

Briefing 2019: Western Sahara and MINURSO

Summary

1. UN Envoy Horst Köhler has made progress and brought the parties to the conflict round the negotiating table for the first time in six years.
2. Nevertheless, the Saharawi people's right to self-determination remains unrealised. They face violence from the Moroccan state if they publicly mention this right. This is despite the presence of MINURSO, mandated to organise a referendum on self-determination and keep the peace.
3. The Gdeim Izik group of Saharawi activists are on hunger strike. They are serving long sentences after unfair trials. Köhler's visit to occupied Western Sahara saw peaceful Saharawi demonstrations violently broken up by Moroccan forces. Still MINURSO has no mandate to monitor human rights in the territory.

Recommendations to the UN Security Council

Immediately

1. Give strong support to UN Envoy Horst Köhler's efforts to break the deadlock.
2. Grant MINURSO the legal mandate to monitor and report on human rights in territories controlled by the Kingdom of Morocco and the Frente POLISARIO. This body must report its findings directly to the UN Security Council and be a permanent presence until the referendum.
3. Consider how MINURSO could support the upholding of international law with regard to the illegal exploitation of Western Sahara's resources by Morocco.
4. Building on the important recognition by courts around the world of the Saharawi's rights to control their natural resources, demand an end to the extraction of natural resources from Western Sahara through deals which disregard the interests and wishes of the indigenous Saharawi.

As soon as possible

1. Set a date for a free and fair referendum to be carried out in Western Sahara with an option for independence on the ballot paper, consistent with the established international legal norm of self-determination.
2. Develop a robust plan under Chapter VII of the UN Charter to enforce the outcome of the referendum, if any of the parties do not respect the decision of the Saharawi electorate.

Political process

Horst Köhler, the UN Secretary-General's Personal Envoy to Western Sahara, has made some progress. In December 2018, he organised the first roundtable meeting of the parties to the conflict, Morocco and the POLISARIO Front, and of Algeria and Mauritania. Conflict specialists the International Crisis Group have identified this as a sign of a 'resolution opportunity' for the conflict.

There are also signs of increasing US interest in resolving the conflict, with National Security Advisor John Bolton credited with a role in bringing the parties to the table. Bolton has expressed frustration that MINURSO has not been able to fulfil its mandate to organise a referendum on self-determination for the territory: "as an American, I favour voting".¹

Despite self-determination being fundamental to MINURSO's mandate, Morocco insists it will not countenance any vote that has independence as an option. This is despite Moroccan ministers regularly claiming that many Saharawis favour Moroccan rule. As we have detailed in the past and outline again in this briefing, the reality is that Saharawis living in occupied Western Sahara face repression, human rights abuses and economic inequality. It is time for the UN to empower MINURSO to stand up to Moroccan intimidation.

Human rights and the resolution of the conflict

Not only are the ongoing human rights abuses committed by Moroccan forces in Western Sahara unacceptable in themselves, they concern MINURSO and the United Nation's work in Western Sahara because, by deepening Saharawi mistrust of Morocco and perpetuating a climate of fear and violence, they can only hinder a peaceful resolution of the conflict.

It is therefore extraordinary that MINURSO is not mandated even to monitor the human rights situation in the territory, let alone "protect the population". In our recommendations we therefore once again highlight the need for MINURSO to be given a legal mandate to monitor human rights in Western Sahara.

Human Rights

As we write, many of the Gdeim Izik group of imprisoned Saharawi rights activists are on hunger strike. They are protesting against their continued detention, the inhumane conditions they are held in, and being scattered across Moroccan prisons many hundreds of miles from their families. Hunger strikes are underway at the following prisons: Quneitra, Tiflet 2, Ait Mellul 2 and Bouzkarn.

¹Nicholas Niarchos, New Yorker magazine, December 2018: "Is one of Africa's oldest conflicts finally nearing its end?" <https://www.newyorker.com/news/news-desk/is-one-of-africas-oldest-conflicts-finally-nearing-its-end>

Last year we detailed the unfair conduct of their appeals against their convictions. They were all originally activists arrested in 2010, in the wake of the Moroccan security forces' violent breakup of the Gdeim Izik Saharawi protest camps, and sentenced to long jail terms in unfair trials. Many have now spent close to a decade in Moroccan prisons.

International human rights organisations condemned the violent break up of peaceful Saharawi demonstrations held to mark the visit of Horst Köhler to occupied Western Sahara in June 2018. Amnesty International and Human Rights Watch both noted the violence, and that no investigation has been opened into the conduct of the security forces, despite Saharawi appeals.²

Amnesty further noted the “intense surveillance” that Saharawi human rights activists are subject to; and that international human rights lawyers have been expelled from Morocco when attempting to visit Saharawi political prisoners held there.³

Natural Resources

In February 2019, the European Parliament voted to approve a new EU-Morocco Fisheries Agreement which has been designed to permit the illegal exploitation of Western Sahara's fish resources. The EU Court of Justice has already heard five cases on Western Sahara's place in EU-Morocco trade agreements, and the likely outcome of this disregard for previous rulings is further litigation from international solidarity groups.

Days before the vote, 98 Saharawi organisations signed an open letter to the European Parliament urging them to reject the Agreement. The letter:

- notes that the EU Court of Justice has twice ruled that any international exploitation of the natural resources of Western Sahara is illegal unless with the prior agreement of the Saharawi people;
- states that the “Sustainable Fisheries Partnership Agreement ... is not a partnership” as the people of Western Sahara were not consulted about it in any way.

The EU is well aware that it is encouraging Moroccan controlled trade in Western Sahara: in 2017 European Commission officials visited the territory to conduct technical checks on Moroccan exporters. Moroccan investment in renewable energy is also increasing in Western Sahara, with a substantial part of it going to companies owned by the Moroccan Royal Family.

²Human Rights Watch World Report 2019 – Morocco/Western Sahara <https://www.hrw.org/world-report/2019/country-chapters/morocco/western-sahara>

³Amnesty International “UN must monitor human rights in Western Sahara and Saharawi refugee camps” <https://www.amnesty.org/en/documents/mde29/9225/2018/en/>

To be clear, economic development, particularly in the fields of clean and renewable energy, is in itself positive: but not at the expense of the rights of the Saharawi people. An economy led by and profiting a military occupation will not lead to long term prosperity and wellbeing. Instead it will deepen inequalities in Western Sahara, and make the conflict yet harder to resolve.

Conclusions

Unchecked Moroccan power - manifest in violence against civilians, and the illegal exploitation of Western Sahara's resources - brings instability to the territory. Above all, the continued denial of the Saharawi people's right to self-determination creates tension, frustration and "an illegal situation", in the words of the EU Advocate General.

The Gdeim Izik political prisoners are currently on hunger strike to highlight their unfair imprisonment by Morocco and the inhumane conditions they are held in. Unarmed Saharawi civilians in Western Sahara risk Moroccan state violence if they publicly state they are in favour of self-determination. Meanwhile, peacekeeping troops stationed in Western Sahara, and mandated to organise a referendum on self-determination, are not empowered to take any action.

This situation is indefensible. MINURSO must have a mandate to monitor human rights.

The UN needs to take action to build confidence among the people of the region, especially the Saharawis, that law and human rights will be respected in the future of Western Sahara. Without that confidence, renewed conflict remains a danger; with it, a peaceful solution becomes a possibility.

Our recommendations at the front of this briefing set out concrete steps that the UN Security Council can and should take.

The Western Sahara Action Forum wsaforum.org

The Western Sahara Action Forum (WSAF) is an international advocacy organization focused on Western Sahara. WSAF advocates for the United Nations (UN) to live up to its legal and moral obligations to enable the UN mission there, MINURSO, to organise and implement a free and fair referendum in Western Sahara. Working with a range of governments, NGOs, trade unions, and human rights defenders, WSAF leads international campaigns and lobbying efforts, and provides information and resources for activists and policymakers around the world.