

BRIEFING

HUMAN RIGHTS IN WESTERN SAHARA: THE SECURITY COUNCIL'S RESPONSIBILITY AND OPPORTUNITY

"The United Nations is deliberately neglecting to fulfil its fundamental humanitarian and political obligations to the people of Western Sahara"

Francesco Bastagli former U.N. Assistant Secretary-General for peacekeeping¹

20 years after its establishment, notwithstanding horrific human rights violations, the UN mission in Western Sahara (MINURSO) remains the only contemporary peace-keeping mission without a mandate to monitor human rights.

The UN continues to fail in its responsibility to implement a referendum on self-determination and resolve the 36 year Western Sahara conflict. Meanwhile the human rights of the indigenous Saharawi people continue to be violated. In November 2010 the worst violence since 1991 erupted in Moroccan occupied Western Sahara following the demolition of protest camps. If action is not taken by the UN Security Council to monitor human rights in Western Sahara, the situation will continue to deteriorate.

Various references to the "human dimension" of the conflict in Security Council resolutions have proved wholly insufficient. **Only the proper inclusion within MINURSO's mandate of human rights monitoring will help to stem the growing level of abuse. All members of the Security Council must support this.**

The urgent need for human rights monitoring has been strongly advocated by organisations including Amnesty International, Human Rights Watch, and the Office of the High Commissioner for Human Rights (OHCHR)ⁱⁱ and the European Parliamentⁱⁱⁱ. Last year several members of the Security Council expressed firm support for MINURSO's mandate to include the monitoring of human rights. France was reportedly the only country to block the inclusion.

The stalemate cannot continue. Renewed commitment within the Security Council is vital to protect the rights of civilians and make progress towards resolving the conflict. Monitoring human rights is an essential part of this. The Security Council must use the opportunity of the renewal of MINURSO's mandate in April 2011 to ensure the establishment of human rights monitoring in Western Sahara and the Saharawi refugee camps near Tindouf in Algeria.

Key reasons the Security Council must include human rights monitoring in MINURSO's mandate:

To meet the UN's commitment to protect human rights – Urgent action is needed to stem the escalating abuse of human rights by the Moroccan authorities. Those Saharawi who call for the implementation of their right of self-determination face harassment, arrest, sexual violence, imprisonment and torture.

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To restore faith in the UN process- MINURSO was established to oversee the referendum on self-determination. After 20 years the UN has failed to implement this. The monitoring of human rights would help to restore faith in MINURSO and the UN process.

To prevent instability and return to conflict – The failure of the UN to protect the human rights of the people of Western Sahara will lead to further civil unrest and means that the POLISARIO Front faces great pressure from the Saharawi for a return to armed struggle. The political stability of the whole Maghreb region is at risk.

Human rights situation – why the current measures are insufficient

During my time in Western Sahara, Morocco conducted a campaign of terror against the Saharan people.

Frank Ruddy, U.S. Ambassador (ret.), Former Deputy Chairman MINURSO

Whilst human rights violations against Saharawi who call for self-determination have been ongoing since the beginning of the conflict in 1975, the circumstances deteriorated following a 2009 speech by King Mohammed VI declaring: *"One is either a patriot, or a traitor."*^{iv} Both Amnesty International and Human Rights Watch have noted that Morocco's human rights record is worsening.^v It is clear that the violation of human rights is used by the Moroccan authorities as a means to suppress dissent.

Common forms of human rights violations include:

- **Arbitrary arrest and detention** - of those opposing the occupation by calling for their right to self-determination and known human rights activists.

- **Unfair trials**

This includes: defendants denied the right to call witnesses; postponement of trials when independent observers are in attendance; harassment of defendants and their families; and tainted evidence such as 'confessions' extracted under torture and written statements by police, which are denied by defendants.

"...the delegation remains concerned that there are serious deficiencies with regard to ensuring the right to a fair trial"

Report by the Office of the High Commissioner for Human Rights Mission to Western Sahara, 2006

In several trials Amnesty International found that evidence of this kind was accepted without examination of the veracity of the claims.

- **Torture in prison and detention**

I was kidnapped and detained in prison for 4 years. I was blindfolded continuously throughout this time, and spent 9 months in solitary confinement...sometimes we would be forced to face the wall with our hands tied and spend the whole night standing on one foot. If we fell, we were tortured...the threat of rape meant we were afraid to sleep...my family had no idea of my whereabouts."

Aminatou Haidar, Saharawi Human Rights Activist and Nobel Peace Prize nominee, October 2007, London

Saharawi prisoners report various forms of abuse in prison such as: sexual violence, including rape with bottles and police truncheons; being stripped naked; blindfolding and being forced to stand on one foot for long periods; violent beatings; suspension in contorted positions and

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other forms of torture. Often the families of prisoners are denied information or access to them.

- **Restriction of independent media**

Morocco is ranked 135 on the Reporters Without Borders Press Freedom Index. Journalists can be jailed under the Moroccan press code. In an open letter to Hilary Clinton in October 2009 Reporters without Borders referred to the '*disturbing deterioration in the press freedom situation*'.^{vi} Recently the situation has declined further. (Please see details below.)

In November 2010 Western Sahara experienced the worst violence since the ceasefire. At least two Saharawi civilians and 11 members of the Moroccan Security Force died after the Moroccan authorities violently dismantled the Gdim Izik camp where thousands of Saharawi had been protesting the economic conditions and marginalisation they face. A 14 year old Saharawi boy was also shot dead by Moroccan police when attempting to enter the camp.

Human Rights Watch and Amnesty International^{vii} report allegations including the following:

- **Excessive use of force** by the Moroccan security forces in dismantling the camp.
- **Torture of detainees** - Over 120 Saharawi are being detained following the events and face trial on various charges. Amnesty International and Human Rights Watch interviewed detainees who report abuse including: being beaten with weapons – some until unconsciousness, rape, threats of rape, blindfolding, pressure to shout pro-Moroccan slogans, withholding food and throwing water and urine. Victims of this treatment include older people and women.
- **Restriction of medical access** - Police prevented Saharawi civilians from accessing medical treatment and on some occasions assaulted them on arrival at hospital.
- **Unfair treatment of detainees and evidence extracted under torture** including: allegations of detainees forced to sign statements they had not read; failure to refer those alleging torture for medical assessment; refusal to allow detainees to appoint their own lawyers; referral of civilians to military court. Currently 20 Saharawi civilians are to face trial in a military court.
- **Failure to inform the families of detainees** – Some families were denied information about their relatives for up to 16 days, leading many people to wrongly believe their relatives had died.
- **Security force compliance in attacks on civilian homes** - In acts of violence and arson committed by both sides following destruction of the camp, Moroccan Security Forces appear to have been directly involved in attacks on Saharawi homes.
- **False information** – The Moroccan government claims no shots were fired. Both reports discredit this. The video of the dismantling of the camp made public by the authorities was edited to show only 14 minutes of footage, despite the fact that the authorities admit the operation lasted 50 minutes.
- **Obstruction of international media and observers** - The Moroccan authorities obstructed access to international organisations and media including refusing MINURSO permission to enter the area.
- **Failure to investigate claims of torture and ill treatment** carried out by the Security Forces. – *"to date Amnesty International is unaware of any steps taken by the*

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Moroccan authorities to conduct investigations and ensure that members of the security forces responsible for unlawful assaults and other abuses are held to account.^{viii}

Currently, many human rights abuses remain unreported and a lot of the information is subject to challenge and counter claim. By including human rights monitoring within MINURSO's mandate claims would be subject to scrutiny and Governments and the UN would be able to intervene with confidence. It has been reported that the Security Council decided not to send a delegation to investigate the recent violence – a decision that is difficult to understand given the different claims by the parties on the nature and extent of the abuse.

Human rights violations - an obstacle to resolution

MINURSO is mandated to provide for self-determination of the people of Western Sahara. Conditions in which to implement a referendum of self-determination cannot exist whilst those who express support for self-determination are violently repressed.

The 2009 report by the UN Secretary General observed:

'both parties to the conflict often accuse each other, in communications with the United Nations or in the media, of human rights violations.'

The suggested monitoring would cover both Moroccan occupied Western Sahara and the refugee camps administered by the POLISARIO Front. This would clearly address this issue and is welcomed by the POLISARIO Front which has stated its willingness to welcome human rights monitoring in the parts of the Western Sahara and the Refugee camps in Tindouf which it administers. However Morocco continues to oppose the presence of human rights monitors.

'a government that says repeatedly that it has nothing to hide should prove that by allowing all media and nongovernmental organizations to come and to collect information without obstacles.'

Sarah Leah Whitson, Human Rights Watch.

Repeated support is expressed within the Security Council for 'confidence building measures' to support negotiations toward self-determination for the people of the territory. Confidence cannot be built whilst human rights continue to be violated.

- **Restoring faith in MINURSO**

The U.N. mission was a laughing stock at diplomatic parties in Rabat.

Frank Ruddy, U.S. Ambassador (ret.) Former Deputy Chairman MINURSO

MINURSO was established in 1991 with a mandate to 'Organize and ensure a free and fair referendum of self-determination and proclaim the results.' The OHCHR report is clear in its assertion that the human rights crisis is a direct result of this lack of a right to self-determination that the UN has failed to implement.

"Almost all violations of human rights noted above stem from the non-realization of this right, including civil and political rights as well as economic, social and cultural rights of the people of Western Sahara in all locations where they currently reside."^{ix}

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Without a mandate to monitor human rights, the UN is not only failing in its duty to implement the referendum of self-determination but it is also failing to protect the victims of this conflict. MINURSO personnel must observe in silence, whilst human rights violations continue to be perpetrated.

Monitoring human rights is a role MINURSO could effectively undertake that would not only protect civilians but also play an important part in resolving the conflict. Unsurprisingly after 20 years the Saharawi have lost faith in the UN's ability to protect their right to self-determination and its willingness to protect their human rights.

- **Preventing instability and a return to conflict**

The failure of the UN to resolve the conflict has led the POLISARIO Front to face increased pressure from Saharawi civilians to return to armed struggle. The current stalemate cannot continue indefinitely. If, after 36 years of occupation the stalemate is not broken, a return to violence and instability in the Maghreb region looks increasingly like the only available option to the Saharawi. This would obviously be dangerous on Europe's borders with unpredictable consequences.

Recommendations - meeting The Security Council's responsibility

This human rights crisis is a result of the failure of the UN to implement the right to self-determination. This is explicitly acknowledged in the OHCHR report. The UN has a clear responsibility to act to protect human rights in Western Sahara. Article 73 of the UN Charter regarding non-self-governing territories clearly states this as a duty of the UN.

Appeasement will not help break the status quo, and difficult, at times abrasive decisions will have to be made to move the peace process forward.

Organisation for Statehood and Freedom, December 2010

This year the Security Council must take the opportunity to break the 36 year stalemate and increase momentum towards a resolution of the conflict. As the 20th anniversary of the ceasefire approaches we call on all members of the Security Council to:

Insist on the establishment of a monitoring mechanism for human rights. We strongly advocate that this is through the extension of MINURSO's mandate to ensure that it is effective and accountable. Any mechanism outside of MINURSO risks pressure and obstruction from the Moroccan authorities, reducing its effectiveness. The 2006 recommendations of the OHCHR have neither been published nor acted upon. In order to be effective any mechanism must at the very minimum:

- Report to the Security Council – to avoid obstruction and hold both parties accountable
- Operate equally – in both the occupied territory and the refugee camps governed by the POLISARIO Front
- Be permanent until the implementation of UN plans for a referendum of self-determination

Bring renewed commitment to the resolution of the conflict through setting a clear timetable for implementation of the referendum on self-determination.

Western Sahara Resource Watch, January 2011

For more information please contact coordinator@wsrw.org

i Email to the Western Sahara Campaign, 12 January 2011.

ii In its 2006 report. See “Report of the OHCHR Mission to Western Sahara and the Refugee Camps in Tindouf 15/23 May and 19 June 2006,” Office of the United Nations High Commissioner for Human Rights (OHCHR), Geneva, 8 September 2006.

iii Resolution P7_TA (2010) 0443, voted on 25 November 2010.

iv Human Rights Watch, “Morocco: Release or Try Sahrawi Activists Held 10 Months”, August 2, 2010
<http://www.hrw.org/en/news/2010/08/02/morocco-release-or-try-sahrawi-activists-held-10-months>

v See Human Rights Watch article <http://www.hrw.org/en/news/2009/11/16/morocco-endangered-model> and Expulsion of human rights defender reflects growing intolerance AMNESTY INTERNATIONAL PUBLIC STATEMENT 17 November 2009. See online: <http://www.amnesty.org/en/library/asset/MDE29/012/2009/en/9168fdcd-6f76-4f8f-949a-e3346239b061/mde290122009en.html>

vi See online: <http://en.rsf.org/morocco-open-letter-to-hillary-clinton-30-10-2009,34870.html>

vii All the following examples are from Amnesty International, “Rights Trampled: Protests, Violence and Repression in Western Sahara, December 2010” and Human Rights Watch, 26 November 2010, “Western Sahara: Beatings, Abuse by Moroccan Security Forces”.

viii Amnesty International, “Rights Trampled”, *ibid*.

ix “Report of the OHCHR Mission to Western Sahara and the Refugee Camps in Tindouf 15/23 May and 19 June 2006”, Office of the United Nations High Commissioner for Human Rights (OHCHR).