

# **CRIMES WITHOUT A WITNESS**

## **HUMAN RIGHTS VIOLATIONS IN WESTERN SAHARA**



Western Sahara Action Forum is an international coalition of over 30 organisations dedicated to the protection of human rights and the implementation of international law in Western Sahara

## Executive Summary

In April 2014 the UN Security Council chose not to include human rights monitoring in the mandate of MINURSO. Public protests at this decision took place in Western Sahara. These were violently repressed by the Moroccan authorities. This includes the detention and reported torture of six Saharawi at a rally in El Aauin in May. One, 17-year-old El Hussein Bah, was rearrested after he reported to Amnesty International that he had been tortured.<sup>i</sup>

In addition to this, numerous other cases of human rights violations are reported to have been perpetrated by the Moroccan authorities over the past year. These crimes without a witness demonstrate the inadequacy of Morocco's national human rights mechanisms and the limitations of the UN Special Procedures.

The briefing provides examples of recent reported cases of torture and denial of freedom of assembly and freedom of expression and the right to health. It also outlines other longstanding human rights violations, including denial of freedom of culture, the right to work, and the right to benefit from natural resources.

It concludes with a clear recommendation for the UN Security Council: to renew MINURSO's mandate in April 2015 and to include the provision of **independent, impartial, comprehensive, and sustained monitoring of human rights, both in Western Sahara and in the refugee camps.**

## Introduction and background

In April 2014 the UN Security Council chose not to include human rights monitoring in the mandate of MINURSO, the UN peacekeeping mission in Western Sahara. In the absence of monitoring numerous cases of human rights violations perpetrated by the Moroccan authorities have been reported. These crimes without a witness demonstrate the inadequacy of Morocco's national human rights mechanisms, the limitations of the UN Special Procedures, and **the urgent need for independent, impartial, comprehensive, and sustained monitoring of human rights.**

Western Sahara is often referred to in popular discourse as Africa's last colony, and despite a ruling of the International Court of Justice and numerous Security Council resolutions in support of its right to self-determination, it is still a non-self-governing territory. The failure to resolve its status has led to increasing instability in the region and the threat posed to international security is a growing concern.

MINURSO was deployed in 1991 with the task of monitoring the ceasefire between Morocco and the Polisario Front and organising a referendum on the status of Western Sahara, but the mission has failed to make any substantive progress toward the latter goal. As one of only 6 peacekeeping operations (and the only mission established since 1978) without a human rights mandate, MINURSO has also failed to protect the population of Western Sahara from persecution and routine human rights violations.

While Saharawi who support a referendum on the future of Western Sahara have always faced persecution and violations of their rights, the issue is now drawing growing concern amongst human rights organisations and civil society. The

increased visibility of violations of the human rights of Saharawi citizens since 2005, King Mohammed VI's articulated policy of amplified hostility towards Saharawi in 2009, and the eruption of extensive violence in 2010, has brought the issue of human rights in Western Sahara to increased international attention.

### **Human rights violations in Western Sahara**

Below we highlight a few examples of human rights violations reported during the period May 2014 to January 2015. Due to the lack of comprehensive and sustained monitoring, many cases are unreported.

#### **Torture and ill-treatment**

“They took me into the desert in a police car, they took off my clothes and then they started beating me until I could no longer move. Then they raped me with a stick.”

Testimony of Rgaibano Lahwajui to Adala UK

Torture and ill-treatment by the authorities are a persistent problem in Western Sahara; this is documented by numerous sources. The UN Special Rapporteur on Torture, visited El-Aaiún in September 2012 and reported receiving “credible testimonies relating to torture and ill-treatment in the Prison of [El-Aaiún], including rape, severe beating and isolation up to several weeks, particularly of inmates accused of participating in pro-independence activities.”<sup>ii</sup>

After visiting Morocco and Western Sahara in December 2013, the United Nations Working Group on Arbitrary Detention noted, “Complaints received by the Working Group indicate the use of torture by State officials to obtain evidence or confessions during initial questioning.”<sup>iii</sup>

Morocco and Western Sahara features as a focus country in Amnesty International's global campaign on torture launched in May 2014. The organisation states: “Perpetrators of torture or other ill-treatment have continued to enjoy virtual total impunity....The resulting climate of impunity cancels out the dissuasive power of Morocco's anti-torture legislation.”<sup>iv</sup>

These have continued since April 2014

Freedom House reports that six detainees arrested at a pro-independence rally in El Aauin in May were tortured in detention in order to extract confessions. One, 17-year-old El Hussein Bah, was rearrested after he reported to Amnesty International that he had been tortured.<sup>v</sup>

In September Amnesty International issued an urgent action for seven Saharawi men, reportedly subjected to torture and ill treatment on 17 September by staff at El Aauin Local Prison. These men report being handcuffed, severely beaten in the prison courtyard in front of other detainees, and verbally abused.<sup>vi</sup>

Adala UK reports that activist Said Fanish was kidnapped on 5 November in Boujdour. In his testimony he reports being subjected to torture at the hands of a group of Moroccan police officers.<sup>vii</sup>

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Adala UK report that 22 year old Rgaibano Lahwajui was brutally beaten and raped with a stick by the Moroccan security forces for participating in a demonstration on 15 December in El Aauin.<sup>viii</sup>

On 22 December Human Rights Watch called for the release of Mubarak Daudi, awaiting trial in military court for weapons charges he denies. Claiming police beat him and forced him to sign a 'confession' Mr Daudi has been held without trial since late 2013.<sup>ix</sup>

Further concerns relating to the treatment of victims of torture in Morocco and Western Sahara surfaced this year. On 11 July the Moroccan Minister of Justice and Liberties, El Mustapha Ramid, announced that: "the Office of the Prosecutor will undertake necessary legal proceedings when faced with false reports or attempts to harm the reputation of individuals or institutions." This was condemned by rights groups as an attempt to dissuade victims from reporting torture.

Reports by Amnesty International indicate this may well be the intention. In August they cited the case of three activists who were imprisoned after they reported they had been abducted and tortured. Amnesty has called on the authorities to "stop actions that appear aimed at intimidating victims of torture and other ill-treatment from speaking out." x

**Denial of freedom of assembly**

"There were 19 of us, all women, and suddenly the Moroccan police, both uniformed and in plainclothes, brutally attacked us with truncheons, kicking us at the same time. We were each grabbed by three or four policemen and shoved into the street. We were beaten and humiliated, including the use of sexual harassment: they put their hands and truncheons all over my body."

Testimony of SokainaYaia to Adala UK

The Moroccan authorities routinely use intimidation, obstruction, and excessive force to disrupt legitimate and peaceful protests in Western Sahara. The UN Special Rapporteur on Torture has reported "a pattern of excessive use of force in repressing demonstrations and in arresting protestors or persons suspected of participating in demonstrations calling for self-determination of the Sahrawi population."<sup>xi</sup>

Human Rights Watch World Report 2015 highlighted the expulsion of at least 40 foreign visitors from Western Sahara between April and October and heavy Moroccan police surveillance of foreigners who visited and met Sahrawi rights activists.<sup>xii</sup>

Adala UK attended 13 peaceful demonstrations, between mid-May and mid-July. They cite a pattern of beatings of protestors, detention and torture in detention.<sup>xiii</sup> Their investigations also highlighted prisoners forced to sign declarations which they were not allowed to read and failure to investigate allegations of torture.<sup>xiv</sup>

In one example they cite testimony from Sokaina Yaia. Ms Yaia and 18 other women were chanting slogans for independence when they were beaten with truncheons,

kicked and sexually assaulted by Moroccan police. Ms Yaia passed out from her injuries and claims police delayed her receiving medical treatment.<sup>xv</sup>

They also cite the case of 17 year old Housine Laamash arrested on the 17 July in Boujdour. He alleges his treatment includes having a urine-soaked sponge pushed into his face, being forced to remove his trousers, being beaten and interrogated whilst his wrists were bound, and threatened with rape.<sup>xvi</sup>

### **Denial of freedom of expression**

There is evidence that the Moroccan authorities have attempted to silence criticism of their conduct in Western Sahara by interfering with media freedom. The three bills introducing reforms to the media introduced in October do not include any provisions to reform the so called “red line” issues relating to the prohibition of coverage of the monarchy, Islam and territorial issues, the latter a reference to Western Sahara.<sup>xvii</sup>

A group of Portuguese journalists have been campaigning for Mr. Mahmoud El Haisan, correspondent for RASD TV, a local TV station in Western Sahara, who was abducted on 4 July. Their letter states that he was brutally beaten and tortured by and sentenced to 18 months in prison. The group claim he has serious health issues that are aggravated daily due to the torture he has suffered whilst in prison.<sup>xviii</sup>

### **The right to health**

Access to health services is often denied Saharawi, with reports of police obstructing access to medical attention, particularly in prisons and in detention.

For example, on 4 October the authorities buried the body of Hasna Al Wali without notifying his family. Frontline Defenders report that Mr Al Wali, a member of the Sahrawi Association Against Torture was arrested 2012 and he alleged torture and ill-treatment following his arrest. He was later sentenced to three years in prison on charges the organisation believe were directly related to his work in defence of human rights. Mr Al Wali was diabetic and it is reported that he was denied proper medical treatment during his incarceration and was later sent to a military hospital where he died. The authorities claim he died of natural causes.<sup>xix</sup>

### **Longstanding human rights violations**

#### **The right to cultural freedom**

Saharawi culture, history and identity have frequently been challenged by the Moroccan Government, claiming that the nation of Western Sahara is in fact ‘Moroccan’ in cultural as well as sovereign terms. It is common for parents not to be allowed to give to their children Saharawi or Hassani names at birth, as defined by the authorities, while Saharawi musicians have been denied participation in festivals due to the cultural references to a historically unique Western Sahara in the lyrics.

#### **The right to work with just and favourable remuneration**

Western Sahara is rich in natural resources – particularly in fish and phosphates. However, the Saharawi people themselves rarely have the right to profit from these industries, or to find employment in their extraction, production or sale. The Moroccan government creates highly favourable tax and salary incentives to encourage Moroccans to relocate to Western Sahara in order to work for the

government in these industries. As a consequence, ethnic Moroccans largely take all the labour jobs in these industries, entrenching poverty and economic disempowerment among Saharawi.

### **The right to resources**

The exploitation of natural resources in Western Sahara currently presents an obstacle to the resolution of the conflict, and represents a further human rights issue of concern. International human rights law and the UN Charter clearly invest non self-governing peoples with permanent sovereignty of their natural resources.

Morocco benefits financially from these resources - in 2014, the value of the resources, mainly fish and phosphate rock, was close to \$300 million – while denying the Saharawi people their right to benefit from them.

### **The UN Security Council's obligations**

Article 73 of the Charter of the United Nations is clear that responsibility for the well-being of non-self-governing territories lies with the United Nations. It has responsibility to: *“promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories”* covers development, self-government, peace and security and *“their just treatment, and their protection against abuses.”*<sup>xx</sup>

### **The urgent need for human rights monitoring**

There is an urgent need for independent, impartial, comprehensive, and sustained monitoring of human rights. To ensure balance, this should include human rights monitoring in the refugee camps.

### **Inadequacy of UN Special Procedures and Moroccan national human rights mechanisms**

The evidence above of continuing and severe human rights violations shows that the UN Special Procedures, which only involve short and rare visits to Western Sahara, have been insufficient to improve the human rights situation.

Indeed, the UN Secretary General's own 2013 report on Western Sahara acknowledged that *“Given ongoing reports of human rights violations, the need for independent, impartial, comprehensive and sustained monitoring of the human rights situations in both Western Sahara and the camps becomes ever more pressing.”*<sup>xxi</sup>

The ongoing human rights violations are also proof of the inadequacy of Morocco's own national human rights mechanisms. In fact, in May 2013 it was reported that two members of the El Aaiún regional human rights committee of the National Human Rights Council, Mohamed Salem Mayara and Maghraoui Saghir, resigned in protest at the failure of the committee *“to monitor human rights in the region, because of a lack of political will and of means.”*<sup>xxii</sup>

With regard to the 2011 reforms to Morocco's constitution, Human Rights Watch in its 2015 Annual Report concludes these: *“have not led to improved practices, the passage of significant implementing legislation, or the revision of repressive laws.”*<sup>xxiii</sup>

### **The consequences of inaction**

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The price of not including human rights monitoring in the renewed MINURSO mandate in April 2015 could be high, both in terms of a continuation of the desperate human rights situation in Western Sahara and because of the security implications.

The 2013 UN Secretary General's report noted that the Secretary General's Personal Envoy to Western Sahara had found "second and third generations [in the refugee camps]...frustrated not only by lack of progress in the negotiations, but also by the absence of employment opportunities".<sup>xxiv</sup> It went on to say "Many expressed support for radical courses of action such as resuming hostilities against Morocco...Others warned that those frustrations made young people tempting recruitment targets for criminal and terrorist networks."<sup>xxv</sup>

Human rights monitoring would go a long way towards defusing tension and resentment both in the camps and in Western Sahara itself by deterring human rights violations. It could also inject a sense of confidence and momentum into the negotiations on Western Sahara's future, obviating the perceived need for more radical options and reducing the risk of conflict or terrorism in the region

**Recommendation**

Western Sahara Action Forum has one clear recommendation for the UN Security Council: to renew MINURSO's mandate in April 2015 and to include the provision of **independent, impartial, comprehensive, and sustained monitoring of human rights, both in Western Sahara and in the refugee camps.**

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