

Letter to Ambassadors of UN Security Council Member States in Favor of Enlarging MINURSO's Mandate ^[1]

December 31, 1969

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Your Excellency:

Human Rights Watch urges the Security Council, when it reviews the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) this month, to extend it to incorporate human rights monitoring in Western Sahara and in the Polisario Front-run refugee camps near Tindouf.

MINURSO is one of the rare UN peacekeeping operations that does not include a human rights monitoring component. Secretary-General Ban Ki-moon, in his report on the situation in Western Sahara released this week, regrets obstacles to the fulfillment of MINURSO's mission, including in its reporting functions.

Security Council Resolution 1979 of April 27, 2011 welcomed two Moroccan initiatives on human rights: its establishment of the National Council on Human Rights (NCHR) with a component proposed for Western Sahara, and its commitment to ensure access to all Special Procedures of the United Nations Human Rights Council.

These Moroccan initiatives, however welcome, fall far short of ensuring regular and impartial monitoring of the current human rights situation in Western Sahara and the refugee camps near Tindouf, Algeria.

The NCHR has opened two offices in Western Sahara, has undertaken a number of human rights activities there, and can receive complaints from individual citizens. However, putting aside the fact that the NCHR is a national institution of Morocco, whose sovereignty over Western Sahara the UN does not recognize, this institution does not monitor human rights conditions in Western Sahara regularly and broadly; nor does it issue public reports on them.

As for cooperating with UN human rights mechanisms, Morocco hosted a visit in September 2011 by the UN Independent Expert on Cultural Rights, who spent one day in Western Sahara. The Special Rapporteur on Torture has announced his plan to visit Morocco and Western Sahara this September.

While these visits to Western Sahara by the UN's thematic mechanisms are positive developments that should continue, they are by their natures brief and infrequent, and will never add up to monitoring that is broad and regular. That objective would be best achieved by enlarging the mandate of MINURSO to include human rights monitoring, or by creating a Special Rapporteur for Western Sahara.

The Secretary-General, in his new report on Western Sahara, states in paragraph 112 that "MINURSO is unable to exercise fully its peacekeeping, monitoring, observation and reporting functions," and seeks the Security Council's support "to sustain the peacekeeping instrument as it was intended to operate," for purposes that include "provid[ing] independent information on conditions on the ground to the Secretariat, the Security Council, and the international community."

That independent information should include monitoring of the evolution of human rights conditions. As the Secretary-General's Special Envoy on Western Sahara Ambassador Christopher Ross told the Security Council on October 26, 2011, "Six months [after the Security Council adopted resolution 1979], a variety of human rights problems have been reported in both Western Sahara and the refugee camps, but the only independent look to date at one specific aspect of human rights took place in September when [the UN Independent Expert on Cultural Rights] visited."

Morocco's initiatives do not change the underlying situation: the Sahrawi people continue to suffer from violations of their rights (see "Recent Developments of Concern to Human Rights Watch," annexed to this letter). Authorities continue to subject Sahrawis who advocate self-determination or denounce Moroccan human rights violations to various forms of repression, including imprisonment after unfair trials, beatings, and denial of the right to peaceful assembly, association, and expression. Ambassador Ross told the Security Council: "The international community [during the Arab

Spring] has validated the right of peoples throughout the region to assemble and express their views, yet both in Western Sahara and in the refugee camps, restrictions exist on freedom of assembly and expression, particularly with regard to the future status of that territory.”

Human Rights Watch has always advocated that the enlarged mandate for MINURSO should include human rights monitoring not only in Western Sahara but also in the Sahrawi refugee camps across the border in Algeria, whose residents live in a state of relative isolation.

The United Nations Department of Peacekeeping Operations (DPKO) identifies respect for human rights as a critical component for achieving sustainable peace integral to its operations. It is time for the UN to bring MINURSO into line with its other peacekeeping missions worldwide by ensuring that it includes regular monitoring and reporting of human rights violations.

We thank you for your consideration of our request.

Sincerely,

Sarah Leah Whitson

Executive Director

Middle East and North Africa Division

Human Rights Watch

Annex - Recent Developments of Concern to Human Rights Watch

Under Moroccan law, peaceful speech or activities that “harm” Morocco’s “territorial integrity” are punishable by prison terms and a fine. This phrase, found for example in the press code’s article 41, is used to prosecute peaceful advocacy of independence for Western Sahara. Under the law on associations’ article 3, no association may exist legally that “harms the territorial integrity” of Morocco.

Moroccan authorities have denied legal recognition to all Sahrawi human rights associations that they consider to be pro-independence, even in cases where the courts determined that the administration had wrongfully denied an association the right to register. Organizations that for years have been refused legal recognition include the Sahrawi Association of Victims of Grave Human Rights Violations (ASVDH) and the Collective of Sahrawi Human Rights Defenders (CODESA). In September 2011, authorities refused to allow the legalization of a new Boujdour-based group called the Sahrawi League for Defense of Human Rights and Natural Resources. Even the Moroccan Association for Human Rights, which operates legally across Morocco, has since 2009 been unable to obtain legal status for its branch in the city of Smara, Western Sahara.

In Western Sahara, Moroccan police quickly and systematically intervene to forcibly disperse peaceful demonstrations in favor of Sahrawi self-determination or independence, or in solidarity with advocates of that cause. For example, on February 23, 2012, police in El-Ayoun broke up a sit-in to support the 23 Sahrawis imprisoned in Rabat awaiting a military trial.

Human Rights Watch remains concerned about the quality and independence of the justice rendered by Moroccan courts when trying Sahrawi activists. Seven Sahrawi activists spent a year-and-a-half in pre-trial detention on charges of “harming internal security” because of a visit they had paid to the Polisario-run refugee in Algeria. The court provisionally released them on April 14, 2011, but the charges are still pending against them.

In November 2010, Moroccan police dismantled a large protest encampment that Sahrawis had set up at Gdeim Izik, near El-Ayoun. In the ensuing disturbances at the campsite and in the city of El-Ayoun, 13 persons were killed, including 11 security force members. As a result of these events, authorities detained 23 Sahrawis, including some well-known human rights activists, at Salé Prison and referred them to a military court trial on charges of violence against public agents on duty that led to their intentional death.

Human Rights Watch opposes the trial of any civilians before military courts, where the rights of suspects to mount a fair defense tend to be curtailed. Defendants before Moroccan military courts, for example, cannot appeal their first-degree verdict, as they could if tried before a civilian court.

We are also concerned that in this case, according to our information, the main evidence in the file consists of the defendants’ own statements to the police implicating one another, statements whose veracity all of them challenged before the investigating judge. Furthermore, we are concerned about

delays in bringing the case to trial since the court has postponed its start without announcing a new date, even though the men have been held in pre-trial detention already for eighteen months.

The Sahrawi refugees live in a state of relative isolation in the Tindouf camps (Algeria), where there is no permanent, on-the-ground presence from either local or international independent human rights monitoring groups, and only rare visits by outside monitoring organizations. Human Rights Watch continues to receive isolated reports that persons who openly dissent from the Polisario encounter pressures and reprisals for their political views. Like residents of the Western Sahara, refugees in the camps would benefit from the heightened protection that UN human monitoring would offer.

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