Front. The UN human rights body issued its opinion in favor of the complainant for "kidnapping, arbitrary detention, torture and degrading and inhuman treatment", in retaliation for his participation in demonstrations against the Polisario Front.

Mrabih was arrested by Algerian authorities in August 2014 and handed over to the Polisario Front, which held him incommunicado and tortured him for 64 days, for claiming refugee rights for the inhabitants of the Tindouf refugee camps, in accordance with the international refugee status, presumably used by Algeria, the host country, to qualify the inhabitants of these camps.

The committee also reiterated its concerns about the de facto devolution by Algeria of its powers, including jurisdictional, to the Polisario Front. It specified that this devolution is contrary to the obligations of the Algerian state to respect and guarantee to all individuals on its territory the rights recognized by the International Covenant on Civil and Political Rights (ICCPR), before specifying that the victims of violations of rights related to the Covenant living in the refugee camps of Tindouf are deprived of an effective remedy before the Algerian courts.

In its conclusions, the committee, which found that the facts before it reveal a violation by the State party, Algeria, of articles 2, 7 and 9 of the ICCPR, stressed that Algeria is under an obligation to conduct a prompt, effective, thorough, independent, impartial and transparent investigation into violations committed against Sahrawi victims, and to prosecute, try and punish those responsible for these violations.

Concluding Remarks:

Despite the different opinions issued by the UN human rights bodies, Algeria is seemingly unwilling to assume its international obligations. Algeria's flagrant and shameful denial of its legal and moral responsibilities with regard to international humanitarian law and the recommendations of the UN mechanisms, as well as recommendations from the UN General Assembly to preserve the civilian and humanitarian character of refugee camps is illustrated in particular by its refusal to authorize the UNHCR Office to carry out a census in due form and to register the population, as well as to grant them a refugee card based on the formal recognition of their status with regard to their fundamental right to international protection.

The geographical location of the camps on Algerian territory, combined with its de facto management by the Polisario Front, are a real source of concern for Sahrawi human rights defenders, for two reasons. First, there can be no delegation of authority, and therefore of responsibility, on the part of a state, to an armed non-state actor on its territory. Second, this situation is detrimental to the populations of the camps, because the judicial void in the camps, maintained voluntarily by Algeria and the Polisario Front, results in a lack of responsibility and, consequently, in the absence of protection of the populations concerned.

Algeria is and remains the sole authority responsible for the protection of Saharawi on its territory. Ceding de facto to the Polisario Front a part of its territory to camp these sequestered populations, puts Algeria in the obligation to respect the Geneva Convention of 1951, which provides for the indivisible, non-transferable and imprescriptible character of the responsibility of this country towards Tindouf refugee camps.

AFORES (African Forum For Research And Studies In Human Rights). AIPECT(African Institute for Peacebuilding and Conflict Transformation LSDDH (La Ligue Du Sahra Pour La Democratie Et Les Droits De L'Homme., NGO(s) without consultative status, also share the views expressed in this statement.