

Universal Periodic Review

Morocco

13th session 2012

Report submitted by
Western Sahara Resource Watch
and
Sahara Thawra



Contact Person: Sara Eyckmans
Email: coordinator@wsrw.org
Telephone Number: +32 475 45 86 95
Website: www.wsrw.org



Contact Person: Rodrigo Alvarez Garcia
Email: fcwcrew@gmail.com
Telephone Number: +358 465 611 460
Website: <http://saharathawra.org/>

Morocco/Western Sahara

1. This is the submission of two organizations, Western Sahara Resource Watch and Sahara Thawra, intended to contribute to the United Nations Human Rights Council's Universal Periodic Review of Morocco. The ambit of the submission - a review of Morocco's socio-economic commitments and performance over the period from 2008 until 2012 – is limited in two respects. First, we comment only on Morocco's presence and activities in the area of Western Sahara that it occupies. Although no State or the United Nations recognizes Western Sahara as being part of the national territory of Morocco, the government of the Kingdom of Morocco continues to assert sovereignty over the territory. As such, Morocco's commitments to human rights under the *International Covenant on Economic, Social and Cultural Rights* (the ICESCR), the *International Covenant on Civil and Political Rights* (the ICCPR) and the *Fourth Geneva Convention* extend to Western Sahara including by actions which affect the original inhabitants of the territory, the Saharawi people; a matter confirmed by the International Court of Justice in the 2004 Palestine Wall advisory opinion. Second, this submission addresses the particular issue of the socio-economic rights of a people under occupation and otherwise displaced into refugee camps.

I. The submitting organisations

2. Western Sahara Resource Watch is an international organisation working to investigate Morocco's natural resource activities in Western Sahara. The organisation was established in 2004, and consists of researchers, individuals and organisations from over 40 countries. Several of our researchers conducting interviews with Saharawi on their socio-economic situation have been expelled from Western Sahara by the Moroccan authorities over the last three year period.

3. Sahara Thawra is a Spanish human rights organisation, working to research and campaign the Saharawi people's human rights situation. The organisation had members present in Western Sahara in October-November 2010 when the territory was sealed off from the international community, and severe human rights abuses were carried out against the Saharawi population which had been demanding socio-economic rights.

II. Violations of International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Fourth Geneva Convention

4. Given the continuing status of the Saharawi people as non-self-governing and entitled to self-determination pursuant to UN General Assembly Resolution 1514 (XV), the primary application of the *Charter of the United Nations* must be recalled. The *Charter* holds forth the obligation *erga omnes* on all States to ensure, “as a sacred trust the obligation to promote to the utmost, within the system of international peace and security ... the well-being of the inhabitants of [non-self-governing] territories ...”.¹ It is our organizations' respectful view that the *Charter* imposes an added duty on Morocco in its occupation of Western Sahara to

¹ Charter of the United Nations, Article 73, Declaration regarding Non-Self Governing Territories.

ensure the just treatment and economic and social advancement of the original inhabitants of the territory, the Saharawi people.

5. In this context, it is worth recalling the legal opinion issued by the UN Legal Office in 2002 at the request of the UN Security Council, which emphasized that Morocco cannot be considered the administering power of Western Sahara, yet has obligations under international law to respect the rights of the people living in the territory it illegally annexed. The 2002 opinion concluded "that any further natural resource exploitation or exploration would be illegal" if it proceeded in disregard of the wishes and interests of the people of Western Sahara.² Since its creation, Western Sahara Resource Watch has reviewed numerous commercial contracts and trade agreements between Morocco and third parties which apply to the occupied territories that do not respect the legal requirements of the Saharawi people's prior consent to and subsequent benefit from these economic activities related to oil, phosphates, fish, sand, agricultural produce and the like.

6. Compulsory obligations in the present circumstances of Western Sahara are prescribed by the ICCPR and the ICESCR. Certain additional obligations in respect of a people under occupation under international humanitarian law are found in four articles of the *Fourth Geneva Convention*, namely Articles 27 (entitlement of protected persons to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs); 33 (prohibition against pillage); 39 (protected persons right to gainful employment); and 49 (the prohibition against an Occupying Power transferring its own civilian population into a territory it occupies). It is the nexus between the pillage of natural resources in Western Sahara coupled with the introduction of settlers from Morocco - now substantially outnumbering the Saharawi population - that is the gravest concern for impeding the work, civic participation and social circumstances of the Saharawi people in the occupied part of the territory.

7. Article 1(1) ICCPR requires the Saharawi people, being entitled to self-determination to be permitted to "freely pursue their ... economic [and] social ... development." This should be in conjunction with Article 1(2) of the Covenant, stipulating that the Saharawi people may "freely dispose of their natural wealth and resources."

8. Western Sahara Resource Watch and Sahara Thawra submit that, if the rights were available as prescribed by the ICCPR, problems of social and economic (including labour force) marginalization would be greatly reduced – or even eliminated – in Western Sahara. In its national report submitted to the Human Rights Council in 2008, Morocco declared it had allocated 7,2 billion dirhams (approximately 870 million USD) for a five-year development program in its so-called "Southern Provinces", including "226 projects in the fields of housing, urban development, fisheries, water, the environment and infrastructure". By comparison, according to our estimates, the annual returns from the one phosphate mine in Western Sahara, amounts to at least 600 million dollars, depending on world phosphate prices. Half of the Saharawi population lives in refugee camps inside Algeria. The multilateral humanitarian assistance they depend upon accrues to around 30 million US dollars annually.

9. Morocco's disrespect for such basic rights of the Saharawi population of Western Sahara have resulted in continuing massive protests denouncing the Saharawi's dire socio-

² United Nations Security Council, *Letter dated 29 January 2002 from the Under-Secretary-General for Legal Affairs, the Legal Counsel, addressed to the President of the Security Council*, S/2002/161, 29 January 2002.

economic living conditions, contrasting with Morocco's ongoing plunder of their homeland's natural resources. In September 2010 thousands of Saharawi started constructing tent camps outside the urban areas of the cities of El Aaiun, Marsa, Smara, Dakhla and Boujdour. As reported by Sahara Thawra, which had a continuous presence in those sites, the Moroccan authorities worked to dismantle the camps and the embryonic attempts to erect similar encampments. However, on 10 October 2010, hundreds of Saharawi succeeded in building a camp in the Gdeim Izik area, located near the city of El Aaiun. The population of the camp continued to grow as the Moroccan authorities kept ignoring the Saharawi demand that their legitimate rights as guaranteed by the Covenants, in particular the ICESCR, be respected. The number of protesters increased to several thousand, encompassing people of all ages and all social groups, united in their demands for improved social and economic conditions.³ After a month of negotiations between Moroccan government authorities and the Gdeim Izik representatives over grievances, Moroccan security forces entered the camp and, according to what we observed, used excessive force, abused and mistreated camp residents, and violently dismantled the camp. Hundreds of individuals were detained and arrested in the process, many of which were subjected to military rather than civil proceedings and subjected to torture. Among those arrested were a high proportion of human rights advocates and political figures from Saharawi communities. All of this took place as human rights organizations, the United Nations (including MINURSO staff members) and were excluded from observing what had taken place. Sahara Thawra was the only foreign organization present during the events.

10. In the immediate aftermath of Gdeim Izik, Saharawi protests erupted in the city of El Aaiun. Remarkable was that protesters aimed their anger at symbols of Morocco's ongoing exploitation of their homeland. The Ministry of Mines and Energy was raided⁴ and fish trucks were set on fire.⁵

11. Here, certain provisions of the ICCPR applicable to the circumstances of the Saharawi people should be brought to mind. Article 21 (right to peaceful assembly) and 25 (right to participation in public life) are intended to ensure full civic participation of all persons. The evidence from Western Sahara is that the Saharawi people are not able to exercise these two important rights, which has the effect of exacerbating their marginalized circumstances and presenting a further barrier to realizing their social and economic rights.

12. For years, Western Sahara Resource Watch has monitored continual protests by Saharawi who were employees in the Fosboucraa phosphate mining company during the Spanish colonization of Western Sahara. Morocco's acquisition of the company after Spain's 1975-76 withdrawal led to the gradual replacement of Saharawi labourers by Moroccan settlers. Today, Fosboucraa employs approximately 200 Saharawi out of a total workforce of 1.900 employees. Most of have reported violations of their economic and social rights, systematic exclusion and marginalization within the industry and unequal treatment as compared to the Moroccan workers (including downgrading and lack of promotion opportunities).⁶ Both submitting organizations have been in continuous dialogue with these groups of phosphate workers.

³ For full chronology on the Gdeim Izik events, we refer to the report '*Informe Gdeim Izik*' by Sahara Thawra, 8 November 2011.

⁴ Western Sahara Resource Watch, *Moroccan Ministry of Mines raided*, 10 November 2010.

⁵ Western Sahara Resource Watch, *Fish plunderer on fire*, 10 November 2010.

⁶ These figures are supported by France Libertés: Fondation Danielle Mitterrand, Statement submitted to the UN Human Rights Council, 12 February 2009.

13. Another important ICCPR provision is Article 2(1), the non-discrimination requirements to “respect and ensure all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as ... political or other opinion, national or social origin, property, birth or other status.” Work is vitally necessary here to balance or level the economic and labour contributions of the Saharawi people in the circumstances of a more numerous introduced settler population. However, there are many cases which point to the fact that the settler population has been given preferential treatment in terms of employment.

14. On 16 July 2011, unemployed Saharawi fishermen took to the local delegation of the Moroccan Fisheries Ministry in Dakhla, demanding to know why only fishermen from Agadir were employed aboard foreign vessels.⁷ Two weeks earlier, on 30 June 2011, three officially registered fishermen organisations, *Alqandil de Pêche Maritime*, *Ennawrass de Pêche Maritime* and the *Association of Sailors who work on Fishing Vessels*, issued a statement to the European Commission, lamenting that only a small percentage of the local Saharawi population of Dakhla is still employed in the local fishing sector, in spite of Morocco’s ongoing claims of having made heavy investments in the fishing sector in the harbour city.

15. Through its contacts with the Saharawi population in Dakhla, Western Sahara Resource Watch has established that the workforce employed on the plantations and greenhouses in the vicinity of the city is overwhelmingly, if not exclusively Moroccan. This has been confirmed in credible Moroccan media reports. The majority of employees on those agricultural sites come from Khenifra, Azilal, Khmeisset, Beni Mellal, all located between 1.600 and 2.000 kilometers from Dakhla.⁸

16. The ICESCR also provides for wide-ranging obligations in respect of the socio-economic standing of the Saharawi people while under occupation. As with the ICCPR, the rights of self-determination and the realization of the benefits of natural resources are foremost. So, too, are the requirements to eliminate discrimination between classes or categories of people, an important objective in the human rights of the Saharawi people, now a minority in their territory.

17. It is Article 6 of the ICESCR that has been most seriously disregarded in the case of the Saharawi people: “The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right. The steps to be taken by a State ... to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.” These provisions must necessarily be read in conjunction with Article 11 of the ICESCR: “States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing ...”

⁷ Western Sahara Resource Watch, *Protest against Agadir crews on vessels in Dakhla*, 17 July 2011.

⁸ See e.g. Western Sahara Resource Watch, *Moroccan tomato settlers protest their way back to Sahara*, 6 November 2011. Or Albayane Press, *Luttés Ouvrières: Licenciement abusif à Dakhla*, September 2010. Or Lakome, *عمال الضيعات الملكية بالداخلة ينتزعون وعدا بتسوية وضعيتهم*, 2 November 2011.

18. On 10 January 2010, the Moroccan police forcefully prevented Saharawi fishermen from entering the harbour of Boujdour and the nearby fish market. Days of protest ensued and Saharawi demanded the right to fish in their own waters. This led to confrontations with the Moroccan police, allegedly backed by Moroccan settlers who referred to the Saharawi fishermen as ‘strangers’. Saharawi fishermen are routinely prevented from fishing, especially during periods when it is officially allowed to fish for more lucrative species such as shellfish, octopus and squid. Morocco’s governor in Boujdour, Mr. Elarbi Etwaijar, has claimed that the Saharawi fishermen lack the necessary licenses to fish. But the Saharawi fishermen have responded by noting that only Moroccan settlers receive these licenses granted by the Moroccan authorities. Saharawi fishermen estimate the number of Moroccan settlers that have received fishing licenses for Boujdour harbour to be around 1.000 individuals, while no more than 10 Saharawi enjoy the same privilege.

IV. Conclusions and Recommendations

19. The case of Western Sahara is one of the most serious human rights concerns in our time. The Saharawi people are the last in Africa who have yet to undergo self-determination, in a process that has been stalled for 36 years. The socio-economic rights of those Saharawi who remain in occupied Western Sahara are not respected, and are declining. A part of this is due to the introduction of settlers from Morocco into the territory. A part has resulted from the continued taking of natural resources in circumstances in which the Saharawi population present is denied any fair or just part of employment and benefits from those resources.

20. The submitting organisations have noted and carefully assessed Morocco’s claims of socio-economic development of Western Sahara, and note emphatically in response that the activities underpinning such alleged development are not to the benefit nor are done with the consent of the Saharawi people. Rather, we contend that such activities are designed to attract and maintain a significant number of Moroccan settlers, thereby outnumbering and marginalising the original inhabitants.

Western Sahara Resource Watch and Sahara Thawra respectfully recommend the Government of Morocco:

- To guarantee the implementation of a referendum on self-determination in Western Sahara.
- To refrain from any further natural resource-related activities in Western Sahara until the final status of the territory has been established under the auspices of the UN-led peace process.
- To specifically report on its performance on the socio-economic rights of the Saharawi people, under the ICCPR, ICESCR and the Fourth Geneva Convention.
- To cease and reverse the influx of Moroccan settlers to Western Sahara.
- To cease and reverse the work incentives given to Moroccans in Western Sahara, and stop the continued housing programmes in the territory.
- To allow independent groups, parliamentarians and journalists access to Western Sahara to monitor the Saharawi’s socio-economic situation.
- To guarantee a fair, transparent and credible legal process for Saharawi currently imprisoned for defending their socio-economic rights, including those arrested in the Gdeim Izik protest camp or otherwise since October 2010.