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Parliamentary contribution to resolving the Western Sahara conflict

Report¹

Committee on Political Affairs and Democracy

Rapporteur: Ms Liliane MAURY PASQUIER, Switzerland, Socialist Group

Summary

Underlining the need to continue negotiations under the auspices of the Secretary-General of the United Nations with a view to achieving a just, lasting and mutually acceptable political solution to the Western Sahara conflict, the Committee on Political Affairs and Democracy calls on all parties to show realism and a spirit of compromise in order to move the negotiations forward. It also encourages all member States of the Council of Europe to redouble and join their efforts in the search for a definitive political solution in order to establish lasting security and stability in the Sahel-Saharan region.

Despite the progress made by Morocco with regard to diverse questions relating to human rights and democracy, the committee is nevertheless concerned about a number of alleged human rights violations in Western Sahara, as well as the humanitarian situation in the Tindouf camps, and proposes a number of recommendations to be addressed to the Moroccan authorities and to representatives of the Polisario Front and Algeria.

In particular, the Parliament of Morocco should be invited to continue to develop a culture of human rights in Western Sahara and to be open to discussions with all representatives of Saharan civil society, as well as with the Polisario Front representatives based in the Tindouf camps, in order to develop mutual confidence and to facilitate negotiations.

1. Reference to committee: [Doc. 12603](#), Reference 3783 of 20 June 2011.

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A. Draft resolution²

1. The Parliamentary Assembly welcomes the effective progress made by Morocco on various questions relating to human rights and democracy, as underlined in [Resolution 1942 \(2013\)](#) on the evaluation of the partnership for democracy in respect of the Parliament of Morocco, including the creation, in 2011, of the Moroccan National Human Rights Council (CNDH) and other organisations for the protection of human rights.
2. At the same time, the Assembly underlines that under the terms of [Resolution 1818 \(2011\)](#) granting the status of partner for democracy to the Parliament of Morocco on 21 June 2011, it expects Morocco to continue to seek the settlement of international disputes by peaceful means, in accordance with the Charter of the United Nations. In this context, the Assembly specifically called on the Parliament of Morocco “to enhance its contribution to solving the Western Sahara problem in accordance with the relevant resolutions of the United Nations Security Council”.
3. Now, three years later, the Assembly remains concerned about the slow progress in finding a just and lasting political solution to the Western Sahara conflict, which has been a source of hardship and suffering for almost 40 years.
4. The Assembly notes, in particular, that Western Sahara remains a disputed territory, regarded as a “non-self-governing territory” by the United Nations and under *de facto* Moroccan administration, and that some of the Sahrawi population in the territory and of the refugees in the Tindouf camps in Algeria, who are linked to the Polisario Front, are opposed to this situation. In this connection, the Assembly:
 - 4.1. endorses United Nations Security Council Resolution 2152 (2014) and calls on the parties to continue negotiations under the auspices of the United Nations Secretary-General, without preconditions and in good faith, taking into account the efforts made since 2006 and subsequent developments, with a view to achieving a just, lasting and mutually acceptable political solution which will provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations;
 - 4.2. takes note of the Moroccan proposal, and the serious and credible efforts underlying it, aimed at granting the Sahrawi population a large measure of self-government, with its own legislative, executive and judicial bodies, as well as financial resources for development;
 - 4.3. takes note of the proposal by the Polisario Front, which believes that the solution to the conflict must involve the exercise by the Sahrawi people of their right to self-determination through a referendum;
 - 4.4. takes note of the obstacles to the holding of a referendum, in particular to the identification of voters, responsibility for which lies with the United Nations Mission for the Referendum in Western Sahara (MINURSO), which currently maintains the ceasefire and supports confidence-building measures to address the needs of displaced Sahrawi families, as well as de-mining programmes for the region;
 - 4.5. underlines that the status quo is causing growing frustration, especially among young people, which could generate violence throughout the Sahel-Saharan region;
 - 4.6. encourages the parties to maintain dialogue, to remain constructively engaged with the United Nations Secretary-General’s Personal Envoy for Western Sahara, and to show realism and a spirit of compromise in order to achieve progress in the negotiations;
 - 4.7. reiterates that the issue of human rights remains an essential factor in any comprehensive settlement of the conflict and underlines that respect for human rights must be ensured immediately in Western Sahara and in the Tindouf refugee camps, without waiting for a final political settlement of the conflict, which is the goal to aim for that will allow for the full enjoyment of human rights and fundamental freedoms;
 - 4.8. welcomes the recent bill approved by the Council of Ministers of Morocco on 14 March 2014 on the reform of the military justice, with a view to ending the practice of trying civilians in military courts, regardless of the crimes committed, as well as the creation of a network of parliamentarians against the death penalty in the Moroccan Parliament;

2. Draft resolution adopted unanimously by the committee on 7 May 2014.

- 4.9. notes with satisfaction the efforts consecrated by Morocco for the promotion and protection of human rights, in particular through the strengthening of its national human rights institutions, and its continued positive interaction with the Special Procedure mechanisms of the United Nations, in line with its international obligations. It relates in particular to the strengthening of the role of the CNDH and the nomination of contact persons at ministerial level to follow up the recommendations of the CNDH, in particular in the offices in Laayoune and Dakhla;
- 4.10. is nevertheless concerned about a number of alleged human rights violations in Western Sahara, in particular in terms of freedom of expression, assembly and association, as well as allegations of torture, inhuman or degrading treatment and violations of the right to a fair trial;
- 4.11. is also concerned about alleged human rights violations in the Sahrawi Tindouf refugee camps, in particular in terms of freedom of expression, assembly, association and movement, as well as the humanitarian situation in the camps, which has been aggravated by the global financial crisis, unemployment, a lack of prospects and the very worrying and unstable situation in the Sahel;
- 4.12. notes with satisfaction that family visits between the refugee camps and Western Sahara have proceeded well since March 2004 and calls on both parties to continue co-operating with the Office of the United Nations High Commissioner for Refugees (UNHCR) and MINURSO so that the family visits run smoothly.
5. More particularly, the Assembly calls on the Moroccan authorities to:
- 5.1. step up their efforts and co-operation with the CNDH and the International Committee of the Red Cross (ICRC) in accounting for those who are still missing in connection with the conflict, and exhume and return remains to families;
- 5.2. implement the recommendations based on the Special Procedures of the United Nations Human Rights Council, with which the CNDH, the Mediator Institute and the Interministerial Delegation on Human Rights co-operate actively;
- 5.3. guarantee freedom of expression and revise certain articles of the Press Code, the Law on Associations and other laws which make illegal any political and civil society statements and activities deemed to undermine the "territorial integrity" of Morocco, and guarantee free movement of journalists and foreign visitors who travel to Western Sahara;
- 5.4. respect the right to hold peaceful meetings, including for advocates of self-determination for the Sahrawi people, and make sure that any restrictions are temporary and limited to what is strictly necessary;
- 5.5. ensure compliance with the Moroccan law on associations by putting an end to the practice of rejecting, on formal grounds, the statute documents submitted by non-registered Saharawi civil society associations;
- 5.6. ensure that the actions of the police remain proportional and reinforce human rights training for members of the security forces, and also for judges and prosecutors, in partnership with the Council of Europe;
- 5.7. conduct independent inquiries to determine the responsibility of the Moroccan police following complaints by civilians regarding human rights violations in Western Sahara, examine all allegations of torture and ensure that no statement obtained by force is admitted as evidence;
- 5.8. grant the accused in the trial concerning the events in Gdeim Izik in December 2010 the right to a retrial in a civilian court, in accordance with the proposal for a bill stipulating that civilians should no longer be tried in military courts, regardless of the crimes committed;
- 5.9. continue the efforts made concerning the abolition of the death penalty and in the meantime declare a legal moratorium on executions;
- 5.10. strengthen the role of Moroccan human rights institutions, in particular the CNDH, regarding the human rights situation in Western Sahara;
- 5.11. sign the Geneva Call for a Total Ban on Anti-Personnel Mines and accede to the United Nations Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction.

6. The Assembly also invites the representatives of the Polisario Front and Algeria to:
 - 6.1. allow the UNHCR to organise a census and to proceed with the registration and identification of the population in the Tindouf camps in order to establish the actual number of refugees living in these camps;
 - 6.2. invite the independent human rights experts (“Special Procedures”) of the United Nations Human Rights Council to travel to all parts of the region;
 - 6.3. ensure the amelioration of the humanitarian situation of refugees in the Tindouf camps and the fulfilment of their obligations regarding humanitarian rights;
 - 6.4. co-operate with the United Nations in finding a fair and final solution to the conflict, be realistic and constructive in the negotiations and step up dialogue on any issue concerning human rights in the refugee camps;
 - 6.5. guarantee freedom of expression, assembly and association for all the camp residents, including by making sure that they are free to advocate options other than independence for Western Sahara;
 - 6.6. ensure that the camp residents enjoy freedom of movement, including, if they so wish, the right to leave the camps and settle in the territory of Western Sahara;
 - 6.7. develop a human rights culture in the refugee camps and set up human rights training programmes for the members of the security forces, and also for judges and prosecutors, members of the institutions and civil society representatives.
7. The Assembly encourages all parliamentary institutions in the region to take a more active part and become more involved in the search for solutions that facilitate the negotiations and build mutual trust between the parties to the conflict, including helping to facilitate direct exchanges.
8. In particular, the Assembly invites the Moroccan Parliament, in accordance with the commitments made under [Resolution 1818 \(2011\)](#) granting it the status of partner for democracy, to:
 - 8.1. urge the Moroccan Government to implement all the recommendations made in the context of the United Nations and the CNDH, and continue developing a genuine culture of human rights in Western Sahara;
 - 8.2. open up to dialogue with non-registered Sahrawi civil society associations and human rights defenders, with the authorities of the Polisario Front based in the Tindouf camps, such as the Sahrawi National Council, and with members of the Algerian Parliament with a view to building mutual trust and facilitating negotiations.
9. The Assembly also calls on all Council of Europe member States to:
 - 9.1. intensify their efforts and work together to find a just and final political solution to the conflict, enabling the establishment of lasting security and stability in the Sahel-Saharan region;
 - 9.2. to provide urgent funding for the confidence-building measures programme and the programme mandate of the UNHCR in the Tindouf refugee camps.
10. Lastly, the Assembly believes that the progress made by Morocco in the field of human rights in Western Sahara and the implementation of this resolution should henceforth be taken into account in the next evaluation report on the partnership for democracy in respect of the Parliament of Morocco, which is due in 2015. In this context, the Assembly stands ready to help facilitate direct contacts between the parties concerned.

B. Explanatory memorandum by Ms Maury Pasquier, rapporteur

1. Introduction

1. I was appointed rapporteur on 21 June 2011, on the basis of a motion for a resolution on the parliamentary contribution to solving the Western Sahara conflict, which I tabled during the April 2011 part-session, together with 19 parliamentarians from across the political spectrum.

2. In the context of the request of the Parliament of Morocco to be granted partner for democracy status with the Parliamentary Assembly in 2011, several colleagues raised the issue of the disputed territories of the Western Sahara and respect for human rights in the framework of the unsettled conflict in that region. At the time, Mr Luca Volontè, rapporteur on the request for partner for democracy status submitted by the Parliament of Morocco, suggested that the question of Western Sahara, as such, was not an issue for his report, and “should not be used as an obstacle for, or be linked by any kind of conditionality with, the decision of the Assembly with regard to the status”.³ He also argued that my report would constitute an appropriate framework for dealing with this issue.

3. That said, in [Resolution 1818 \(2011\)](#) granting the status of partner for democracy to the Parliament of Morocco, it is explicitly stated that “the Assembly expects that Morocco will continue to seek the settlement of international disputes by peaceful means in accordance with the Charter of the United Nations”. In this context, the Assembly specifically called on the Parliament of Morocco “to enhance its contribution to solving the Western Sahara problem in accordance with the relevant resolutions of the United Nations Security Council”.

4. The Western Sahara conflict as such is dealt with in the framework of the United Nations, in accordance with relevant resolutions of the Security Council. The Council of Europe has no specific competence, but clearly supports the efforts by the United Nations, as also stated in the Parliamentary Assembly [Resolution 1408 \(2004\)](#) on the situation in the Western Sahara. At the same time, the situation in Western Sahara raises important human rights and democratic governance issues which are of major concern to our Assembly. The aim of my report is to highlight these specific dimensions of the conflict and to seek an increased parliamentary and civil society role in the search for a political solution.

5. The partner for democracy status with the Parliamentary Assembly, which has been granted to the Parliament of Morocco, constitutes an acknowledgement of the progress made by Morocco in the field of human rights, democracy and the rule of law and provides a genuine opportunity to step up dialogue between the two parties in all areas of mutual interest and to tackle global challenges together. Through this institutional framework, our Assembly has strengthened its capacity to monitor certain aspects more closely and to discuss them openly with its Moroccan partners. I have made use of the new possibilities for enhanced dialogue with the Parliament of Morocco to strengthen the parliamentary contribution to the process of searching, in the framework of the United Nations, for a just, lasting and mutually acceptable political solution to the long overdue issue of Western Sahara.

6. I have also strived to engage the Parliament of Algeria in this exercise because I believe that Algeria has played a major role since the beginning of the Western Sahara conflict and, according to Morocco, is a genuine stakeholder in the conflict.

7. Our committee has held five hearings:

- in Paris, on 14 November 2012, with the participation of: Mr Alexander Ivanko, Senior Political Adviser, United Nations Mission for the Referendum in Western Sahara (MINURSO); Ms Christine Perregaux, International Bureau for the Respect of Human Rights in Western Sahara (BIRDHSO); Mr Eric Sottas, Kennedy Foundation, former Secretary General of the World Organisation Against Torture; and two members of the Algerian Parliament, Ms Saïda Brahim Bounab and Mr Mohamed Boukhalfa;
- in Rabat, on 14 March 2013, with the participation of: Mr Mohamed Cheikh Biadillah, President of the Chamber of Councillors of the Parliament of Morocco; Mr Rachid Talbi Elalami, Chairperson of the Inquiry Committee on the Gdeim Izik camp; Mr Ahmed Abbadi, Economic and Social Council; Mr Omar Adkhil, Sahrawi member of the Moroccan Parliament and Chairperson of the Committee on Justice and Human Rights of the Chamber of Councillors; and Ms Khadija Merouazi, Secretary General of the Mediator for Democracy and Human Rights;

3. [Doc. 12625](#).

- in Paris, on 5 September 2013, with the participation of Mr Driss El Yazami President of the National Council for Human Rights (CNDH) of Morocco; Ms Hasna Abouzaid, Sahrawi member of the Moroccan Parliament; Ms Senia Ahmed Merhba, representative of the Polisario Front and of the Sahrawi National Council of the self-proclaimed Sahrawi Arab Democratic Republic;⁴ Mr Omar Mansour, representative of the Polisario Front in Paris; and Mr Djamel Ould Abbès, parliamentarian, member of the Algerian Council of the Nation.
 - in Strasbourg, on 29 January 2014, with the participation of civil society representatives based in Laayoune and Tindouf, namely, Mr Abadila Essamlali, President of the ARRAI Association in Laayoune; Mr Abdellah Elharich, Secretary General of the Saharawi Association for democracy and social justice (MINBAR) in Laayoune; Ms Fatimetou Moustapha Saleh, member of the National Council of the Association of the families of Sahrawi prisoners and disappeared persons (AFAPREDESA) in Tindouf; and Ms El Ghalia Djimi, Vice-President of the Sahrawi Association for the victims of grave human rights violations (ASVDH) in Laayoune.
 - in Strasbourg, on 7 April 2014, with the participation of Mr Maouelainin Ben Khalihanna Maoulainin, Secretary General of the Royal Advisory Council for Saharan Affairs (CORCAS), and Mr Khatri Adduh, President of the Saharawi National Council. This hearing allowed the committee to analyse in detail the propositions for a solution to the conflict put forward by both sides.
8. From 21 to 24 May 2013, I visited Rabat and Laayoune, where I met with national and local Moroccan authorities, members of parliament and representatives of the international community, as well as with human rights defenders. Prior to my visit, which was very efficiently organised by the Parliament of Morocco, I received a vast number of requests to meet with representatives of Sahrawi civil society based in Laayoune, including those which are not recognised by the Moroccan authorities. I decided therefore to set up separate meetings with a number of non-governmental organisations (NGOs) and citizens of Laayoune.
9. I wish to thank the Moroccan partner for democracy delegation for their contribution and their willingness to openly discuss such a sensitive issue. Following an initial examination of an introductory memorandum on 2 October 2013, the Moroccan delegation sent me some comments, which I have taken into consideration, as far as possible, in my report which reflects the outcome of the discussions during the last hearings in January and April 2014.
10. Last but not least, I visited Algeria from 6 to 9 October 2013. In Algiers, I was received by the Vice-Presidents of the Council of the Nation and the People's National Assembly and I also visited the Sahrawi Tindouf refugee camps. I would like to take this opportunity to thank the Algerian Parliament for the excellent organisation of my stay in Algiers.

2. Four decades of conflict over Western Sahara

11. Western Sahara is a disputed territory; it has the United Nations status of a “non-self-governing territory”. It is the last chapter of a story that began in the wake of the Second World War, when the world's colonial empires started to break apart. With a population of over 500 000 and an area of 266 000 square kilometres, Western Sahara is rich in phosphate deposits and fishing grounds and has offshore oil deposits and other mineral deposits.
12. The territory is currently divided by a wall 2 000 kilometres long and contaminated with anti-personnel mines, which continue to endanger the lives of refugees and nomadic populations as well as United Nations military observers. For Morocco, this wall constitutes a defence mechanism. In 2008, a Dangerous Area survey was carried out by the United Nations Mine Action Service, from which it emerged that Western Sahara is one of the most heavily affected territories in the world.
13. The zone west of the wall is under Moroccan control, whereas the zone to the east is under the control of the Polisario Front (as far as the Moroccans are concerned, it is controlled by Algeria). The Sahrawi population is present in both areas, not to mention the Tindouf refugee camps (Algeria) and the immigrant diaspora in other countries, including Mauritania and Spain. United Nations forces oversee the cease-fire between the Polisario Front and Morocco, agreed upon in the 1991 United Nations Settlement Plan.

4. United Nations, [2013 World Statistics Pocketbook Country Profile: Western Sahara](#).

14. Western Sahara officially became a Spanish province in 1934, but had been under Spanish rule since 1884. According to the official Moroccan view, in 1912, Moroccan territory was split into several zones of occupation. Forty-four years later, the Kingdom of Morocco started to recover, gradually and through international agreements negotiated with the various colonial powers, its territorial integrity. It was in this context that Morocco, after its independence in 1956, launched negotiations with Spain that brought about the progressive recovery of certain parts, located in the south of the Kingdom, namely Tarfaya in 1958, Sidi Ifni in 1969 and the Saguia el Hamra and Oued Ed Dahab region, better known as the Sahara, in 1975, by virtue of the Madrid Agreement.
15. The Polisario Front ("*Frente popular para la Liberación de Saguia el Hamra y de Rio de Oro*") was set up in May 1973 to liberate the territory of Western Sahara from Spanish colonisation. This politico-military organisation has become the instrument for claiming the right to self-determination and independence of the Sahara.
16. In October 1975, Morocco's and Mauritania's claims over Western Sahara were rejected by the International Court of Justice, which did however recognise the existence, before colonisation, of ties of allegiance, which varied over time, between some of the tribes living in the territory of Western Sahara and the Sultan of Morocco as well as the Mauritanian entity. Spain agreed to organise a referendum, in line with the Court's recognition of the right to self-determination of the Sahrawi people. However, in November 1975, some 350 000 Moroccans entered Western Sahara during the "Green March" ordered by King Hassan II in order to reclaim, according to the official Moroccan position, the Saguia el Hamra and Oued Ed Dahab region. Spain immediately negotiated an agreement with Morocco and Mauritania (known as the "Madrid Agreement", see paragraph 14 above), which partitioned the region.
17. In 1976, the Polisario Front declared the Sahrawi Arab Democratic Republic (SADR), a self-proclaimed State claiming authority over the disputed territory of Western Sahara. Subsequently, Mauritania signed a peace agreement with the Polisario Front, while Morocco later took control of the territory allocated to Mauritania, the idea being, according to Morocco, to recover the Oued Eddahab region. Forty-eight States, mainly African ones, have recognised the SADR which became a full member of the African Union (AU) in 1984. Morocco withdrew from the African Union in protest and remains the only African State which is not a member of this union.
18. The Front Polisario settled in Algeria, which provides military support and aid and allowed Sahrawi refugees to settle near Tindouf, where the Polisario Front established its headquarters and government in exile. A deadly war started with the Moroccan forces.
19. In 1991, a United Nations-brokered ceasefire established the United Nations Mission for the Referendum in Western Sahara (MINURSO), tasked with implementing a United Nations peace plan and organising a referendum in Western Sahara in 1992. In the years that followed, the process, based on a census carried out by Spain in 1973, met with a number of obstacles including the arrival in Western Sahara of thousands of Moroccans that the Polisario Front could not accept as voters. The process was suspended in 1996.
20. In 1997 and 2000, Mr James Baker, United Nations special envoy, mediated talks between the Polisario Front and Morocco, but no agreement on voter eligibility was reached. In 2001, Mr Baker submitted a framework agreement which provided for the autonomy of the Sahrawi people under Moroccan sovereignty, which the Polisario Front rejected.
21. In July 2003, the United Nations adopted a compromise solution, proposing that Western Sahara become a semi-autonomous region of Morocco for a transition period of five years, followed by a referendum on independence, semi-autonomy or integration within Morocco. This time Morocco rejected the plan on security grounds, leading Mr Baker to resign in 2004. Other representatives were appointed by the United Nations in 2004 and 2005 to explore with the parties and neighbouring States, notably Algeria, possible solutions to the political stalemate, but to no avail.
22. Since 2005, demonstrations, known by the name "intifada of independence", have taken place in many towns in Western Sahara; although harshly suppressed by the Moroccan police, they are still continuing.
23. In 2006, Morocco proposed a plan to grant wide autonomy to the territory, which would have its own legislative, executive and judicial bodies as well as financial resources for development, while the Kingdom of Morocco would maintain its prerogatives in the areas of defence, national security, external relations, Constitution, religion and the "attributes of sovereignty". Morocco mounted an extensive diplomatic campaign

in numerous countries in order to clarify the content of the plan and achieve a permanent political solution. The response was largely positive and France in particular described the Moroccan initiative as “constructive and serious”.

24. The Polisario Front likewise presented in 2006 a “proposal for a mutually acceptable political solution that provides for the self-determination of the people of Western Sahara”, which included a referendum with three options: integration into the Kingdom of Morocco, self-governance or independence. This proposal remains valid to this day for the Polisario Front, as confirmed by its President during my visit to the camps.

25. In 2008, talks resumed with the participation of Mauritania and Algeria, but differences of opinion remained. In January 2009, Mr Christopher Ross, former United States ambassador to Algeria, was appointed the Secretary-General’s Personal Envoy to Western Sahara.

26. On 9 and 10 October 2010, just hours before United Nations talks resumed, the largest non-violent protest in the four-decade dispute took place at the Gdeim Izik camp, on the outskirts of Laayoune, as a sign of peaceful protest against the Moroccan Government and the social, political and economic marginalisation of the Sahrawi people. Some 20 000 camped in the desert in protest at their living conditions and poor prospects for education and employment. Workshops, a charity group to collect funds and a committee for dialogue responsible for handling negotiations with the Moroccan Government were set up in the camp.

27. On 8 November 2010, according to most of the sources and international media I spoke to, Moroccan security forces entered the camp, using helicopters and water cannons, forcing people to leave, burning tents to the ground and beating and arresting protesters. According to the Moroccan authorities, the security forces had no firearms and the helicopters, which were used merely for filming, were presented as a means of intervention. Several people were killed on both sides, including security officers, and hundreds were injured. Foreign reporters were prevented from reaching the camp or were expelled from the area. International NGOs were nevertheless permitted to investigate and I myself have read numerous investigation reports commissioned by the Moroccan Parliament and various Moroccan NGOs.

28. On 17 February 2013, a Rabat military court sentenced 25 Sahrawi civilians to prison, including nine to life imprisonment for murder, looting, and violence in relation to these events, following a trial which was considered “unfair” by several human rights organisations and international observers who had been nevertheless allowed to attend the trial. The defendants included several people the Moroccan authorities had previously targeted or imprisoned for their advocacy of self-determination for Western Sahara or for human rights.

29. There were also allegations of unfairness about the pre-trial period and the very fact that such a process took place before a military court, including from the CNDH of Morocco, which monitored the situation with regard to the accused in the run-up to the trial and produced a critical report about the military courts, which was endorsed by the King of Morocco.⁵ It is important to note that the court’s decision is not final, that the individuals concerned have appealed and that the CNDH has intervened on numerous occasions since the trial to secure access to medical treatment, for example, and has held several meetings with the families of the convicted persons.

30. Sadly, deadly violence also erupted in the city of Dakhla, in Western Sahara, in September 2011 with the parties giving conflicting accounts of the events.

31. In 2011, Morocco adopted a new Constitution, which, among other things, reduced the powers of the monarch, guaranteed freedom of thought, ideas, artistic expression and creation as well as speech, movement and association. These reforms were welcomed by the international community as an important step towards democracy and greater respect for human rights in Morocco, but they have yet to be incorporated into domestic law and government practice.

32. On 25 November 2011, parliamentary elections in Morocco were also held in Western Sahara, on the territory west of the wall, and were won by the Justice and Development Party (PJD). Nine parliamentarians were elected to represent Western Sahara in the upper and lower houses of the Moroccan Parliament and one of them, M. Ali Salem Chagaf, was a member of the Moroccan delegation to the Parliamentary Assembly.

33. In December 2011, the Polisario Front held its 13th General Peoples’ Congress, followed by the formation of a new government in exile.

5. CNDH, Preliminary report on the on the trial of those accused in the events of Gdeim Izik, February 2013.

34. Over the past two decades, MINURSO has maintained the ceasefire without a humanitarian and human rights mandate and has supported various assistance programmes, in particular to address the needs of displaced and separated Sahrawi families, as well as a de-mining programme.

35. According to members of the Moroccan Parliament, between 2009 and 2012, four rounds of formal negotiations and nine rounds of informal talks were held, in the course of which Morocco displayed a pragmatic approach to the process and a genuine desire to facilitate the task of the United Nations Secretary-General's Personal Envoy, whereas Algeria and the Polisario Front stuck to their positions, suggesting options and solutions which, say the MPs, have been shown to be unworkable.

36. In 2012 and 2013, Mr Ross started a new round of talks and fact-finding visits in North Africa (Rabat, Fez, Laayoune and Dakhla, the Tindouf refugee camps in Algeria, Nouakchott in Mauritania, and Algiers). He also began confidential bilateral discussions with the parties and neighbouring States in late May 2013.⁶ During Mr Ross's last visit in October 2013, MINURSO asked the regional committees of the CNDH to draw up a list of civil society representatives to meet with. According to the Moroccan authorities, this list was compiled without any discrimination and regardless of the political opinions of the persons concerned.

37. In April 2013, the Security Council extended the mandate of MINURSO for a further year and decided not to include any human rights monitoring component.⁷ The request to extend MINURSO's mandate to include the monitoring of human rights in Western Sahara was reiterated by a Polisario Front delegation attending the 25th session of United Nations Human Rights Council, held in Geneva from 3 to 28 March 2014. On 29 April 2014, the United Nations Security Council unanimously adopted Resolution 2152, extending the mandate of MINURSO for another year without any human rights monitoring.

38. For almost 40 years, the dispute has frozen relations between Morocco and Algeria, with thousands of Sahrawi refugees who live on Algerian territory on the border between Western Sahara and Algeria.

3. The situation of human rights in Western Sahara

39. During the June 2013 part-session, I learned with satisfaction of the effective progress made by Morocco on various issues raised by our Assembly when it granted the Moroccan Parliament the status of partner for democracy. Morocco, moreover, has recently stepped up its co-operation with the Council of Europe through a detailed framework for co-operation, financed by the European Union, entitled "Neighbourhood Co-operation Priorities for Morocco 2012-2014" with the focus on justice reform, corruption, money laundering and trafficking in human beings. In March 2013, the Council of Europe School of Political Studies in Rabat was officially opened in the presence, *inter alia*, of Mr Pietro Marcenaro, who was the Chairperson of our committee at the time. Morocco's commitment to this process was welcomed by the Council of Europe bodies, including at the last steering committee meeting in Paris in January 2013. I hope that Morocco will benefit from the joint European Union–Council of Europe programme and will continue to improve its human rights record, particularly in terms of the settlement of the Western Sahara conflict.

40. While welcoming the overall progress and the willingness of the Moroccan authorities to improve human rights protection in the country, it is my duty to point out a number of alleged human rights violations occurring in Western Sahara and which I was able to discuss directly during my meetings with the Moroccan authorities, representatives of international organisations and human rights defenders both in Rabat and Laayoune.

41. Systematic human rights violations have drawn strong reactions from various international NGOs such as Amnesty International, Human Rights Watch and the Robert F Kennedy Center for Justice and Human Rights. These organisations have denounced forced disappearances, torture, rape, the use of arbitrary detentions to quell the protests, persecutions and the excessive use of force against demonstrators and have demanded that the mandate of MINURSO be enlarged to include the monitoring and protection of human rights. In his report "The Oasis of Memory", Doctor Carlos M. Beristain described the situation by collecting, in 2011, direct testimonies from the victims of gross human rights violations committed in the Western Sahara as well as from relatives of people who have been missing since 1975.

6. Report of the United Nations Secretary-General to the United Nations Security Council on the situation concerning Western Sahara, 8 April 2013.

7. Resolution 2099 (2013), adopted by the Security Council at its 6951st meeting, on 25 April 2013.

42. On 4 March 2013, the United Nations Human Rights Council considered the report of the Special Rapporteur on the situation of human rights defenders, Ms Margaret Sekaggya. In the report's addendum, Ms Sekaggya expressed concern regarding the restrictions on the freedom of assembly in Western Sahara, the excessive use of force during demonstrations, and the alleged registration difficulties encountered by organisations in Western Sahara.⁸

43. Morocco's human rights record was also assessed under the United Nations Universal Periodic Review in May 2013. The Moroccan Government subsequently agreed to criminalise enforced disappearances under the Criminal Code and enact a domestic anti-violence law, but declined to follow United Nations recommendations calling for a legal moratorium on executions and improved procedures for the registration of civil society organisations. I would point out that the *de facto* moratorium on executions has been in place since 1993 but that the Moroccan courts are still handing down death sentences. On applying for partner for democracy status, the Parliament of Morocco undertook to abolish the death penalty in law and, in the meantime, to impose a *de facto* moratorium on executions. In this regard, I welcome the creation, in 2013, of a network of more than 200 Moroccan parliamentarians against the death penalty. I fully support the fight for the total abolition of this punishment from the Moroccan judiciary system. I also welcome the network's intention to adopt a draft resolution on the establishment of a universal moratorium on the application of the death penalty, which should be submitted to the General Assembly of the United Nations in December 2014.

44. Members of the Moroccan Parliament have stated that any human rights violations which may have been committed are not systematic or widespread and that the cases referred to are isolated examples, which are dealt with as a matter of course by the CNDH. According to the MPs, the human rights situation in the Sahara region does not constitute an exception in relation to the rest of Morocco and the region has benefited from all the reforms undertaken by Morocco on the political, economic and social fronts, including the new Constitution. The Moroccan Parliament is closely monitoring the human rights situation, oral questions are often put to the government on the subject and boards of inquiry and investigation are frequently set up. Members of the Moroccan Parliament have further observed that Morocco's borders are open, meaning that international NGOs and civil society are free to carry out their tasks and meet with various players.

45. Unfortunately, in March 2013, a delegation of members of the European Parliament travelling in their private capacity was denied access to the region. Later I was pleased to learn that, after my visit in May 2013 which was jointly organised with the Moroccan Parliament, four members of the Spanish Parliament were able to visit Western Sahara without any prior authorisation and to travel freely to Laayoune where they met with representatives of Sahrawi civil society. Our colleague, Ms Josette Durrieu, a member of the French Senate, also visited the region in 2013 and produced a report for the Senate.⁹ In my view, the Moroccan authorities should encourage foreign visitors to travel to the region and to meet with whomever they wish, as in any democracy.

46. Dissenting opinions and criticism of Morocco's official position on Western Sahara are still perceived as a threat to the territorial integrity of the Kingdom of Morocco. Sahrawi pro-independence activists have faced restrictions on their work: allegations of harassment, of surveillance by the security forces, limitations to their freedom of movement, and some cases of prosecution on grounds of threatening Morocco's internal and external security were brought to my attention. The press law includes prison terms for spreading information or opinions that undermine Islam, the monarchy, or territorial integrity, that is Morocco's claim to Western Sahara.

47. During my visit to Laayoune in May 2013, a number of Moroccan officials tried to prevent me from meeting, on their own premises, the human rights defenders and dissidents of Laayoune that I had personally contacted. These organisations are not recognised by the Moroccan authorities despite repeated requests for registration, which show their willingness to operate under Moroccan law. I would like to thank Mr Chagaf, member of the Moroccan delegation to the Assembly at the time, who vouched for me before the regional *Wali* (prefect), thereby allowing me to meet with representatives of the unregistered NGOs in their homes.

48. On a positive note, in November 2012, Moroccan authorities allowed Al Jazeera television to re-open its offices in Morocco, which they had closed two years earlier after criticising its coverage of the Western Sahara conflict.

8. [A/HRC/22/47/Add.4](#) of 27 February 2013.

9. Information report on behalf of the French Senate Committee on Foreign Affairs, Defence and Armed forces entitled "La rive Sud de la Méditerranée, une zone de prospérité à construire", Ms Josette Durrieu and Mr Christian Cambon, Senators, 30 October 2013.

49. According to several international reports, the authorities continue to target Sahrawi human rights defenders and advocates of self-determination, and use excessive force to suppress or prevent demonstrations in Western Sahara. Sahrawi people have been imprisoned following demonstrations and some have reportedly been tortured or otherwise ill-treated during questioning by Moroccan law-enforcement officials. These allegations have not been properly investigated according to several human rights organisations.

50. I was shown several videos during my visits, both by the government authorities and by the Sahrawi human rights defenders, showing violence and acts of vandalism. I was not in a position to assess the authenticity of these documentaries, but I could observe violence and provocation in all the images that were presented to me. While violence in any form is to be condemned, from a rule of law point of view, I find it particularly worrisome when security forces make deliberate and disproportionate use of it.

51. As mentioned above, the Moroccan authorities continue to deny formal registration to Sahrawi civil society and human rights organisations that support the right to self-determination. I spoke to representatives of the Sahrawi Association for the Victims of Grave Human Rights Violations (ASVDH), which continues to be denied legal recognition despite a 2006 ruling that an administrative decision rejecting its registration was unlawful. None of the NGOs I met in Laayoune were allowed to register and all were considered “illegal” by the local authorities.

52. The Moroccan Government rejected a recommendation from the United Nations Universal Periodic Review to allow the legal registration of NGOs advocating the right of the Sahrawi people to self-determination. For their part, the Members of the Moroccan Parliament argue that the strict rules currently in force, which, according to them, are largely based on international standards, provide a clear and extensive legal framework for associations, which covers the various aspects related to their creation, operation and funding, and deals with public gatherings, making a distinction between public meetings and demonstrations on the public highway. In my view, recognising and registering the associations which today are considered “illegal” is a precondition for dialogue and would allow the Moroccan authorities to have an interlocutor at times of tension and uprisings.

53. I congratulate Morocco on its anti-torture legislation as well as on the fact that it has ratified the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the International Covenant on Civil and Political Rights (ICCPR). I also commend the efforts made by Morocco between 2003 and 2005 via the transitional justice mechanism, the Equity and Reconciliation Commission, to investigate flagrant, widespread and systematic human rights violations committed in Morocco between 1956 and 1999 (the period that Moroccans refer to as the “Years of Lead”), including numerous cases of torture and ill-treatment.

54. However, credible reports from both international organisations and local NGOs indicate that Moroccan security forces still engage in torture and other cruel, inhuman or degrading treatment or punishment of detainees, especially against Sahrawi independence advocates.

55. Despite the fact that in its [Resolution 1818 \(2011\)](#) the Assembly stressed the necessity of “preventing torture and inhuman or degrading treatment of persons deprived of their liberty; fighting impunity for crimes of torture and ill-treatment” (paragraph 8.13), there have been serious allegations of abuses in this respect, as also highlighted by the Committee on Legal Affairs and Human Rights in its opinion on the evaluation of the partnership for democracy in respect of the Parliament of Morocco of June 2013.¹⁰

56. Following his visit to Morocco in September 2012, Mr Juan E. Méndez, the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, concluded that although a culture of human rights was emerging in Morocco, torture still occurred and tended to be more prevalent following highly charged events such as large demonstrations, when the authorities perceive State security to be under threat. He also concluded that there was excessive use of force, especially when the police or other authorities responded to incidents that involved protests or assembly.¹¹

10. See [Doc. 13244](#).

11. A/HRC/22/53/Add.2., report to the United Nations Human Rights Council.

57. Just to give one example, the 25 prisoners awaiting trial in connection with violence at Gdeim Izik protest camp were held in Sale prison near Rabat, far from their homes. Many of them said they had been tortured or otherwise ill-treated in detention.¹² Members of the Moroccan Parliament have pointed out that neither the accused nor the lawyers who appeared with them before the examining judge at any point requested a medical examination to determine the veracity of their claims.

58. In [Resolution 1942 \(2013\)](#) on the evaluation of the partnership for democracy in respect of the Parliament of Morocco, the Assembly welcomed the fact that Morocco has been invited to accede to, or sign, a series of other Council of Europe conventions, and called on the Moroccan Parliament to see to it that appropriate conditions were put in place to allow for it. The Assembly further encouraged the Moroccan authorities to consider accession to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126), and the Council of Europe Conventions on Action against Trafficking in Human Beings (CETS No. 197) and on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210).

59. The trial of the 25 Sahrawi civilians before a Rabat military court for their alleged role in clashes at the Gdeim Izik camp in 2010 was postponed twice. Families of the prisoners report that prison conditions were unusually harsh, with restrictions on the right to visit and poor access to health care, proper food and clean clothes¹³. On 17 February 2013, the 25 prisoners were convicted with sentences ranging from 20 years to life.

60. According to the Moroccan National Human Rights Council, the trial took place “under normal conditions and was marked by due process”. A Moroccan White Paper on the Gdeim Izik events was published in February 2013 by the Ministerial Delegation for Human Rights of the Kingdom of Morocco and did not find any major irregularity in the conduct of the security forces or in the handling of the trial. The Parliament of Morocco set up a board to investigate the 2010 events. This board produced a report in February 2013, which found some “dysfunctional local governance which has contributed to the events in Gdeim Izik and Laayoune” and criticised the “local authorities’ laxness at the time of the establishment of the camp, which was a security, social and political mistake”. It also made a distinction between “a protest prompted by legitimate social claims” and “political exploitation by a group of separatists backed by Algeria and involving criminals and wanted persons who joined the camp”.

61. According to many human rights organisations, however, the Moroccan authorities should promptly retry the defendants before a civilian court and release all defendants pending re-trial. The court should examine all allegations of torture and ensure that no statement obtained through violence or coercion is admitted into evidence. I welcome the fact that, on 14 March 2014, the Moroccan authorities announced draft legislation that bars military tribunals from trying civilians, a welcome development which will hopefully also have an impact on the Gdeim Izik trial.

4. Morocco’s position and efforts in dealing with human rights in Western Sahara

62. All my talks with the Moroccan authorities confirmed that Western Sahara is a unifying issue amongst them. As far as these authorities are concerned, questioning it would threaten stability in a volatile region and open the door to extremists and jihadists and to the undue interference of Algeria in Morocco’s “internal affairs”.

63. Morocco has put forward a plan that would grant a large measure of autonomy to the Sahrawi people, considered by Morocco to be a Moroccan people of Sahrawi origin. All the Moroccans I spoke to think that an independent State is not a viable option for security reasons and fear that what is currently happening in Mali could also happen in Western Sahara, increasing the risk of destabilisation throughout the region. During the hearing organised by the committee on 7 April 2014 in Strasbourg, Mr Maouelainin Ben Khalihanna Maoulainin, Secretary General of CORCAS, said that “Moroccan autonomy initiative is based on reconciliation and compromise. The proposition is the result of a broad consensus and was developed on a participative, sincere, democratic and transparent approach”.

12. Amnesty International annual report 2013. In May 2013, Amnesty International issued a call to free 17 year-old El Hussein Bah, who was jailed in Laayoune after the Crown Prosecutor overruled a previous decision to release him on bail. Five other Sahrawis were also under arrest for protesting for self-determination and face unfair trial after reportedly being tortured into “confessions”. More recently, on 6 March 2014, some 40 Saharawi prisoners of the Eit Melloul’s prison started a hunger strike in protest at the deterioration of their conditions inside the prison.

13. See also Human rights Watch, World report 2013.

64. Thirty-four tribes from Western Sahara were implicated in the preparation of this plan, which provides for a locally elected parliament that would subsequently elect an executive authority as well as for a separate judiciary. The formula proposed would ensure majority representation in the legislature for Sahrawi inhabitants of the autonomous region, while also ensuring legislative representation for non-Sahrawi's who have been long-time residents in the territory. Residents of the autonomous region would also continue to elect representatives to the Moroccan Parliament. The autonomous government would control local administration, local police, education, cultural development, economic development, regional planning, tourism, investment, trade, public works and transportation, housing, health, sports and social welfare. It would have usual attributes to support these functions and would continue to receive funding from the central budget as well. It would be able to establish foreign regional trade relations offices and would have consultative rights on other sovereign foreign agreements affecting the region.¹⁴ The plan was presented to the United Nations Security Council in April 2007, and received the backing of the United States and France. United Nations negotiations have failed to produce conclusive results. During the hearing in Strasbourg, the Secretary General of CORCAS also appealed for the end of extreme stances and to allow the populations of the Tindouf camps to rejoin their families and friends and to live in dignity and fully benefit from their rights.

65. At the same time, there is an increasing awareness by a number of Moroccan institutions, including human rights organisations and the parliament, of the need to take human rights seriously and take important steps toward their protection in Western Sahara, including through the United Nations monitoring mechanisms and an enhanced role for the international community, notably our Assembly. This was also strongly stressed by Ms Hasna Abouzaid, member of the opposition representing Western Sahara in the Moroccan Parliament, and by Mr Driss El Yazami, President of the CNDH, at the hearing organised by the committee in Paris on 5 September 2013. Mr El Yazami, in particular, pointed to a "lack of human rights culture" in Western Sahara and stressed the importance of promoting human rights in the region. According to Mr Abdellah Elharich, Secretary General of the Saharawi Association for democracy and social justice (MINBAR) in Laayoune, Morocco's civil society is putting a lot of effort into monitoring the elections in the region of Western Sahara and building civil society structures to strengthen human rights, women's rights and cultural rights.

66. As mentioned above, during the so-called "transitional justice" period, the Equity and Reconciliation Commission established in 2004 investigated allegations of serious human rights violations in Morocco during the period 1956-1999, known as "the Lead Years", including forced disappearances, arbitrary detentions, violations of the right to life, cases of torture, forced exile and disproportionate use of force by the police in dispersing social protest movements.

67. The CNDH has provided compensation, including financial assistance, professional training and medical insurance to recognised Sahrawi victims or family members of those who disappeared or were detained during the 1970s and 1980s. Morocco has also improved national arrangements for monitoring human rights in Western Sahara by opening two branches of the CNDH, one in Laayoune and the other in Dakhla. Over the past years, the Laayoune branch of the CNDH has recommended compensation to hundreds of victims or families of victims of forced disappearance, and has recently shifted its focus to community projects. However, Sahrawi human rights groups argue that many claims had not been accepted and many more claimants had not actually received compensation, which required appropriate government action.

68. The Association of the Families of Sahrawi Prisoners and Disappeared estimates that the fate of over 550 Sahrawi people remains unknown and new findings show that the information provided by Morocco was not always correct. In September 2013, a Spanish team of forensic experts published the results of an inquiry confirming the death of eight Sahrawis, including two children, who disappeared in 1976 and providing unprecedented evidence that they were extra-judicially executed by Moroccan armed forces. These revelations question the accuracy of the conclusions published by the Moroccan Advisory Council on Human Rights (the human rights institution at the time) regarding other cases of enforced disappearances and underscores the need to uncover the truth about hundreds of cases of enforced disappearances from previous decades and to ensure justice for the victims and their families. In this connection, I support the setting up of a MINURSO-ICRC (International Committee of the Red Cross) mission to exhume, identify and return the remains to families. It should also be noted that, on 14 May 2013, Morocco ratified the International Convention for the protection of all persons from enforced disappearance.

14. Moroccan initiative for negotiating an autonomy statute for the Sahara region, 2007.

69. The Moroccan CNDH, the Mediator Institute and the Inter-ministerial Delegation for Human Rights, set up in 2011, have also actively co-operated with the independent human rights experts (“Special Procedures”) of the United Nations Human Rights Council, by inviting three United Nations rapporteurs to Morocco in 2012 and a further three in 2013. These initiatives were welcomed by the international community, including the United Nations Security Council which, in paragraph 15 of Resolution No. 2099, welcomed “the steps taken by Morocco to strengthen the National Council on Human Rights Commissions operating in Dakhla and Laayoune, and Morocco’s ongoing interaction with Special Procedures of the United Nations Human Rights Council, including those planned for 2013”.

70. The new Constitution has consolidated the reform process, in line with United Nations requirements, in particular by reinforcing the conditions of fair trial, civil society participation, non-discrimination and gender equality. However, many constitutional provisions still need to be translated into domestic law and government practice, both at the level of the administration and of the police.

71. On a more positive note, on 13 March 2014, a few weeks prior to the decision of the Security Council on the MINURSO mandate, the Moroccan government announced the appointment of contact persons at ministerial level to deal with the recommendations of the CNDH, in particular from the offices of Laayoune and Dakhla, with a view to handling citizens’ human rights claims within a period of three months.

72. More significantly, one day later, on 14 March 2014, complying with recommendations issued by the CNDH and human rights lawyers and activists, the Moroccan authorities announced draft legislation that bars military tribunals from trying civilians.

73. In Laayoune, I also heard presentations on several investments and other very ambitious projects which were being carried out in the region (schools, sport facilities, theatres and other infrastructure). Since 1976, in fact, substantial funds have been allocated to developing the region. According to members of the Moroccan Parliament, this spending far exceeds the revenues generated by natural resources and largely accounts for the fact that the human development index in this region is now above the national average in terms of schooling, health, education and access to infrastructure. Furthermore, on 17 January 2014, President Obama signed into law the “FY2014 Appropriations Bill” explicitly directing that existing development assistance to Morocco should also be available for “assistance for the territory of the Western Sahara”.

74. Morocco is also about to embark on large-scale programmes for renewable energy. As of today, the energy production from solar and wind sources in Western Sahara constitutes at most 5.5% of Morocco’s total energy production from such sources. By 2020, this proportion could be increased to approximately 26%. In July 2013, Morocco also agreed to a new four-year fisheries agreement with the European Commission that will allow European ships to fish in the waters of Morocco and Western Sahara. However, this agreement has been severely criticised by the European Parliament as well as by many NGOs on the ground that it goes against United Nations principles concerning non-self-governing territories.

75. The Sahrawi people I met, and thousands who regularly take part in the street protests, affirm that they do not benefit from the exploitation of their natural resources, in particular the trade in phosphate, and that investment in infrastructure is scarcely what helps them. Aid is also provided to the local population to ease high unemployment rates. However, this remains very limited and is considered by many as a way of “buying their conscience”. The Sahrawi interlocutors I met considered Moroccan efforts to ensure economic development in the region as “economic plundering of Sahrawi natural resources which only benefits the elites”. Sahrawi people also claimed to be discriminated against in access to housing and employment opportunities.

76. In March 2013, the Moroccan Economic, Social and Environmental Council (CESE) published a critical assessment of the current spatial development model, including governance and issues of transparency and accountability, in addition to human rights, which are a source of social tension and have the unintended effect of creating a pattern of dependency and passive acceptance of aid. As pointed out in the French Senate report published in October 2013, the candour of the CESE report shows that the Moroccan authorities wish to tackle the inequalities that provide a breeding ground for spontaneous social movements.¹⁵

77. According to members of the Moroccan Parliament, ever since Morocco put forward the autonomy plan in 2007, the human rights issue has been used to deflect the negotiations and as an excuse to avoid engaging in the search for a political solution to the regional dispute over Western Sahara. Such behaviour, say the MPs,

15. Information report on behalf of the French Senate committee on foreign affairs, defence and armed forces entitled “La rive Sud de la Méditerranée, une zone de prospérité à construire”, op. cit.

is a response to Morocco's continuing achievements on the political front since the autonomy plan was presented. In their opinion, the systematic rejection of the Moroccan initiative shows the Polisario Front's lack of credibility and good faith with regard to the settlement of this dispute.

78. As also stressed by some commentators, the Moroccan Government needs to make serious and credible efforts to convince Sahrawi youngsters that their aspirations to freedom and respect of their dignity can better be realised in the framework of a truly democratic and pluralist Morocco, which is open to dissent and respectful of human rights and cultural differences. In concrete terms, it is necessary to let them freely express their views and allow civil society groups to organise themselves and participate in public life, including at parliamentary level. Only if its institutions are fully democratised will Morocco stand a chance of securing recognition for its sovereignty over Western Sahara.¹⁶

79. I was able to discuss this issue with our Moroccan colleagues on several occasions. I encouraged them to invite the human rights defenders I had met in Laayoune to a parliamentary hearing in Rabat and to see them as strategic interlocutors rather than opponents. This would set the example of a truly pluralistic and democratic institution, worthy of the partnership of democracy status with the Parliamentary Assembly of the Council of Europe.

80. Against this background, I welcome the initiative by the International Union of Socialist Youth to organise a series of visits which took place in September 2013 by a delegation of four young members of the Polisario Front and four young Moroccans, including representatives of the *Union socialiste des forces populaires* (USFP), to Dakhla and Laayoune and later Tindouf, in order to assess the actual situation on the ground and rebuild trust between the two sides. The head of the Moroccan delegation, Mr Ali El Yazghi, member of the USFP, observed that "a future was possible for everyone in a united, pluralist Morocco that embraces diversity".¹⁷ The members of the delegation agreed on the principle of holding a wider gathering of youngsters from both sides, in a neutral country.

81. I also welcome the initiative of the parliamentary group of the Justice and Development Party (PJD) in the House of Representatives of the Moroccan Parliament for the communication activity called "Caravan of light" under the slogan "The Reformation: commitment and collective responsibility", which took place from 27 to 30 March 2014 and which enabled the initiation of dialogue with human rights organisations, including NGOs advocating the independence of Western Sahara. During these meetings, the members of the parliamentary group were able to hear the complaints of the population and different points of view. They are also committed to continuing dialogue with all political, civil and social parties through other meetings in the House of Representatives.¹⁸

5. The situation in the Tindouf refugee camps

82. On 7 and 8 October 2013, I visited Algiers to meet with representatives of the Algerian Parliament, before travelling to Tindouf which is home to four Sahrawi camps, "Aousserd", "Dakhla", "El Ayoun" and "Smara", named after the main towns in Western Sahara. I also visited the school camp "February 27", known as "Boujdour", and "Rabouni", the administrative centre where the headquarters of the self-proclaimed government of the SADR, local NGOs and the hospital are located. Created in 1975 for refugees fleeing from the conflict, the Tindouf camps are some of the longest running worldwide and are totally dependent on international aid.

83. Algeria has recognised the self-proclaimed SADR and the Polisario Front as a "government in exile". My conversations with members of the Algerian Parliament confirmed the importance that Algeria attaches to the principle of self-determination, because of its own history of colonisation and in accordance with the United Nations Security Council resolutions, as well as its determination to support independence movements around the world. Algeria, for example, supported the predominantly Christian East Timor in its struggle for independence from Indonesia, which is a Muslim country. It takes the view, however, that the negotiations must take place between the Polisario Front and Morocco and that Algeria should not be a party to the talks.

16. Aboubakr Jamaï and Ali Anouzla, Sahara: le coût de l'autoritarisme, Lakome, media marocain indépendant, 30 April 2013.

17. Ali Elyazghi, "Vivre à Tindouf est inhumain", Telquel, 5 October 2013.

18. Press release of the Justice and Development Party, 7 April 2014.

84. In the absence of official figures, the Algerian Government estimates the number of refugees at 165 000. Pending registration, the United Nations High Commissioner for Refugees (UNHCR) based its assistance programmes on some 90 000 vulnerable refugees in the camps.¹⁹ The Moroccan authorities have demanded that Algeria organise a census to establish the actual number and composition of the refugees living in the camps and have stated that this census is essential for the exercise of the UNHCR's mandate to protect the refugees and for the provision of humanitarian aid. Since 1975, Algeria has always refused to allow the operation to proceed and has made it conditional on a comprehensive political settlement of the Sahara issue. According to members of the Moroccan Parliament, this amounts to a breach of the UNHCR's statutory and legal obligations and goes against the international consensus on the need to differentiate the humanitarian dimension from the political process of resolving the dispute. Such an attitude on the part of Algeria, argue the Moroccan MPs, reinforces the contradiction between Algeria's declarations of neutrality and its actions on the Sahara issue.

85. It is difficult for residents of the camps to visit the Moroccan-controlled parts of Western Sahara; thousands of families have been separated for almost 40 years. Since 2004, the UNHCR has been running a programme of Confidence-Building Measures aimed at establishing direct contact between separated families from Western Sahara and at helping them reconnect through regular flights. In January 2012, the UNHCR launched an updated Plan of Action on Confidence-Building Measures. Morocco and the Polisario Front have been actively involved in this programme and recently took part in the fourth meeting to evaluate the confidence building measures held under the auspices of the UNHCR in Geneva on 2 and 3 July 2013.

86. The Polisario Front is also accused by Morocco of suppressing freedom of expression, torture, and embezzling aid in the Tindouf refugee camps. Although it has acknowledged reports of ill-treatment in the 1970s and 1980s, the Polisario Front denies the accusations of ongoing abuse and claims that those living in the camps are free to express their opinions, to move around and even to leave the camps.

87. A 2006 visit by the United Nations High Commissioner for Human Rights concluded that the conditions in the camps were troublesome but that the human rights situation was satisfactory.²⁰ In 2010, the Sahrawi Government in exile called on the United Nations to supervise human rights in the camps. Several NGOs visit the camps on a regular basis and have not reported any major human rights violations. The international organisations I spoke to, and which are operating in the camps, said they had unimpeded access to the entire area covered by the camps and spoke of close co-operation with the Sahrawi Government.

88. In October 2012, during the visit by United Nations envoy, Mr Ross, to the Tindouf refugee camps, the Secretary-General of the Polisario Front, Mr Mohamed Abdelaziz, expressed deep frustration at the United Nation's inability to organise a referendum on self-determination. With regard to the situation in Mali at the time, he emphasised that the Polisario Front was firmly opposed to the activities of terrorist and criminal groups and had implemented measures to prevent recruitment of such groups in the camps. In meetings with youth, student and women's groups, Mr Ross found that the second and third generation Sahrawi were frustrated not only by the lack of progress in the negotiations, but also by the absence of employment opportunities. Many expressed support for radical courses of action such as resuming hostilities against Morocco or requesting MINURSO to recognise its impotence and leave. Others warned that those frustrations made young people tempting recruitment targets for criminal and terrorist networks.²¹

89. On 10 June 2013, the United Nations Secretary-General, Ban Ki-moon, reiterated "the commitment of the United Nations to assisting Morocco and the Polisario Front to negotiate a solution to their long-standing dispute over the future status of Western Sahara in accordance with UN resolutions", following a meeting with Mr Abdelaziz in New York. During this meeting, Mr Ban Ki-moon "underlined his continued strong interest in respect for human rights in Western Sahara and in the refugee camps" and commended the Polisario Front's continuing commitment to the path of dialogue. He also encouraged the Polisario Front to remain constructively engaged with his Personal Envoy for Western Sahara, Christopher Ross, who called on both parties to demonstrate flexibility and creativity in working towards a solution to the conflict. Similar conclusions were reached following Mr Ross's latest visit in October 2013.

19. UNHCR country sheet, Algeria, 2013.

20. Office of the United Nations High Commissioner for Human Rights, Report of the mission to Western Sahara and the Tindouf refugee camps, 2006.

21. Report of the United Nations Secretary-General to the United Nations Security Council on the situation concerning Western Sahara, 8 April 2013.

90. During my visit to the camps on 8 October 2013, I had the opportunity to discuss these matters with Mr Mohamed Abdelaziz, Secretary General of the Polisario Front and President of the self-proclaimed SADR, and with Mr Khatri Adduh and other members of the Sahrawi National Council, the legislature of the self-proclaimed SADR, which has 53 members “elected” in 11 constituencies based in the refugees camps in Algeria and other areas controlled by the Polisario Front. The most recent “elections” were held from 17 to 19 February 2008.

91. The self-proclaimed SADR has its own Constitution, which provides for a separation of powers between the judicial, legislative and executive branches. Although everyone living in the camps is a member of the Polisario Front, divergent opinions are reportedly discussed openly within the Council.

92. I also had the opportunity to visit a kindergarten, a primary school and a local clinic and to observe how local governance operates. Poverty, lack of basic services, malnutrition and lack of access to drinking water are still major concerns. The World Food Programme provides approximately 125 000 general food rations per month, while pregnant women, nursing mothers and malnourished children receive supplements rich in trace elements.

93. Women are extensively involved in the running of the camps, encourage gender equality and play a key role in decision-making on various aspects of society, not least the distribution of food, as has been pointed out by the Union of Sahrawi Women. Primary education is compulsory for all Sahrawi children, who must, however, leave Western Sahara (for Algeria, Cuba, Libya or elsewhere) if they wish to continue their studies.

94. Civil society is very active in the camps and I discussed a number of pressing issues, which are mentioned throughout this report. According to the Association of the Families of Sahrawi Prisoners and Disappeared, Morocco has no interest in investigating what really happened to the missing persons. The recent revelations made by the Spanish team of forensic experts underscore the need to uncover the truth about hundreds of cases of enforced disappearances from previous decades and to ensure justice for the victims and their families. At a hearing organised in Strasbourg in January 2014, Ms Fatimetou Moustapha Saleh, member of the National Council of the Association of the Families of Sahrawi Prisoners and Disappeared Persons (AFAPREDESA) in Tindouf, spoke of her father who had been missing since 1976, and of the many disappeared Sahrawi whom Morocco refused to acknowledge. She urged the Moroccan authorities to publish the list of those killed and to co-operate with the authorities in Tindouf and with the international community to shed light on past tragedies. Our colleague Tiny Kox, former rapporteur on the Palestinian National Council's partnership for democracy, underlined the responsibility of the Moroccan delegation, as the first partner for democracy of our Assembly, to help the families of the disappeared find the truth. He stressed that the partnership should be an instrument to solve concrete problems, such as this one, and I very much agree with his statement.

95. Following a meeting with the Association of Landmine Victims in Tindouf, I learnt that the Polisario Front signed the Geneva Call for a ban on anti-personnel mines in November 2005. Morocco, however, has not yet signed the Ottawa treaty banning the mines.

96. According to the UNHCR, in 2012 and 2013, the effects of the global financial crisis further aggravated the situation in the camps, with many donors withdrawing or limiting their support. This trend is expected to continue in 2014. Representatives of international organisations and NGOs based in the camps, as well as the leaders of the Polisario Front, believe that the status quo is engendering growing frustration, especially among young people. Another increasingly worrying problem is the instability in the region, which is a crossroads for drug trafficking, Al Qaeda fighters and Tuareg rebels from Mali. Frustration, unemployment and lack of prospects, combined with an increase in all types of trafficking, could lead to a further rise in illegal activities.

6. Closing remarks

97. The progress made by Morocco in the field of human rights, democracy and the rule of law has been recognised by our Assembly, which granted the Parliament of Morocco partner for democracy status in 2011. The allegations of human rights violations in Western Sahara, however, must be taken seriously and should be read in conjunction with the positive evaluation report on the partnership for democracy in respect of the Parliament of Morocco, on the basis of which the Assembly adopted [Resolution 1942](#) (2013) in June 2013.

98. It is my firm conviction that scrupulous respect for human rights and democratic principles must come before any other consideration in a country whose parliament is a partner for democracy with our Assembly.

99. Thankfully, a number of Moroccan human rights organisations have started to express criticism and I commend them for their courage. Hopefully the Moroccan Parliament itself will become more critical of the government's action in Western Sahara, when it comes to the protection of human rights of all Sahrawi people. I urge the Moroccan Government to implement all the recommendations made in the reports by the United Nations and by the National Council for Human Rights (CNDH) of Morocco, whose independence needs to be strengthened, and to continue developing a genuine culture of human rights.

100. As stated above, if the Moroccan authorities want to convince Sahrawi youth that their aspirations to freedom and respect for their dignity can be better realised in the framework of a truly democratic and pluralist Morocco, they need to let them freely express their views and allow civil society groups to organise themselves and participate in public life, including at parliamentary level. One concrete action could be the organisation of hearings in Rabat with the participation of non-registered NGOs and human rights defenders.

101. During my first visit to the region, I heard two different stories, languages and visions for the future. Among the human rights defenders I met in Laayoune, Rabat, Tindouf, Geneva, Paris and Strasbourg, I could sense a growing feeling of frustration with the status quo, the violence and the repeated violations of human rights, especially among younger Sahrawi, and I agree with Aminatou Haidar that there is a risk of radicalisation and a return to violence.

102. The Moroccan authorities worry about Islamist militants fermenting violence. Furthermore, they also rely on the territory's fisheries and phosphate mines and have begun oil exploration. Western countries consider Morocco to be a stable ally in a volatile region and the resolution of the conflict does not interest them to the point of wanting to look seriously into violations of human rights.

103. I share the view of those who see Western Sahara as a case study on the limits of the international community's power to help a people enjoy the right to self-determination when they choose not to be violent, but to follow the rules, by holding a referendum for example.²² In 1991, a United Nations-brokered deal gave the people of Western Sahara the right to vote on their own future, choosing independence or integration into Morocco. Despite more than 20 years of political negotiations, the people of Western Sahara find themselves in limbo, with thousands of families torn apart by the conflict. There is strong disappointment in the United Nations action and capability and the unwillingness of the Security Council to take decisive action has caused a stalemate in the situation.

104. Members of the Moroccan Parliament consider that United Nations practice in settling disputes over non-self-governing territories shows that referendums remain an exception, as only four cases have been settled in this way since 1945, with the vast majority being resolved through negotiations. Exercising self-determination would not necessarily mean holding a referendum, therefore. According to Morocco, this method, which has already been tried in Western Sahara, has proved unworkable and the voter identification process, conducted over a number of years, unsuccessful. Moroccan MPs further argue that the tribal and nomadic nature of the Sahrawi populations make voter identification impossible.

105. Since 2004, the United Nations Security Council has referred to the search for a negotiated, mutually acceptable political solution. The Moroccan proposal involves a plan affording the Sahrawi people a large measure of self-government, which would only be acceptable to representatives of the Polisario Front if it meant giving the Sahrawi people a choice through a referendum, as reiterated by Mr Adduh, President of the Saharawi National Council during the last hearing on 7 April 2014. According to Mr Adduh, "the territory does not belong to Morocco and, so long as its statute is not defined, Morocco cannot give it autonomy under its sovereignty".

106. I do not believe it is for our Assembly to support one or the other proposal for a solution put forward by the two sides to end the conflict, especially while high level negotiations are taking place. The briefing of the United Nations Secretary-General to the Security Council in October 2014 will provide an opportunity to convey a first assessment on the results of the negotiations. If there is no progress before April 2015, the time will have come to engage the members of the Security Council in a comprehensive review of the framework that it provided for the negotiating process in April 2007.²³ In this respect, I welcome and support the efforts of the United Nations Secretary-General's Personal Envoy, Mr Ross, and I agree with him that the issue of human

22. See Jenn Abelson, "Western Sahara: why Africa's last colony can't break free – In global politics, playing by the rules doesn't always help", *The Boston Globe*, 16 June 2013.

23. Report of the United Nations Secretary-General to the United Nations Security Council on the situation concerning Western Sahara, 10 April 2014.

rights remains an essential factor in any comprehensive settlement of the conflict. Respect for human rights must be ensured in Western Sahara and in the Tindouf camps without waiting for a final political settlement between Morocco and the Polisario Front. In my view, the Moroccan Parliament, the Sahrawi National Council and the Algerian Parliament should take a more active part and become more involved in the search for solutions that would help to facilitate the negotiations and build trust between the parties to the conflict, while supporting the efforts of the United Nations.

107. There can be no solution to the conflict without mutual trust and I regret the lack of meaningful dialogue between the Moroccan representatives and Sahrawi activists campaigning for the right to self-determination of the Sahrawi people, as elected officials or as representatives of civil society (NGOs, registered or unregistered). The initiatives of the International Union of Socialist Youth and of the parliamentary group of the Justice and Development Party in the House of Representatives of the Moroccan Parliament are a good start and I would urge all Moroccan MPs and other civil society representatives to pursue this path.

108. In my view, recognising and registering the associations which today are considered “illegal” is a precondition for dialogue and would allow the Moroccan authorities to have an interlocutor at times of tension and uprising. Freedom of expression, association and assembly must be fully guaranteed and the Parliament of Morocco, as a partner for democracy with our Assembly, should step up its efforts in protecting those freedoms in Western Sahara.

109. I welcome the invitations extended by Morocco to several international delegations and United Nations special rapporteurs. The Moroccan authorities should also allow fact-finding visits by other international organisations such as the African Commission on Human and Peoples’ Rights and the European Parliament or any other body which so requests.

110. As regards the situation in the Tindouf camps, the Assembly should urge the authorities of the Polisario Front to facilitate, with the help of Algeria, regular censuses or official registrations in order to improve the way humanitarian assistance is managed and the refugees’ living conditions, and to fulfil their responsibilities for ensuring security and respect for human rights in the camps. Any allegation of human rights violations in the camps should be able to be investigated by an independent body.

111. In April 2013, for the first time, the United States proposed that the United Nations monitor human rights in Western Sahara. Morocco, after intense lobbying and with the support of France, defeated that proposal, which set off further protests.

112. Members of the Moroccan Parliament argue that including human rights monitoring in the MINURSO mandate would not be helpful because MINURSO would merely confine itself to stating facts. They maintain that the independent Moroccan body CNDH, as well as submitting regular reports to the Moroccan authorities, makes recommendations for addressing human rights issues as part of an overarching approach. However, the CNDH’s reports, opinions and proposals, as well as its internal rules and agendas, are subject to the approval of the King of Morocco, who also appoints its members²⁴. Many CNDH members, including its President, were active human rights defenders. However, the lack of independence affects the credibility of the institutions.²⁵

113. On 22 October 2013, the European Parliament adopted the report by Charles Tannock, MEP, on the situation of human rights in the Sahel region,²⁶ which includes a large section on Western Sahara. This text emphasises the need to settle the Western Sahara conflict which is having a negative impact on regional integration and draws attention to a very worrying situation in the Sahel in terms of security, human rights and human, social and economic development. The adopted resolution encourages the United Nations to establish a new, permanent, impartial human rights body for the purpose of supervising and reporting on the overall situation of human rights, and investigating complaints and calls on such a body to encompass the Moroccan-controlled section of Western Sahara, the Tindouf camps, and other territory controlled by the Polisario Front. In my opinion, Morocco should consider such a proposal which could later help to change the status quo and make it easier for all the parties to the conflict to accept a political solution.

24. Dahir (Royal Decree), No. 1-11-19 of 1 March 2011.

25. See also Alkarama Foundation, Questionnaire on national human rights institutions and human rights defenders – Contribution of Alkarama on the Moroccan CNDH, 2012.

26. European Parliament Resolution of 22 October 2013 on the situation of human rights in the Sahel region (2013/2020(INI)).

114. On 29 April 2014, unanimously adopting Resolution 2152 (2014), the United Nations Security Council extended the mandate of the MINURSO until 30 April 2015 and called upon the parties “to continue negotiations under the auspices of the Secretary-General without preconditions and in good faith, taking into account the efforts made since 2006 and subsequent developments, with a view to achieving a just, lasting, and mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations”, while noting “the role and responsibilities of the parties in this respect”.

115. For their part, Council of Europe member States must redouble their efforts in finding ways to resolve a conflict that has led to such a long period of desolation. Reconciliation will not happen without the right to truth and justice and without overcoming the exile of the marginalised people living in the refugee camps. This was clearly stressed by all the participants in the hearings organised by the committee and the people I spoke to in the region. I believe there is also a need to strengthen the UNHCR action plan on confidence-building measures and to step up meetings with separated families from Western Sahara.

116. Lastly, it is for the parliaments and governments of Morocco and Algeria to step up their dialogue on any issue concerning human rights and democracy in the region, in order to build trust through exchanges similar to those which recently took place between youngsters from the International Union of Socialist Youth.

117. In this context, the regional conference held by the Committee on Political Affairs and Democracy in Lisbon on 8 November 2013 on “Political changes in the South Mediterranean and in the Middle East: the role of representative institutions”, with the participation of presidents and representatives of the parliaments of Algeria, Jordan, Lebanon, Morocco, the National Constituent Assembly of Tunisia, the Palestinian National Council and representatives of Egyptian political forces, is a sound initiative which ought to be pursued at both governmental and national parliament level.

118. Finally, I believe that the implementation of the recommendations which will be issued by the Assembly should be taken into account in the next evaluation report on the partnership for democracy in respect of the Parliament of Morocco which is due in 2015 (rapporteur: Mr Bogdan Klich, Poland, EPP/CD). In this context, the Assembly should continue to facilitate direct exchanges between the parties concerned. As stressed by several committee members, this partnership must be a tool to solve concrete problems and to bring innovative solutions to long-term conflicts, also through parliamentary debates.