



June 28, 2021

Via Email

President Joseph R. Biden, Jr.
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500
public@who.eop.gov

Re: Review of Moroccan Sovereignty over Western Sahara

Dear President Biden:

The New York City Bar Association (Association), through its International Law, United Nations Committees, International Human Rights Committee, and African Affairs Committee writes to respectfully request that you review the determination by the previous Administration to recognize Moroccan sovereignty over Western Sahara.

We have been concerned about the legal issues involved in the dispute about sovereignty over Western Sahara for a number of years. In 2012, at the request of the ranking members of the House Foreign Relations Committee, the United Nations Committee of the Association analyzed the principle of self-determination as it applies to Western Sahara and the competing claims of Morocco, and issued a report.¹ This report supports the right of the people of the territory to self-determination under international law, and concludes that this right entails the ability of the people of Western Sahara to choose freely whether to establish an independent state or be aligned in some way with another state.

On December 4, 2020, shortly before leaving office, former President Donald Trump declared² that the United States will recognize Moroccan sovereignty over Western Sahara. This

¹ *The Legal Issues Involved in the Western Sahara Dispute: The Principle of Self-Determination and the Legal Claims of Morocco*, New York City Bar Association (June 2012), available at: <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/the-legal-issues-involved-in-the-western-sahara-dispute-the-principle-of-self-determination>. (Last visited June 24, 2021).

² White House Proclamation 10126 of December 4, 2020.

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has 25,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

declaration was made in disregard of the principles of international law described in the report. Specifically, former President Trump's declaration was made irrespective of the desires of the people in the territory and suggests that the United States supports the illegal annexation of territory by force. It is also in stark contradiction to the very principles of international law and respect for human rights that the Biden administration has vowed to place at the forefront of United States policy.

The United States previously supported the United Nations' efforts to achieve a negotiated settlement that would be consistent with the right of the people of the territory to self-determination.³ The position stated by former President Trump puts the United States at odds with its prior position: the United States cannot both support the United Nations' role in resolving the conflict and endorse Moroccan claim to sovereignty.

While we take no position as to whether the people of Western Sahara should decide for or against independence, we believe that the United States may not deprive them of this right. Based on the foregoing and also because the right to self-determination has been consistently supported by the United States (as well as the UN Security Council) since the conflict began, we urge you to reverse it.

Respectfully,

Sheila S. Boston, President
New York City Bar Association

Scott Caplan and Doris Toyon, Co-chairs
African Affairs Committee

Lauren Melkus, Chair
International Human Rights Committee

Ulyana Bardyn, Chair
International Law Committee

Clayton Cheney, Chair
United Nations Committee

³ See e.g., UN Security Council Resolution 2548 of 2020 reaffirming Resolutions 1754 (2007), 1783 (2007), 1813 (2008), 1871 (2009), 1920 (2010), 1979 (2011), 2044 (2012), 2099 (2013), 2152 (2014), 2218 (2015), 2285 (2016), 2351 (2017), 2414 (2018), 2440 (2018), 2468 (2019), and 2494 (2019), all of which were backed by the United States and confirm the adherence to the principle of self-determination.

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