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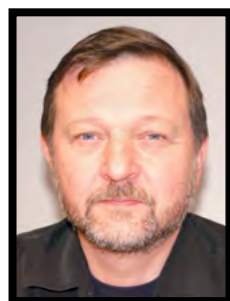
NORWEGIAN
REFUGEE COUNCIL

Western Sahara

A thematic report from the Norwegian Refugee Council, 2014

OCCUPIED COUNTRY, DISPLACED PEOPLE >> 2





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OCCUPIED COUNTRY, DISPLACED PEOPLE

More than 80 former colonies have gained independence since the UN was founded, a process which has affected more than one billion people, and in which the UN itself has played a crucial and driving role.

For most of us the decolonisation of Africa belongs to the history books, and is viewed as one of the UN's greatest successes. And yet the original population of Western Sahara has not yet been allowed to exercise its democratic right to decide its own future. Western Sahara is therefore still seen by the UN as a colony, and the subjugation of its people under the present occupying power of Morocco is much harsher than it was under the old Spanish colonists up until 1975.

For nearly 40 years more than half of the Sahrawis, the original population of Western Sahara, have lived in four isolated refugee camps in Algeria. Their homeland is divided along a Moroccan-built wall, and electronic surveillance, land mines and soldiers will put a stop whatever the wall itself fails to. Families have been separated for decades, and new generations grow up in the camps without ever having seen their homeland. In the occupied territories there are now more Moroccans than Sahrawis.

But despite great efforts by the refugees themselves, they are completely dependent on international aid. However, this aid has constantly

diminished over the past few years and is very unpredictable. Malnutrition and anaemia are widespread and the education sector is disintegrating. For the government in exile the struggle is twofold: they have to meet the refugees' immediate needs at the same time as carrying out nation-building in exile. The refugees fear that dependence on aid from a politically divided EU and an under-financed UN may be used to force the Sahrawis to abandon their struggle for an independent Western Sahara.

The UN has defined Western Sahara as a decolonisation question and in 1975 the International Court of Justice in The Hague rejected Morocco's alleged "historical claim" on Western Sahara. The African Union has recognised Western Sahara and accepted it as a member country, having defined the question of Western Sahara as the right to self-determination. In the times in which we live it is more important than ever to defend the principles of international law. The tracks of the UN are clear, but at the same time it is power that prevails. What use is it to have the support of the UN and the AU when powerful countries such as France, the US and Spain are either indifferent or actively oppose the Sahrawis legitimate rights? For decades the refugees of Western Sahara have been asking themselves this question: What use

is it to have right on your side if you do not get justice?

Western Sahara is clearly neglected by the international community. Humanitarian assistance is decreasing year by year, there is little media attention, and minimal will on the part of the international community to find a solution along the lines that the UN has outlined. These things are all connected. Media, donor countries and development aid organizations lose interest when a refugee situation has been long-lasting – and the reason for its duration is most often a conscious policy on the part of the actors who wield power.

The UN Security Council, The UN General Assembly and thereby all the world's states have expressed their support in principle for the Sahrawis' right to determine their own future, but they need to follow up this support in practice. It must increase its humanitarian assistance and actively engage to have Western Sahara placed higher up on the international, political and humanitarian agenda. Morocco should be put under far greater pressure. The occupying country is without doubt dragging its feet in the hope that the refugee communities will simply break up and disperse.

This report is an updated version of the NRC publication «Occupied Country, Displaced People» (2008).

Western Sahara – Africa's last colony

While the Sahrawis wait for their rights to be respected, the international community has chosen to look the other way. The Sahrawis have learned through bitter experience that without the help of powerful friends, it is of little use to have justice on your side.

Ever since Morocco invaded this thinly populated desert country in 1975, in defiance of UN resolutions, the international community has been unable to push through a solution to the conflict. A new round of UN-led talks began in 2007 between Morocco and Polisario, but there is little optimism in terms of finding a solution through those talks that both parties can accept.

It is urgent for the Sahrawis that the conflict is resolved. For nearly four decades the majority of the Sahrawi population has lived in refugee camps on an open, wind-swept Algerian desert plain, while the Sahrawis under occupation have had enough of repression and dis-

crimination. There is now an increased danger of renewed conflict.

MOROCCO REJECTS UN SOLUTION Western Sahara is a divided country. Those living in the refugee camps are cut off from contact with their relatives in the occupied territory. Morocco has built a 2,200 kilometre-long wall that divides the country in two. It is almost impossible to get over the wall, which is flanked by one of the world's largest minefields. The area west of the wall, with its great natural resources and well-stocked fishing waters, is controlled by Morocco. The eastern side, a mostly unproductive strip of desert, is under Polisario control.

The partition of the country is the result of a 16 year war which broke out after Moroccan invasion. Morocco built up its military defences in order to cut off Polisario's guerrilla forces. The liberation movement, based in refugee camps in Algeria, continued its armed resistance until the UN succeeded in brokering a ceasefire between the two sides in 1991. Agreement was reached on a detailed plan, which also gave draft timelines for Morocco's withdrawal from Western Sahara and for the return of refugees.

In September 1991 the UN Security Council deployed the MINURSO force ("UN Mission for the Referendum in Western Sahara") to the country. Its mandate was to implement the

Dakhla refugee camp, Algeria.



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Photo: Bernekk Productions

settlement plan in cooperation with the parties. The first steps were to identify qualified voters so as to later organise a referendum in early 1992, when the Sahrawis were to choose between integration into Morocco and full independence.

This is where the problems started. Instead of taking just a few weeks, the UN operation would take all of eight years to identify the qualified voters. The process was continuously hampered by Morocco, which made use of the delay to move increasing numbers of Moroccan settlers into Western Sahara, contrary to international law. When MINURSO finally completed the registration process in 2000, Morocco refused to accept the eventual list of qualified voters.

Not even the appointment of the former US Secretary of State James Baker as the UN Secretary-General's Personal Envoy to Western Sahara helped expedite the process. During the seven years that Baker worked towards reaching an agreement between the two sides, he presented several proposals for a solution. The last, which he put forward in 2003, proposed that all Moroccan settlers who had been resident in Western Sahara since 1999 would be able to vote in the referendum. To the surprise of many, Polisario, which had already made numerous compromises, accepted the proposal, knowing well that they could lose a referendum under these new conditions. However, it was rejected by Morocco.

In 2004, Baker gave up and resigned as the UN Secretary-General's Personal Envoy, believing it to be impossible to find a solution acceptable to both parties. The result of years of the UN's work – a list of qualified Sahrawi voters – is filed away in heavy steel boxes somewhere in Geneva.

INSISTENCE ON INTEGRATION The Sahrawis have been promised a referendum which will decide their own future. Over 100 UN resolutions and the International Court of Justice in The Hague



The tea ritual is important in the Sahrawis' culture and their daily lives.

(1975) affirm that the Sahrawis have international law on their side. Notwithstanding this, they have never been allowed to exercise their right to self-determination. Instead, Morocco can continue its occupation without any great detriment to itself, despite this not being recognised by a single country in the world. The Sahrawis' own state, on the other hand, the Sahrawi Arab Democratic Republic (SADR) has been recognised by over 80 countries since 1976¹. Unlike Morocco, SADR is also a member of the African Union (AU).

Morocco refuses to accept a referendum which

would allow independence as one of the alternatives. As a "new" proposed solution, it put forward a plan in 2007 which would entail the annexation of Western Sahara as an integrated part of Morocco, but with a degree of autonomy.

The UN has not reacted to the fact that Morocco is thereby flying in the face of the agreements it signed with Polisario in the 1990s and of international law, which clearly affirms the Sahrawis' right to self-determination. On the other hand, two of the permanent members of the UN Security Council, the USA and France, in 2007 pronounced the Moroccan

plan to be a "serious and credible" proposal.

While the search for a political solution drags on, the refugees live under extreme climate conditions in the Algerian desert. Almost all the food they eat bears the logo of an international aid organisation. Over the past years, the aid has constantly dwindled and its supply has become more unpredictable. This total dependence makes the refugees extremely vulnerable to failing and inadequate assistance.

According to Polisario, which manages the camps, 165,000 Sahrawi refugees are living in Algeria. New generations have grown up without ever having seen their homeland, and an entire people are divided from one another by the Moroccan occupation, the wall and the landmines.

A BARRIER TO DEVELOPMENT The first large Sahrawi demonstrations within the occupied territories of Western Sahara took place in 1999, and represented a new turn in the Sahrawi resistance movement.

Now it was no longer only Polisario and the refugees in Algeria who were the Sahrawis' heroic freedom fighters. The front line of the conflict had moved to the occupied territories. Both

international organizations and the press covered the Sahrawi activists being subjected to summary arrests, torture, house searches and widespread surveillance by the Moroccan police.⁴ The second wave of demonstrations and harassment began in the spring of 2005.

In 2010, the biggest protest wave so far took place in Western Sahara as more than 10,000 Sahrawis gathered in a protest camp outside the capital. More than two years later, the organisers behind the camp were convicted by a Moroccan military court to sentences ranging from 20 years to lifetime.

Today the ceasefire in Western Sahara continues, but it is tenuous. The patience of the population in the occupied territories has reached breaking point, and Polisario threatens to take up arms again if their right to choose independence is not respected.

The Moroccan occupation is a barrier to development, stability and security in this region on the threshold of Europe. Algeria, Morocco's arch enemy, is Polisario's main supporter. The absence of cooperation and peace between Morocco and Algeria makes political and economic integration in North Africa impossible, and prevents effective anti-terrorist cooperation between the two coun-

tries. It is because of the occupation of Western Sahara that attempts to establish a Maghreb Union have repeatedly foundered.

INCREASING NATIONALISM "Many believe that the Moroccan annexation of Western Sahara is developing into an established fact," says Jacob Mundy, assistant professor of Peace and Conflict Studies, Colgate University, who has published a book on the Western Sahara conflict.

"But what many overlook is that at the same time, Sahrawi nationalism is increasing," he states in an interview with the NRC. Mundy points out that the marginalisation of the Sahrawis in the occupied territory, and the isolation of the refugee population, have only strengthened their desire for independence. He is of the view that the 1991 agreement with Morocco now appears meaningless to many Sahrawis, and that there is a limit to how long Polisario can continue to take a moderate line without losing credibility with the Sahrawis. The credibility of the UN as a conflict negotiator stands and falls upon its ability to find a solution before the outbreak of renewed open conflict, Mundy believes. ■



WESTERN SAHARA: FACTS

- Official name: Sahrawi Arab Democratic Republic (SADR). Recognised by approx. 80 countries¹
- Capital: El Aaiún (Laayoune)
- Geography: Area 266,000 km². Bordered by Morocco to the north, Mauritania to the south and Algeria to the northeast.
- Climate: Very hot in June/July (+50-60°C), as low as 0°C in January.
- Population:² Area controlled by Morocco: approximately 400,000, of which 250-300,000 Moroccan settlers and 100-150,000 Sahrawis. In addition there are some 160,000 Moroccan soldiers and police.
- Area controlled by Polisario: approximately 30,000 nomads.
- Refugees: Approximately 160,000 are refugees in camps in Algeria³, 26,000 in Mauritania.
- Religion: The population is Sunni Muslim, but the majority have a liberal religious outlook.
- Natural resources: Large deposits of high quality phosphate, large fish stocks off the coast, possible deposits of oil and gas.

The changing face of the refugee camps



Photo: Norwegian Refugee Council/Renny Hansen

El Aaiun, the capital of occupied Western Sahara.

The Sahrawis: historical origins of a people

The history of the Sahrawis stretches back to the 12th century, when Arab tribes from Yemen migrated into the region. They mixed with the local Berber population and African groups from south of the Sahara.

The nomadic population of Western Sahara has historically been organised into tribes, of which the largest were Reguibat, Ait Lahsen, Izarguien and Ouled Delim. Politically these tribes were organised through a council called Ait Arbain. This organisational setup roughly covers the geographic area that today is Western Sahara, and is being used to legitimise Western Sahara's history as a national entity.

Sahrawi culture differs from Moroccan and Algerian, but less so from Mauritania. Language, music, dress and family structures show great similarities with those of Mauritania and western Africa, and serve to underline their differences to Morocco and North Africa.

Hassaniya, the local dialect of Arabic spoken in Western Sahara and Mauritania, is distinctly different from Maghreb Arabic as spoken in North Africa. The dialect is linguistically

closer to classical Arabic, but also has many loanwords from Berber. The Spanish colonial heritage has also led to the use of many loanwords from Spanish.

Women's participation in society is, in an Arab context, relatively robust. As a historically nomadic population, women have held property rights, and control over household and livestock. This is also reflected in today's exile community, where to a large extent it is the women who run the camps on the local level.

The Sahrawis are, like their neighbours, Muslim. Nevertheless they distinguish themselves by their liberal and relaxed interpretation of Islam. The Sahrawis do not have a tradition of mosques, religion is considered a private matter to be practised at home, and has little influence on daily life and politics. ■

A dwindling amount of humanitarian aid is being given by the international community to the refugees in Algeria. This has resulted in chronically malnourished children and a generation of youth who want to get out of the camps.

Up until the 1990s, a cash economy had yet to reach this outpost in the Sahara desert. But a few years after the enforcement of the ceasefire in 1991, the four Sahrawi refugee camps began slowly to change.

"Before, everyone lived the same way and did voluntary community work as part of the struggle for liberation. But now that the aid has decreased and the cash economy has taken over within the camps, the community spirit is diminishing and the differences are increasing," says Senia.

Senia Abderahman is 25 years old and a refugee. She grew up in the Smara refugee camp, one of four camps in an open, dry desert landscape in the south-western corner of Algeria.

Like all Sahrawi refugee children, Senia had to leave the camp to continue her education beyond primary school. She has scarcely seen her family since 1999. She attended lower secondary school in northern Algeria, and then completed secondary school and university studies in Norway and the US. The Sahrawi refugee camps are still considered very well organised, compared with camps in other



Photo: Berserk Productions

The children in the refugee camps have few toys and must entertain themselves.

parts of the world. The refugees themselves take care of aid distribution, and are in charge of all administration, education and health services.

During the early part of Senia's childhood, the Sahrawis were still at war with Morocco. The refugees were happy to work without pay, running the camps, working in hospitals and in the military. With volunteer teachers and a literacy rate of over 90%, the refugee camps became a unique, educated community on the African continent.

"At that time my family got all we needed through aid," says Senia, listing all the different food and consumer goods they received.

CHRONICALLY MALNOURISHED The situation for refugees is far worse now. Despite frequent pleas for more humanitarian aid by the UN High Commissioner for Refugees (UNHCR) to the international community, there is an ever

decreasing amount of food on Senia's family dinner table, and it's of poorer quality. "We only get half the amount of food we used to," says Senia.

UNHCR and the World Food Programme have done a thorough study of the nutrition levels in the refugee camps, revealing worrisome levels of malnutrition. The study, including test subjects from 2049 households, shows that 7.6 percent of children are acutely malnourished, 16.7 percent are underweight, and 25.2 suffer from stunting.⁶

The lack of aid has a marked effect on the day to day life of the camps. Refugees who previously received all they needed from foreign donor organisations must now make up for the shortfall with what little they earn. The economy that was formerly based on voluntary community work is therefore crumbling. Many of those who used to work as volunteers for the community have been forced to look around for

other sources of income. Some have set up small shops in the camps, or engage in commercial activities in Mauritania or the town of Tindouf a few kilometres away. Others receive money through Spanish child-sponsoring schemes. Teachers have begun to leave their classrooms, no longer able to afford to teach. There are two reasons for the decline in humanitarian assistance, according to the World Food Programme (WFP)⁷. The first is so-called donor fatigue: few organisations are motivated to give aid to the same refugee population for three decades in succession. By 2013, the major donors announced a cut of up to 70% of its bilateral aid to the refugees.⁸

The second reason is the dispute as to how many refugees actually live in the camps. Population figures have always been a sensitive subject for both sides in the Western Sahara conflict. Polisario claims that 165 000 refugees live in the camps. However, in 2005 WFP and UNHCR reduced the aid to cover the "90 000 most vulnerable refugees" without defining what "most vulnerable" means, or how they had come up with that figure. After an extensive flood in the refugees camps in January 2006, the figure was raised to 125,000, and in June 2007 this change was confirmed by UNHCR. Be that as it may, the UN continues to have problems in securing enough aid for the refugee camps.

WANTING TO GET OUT OF THE CAMPS The dwindling aid situation and political stagnation have resulted in a whole generation of youth who dream of getting away from the camps. Many of those who leave end up as tomato pickers or construction workers in Spain.

The President of the Sahrawi Republic, Mohammed Abdelaziz, has described this youth emigration as «the most serious and catastrophic threat that our society faces».

"Youth emigration is a matter of great con-

CHRONOLOGY OF THE LAST 40 YEARS OF CONFLICT

1973: The Liberation Movement, Front Polisario, is formed in Spanish Sahara to evict the Spanish colonial power.

1974: Spain gives in to many years of pressure by the UN for the country's decolonisation, and agrees to hold a referendum.

Summer 1975: The UN sends a delegation to the region in preparation for the referendum. The delegation visits every one of the communities in Spanish Sahara and reports back that the Sahrawis unanimously call for the colony's independence.

1975: Morocco opposes UN plans for a referendum, maintaining that the region was part of Morocco long before colonial times. Morocco succeeds in postponing the referendum by asking the UN to seek advice from the International Court of Justice in the Hague.

16 October 1975: The International Court of Justice issues a clear declaration on Western Sahara: Morocco's claim on Western Sahara is rejected. There were indeed certain ties between the people of Western Sahara and the

Kingdom of Morocco, but «the Court has found no legal ties of such a nature as might affect the application of resolution 1514 (XV) on decolonisation of Western Sahara, and, in particular, of the application of the principle of self-determination through the free and genuine expression of the will of the peoples of the territory».⁵

6 November 1975: King Hassan II of Morocco disregards the Hague declaration and initiates the so-called «green march». Moroccan military forces and 350,000 Moroccan civilians invade Western Sahara, while Mauritanian forces invade simultaneously from the south. When the Moroccan Air Force drops bombs with white phosphorus and napalm over communities in Western Sahara, the majority of the Sahrawi population takes refuge over the border in Algeria.

27 February 1976: Polisario establishes the Sahrawi Arab Democratic Republic, which is later recognised by over 80 countries, and is now a full member of the African Union.

cern, because it serves the policy pursued by Morocco, the aim of which is to empty these territories of their inhabitants and to strip the people's insurrection of its active power", says President Abdelaziz⁹. This statement probably refers equally to the exodus of Sahrawi youth from the occupied territories as from the refugee camps.

Given the scarcity of resources, Polisario can do little to offer young people meaningful jobs or higher education within the camps.

SOCIAL DIVISIONS According to Senia, something which occupies many people in the camps is the social changes which are now springing up along with the cash economy. She maintains that the greatest difference between families is whether they have managed to send a family member to Spain or not.

"In addition to most people actually being poorer, many have begun to feel poorer," she says. "Not only are children malnourished and living in extreme poverty, but they have really become aware of the affluence in Europe. It wasn't like that before." Like many other Sahrawi students, Senia planned to return to a free and independent Western Sahara after completing her health studies.

"I pray to God that Western Sahara is independent by the time I complete my studies. If it isn't, I will go back to the camps anyway. It's important for me to use my knowledge and skills for the good of my people," Senia said when interviewed by NRC in 2008. Now, six years later, she is returning to the refugee camps, with a completed masters degree. The Western Sahara conflict is still not solved. ■

Photos: Heidi Haugen



Senia Abderahman (25) has grown up in the refugee camps.

Nightfall over Western Sahara

Night has just fallen. My grandmother, Asisa, and I are sitting on the soft, cold sand dunes of the Algerian desert, looking up at the starry sky.

BY SENIA ABDERAHMAN (25), STUDENT AND REFUGEE

She points her hand towards the sky and starts to tell me the names of the various stars. Even though she is completely blind, she can still sense what once she could see. She normally talks of her dreams for our homeland; tonight, however, she tells me a different story – the thing that changed her life forever.

Like many other women at the time when she was young, she married at the age of twelve, but had no children until she was twenty. Her failure to have a child within one year of marriage was a great worry to her family. However, her husband was an understanding man, and did not use this as a reason for divorce. She used to start the day very early, milking the cows. "Everything was green, and the air was so fresh," she says, comparing the place she is from to the arid refugee camp where she has lived for the past thirty years.

One day in January 1976, something extraordinary happened. Asisa had already heard that the Moroccan army had attacked that area and driven people from their homes, but no one in the family had fully understood the gravity of the situation before it hit them. Moroccan troops stormed into their little village. Her husband ran off immediately to fight for his people, and Asisa, with her three daughters and three sons, had to cross the desert to seek refuge in Algeria.

They had to travel on foot; neither camels nor

cars could be used as transport, as this would make them much too visible a target for Moroccan bomber aircraft. They could only travel at night, hiding during the day among trees and rocks to rest. "Lala and I had to take turns looking out for aircraft while the others slept," grandmother recalls.

Lala, my mother, was twelve, but the eldest of the children. Brahim, the youngest, was only eight months old. They ran out of food and water after three days, as they had only been able to bring a small number of possessions with them. Now they had to live on what they could find in the barren desert. Soon after, Brahim died of dehydration and only two days later the other two little boys were killed by a landmine. "Half the family was gone. It was an utter catastrophe, and now it was just myself and my three surviving children fleeing through the desert," says grandmother.

The next day, as they continued eastwards, a plane dropped a bomb right in front of them. The bomb blinded my grandmother, but they continued walking. With a smile and with tears in her eyes she says: "The day after, two men from Polisario came in a truck and took us to the camps."

A month after they arrived at the refugee camps in Algeria, Asisa received a message that her husband had been killed in combat.

My grandmother is an example to me of great courage and of the justice of the Sahrawis' struggle. With half her family killed, and after thirty years of living in refugee camps, she still hopes to be able to return to her homeland. "The Moroccans may have weapons, guns and planes, but we Sahrawis have patience and determination," is what grandmother always says.

We, the young people of Western Sahara, have not experienced war for ourselves, or the invasion of our country by Morocco. But we well know how it has affected all of us. I myself was born in one of these camps. While I am studying abroad, my family of seven are all still living in the same tent. The family has lived here in this temporary way for year after year. Sometimes the temperature rises above 50 degrees C, and there isn't much you can do with yourself, except wait – wait for the international community to act.

Unlike many other young Sahrawis, a number of my dreams have been fulfilled. I was the first Sahrawi to be chosen to study in Norway, and then I received scholarships to college and university studies in the US and Norway. Of the foreigners I speak to, very few have heard of the Sahrawi refugees. The camps have been there for so long, but in such a distant, deserted place that I think only a tiny number of people in the world have ever heard our story," Senia concludes. ■

CHRONOLOGY OF THE LAST 40 YEARS OF CONFLICT

1979: Mauritania withdraws from Western Sahara and abandons its territorial claim. Morocco quickly takes over that part of Western Sahara which had been under Mauritanian control. The UN General Assembly reacts by stating that it «deeply deplores the aggravation of the situation resulting from the continued occupation ...», and urges Morocco «to terminate the occupation of the Territory of Western Sahara».¹⁰

1981-1987: To stop the attacks by Polisario, Morocco (with the help of Israel and the USA¹¹) builds a 2,200 km long wall across Western Sahara, flanked by one of the world's largest minefields. Today, the fortification stretches right across the whole of Western Sahara and divides the country in two.

1991: The UN Security Council and the parties agree on a referendum for the people of Western Sahara. The UN MINURSO mission is stationed in Western Sahara with a view to holding the referendum in the first half of 1992

2000: The referendum has still not been held. Morocco refuses to accept the lists of eligible voters produced by the UN.

2004: James Baker resigns as Personal Envoy, believing it to be impossible to find a solution acceptable to both parties.

2007: The UN Security Council requests the parties to meet once again to find a solution, and their first direct talks in seven years commence.

2010: Largest demonstrations in the occupied territory since ceasefire.

2014: The only thing the two parties have so far agreed upon is to continue negotiations. Polisario wants a referendum with independence as one of the options. Morocco opposes this and offers limited autonomy under Moroccan control.

Morocco has a very good relationship with France and traditionally has had close links with Spain. Money and weapons have come from the US and Saudi Arabia, so it is of little help that the African Union sides with Western Sahara.

Morocco – popular with the West despite occupation and injustice

“Had we prevented the Green March, we would have destroyed our relationship with Morocco,” said then US Secretary of State Henry Kissinger, referring to Morocco’s entry into Western Sahara in 1975.

The Moroccan invasion took place in the midst of the Cold War. Declassified documents of meetings in the White House bear witness to the US’s clear awareness of Morocco’s entry into Western Sahara¹².

Given its strategic location on the Straits of Gibraltar, on the doorstep of Europe, Morocco holds a strong hand of cards in relation to its allies. It knows that the EU wants close cooperation to help solve problems related to immigration and drugs, and it has therefore succeeded in making itself an important partner of the West. Morocco also uses the Arab League to garner support for its occupation of Western Sahara, and it appears to be a close ally in the US’s so-called “War on Terror”.

AGAINST SELF-DETERMINATION In his autobiography John Bolton, the former US Ambassador to the UN, testifies that the US’s relationship with Morocco has remained fundamentally unchanged since 1975¹³. From 1997 to 2000, together with UN Special Envoy James Baker, Bolton worked to find a solution to the question of Western Sahara. Despite his background as a Conservative and close friend of George W. Bush’s administration, he was harshly critical of US policy in the case of Western Sahara.

“They accepted Morocco’s line that independence for the Western Sahara – which nearly everyone thought the Sahrawis would choose in a genuinely free and fair referendum- would destabilize Morocco and risk a takeover by extreme Islamicists,” writes Bolton¹⁴. Bolton says he engaged in a number of efforts

in the US to find support for the Sahrawis to have their referendum, but without success. He also maintains that the Bush administration preferred stability for the Moroccan monarchy over self-determination for the Sahrawis. «I wondered what had happened to the Bush administration’s support for democracy», stated Bolton.

When in April 2007 Morocco put forward a proposal to include Western Sahara as part of Morocco, the American State Department chose to describe it as “a constructive contribution to finding a solution to the conflict”. At the same time the US has made agreements with the Kingdom for the supply of armaments to the tune of several billion dollars. No real change was observed from the Obama administration.

However, it is not the US which is Morocco’s closest ally, but France. Each time the case of Western Sahara has come up for discussion in the UN Security Council or the EU, France has lobbied for Morocco’s interests. France has, for example, succeeded in preventing the condemnation by the Security Council of the human rights infringements committed by Morocco. When the UN Secretary General asked for the mandate of the MINURSO force to be extended to include human rights monitoring in the country, France opposed this. France is Morocco’s foremost trading partner and provider of development aid, and for many years France’s political elite has had close ties to Morocco.

In 2001 the American energy company Kerr McGee and the French oil company TotalFinaElf entered into contracts with Morocco on oil exploration off the coast of Western Sahara. However, in January 2002 the UN Secretariat clearly stated that it was illegal to extract oil from the occupied territory.

SPAIN’S LEGACY During the last few years of East Timor’s struggle for liberation from Indonesian occupation, Portugal, its old colonial power, played a leading role in supporting the liberation of the East Timorese. Spain plays no such role towards the Sahrawis, indeed quite the reverse.

Since Spain withdrew from the territory in 1975, most Spanish governments have done their utmost to maintain good neighbourhood relations with Morocco. The logic seems to be that only through good cooperation with its southern neighbour can Spain hope to prevent a wave of drugs and immigrants flooding in over its vulnerable border. Moreover Spain has territorial disputes with Morocco, both in relation to the two small Spanish enclaves on Morocco’s northern coast, Ceuta and Melilla, and to any possible oil discoveries in the waters off the Canary Islands.

One of the most powerful interest groups in Spanish foreign policy and in the Western Sahara case is the Spanish fishing industry, and in 2013 Spain succeeded in pushing through a controversial fishing agreement between the EU and Morocco. Under this agreement, Morocco is paid 160 million Euros in return for EU fishing fleets being allowed to fish in waters under Moroccan control, including in the waters of Western Sahara. Almost all the fishing quotas are granted to Spain. The Spanish public’s widespread support for the Sahrawis and the Western Sahara liberation movement, the Polisario Front, therefore has difficulty in influencing central government policy on Morocco.

Given the French and Spanish support for Morocco, the EU has become completely incapable of action in terms of putting political pressure on the occupier. Governments

Photo: Erik Hagen



Strong bonds between Morocco and France have protected the occupier against necessary pressure.

friendly to the Saharawi cause, such as the Scandinavian countries, have until now failed to outweigh the pro-Moroccan lobby.

AFRICAN SUPPORT Morocco has significant support from among the Arab states too. Among them is the Kingdom of Saudi Arabia which strongly supports Morocco both politically and economically. For a long time Morocco also played a key role as a driving force for dialogue in the conflict between Israel and the Palestinians. This meant that countries with interests in the Middle East wished to keep relations with the Moroccan monarch on a good footing. The African Union (AU) for its part maintains its demand for liberation of the Western Sahara and recognises the Sahrawi Republic as a sovereign state and a full member of the Union. Many of the member countries have recognised the Sahrawi Republic, also known as the Sahrawi Arab Democratic Republic (SADR).

The Republic entertains close links with the three major powers on the African continent, South Africa, Nigeria and Algeria. One of the

last countries to recognise the Sahrawi Republic was actually South Africa, which recognised the Republic as a result of Morocco reneging, since 2004, on its promise to accept a referendum for the Sahrawis. Eighty-four countries in Africa, Latin America and Asia have at some point since 1976 recognised the Republic of Western Sahara as a sovereign state.

Today Morocco is the only country in Africa which is not a member of the AU. It withdrew in protest from the AU’s forerunner, the OAU, when Western Sahara was accepted as a full member in 1984.

Mauritania, Western Sahara’s neighbouring country to the south, assumes a relatively neutral stance in the conflict, and therefore maintains good relations with both the Polisario liberation movement and with Morocco. Around 20-30,000 Sahrawi refugees live in Mauritania¹⁵, and many of the refugees from Algeria travel to Mauritania for a few months a year to find work. Here refugees living both in the camps and in Europe also get to meet their relatives from the occupied territories, beyond the reach of the Moroccan

AU ASKING EU TO SUPPORT PEACE

In 2013, the EU agreed to enter into a fisheries agreement with Morocco, through which the EU will pay Morocco 160 million Euros for fishing licences offshore Western Sahara.

In a rare incident, the Pan-African Parliament put pressure on the European Parliament to respect the “territorial integrity” of its member state. Such agreement did “undermine the efforts deployed by the UN and the AU to find a peaceful and lasting solution to the conflict”, stated the President of the Pan-African parliament to his European counterpart.¹⁶

authorities. Moreover the Sahrawis and Mauritians speak the same dialect of Arabic (Hassaniya) and many are members of the same tribes. ■

UN's tracks fade into the sand

The former military chief of the UN mission in Western Sahara believes the UN must stand firmer on the claim for a referendum on independence. But some permanent members of the Security Council have not wanted to push too hard for this, he says.

As long as Morocco opposes the referendum, the UN process finds itself up a blind alley. Even seven years of James Baker serving as the UN's Special Envoy were not enough to obtain a solution which respected the rights of Sahrawis. Despite previous agreements to hold a referendum which would include the possibility of independence, Morocco now declines to accept these. So it is back to square one. A decades long UN-led process has failed to lead to any political breakthrough at all.

Kurt Mosgaard, the former UN Force Commander of its mission in Western Sahara, MINURSO, believes the UN must react. He says the UN needs to be clearer in its demands, and that it is high time for the referendum on independence for Western Sahara to be held. He is thereby critical of Morocco's rejection of a referendum.

"The UN should state that the referendum on Western Sahara *must* encompass the possibility of independence. Of course the referendum must include this alternative. You only need a normal level of insight to understand this,"



Ex- MINURSO force commander Kurt Mosgaard.

says Mosgaard in an interview with the NRC.

REALPOLITIK The Danish Major-General was Force Commander of MINURSO from 2005-2007. He now holds a senior position in the Danish military, and has some clear opinions on the failed UN process. He believes that "commercial thinking and classic realpolitik" are the major reasons why a solution on Western Sahara has never been arrived at.

"Some of the permanent members of the Security Council have had links with one of the parties concerned, which has meant they didn't want to apply too much pressure. I am a very strong supporter of the UN, but I also think it has some weaknesses. The UN must have a position, and one shouldn't always opt for the easiest solution," says Mosgaard.

The Dane himself has shown an ability to act. When he was Force Commander for MINURSO, he gave the order that the Moroccan flag over the UN building should be lowered for good. The flag had caused great irritation to many Sahrawis and UN staff, but none of his predecessors up to that point had dared to take it down. This small but very symbolic act was to make him most unpopular in Moroccan circles.

"The matter is simple. The UN is clear that Western Sahara is a territory whose status is still unclear. So it is unacceptable that a Moroccan flag should fly above the UN building in Western Sahara. It goes directly against our mandate. I don't know how this can have continued for 16 years without anyone having taken action", he says.

He says that the flag issue is one of many instances of the UN saying one thing in New York, but often playing a different role in practice.

TIME TO GET TOUGH After many years of dialogue between the parties, with a frustrated and isolated population in the Algerian desert, and 60 million dollars in annual costs to the MINURSO mission, the Major General thinks that the UN has spent far too long trying to find a solution. The chief problem, he maintains, lies in the choice having been made to adhere to Chapter VI of the UN Charter on a peaceful solution acceptable to both parties.

"It is high time the UN got tough and spoke out more clearly. If the UN does not deviate from Chapter VI, another 30 years will go by of maintaining the *status quo*", says Mosgaard.

If the Security Council goes a step further and makes use of Chapter VII, it mandates the use of force by UN member states to create peace. This is the course taken when it is seen that a peaceful solution to a conflict is not forthcoming, and the situation is a threat to international peace and security. When Iraq occupied Kuwait in 1990, and the UN went to the military defence of the country, the Security Council invoked Chapter VII, and since 1990 well over 100 resolutions have been adopted in accordance with Chapter VII. However, the Security Council has been unwilling to do the same when it comes to Morocco's occupation of Western Sahara since 1975.

"UNITED NOTHING" The main task of the MINURSO force was to oversee the ceasefire. This part of the agreements between Polisario and Morocco has been a great success. Mosgaard says that despite everything the two parties cooperate well with the UN on this part of the agreement.

"At the same time, some will perhaps say that the ceasefire only postpones the problem, as it was, after all, only meant to be an interim solution while awaiting a permanent political solution."

On the other hand, MINURSO has no mandate to intervene or to report on human rights violations in Western Sahara. For several years Polisario has been calling for MINURSO to have the right and the duty to protect the civilian population against such violations. The Nor-

wegian government has over several years called for MINURSO's mandate to be broadened. Even the UK and the US have demanded such inclusion prior to Security Council decisions. But the initiative has been stopped by France. So the mission stands back as a "silent witness to grave abuses of human rights", according to Amnesty¹⁷.

Despite the ceasefire, the Sahrawis maintain that the UN presence has been a fiasco. For many of them, it was unacceptable to lay down their weapons at all back in 1991 in favour of a referendum. Now they see that Polisario's strategy may have been a failure and that the UN is not in a position to push ahead for a solution. The Sahrawis are merciless in their criticism: "UN stands for United Nothing," they say in the refugee camps in Algeria.

Mosgaard is nevertheless certain that another war will not provide a solution, and that neither Polisario nor Morocco could emerge as victors.

"On the contrary, another war could lead to unrest throughout North West Africa. It would cost many lives on both sides, and cause new waves of refugees. Morocco would be severely affected economically, and there would always be the risk that a war would involve the neighbouring countries. Every day without war is a good day," says Mosgaard. ■

MINURSO

- United Nations Mission for a Referendum in Western Sahara. (Mission des Nations Unies pour l'organisation d'un référendum au Sahara Occidental)
- Established by the UN Security Council in 1991.
- Consists of over 490 Personnel (civilian and military).
- Operates on both sides of the wall.
- Has as its mandate, inter alia, to monitor the ceasefire, organise the referendum, oversee the exchange of prisoners and the later reduction of Moroccan troops.
- Read more at: www.un.org/Depts/dpko/missions/minurso.



Photo: Eirik Hjort Kirkerud

HIGH COMMISSIONER AS TRAVEL OPERATOR

Since 2004 the UN High Commissioner for Refugees, UNHCR, has been carrying out a programme for increased contact between Sahrawis in the refugee camps and those in the occupied territories. The main part of the programme consists of charter flights which shuttle between the two places. In this way Sahrawis from the refugee camps are given the opportunity to visit their relatives in the occupied territories for a few days, and vice versa. The programme has been very popular with the Sahrawis. Several thousand people have taken part in the visit programme – while still many more are on the waiting list to take part. The programme is very costly and at times has come close to being terminated due to lack of funds.

NORWAY SUPPORTS THE UN

Norwegian policy in the matter of Western Sahara has always been to «support the UN General Secretary's efforts to achieve a political solution», and that «Norway does not recognise the Moroccan annexation of Western Sahara»¹⁸. When Norway sat on the Security Council from 2001-2002 it played an active part in defending the rights of Sahrawis. And since the end of the 1990s the Norwegian MFA has supported humanitarian aid projects in the refugee camps, as well as landmine clearance in the Polisario-controlled parts of Western Sahara.

But apart from this, Norway has taken few political initiatives to work for a solution to the conflict. Norwegian support to the UN is unreserved and unchanged, despite the UN's inability to put pressure on Morocco to respect international law.

Fish, phosphates and international business

Foreign companies are playing an increasingly important role in the Western Sahara conflict. They provide employment to Moroccan settlers and income to the authorities of the occupying power.

Morocco's tremendous focus on the fishing industry in Western Sahara has upset the population composition in the occupied territories. Some estimate that as many as 120,000 fishermen live along the coast of Western Sahara¹⁹. If this is correct, there may be many more Moroccan fishermen than local Sahrawis left in the occupied territories.

There is, in short, a massive fishing industry developing in Western Sahara. The Russian government has a large trawl fleet in the waters offshore the territory, while Morocco is itself building a fleet of fishing vessels formerly fishing in Scandinavian waters.²⁰ In December 2013, the EU signed yet another fisheries partnership agreement with Morocco, paying the Moroccan government 160 million Euros for licences to operate in Western Sahara waters. The deal is considered in violation of international law by some EU states, and even by the former UN legal advisor, but was forced through by French and Spanish commercial interests.

In addition, hundreds of shipping companies transport fish and phosphate to the international market. Morocco's illegal export of phosphate brings in an income of around hundreds of millions of US dollars every year²¹. In recent years, the phosphate exported from Western Sahara has an estimated value of around 400 million US dollars – or more than ten times what the international community donates through multilateral humanitarian aid to the refugees annually.



Fish oil from Western Sahara end up in Omega 3 capsules all over the world.

Photo: M. Knutsen Bjørke/Future in our hands

NORWEGIAN MFA ADVISES AGAINST Several of the companies brush aside the ethical dilemmas of this business activity. One of the shipping companies which transport phosphate from Western Sahara is partially Norwegian-owned Gearbulk.

“Although doing business with the Moroccan occupying power is not to be recommended, it isn't prohibited either,” says Kristian Jebesen, chairman of the board of Gearbulk²². The company says it has not considered the ethical or moral aspects of carrying this freight, since there are others who buy and sell phosphate. “We only transport it,” says Jebesen²³.

The Norwegian authorities advise Norwegian businesses against operating in Western Sahara. The same stance is also evident in the management of the Norwegian Government's sovereign wealth fund, which has opted to sell shares from several companies involved in Western Sahara, including the American oil company Kerr-McGee in 2005. The company was about to carry out oil exploration off the coast of Western Sahara on behalf of the Moroccan national authorities.

“Morocco has for a number of years occupied Western Sahara despite strong UN condemnation. The [Advisory] Council found that Kerr-McGee through its exploration activities most likely will enable Morocco to exploit petroleum resources in the area. The Council regarded this as ‘a particularly serious violation of fundamental ethical norms’ e.g. because it may strengthen Morocco's sovereignty claims and thus contribute to undermining the UN peace process”, was the statement issued by the Norwegian Ministry of Finance at the time²⁴.

Several oil companies are still active in the oil exploration in Western Sahara, the most heavily involved being French oil company Total – in violation of the UN legal opinion.²⁵ ■



Imprisoned for their views

Morocco clamps down hard on Sahrawis who demand self-determination or independence.

It has never been easy to work for human rights in Western Sahara. Since 2000 all the independent human rights organisations in the occupied territories have either had to cease operating as a result of a court judgment, or have been denied registration. The networks of Sahrawi human rights activists must therefore operate illegally. They document how Sahrawi voices are brutally silenced through arrests, extensive surveillance, violent dispersal of demonstrations and constant house searches. These violations are also well documented in an internal report by the UN High Commissioner for Human Rights.²⁶

The main conclusion of the report by the High Commissioner is that the non-fulfilment of the Sahrawis' right to self-determination is

the primary cause of all other human rights violations in the country, and this is why the Moroccan violations are mainly directed at those who demand that this right be respected. Violations against youth who are active in demonstrations are particularly common.²⁷ UN Special Rapporteur on Torture visited the territory in 2012 and reported that “torture and ill-treatment were used to extract confessions and that protestors were subjected to excessive use of force by Moroccan law-enforcement officials”. He also underlined that the treatment that Sahrawis received by officials during demonstrations “amount to torture”.²⁸ Still, police impunity “remains a problem”. While the Moroccan government reported no complaints against the police, the local Sahrawis continuously communicate about such charges.²⁹ In 2013, 24 Sahrawi human rights activists were convicted to up to life-time in jail in a Moroccan military court, to the concern of the UN Secretary General and several UN institutions. The group had been sitting for 27 months in jail awaiting their sentence.³⁰

In addition to violations by the authorities,



The UN Special Rapporteur on Torture described in 2013 the poor conditions in Moroccan jails. Here from the main prison in the Western Sahara capital.

many Sahrawis experience discrimination by their Moroccan neighbours. This daily discrimination means that the Sahrawis have gradually become economically marginalised in their own country. Many find that poor Moroccans who have recently moved to Western Sahara to try their luck there have enjoyed greater economic success than themselves. Sahrawis who are politically active are often fired from their places of work, have their wages cut or are refused schooling. Sometimes the Moroccan police stir up violence between Moroccans and Sahrawis. Increased tension between the two groups has on one recent occasion led to deaths.³¹

Although the violations are less widespread than when the war was raging between 1975 and 1991, they are still being extensively committed. Some violations committed in the seventies and eighties have left a lasting mark on the Sahrawi community. At that time one of the most widely used means of oppression was abduction, and there are still around 500 Sahrawis listed as “disappeared” following arrest by the Moroccan police or military. In September 1991 King Hassan released 350 Sahrawi prisoners from secret

jails. Many of them had been missing since 1975, and the authorities until then had denied all knowledge of them. Except for this one instance, Moroccan authorities have shown no willingness to solve the many hundred cases of disappearance. Some of the disappeared turned up in mass graves, executed, in Western Sahara in 2013³².

Following Gdeim Izik protest camp in 2010 and increasing pro-democracy and human rights demonstrations in Morocco itself, the Moroccan government installed the National Council for Human Rights (CNDH) in 2011. This governmental body has been tasked to investigate claims on human rights violations and issue recommendations on reparation settlements, but Sahrawi human rights groups claim that it fails greatly to adequately address many cases in Western Sahara.³³ The 2013 discovery of the Sahrawi mass graves harbouring eight bodies brought CNDH in even further discredit by Saharawis, as the institution had previously concluded that four of the eight had died in prison, while the remaining were not even included in CNDH's list of victims of forced disappearance³⁴. ■

The Sahrawis' right to self-determination

The rights of refugees and of the Sahrawi people must be understood within the wider context of international law. Western Sahara is one of few remaining decolonization questions which are governed, inter alia, by provisions of the UN Charter.

In 1963, the country was included in the United Nations list of Non-Self-Governing Territories³⁵, and a number of General Assembly Resolutions have confirmed that the Declaration on the Granting of Independence to Colonial Countries and Peoples is applicable in this case.³⁶ For Non-Self-Governing Territories and their interim administrators, the principle applies that the interests of the population must be absolutely paramount.³⁷ The International Court of Justice in the Hague (ICJ) has also confirmed that the conflict is a decolonization question and a matter of the right to self-determination.³⁸ The Moroccan invasion was also a violation of the ban on the use of force in the UN Charter Article 2, and the de facto Moroccan control of Western Sahara lacks both legality and legitimacy.

The Sahrawi refugees and the population of the occupied territory have certain inherent rights which cannot be compromised in negotiations and Realpolitik. The right to self-determination is a fundamental human right.³⁹ It has a promi-

nent place in international law, enshrined in common Article 1 of the 1966 International Covenant on Civil and Political Rights (ICCPR) and the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) and is considered a peremptory norm in international customary law. Morocco is a party to all the major human rights conventions. Examples of violations of the right to self-determination are foreign military occupation or annexation, and other forms of colonial or neo-colonial exploitation. In a more indirect fashion, population transfers also constitute a breach of this right.⁴⁰ Morocco's conduct in relation to Western Sahara is as an obvious violation.

People who are subject to a colonial power or to similar alien subjugation, clearly have this right.⁴¹ In other words, the Sahrawi people themselves have the right to decide their international political status without pressure or interference. The right to self-determination involves the right to a particular process – “the freely expressed will

of peoples” must be heard.⁴² This is normally interpreted as requiring a census or referendum of some sort.⁴³ In this process independence must be an alternative for people who are subject to alien occupation or other subjugation.⁴⁴ “People” is not synonymous with “population”, and the Moroccan settlers do not necessarily have a right to participate in the self-determination process.

INTERNATIONAL LAW AND NATURAL RESOURCES

By virtue of the right to self-determination, all peoples also possess the right to advance their own economic, cultural and social development, including the freedom to govern their own natural resources.⁴⁵ It is also stated in the 1982 Convention on the Law of the Sea that coastal states have sovereign rights over natural resources on the continental shelf outside their own land territory. Morocco has no sovereignty over Western Sahara, and therefore no right to explore and exploit its resources. Article 73 of the UN Charter stipulates that the economic exploitation of resources in non-self-governing territories may only take place with the consent of the local population and must be in accordance with their economic interests. To trade or engage with Morocco's illegal exploration and exploitation of Western Saharan resources can be considered a violation of international law and a contribution to consolidate the illegal occupation. (The duty of non-recognition dealt with below, is particularly relevant in this connection). This was made clear in the advisory opinion from the UN Legal Advisor⁴⁶ and was also a strong factor in a recommendation from the Norwegian Government's sovereign wealth fund's ethical council to withdraw investments in Kerr-McGee.⁴⁷ International Humanitarian Law / Laws of War also has similar rules: The occupying power can only use property to the extent that it is necessary for the administration of the occupied territory and to cover the needs of the soldiers; never to cover the occupying state's own needs or to improve own economy (which must be held separate from the economy of the occupied territory).⁴⁸

SYSTEMATIC HUMAN RIGHTS VIOLATIONS As the UN High Commissioner for Human Rights stated in its 2006 report⁴⁹, the difficult general human rights situation for refugees and the Sahrawi people is linked to the failure to respect the fundamental right of self-determination. For example, it is explicitly prohibited by the Moroccan authorities to question Morocco's control of Western Sahara. Such a restriction of freedom of speech, particularly in view of the people's fundamental right to self-determination, does not come under any of the permitted restrictions in ICCPR Article 19. Furthermore, the Moroccan authorities do not respect the right to form associations and assemble to express opinions on the matter. Demonstrators' and activists' rights to life and not to be subjected to torture or other inhuman and degrading treatment are still violated, there are unresolved questions regarding the “disappeared”, and there are continuous violations of the right to a fair trial. Reports and comments from the High Commissioner for Human Rights, the Human Rights Commission, the Committee Against Torture, Amnesty International, Human Rights Watch, the US State Department and several other institutions and organizations confirm the systematic pattern of human rights violations. As the UN High Commissioner for Human Rights also concluded, fundamental changes in Morocco's legislation and legislative practice are needed for the country to comply with its international obligations.

REFUGEES The humanitarian situation of the refugees in particular is becoming more and more precarious. The ICESCR has special arrangements allowing developing countries to prioritise their own citizens to a certain degree, but the 1951 Refugee Convention contains some minimum social and economic standards for refugees. Algeria, as an asylum country, must meet its obligations according to the basic human rights conventions and the 1951 Refugee Convention, to which it is a party. Member states of human rights conventions are under an obligation to respect and promote the rights of all people within their territory, including refugees and asylum seekers. Algeria, however, is of the view that they have no responsibility for the refugees, due to the fact that they are organised by a government in exile, SADR, led by Polisario. Algeria's stance has no support



A small number of Sahrawi nomads still live in the Polisario controlled areas of Western Sahara.



Camel and goat herding forms the basis of the livelihood of the Sahrawi nomads.

from international law and human rights bodies, and the country must protect everyone on its territory. Polisario explains the restriction and temporary suspension of human rights provisions by reference to the extraordinary nature of the situation – that rights cannot properly be protected until Western Sahara has full independence.⁵⁰

ALL COUNTRIES HAVE A RESPONSIBILITY The international community and individual countries have a responsibility to resolve the conflict in Western Sahara and to protect the rights of the refugees. As the High Commissioner for Human Rights states, the international community must take all necessary steps to ensure that the right to self-determination is respected. Common Article 1 of ICCPR and ICESCR oblige *all* member states to promote the realisation of the right to self-determination and respect that right, in accordance with the provisions of the UN Charter.⁵¹ Since the obligations we have dealt with, are peremptory norms and apply *erga omnes* (that is, in relation to *all*; not just between parties), all states must do what is in their power to make the parties respect them. According to the Articles on State Responsibility, individual states have a duty of



The Moroccan conveyor belt for phosphates from the occupied Western Sahara is more than 100 km long and thereby the world's longest.

non-recognition of gross violations of international law. This duty arguably goes beyond active complicity, extending also to silent or passive assistance by acquiescence.⁵² The ICJ has also confirmed a duty of non-recognition.⁵³ The lack of political will that has made it possible for Morocco to continue denying the

Sahrawis their right to self-determination, is not a way of respecting this obligation in good faith. Policies that must be considered to support or recognise the Moroccan presence in Western Sahara would be a direct breach of the obligation. ■

RECOMMENDATIONS OF THE NORWEGIAN REFUGEE COUNCIL

To the government of Morocco:

- Halt its undermining the Sahrawi people's inalienable right to self-determination, through a referendum with an option of independence.
- Show full respect for the human rights in the occupied territories, notably the right to freedom of association, assembly, movement and expression.
- Halt and reverse the deportation of the occupied territory's population and the transfer of Morocco's own population to the territory.
- Release all political prisoners and prisoners of conscience and account for the more than 520 "disappeared" Sahrawis.
- Lift the information blockade imposed on the occupied territories and allow the free movement of people and information in the occupied territories.
- Allow the monitoring of, and reporting on, the human rights situation in the MINURSO area of operations, for

example through a strengthening of the MINURSO mandate.

- Halt the exploitation of the natural resources of Western Sahara and the involvement of foreign companies in such activities.

To the government of Algeria:

- Take all relevant measures to ensure that all Sahrawi refugees present on its territory benefit from the protection of the 1951 refugee convention and the international human rights conventions to which it is a party.

To the international community, in particular France, Spain and the EU:

- Exert more proactively their influence on Morocco in support of a solution that fully respects the Sahrawi people's inalienable right to self-determination through a referendum with an option of independence.
- Exert more proactively their influence on Morocco to ensure full respect for the human rights, international law and

International Humanitarian Law in the occupied territories.

- Increase the provision of aid to the Sahrawi refugees in a way that is predictable, sustained and timely.
- Ensure the monitoring of, and reporting on, the human rights situation in the MINURSO area of operations, for example through a strengthening of the MINURSO mandate.
- Avoid entering into trade agreements with Morocco that cover the territory of Western Sahara, as a consequence of the duty of non-recognition.
- Actively discourage the involvement of foreign companies in the exploitation of the natural resources of Western Sahara. The EU should immediately halt its fisheries in the waters off Western Sahara.
- Secure the funding needed for confidence-building measures (CBMs) to prepare the ground for future repatriation of the refugees.

¹ Approximately half of those states have later frozen their recognition. See full list at: http://en.wikipedia.org/wiki/Foreign_relations_of_the_Sahrawi_Arab_Democratic_Republic

² Numbers are very difficult to ascertain. Morocco makes no distinction between Moroccan settlers and Sahrawis. The number of military troops is kept secret. MINURSO is unwilling to give numbers.

³ WFP Executive board WFP/EB.2/2004/4-B/4doc, 5 May 2004

⁴ See e.g. the report of the Office of the United Nations High Commissioner for Human Rights (OHCHR), September 2006. www.arso.org/OHCHRrep2006en.htm

⁵ Read the advisory opinion at http://www.vest-sahara.no/files/pdf/icj_opinion.pdf

⁶ UNHCR/WFP, Nutrition Survey, Western Sahara Refugee Camps, Tindouf, Algeria, 2013, http://vest-sahara.no/files/dated/2013-11-24/2012_nutrition_survey_report_final_eng.pdf

⁷ "Sahrawi plight must not be forgotten, warns WFP chief", press release by the World Food Programme (WFP), 13 November 2006, <http://www.wfp.org/news/news-release/sahrawi-plight-must-not-be-forgotten-warns-wfp-chief>

⁸ UNHCR, Update on UNHCR's operations in the Middle East and North Africa, 24.09.2013, <http://www.unhcr.org/cgi-bin/texis/vtx/home/opensslPDFViewer.html?docid=52429c3b9>

⁹ Klassekampen, Norway, 24 December 2007, «De unge flytter ut».

¹⁰ Resolution 34/37 of 1979

¹¹ « Le Maroc avait recruté des militaires israéliens et américains pour concevoir "le mur de sable" au Sahara Occidental », Le Point (France), 14 January 2008.

¹² "How the US and Morocco seized the Spanish Sahara" Jacob Mundy in Le Monde Diplomatique, January 2006, <http://mondediplo.com/2006/01/12asahara>

¹³ Bolton, John (2006) Surrender Is Not an Option: Defending America at the United Nations, Threshold Editions. See relevant excerpts here: <http://w-sahara.blogspot.com/2007/11/john-bolton-on-western-sahara.html>

¹⁴ Bolton, John (2006) Surrender Is Not an Option: Defending America at the United Nations, Threshold Editions. <http://w-sahara.blogspot.com/2007/11/john-bolton-on-western-sahara.html>

¹⁵ Shelley, Toby: "Sons of the Clouds" in Red Pepper Magazine Dec. 2007-Jan. 2008, <http://www.redpepper.org.uk/article730.html>

¹⁶ WSRW.org, 04.12.2013, President of African Parliament calls on EU to respect Sahara rights, <http://www.wsrw.org/a105x2737>

¹⁷ Amnesty International, 1996. Human rights violations in the Western Sahara. London: AI Index MDE 29/04/96, April 18.

¹⁸ Letter from Minister of Foreign Affairs, Jan Petersen, 03.08.2005. <http://www.vest-sahara.no/a73x1537>

¹⁹ Toby Shelley: Natural Resources and Western Sahara. Olsson, Claes (ed.) The Western Sahara Conflict – The Role of Natural Resources in Decolonization, p.17-21.

²⁰ Greenpeace International, 2013. Exporting Exploitation, How retired EU fishing vessels are devastating

West African fish stocks and undermining the rights of local people <http://www.greenpeace.org/sweden/se/rapporter-och-dokument/exporting-exploitation/>

²¹ For international legal aspects of the resource exploitation in Western Sahara, see UN opinion S/2002/161, Letter dated 29.02.2002 from the UN Legal Counsel, addressed to the President of the Security Council, <http://www.un.org/Docs/journal/asp/ws.asp?m=S/2002/161>

²² Norwegian TV2 news programme 3 September 2007.

²³ Norwegian TV NRK2 «Spekter», 7 November 2007.

²⁴ Norwegian Ministry of Finance, Press Release, 6 June 2005, http://www.regjeringen.no/nb/dokumentarkiv/Regjeringen-Bondevik-II/fin/Nyheter-og-pressemeldinger/2005/company_excluded_from_the_government.html?id=256359

²⁵ Western Sahara Resource Watch, September 2013. Totally Wrong, http://www.wsrw.org/files/dated/2013-09-01/totally_wrong.pdf

²⁶ United Nations, Office of the United Nations High Commissioner for Human Rights (OHCHR). 2006. Report of the Office of the United Nations High Commissioner for Human Rights Mission to Western Sahara and the Refugee Camps in Tindouf : 15/23 May and 19 June 2006. Geneva: OHCHR, 8 September 2006. <http://www.arso.org/OHCHRrep2006en.htm>

²⁷ E.g. Amnesty International, 16 May 2013, Morocco/Western Sahara: Investigate alleged torture of six detained Sahrawis, <http://www.amnesty.org/en/news/morocco-western-sahara-investigate-alleged-torture-six-detained-sahrawis-2013-05-16>

²⁸ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, 28 February 2013, Mission to Morocco http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-53-Add-2_en.pdf

²⁹ US Department of State, 2012 Human Rights Reports: Western Sahara, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/2012/nea/204390.htm>

³⁰ Report of the Secretary-General on the situation concerning Western Sahara, 8 April 2013, http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2013/220

³¹ Report of the Secretary-General on the situation concerning Western Sahara, 05.04.2012, http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2012/197

³² Amnesty International, 12.09.2013, Morocco/Western Sahara: New revelations on Sahrawi disappearance cases highlight truth and justice deficit, <http://www.amnesty.org/en/library/info/MDE29/011/2013/en>

³³ US Department of State, 2012 Human Rights Reports: Western Sahara, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/2012/nea/204390.htm>

³⁴ Amnesty International, 12.09.2013, Morocco/Western Sahara: New revelations on Sahrawi disappearance cases highlight truth and justice deficit, <http://www.amnesty.org/en/library/info/MDE29/011/2013/en>

³⁵ UN Charter Chapter XI (A/5514, annex III). General Assembly resolution 1541 (XV) 1960, also concerns non-self-governing territories.

³⁶ Declaration on the Granting of Independence to Colonial Countries and Peoples, General Assembly resolution 1514 (XV) of 14 December 1960,

³⁷ UN Charter Article 73. Morocco is not considered «Administrative Power» for Western Sahara, but Morocco needs to respect such obligations as a minimum. Cf the analogy drawn in UN opinion S/2002/161, Letter dated 29.02.2002 from the UN Legal Counsel, addressed to the President of the Security Council, <http://www.un.org/Docs/journal/asp/ws.asp?m=S/2002/161>

³⁸ Western Sahara, Advisory Opinion, I.C.J. Reports 1975, 16 October 1975, paragraph 68

³⁹ See e.g. SIRESI1675 of 28.04.2006. «OHCHR Mission to Western Sahara and the Refugee Camps in Tindouf 8 September 2006» (OHCHR report). <http://www.gees.org/documentos/Documen-01475.pdf>

⁴⁰ International Humanitarian Law / Laws of War is also relevant: Morocco is in breach of the Fourth Geneva Convention Article 49 – that is, the occupant cannot deport or transfer parts of its population to the occupied territory.

⁴¹ This follows from preparatory work to the Convention, later UN Resolutions, and statements by the Convention's Commission for Human Rights. It is also clear in the ICJ opinion on Western Sahara paragraph 59: "[I]ts [the principle of self-determination as a right of peoples] application for the purpose of bringing all colonial situations to a speedy end..."

⁴² The ICJ opinion on Western Sahara paragraph 68 quoted above.

⁴³ E.g. Cassese Self-Determination of Peoples. A Legal Reappraisal, 1995. According to the ICJ opinion paragraph 71 the General Assembly has a certain discretion regarding form and process.

⁴⁴ Inter alia Cassese op.cit. but also mentioned in UN report S/2003/565.

⁴⁵ ICCPR and ICESCR common Article 1 (2), General Assembly resolution 1803 (XVI), 1962, Declaration on permanent sovereignty over natural resources.

⁴⁶ UN opinion S/2002/161, Letter dated 29.02.2002 from the UN Legal Counsel, addressed to the President of the Security Council, <http://www.un.org/Docs/journal/asp/ws.asp?m=S/2002/161>

⁴⁷ Norwegian Ministry of Finance, Press Release, 6 June 2005, http://www.regjeringen.no/nb/dokumentarkiv/Regjeringen-Bondevik-II/fin/Nyheter-og-pressemeldinger/2005/company_excluded_from_the_government.html?id=256359

⁴⁸ Inter alia the 1907 Haag Convention on land warfare, particularly Articles 52 and 53.

⁴⁹ See OHCHR Report

⁵⁰ See OHCHR Report

⁵¹ ICESCR and ICCPR text: "promote the realization of the right of self-determination" and "respect that right in conformity with the provisions of the Charter of the United Nations." A duty to promote this right through common and independent action, is also mentioned in General Assembly resolution 1541 (XV), ICJ opinion on Western Sahara paragraph 58 and "The Wall" paragraph 156.

⁵² Principles on State Responsibility, inter alia 41, by the International Law Commission.

⁵³ In inter alia "The Wall" 2004 regarding the Israeli wall on occupied territory and the opinion in 1970 on South-Africa's presence in Namibia.

INTERESTING WEBSITES:

www.arso.org

www.wsrw.org

www.vest-sahara.no



“The wall of shame” in Western Sahara