OCCUPIED COUNTRY, DISPLACED PEOPLE 

Western Sahara
A thematic report from the Norwegian Refugee Council, 2014
More than 40 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 or any surveillance, land mines and soldiers fail to. Families have been separated for decades, and new generations having seen their homeland. In the times in which the UN has outlined. These things are all connected. Media, donor countries and development aid organisations lose interest when a refugee situation has been long-lasting – and the reason for its duration is often a conscious policy on the part of the actors who wield power.

The UN Security Council, the UN General Assembly and the UN itself 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 agenda. Morocco should be put under far greater pressure. The occupying country is without doubt disengaging 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.

Even 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 discrimination. 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
settled 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 2006, 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.

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1973:
CHRONOLOGY OF THE LAST 40 YEARS OF CONFLICT

WESTERN SAHARA> POPULATION

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 organized into tribes, of which the largest were Reguibat, Ait Lahsen, Inziguen and Ouiled Delim. Politically these tribes were organized through a council called Ait Arbaïn. This organizational setup roughly covers the geographic area that today is Western Sahara, and is being used to legitimate Western Sahara’s history as a national entity.

Sahrawi culture differs from Moroccan and Algerian, but less so from Mauritanian. Language, music, dress and family structures show great similarities with those of Mauritania and Algerian, but less so from Mauritanian.

Western Sahara’s history as a national entity.

The Sahrawi population considers itself part of the Sahrawi diaspora, which consists of persons of Sahrawi descent who reside outside Western Sahara. This diaspora includes Sahrawi refugees living in Morocco, Algeria, Mauritania, and other countries in North Africa. The Sahrawis are also a major component of the Arab presence in southern Morocco and Western Sahara.

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 to change.

Before, everything was done by the women. They would go out and hunt for food, and the men were responsible for maintaining the home. But now, the men are also going out to hunt and the women are responsible for the home.

Like all Sahrawi refugee children, Senia had a great education. She attended lower secondary school, and in 2005 WFP and UNHCR received 125,000 refugees in the camps. Many of those who left end up as tomato pickers or construction workers in Spain.

1974:
Spain gives in to many years of pressure by the UN for the country’s decolonization, 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 International Court of Justice in the Hague.

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.

1976:
The Hague declaration and initiates the so-called “green line” of Morocco.

October 1975: The International Court of Justice issues a clear declaration in favor of Western Sahara. Morocco’s claim on Western Sahara is rejected. The Court decided that Western Sahara is not a self-determination question.

Kingdom of Morocco, but the Court has no legal basis to such a nature or might affect the application of the resolution 1514 (XV) on decolonization 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.

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 recognized by over 86 countries, and is now a full member of the African Union.

The Sahrawis: their history, culture and traditions

The Sahrawi people have a rich history and culture, which is reflected in their traditions and practices. The Sahrawis are a nomadic people, and their way of life is closely tied to the environment.

Language, music, dress and family structures show great similarities with those of Mauritania and Algerian, but less so from Mauritanian.

Military history

Western Sahara’s military history is marked by the conflict with Morocco. The Polisario Front, an armed struggle for self-determination, has been fighting against Morocco for over 40 years.

The conflict started in 1975 when Morocco invaded Western Sahara, declaring it a part of Morocco. The United Nations called for a referendum to determine the will of the Sahrawi people, but Morocco refused to hold it.
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 ABDERRAHMAN (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 an 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 no experience 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 for more than 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.

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 as such a distant, deserted place that I think only a tiny number of people in the world have ever heard our story,” Senia concludes.
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 Sahara.

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 1975. 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 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, this 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, 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. 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 US 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 neighbourly 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 European 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 Sahrawi Republic as a result of Morocco reneging, since 1984, 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 1994.

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 2006, 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.

Strong bonds between Morocco and France have protected the occupier against necessary pressure. 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 friendly to the Sahrawi cause, such as the Scandinavian countries, have until now failed to outflank the pro-Moroccan lobby.

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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 has always rejected a referendum on Western Sahara to be held. He is the UN needs to be clearer in its demands, and MINURSO, believes the UN must react. He says that despite everything the two parties

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 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 cause taken when it is seen that a peaceful solution to a conflict is not forthcoming, and the situation is a threat to international security. When Iraq invaded 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 Norwegian 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 Amnesty.

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

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.


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 in Western Sahara. 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 recognize 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 fleet that flies 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 year19. In recent years, the phosphate industry has exported from Western Sahara has an estimated value of around hundreds of millions of US dollars – or perhaps even billions. The export of phosphate brings in an income of around hundreds of millions of US dollars.”21

FOREIGN CAPITAL> STRENGTHENS THE OCCUPATION

HUMAN RIGHTS> GRAVE VIOLATIONS

Norwegian foreign aid advises against

Several of the companies boast about the ethical dilemmas of this business activity. One of the shipping companies which transport phosphate from Western Sahara is partially Norwegian-owned Gearbulk.22 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 Jebsen.

The Norwegian government advises Norwegian businesses against operating in Western Sahara. The same stance is evident in the management of the Norwegian Government’s sovereign wealth fund, which has opted to sell shares from several companies involved in the phosphate industry, 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 time.23

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.24

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

Photo: M. Swindall Rights/Fairfax in our possession.

Norwegian MFA advises against

Several of the companies boast about the ethical dilemmas of this business activity. One of the shipping companies which transport phosphate from Western Sahara is partially Norwegian-owned Gearbulk.22

“Although doing business with the Moroccan occupying power is not to be recommended, it isn’t prohibited either,” says Kristian Jebsen, chairman of the board of Gearbulk.23 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 Jebsen.

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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.”25

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”.26 Still, police impunity “remains a problem”. While the Moroccan government reported no complaints against the police, the local Sahrawis continuously communicate about such charges.27 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.28

In addition to violations by the authorities, 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.29

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 Has- san 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 hundreds of disappearances. Some of the disappeared turned up in mass graves, executed, in Western Sahara in 2013.30

Following Cedolin Ithik 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 repatriation settlements, but Sahrawi human rights groups claim that it fails greatly to adequately address many cases in Western Sahara.31 The 2013 discovery of the Sahrawi mass graves harbouring eight bodies brought CNDH in even further discredit by Sahrawis, 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 disappearance.32

Imprisoned for their views

The biggest demonstrations in Western Sahara took place in 2010.

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.
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 Territories, 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. For Non-Self-Governing Territories and their interim administrations, the principle applies that the interests of the population must be absolutely paramount. The International Court of Justice in the Hague (ICJ) has also confirmed that the conflict is a decolonization question and that the right of self-determination is a fundamental human right. It has a prominent 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. Morocco’s conduct in relation to Western Sahara is as an obvious violation. 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. It has a prominent 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. 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. 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. This is normally understood as requiring a census or referendum of some sort. In this process independence must be an alternative for people who are subject to alien occupation or other subjugation. “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. 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 non-self-governing territories. 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 Advisor 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. International Humanitarian Law or 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).

SYSTEMATIC HUMAN RIGHTS VIOLATIONS
As the UN High Commissioner for Human Rights stated in its 2006 report, 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 violations of the right to self-determination. 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.
from international law and human rights bod-
es, 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.

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 com-
munity 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 reali-
sation of the right to self-determination and respect
that right, in accordance with the pro-
visions of the UN Charter. Since the obligations
we have dealt with so far are pre-existing 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
non-recognition of gross violations of interna-
tional law. This duty applies in a broad
sense, active complicity, extending also to silent
or passive assistance by acquiescence.

The ICH has also confirmed a duty of non-recognition.

The lack of political will that has made it possible
for Morocco to continue denying the
Sahrawis their right to self-determination, is
a disservice to the people in respect of this obligation in good faith. Policies that must be considered to sup-
port or recognize the Moroccan presence in
Western Sahara would be a direct breach of the obligation.

Consequently, some of the following examples are
intended to be supportive of the people of Western Sahara:

- All countries have a responsibility to support the
people of Western Sahara.
- All countries have a responsibility to support
the right to self-determination.
- All countries have a responsibility to respect
that right, in accordance with the provisions of
the UN Charter.
- All countries have a responsibility to promote
the realisation of the right to self-determination.
- All countries have a responsibility to respect
that right, in accordance with the provisions of
the UN Charter.
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the people of Western Sahara.
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the right to self-determination.
- All countries have a responsibility to respect
that right, in accordance with the provisions of
the UN Charter.
“The wall of shame” in Western Sahara