

CRIMES WITHOUT A WITNESS
HUMAN RIGHTS VIOLATIONS IN WESTERN
SAHARA SINCE APRIL 2013



Executive Summary

In April 2013 the UN Security Council decided not to include human rights monitoring in the mandate of MINURSO, the UN peacekeeping mission in Western Sahara. This briefing will highlight dozens of allegations of human rights violations that have been made since then, demonstrating the urgent need for monitoring.

These continuing allegations of “crimes without a witness” demonstrate the inadequacy of Morocco’s national human rights mechanisms and the limitations of the UN Special Procedures. These existing mechanisms have failed to comprehensively investigate these allegations and uncover the truth.

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

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

Introduction and background

“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.”¹ – Report of the UN Secretary General on Western Sahara, April 2013

17 year old Saharawi El Hussein Bah, was “forced to sign papers, including a ‘confession’ he was not allowed to read. He said that police officers forced a urine-soaked sponge in his face, pulled his trousers off and threatened him with rape, [and] beat and interrogated him while he was suspended by his knees with his wrists tied over his legs”.² – Amnesty International

In April 2013 the UN Security Council decided not to include human rights monitoring in the mandate of MINURSO, the UN peacekeeping mission in Western Sahara. This briefing will highlight dozens of allegations of human rights violations that have been made since then, demonstrating the urgent need for **independent, impartial, comprehensive, and sustained monitoring of human rights**.

These continuing allegations of “crimes without a witness” demonstrate the inadequacy of Morocco’s national human rights mechanisms and the limitations of the UN Special Procedures. These existing mechanisms have failed to comprehensively investigate these allegations and uncover the truth.

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 international 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. Observers are also increasingly concerned that continuing failure to defuse tensions in Western Sahara and settle the territory’s status may result in a return to armed conflict and even the emergence of extremism and terrorism.

This briefing focuses on recent allegations of torture and denial of freedom of assembly and freedom of expression. It also outlines other longstanding human rights violations.

Human rights violations in Western Sahara

Below is an illustrative selection of alleged human rights violations since April 2013. It is only a small fraction of allegations made, and many more are likely to have gone unreported. WSAF has collected details of these alleged violations from other sources and we do not have the ability to verify their authenticity. This only reinforces the case for proper monitoring and investigation.

Torture and ill-treatment

Torture and ill-treatment by the authorities are a persistent problem in Western Sahara. The UN Special Rapporteur on Torture, who visited El-Aaiún in September 2012, 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.”³ This has continued throughout 2013 and into 2014 in places of detention across Western Sahara, as the cases below illustrate.

Selected allegations of torture and ill-treatment since April 2013

Amnesty International reported that on 9 May 2013 six Saharawi pro-independence activists were arrested and detained by Moroccan security forces in El-Aaiún. This was after they had participated in protests calling for self-determination in Western Sahara.⁴ According to Amnesty International, one of the activists, 17 year old El Hussein Bah, was “forced to sign papers, including a ‘confession’ he was not allowed to read. He said that police officers forced a urine-soaked sponge in his face, pulled his trousers off and threatened him with rape, [and] beat and interrogated him while he was suspended by his knees with his wrists tied over his legs”.⁵ All six activists said they had been tortured and forced to sign confessions.

There have been many similar allegations since April 2013. In August two Saharawi prisoners in Ait Melul prison near Agadir were alleged to have declared a hunger strike after they were tortured and three of their fellow prisoners apparently died in custody having been denied adequate healthcare.⁶

In October Mbarak Daoudi, a Saharawi human rights activist, was allegedly tortured while in detention in Salé prison.⁷ The same month, four Saharawi pro-independence activists were reportedly released from the Black Prison in El-Aaiún having endured five months of torture following their participation in protests.⁸

In February, Frontline Defenders reported that four human rights defenders were beaten and tortured in detention by the Moroccan authorities.⁹ They had been arrested on charges of “insulting a government employee while carrying out their duties”, a charge commonly used to target human rights defenders that carries a possible prison sentence of up to three years.¹⁰

Denial of freedom of assembly

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.”¹¹

Selected allegations of denial of freedom of assembly since April 2013

On 20 May, Moroccan security forces allegedly surrounded Agadir University as Saharawi students were preparing to start a demonstration.¹² The security forces blocked students who were trying to participate in the demonstration and prevented it from taking place. On 24 May, Moroccan security forces were reported to have violently attacked a peaceful demonstration in Smara.¹³ During the violence, they arrested a 12 year old child named Ada Ali Daf, who later claimed that “a policeman in plain clothes lifted me in the air and threw me to the ground, then...beat me with a stick.”¹⁴

On 22 June, a human rights activist named Sidi Ahmed Fadel reported he was beaten by Moroccan police when taking part in a demonstration in El-Aaiún.¹⁵ He complained of leg and back injuries following the attack.

August was a particularly violent month. Security forces allegedly attacked a peaceful Saharawi demonstration for self-determination in Fam Lwad with stones, sticks, and batons on 18 August.¹⁶ A few days later, on 27 August, Moroccan police reportedly isolated and attacked a similar demonstration in El-Aaiún.¹⁷ On 31 August, Moroccan security forces were once again reported to have violently attacked a demonstration in El-Aaiún.¹⁸ On this occasion, the demonstrators were unemployed graduates protesting about the lack of work opportunities. It is claimed the security forces used wooden sticks and metal bars to attack them.

In September, Adala UK reported that a young Saharawi protestor, Shin Rashid, was killed by a rubber bullet fired by Moroccan security forces.¹⁹ They were firing rubber bullets and teargas at a peaceful demonstration in Asa.

On 19 October, police allegedly attacked protestors with teargas and stones in El-Aaiún during the visit of Christopher Ross, the Personal Envoy of the UN Secretary General.²⁰ On 21 November, Adala UK allege that police again attacked protestors using stones and batons.²¹

There have been further allegations of excessive force used against demonstrators in 2014. On 21 January, police reportedly used stones and batons to break up a protest about unemployment and human rights violations in El-Aaiún.²² On 15 February, a delegation of British Members of Parliament witnessed intimidation used against Saharawi protestors in El-Aaiún.²³ On the same day, the Sahara Press Service reported that 70 protesting Saharawis had been injured by security forces.²⁴ On 18 February, a demonstration of over 100 Saharawi students was also allegedly attacked by security forces in El Aaiún. It is claimed that two boys, 14 and 16 years old, were arrested.²⁵

On 20 February, Adala UK report that the Moroccan authorities placed several participants of peaceful demonstrations under judicial control in order to limit their political activities and to stop them from leaving the country.²⁶

Denial of freedom of expression

There have been allegations that the Moroccan authorities have attempted to silence criticism of their conduct in Western Sahara by interfering with media freedom, as outlined below.

Selected allegations of denial of freedom of expression since April 2013

In May 2013, the Moroccan authorities apparently expelled an Italian journalist. The journalist had hoped to cover the protest movement in Western Sahara, but was forced to leave upon arrival.²⁷

On 5 June, Ivan Broadhead, a journalist with Voice of America, was allegedly assaulted by plain-clothes Moroccan police as he was documenting a demonstration in El Aaiún.²⁸ His equipment was also confiscated.

Other human rights violations

The right to a fair trial

Morocco is alleged to frequently impose arbitrary detention upon Saharawi activists, and when cases are brought to trial these are often claimed to be unfair. A 2013 report by Human Rights Watch expressed strong concern about the trial of 25 Saharawi who were found guilty of using violence against security forces trying to dismantle the Gdeim Izik protest encampment in 2010.²⁹ The men were convicted by a military court in contravention of international norms, most were forced to endure pre-trial detention for 26 months, the court failed to investigate allegations that they were tortured or forced to sign confessions, and contested statements made to the police were the main evidence used to convict them.³⁰

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. As highlighted by the 2012 Report of the Independent Expert in the field of cultural rights, Farida Shaheed, "Saharawis do not learn about their own culture and history, given that they are taught only the official history of Morocco."³¹ Moreover, "some Saharawis had stopped wearing their distinctive traditional dress or were hesitant to do so, as they felt threatened or harassed by others."³² It is also 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 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 2011, the value of the resources, mainly fish and phosphate rock, exceeded \$400 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. Its 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.”*³³

The urgent need for human rights monitoring

There is an urgent need for independent, impartial, comprehensive, and sustained monitoring of human rights in Moroccan occupied Western Sahara. This monitoring should also extend to the whole territory of Western Sahara, including the territory under the control of the Polisario Front and the refugee camps.

Inadequacy of UN Special Procedures and the Moroccan national human rights framework

The allegations above of continuing and severe human rights violations show 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 said “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.”³⁴

The allegations of ongoing human rights violations also indicate the inadequacy of Morocco's own national human rights framework. The human rights provisions contained in Morocco's 2011 constitution have had no impact on the human rights situation in Western Sahara. Moreover, 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.”³⁵ They concluded “it is essential that there is a United Nations mechanism to monitor human rights in Western Sahara.”³⁶

Morocco's broken promise to protect human rights

When the US president, Barack Obama, met King Mohammed VI of Morocco in November 2013, they pledged “their shared commitment to the improvement of the lives of the people of the Western Sahara and agreed to work together to continue to protect and promote human rights in the territory.”³⁷ As shown above, there have been numerous allegations of human rights violations in Western Sahara since then,

demonstrating Morocco's unwillingness to honour its joint commitment with the United States.

The consequences of inaction

The price of not including human rights monitoring in the renewed MINURSO mandate in April 2014 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".³⁸ 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."³⁹

We believe 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 any perceived need for more radical options and reducing the risk of conflict or terrorism in the region.

Human rights monitoring in the refugee camps

We are aware of allegations that have been made about human rights violations in the Polisario-run refugee camps. While we are not aware of any evidence to support these allegations, we believe monitoring in the camps would help to settle the matter.

Recommendation

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

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