



**Human Rights Threatened, Self Determination Deferred:
The Status of Western Sahara**

Tom Lantos Human Rights Commission, United States Congress

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On behalf of Human Rights Watch, I wish to thank the Tom Lantos Human Rights Commission of the U.S. Congress for organizing this hearing on Western Sahara, and for inviting us to participate.

[Human Rights Watch](#) is an independent, nonpartisan, human rights monitoring organization that has published numerous reports on human rights conditions in Morocco, Western Sahara, and in the Polisario-run refugee camps near Tindouf, Algeria.

Morocco is engaged in a process of reform, with implications for human rights. My goal today is to present human rights conditions in Western Sahara and the extent to which they might be affected by the reform process. I will then address human rights in the refugee camps, and end with some recommendations for the U.S. government and other key actors.

For a quarter century, until September 2015, Human Rights Watch enjoyed relatively unfettered access when conducting research in both Morocco and Western Sahara. However, since 2015, authorities have [banned](#) Human Rights Watch from working inside both Morocco and Western Sahara, accusing Human Rights Watch of “bias” and failing to recognize Morocco’s progress on rights. They have hinted that they may soon allow us back in -- when and on what terms remains to be seen.

Western Sahara: General Human Rights Concerns

In Western Sahara our primary [concerns](#) include: violations of the right to free expression, association, assembly, and the right to a fair trial, torture during interrogation, and police violence against demonstrators. These concerns overlap with our concerns in Morocco proper. The specificity in Western Sahara is that the repression targets those persons who openly advocate for independence or a referendum on self-determination, advocacy that Morocco considers to violate its laws that criminalize speech or actions that, however peaceful, “undermine territorial integrity.”

The police in Western Sahara systematically [block](#) protest marches and sit-ins where the organizers support self-determination, even when the organizers comply with the legal regulations regarding advance notification. When a demonstration is called, large numbers of police either prevent participants from reaching the venue or chase them away, sometimes clubbing those who do not move quickly enough. Until last year, authorities refused to recognize Sahrawi human rights organizations that they deemed pro-independence. On that, more in a moment.

Moroccan authorities have arrested and subjected Sahrawi activists to politically motivated trials, imprisoning them for months or years, often after unfair proceedings. When seven activists visited Algeria and the Sahrawi refugee camps in 2009 for instance, they were arrested upon

their return and [spent up to 18 months in prison](#) on charges of “harming internal security” before they were conditionally released.

A group of [21 Sahrawis](#) have been in Salé Prison for over five years, serving terms of between 20 years and life for their alleged role in clashes in 2010 at a protest camp that left security force members dead. The group includes a few well-known human rights activists. While there can be no doubt that serious violent crimes were committed that day, the case against these individuals, known as the “Gdeim Izik group,” was built almost entirely on the statements that the police attributed to them and that incriminated themselves and their co-defendants. From the beginning stages of the case, most of the defendants told the military court trying the case that these statements were tortured out of them and false, and that they had signed the statements without being permitted to read them first. Despite these complaints, the military court did little if anything to examine their claims. As happens so often when Moroccan courts [judge cases with political overtones](#), the evidence justifying a guilty verdict consists of contested statements by the defendants that the court readily admits into evidence without examining if they are the result of torture, inhumane treatment, or fabrication.

To what extent do Moroccan authorities permit independent human rights monitoring in Western Sahara? The picture is mixed. They reject enlarging the mandate of MINURSO, the U.N. peacekeeping mission for Western Sahara, to include human rights monitoring, which would bring MINURSO into conformity with nearly all other modern U.N. peacekeeping operations. (The Obama administration, like those before it, has supported MINURSO as it currently exists and except for one ill-fated effort in 2013 at the Security Council, has not prioritized inclusion of a monitoring component.) Since 2015, Morocco has not allowed Human Rights Watch and Amnesty International to conduct research on the ground. It has since 2014 also denied entry to, or expelled from Western Sahara, scores of Europeans who came as individuals or in pro-Sahrawi solidarity delegations wishing to observe and report on human rights conditions.

While local Sahrawi groups face some restrictions, both they and many social media activists are still [able](#) to collect and circulate a good deal of information, including videos and photographs. Morocco does not to our knowledge block internet access or websites, and has been generally cooperative with U.N. human rights special mechanisms, allowing them to conduct their infrequent visits to both Morocco and Western Sahara.

Morocco’s National Human Rights Council, a body that reports to the king, established regional commissions in El-Ayoun and Dakhla, Western Sahara’s two major cities. These regional commissions register citizen complaints, request responses to them from the authorities, sometimes try to help complainants, send staff to observe how the police handles of public protests, and organize workshops and events. These commissions do many things well; what they don’t do is provide timely public reporting on human rights violations.

Morocco’s Reform Process

Morocco has been gradually reforming laws and practices since approving a new constitution in 2011. To date, the achievements have been real, though limited. They include ending the jurisdiction of military courts over civilian defendants in peacetime and a [draft press law](#) that, if

adopted, would sharply reduce the number of speech offenses for which journalists can be imprisoned.

These advances, however, have been accompanied by the continuing [prosecution of critics](#), the [repression of peaceful demonstrations](#), and [restrictions](#) on leading domestic human rights associations, notably the Moroccan Association for Human Rights – violations that call into doubt the government’s commitment to reform.

The positive steps mentioned above could improve human rights in Western Sahara since Morocco applies its own laws throughout that territory. In 2015, Morocco also legalized for the first time a highly critical Sahrawi human rights organization, a major step that Human Rights Watch [applauded](#) and hopes will lead to legal recognition for all peaceful rights groups, whatever their focus.

These reforms, and others that are in the works, such as a [draft law on domestic violence](#), deserve encouragement. But the reforms that would be transformative for human rights conditions in Western Sahara remain distant, at best: first, the decriminalization of “harming territorial integrity,” so that people would be free to advocate and organize peacefully on behalf of all solutions to the Sahara conflict and not only on behalf of Morocco’s preferred solution, which is a measure of autonomy under Moroccan rule. And, second, overhauling Morocco’s judiciary so that it becomes fully independent and vigilant in discarding evidence obtained through illegal coercive means, and prosecuting acts of torture, so that the courts provide fair trials and convict defendants only on the basis of compelling and untainted evidence.

Polisario-run Refugee Camps near Tindouf, Algeria

Monitoring conditions in the refugee camps across the border in the desolate Algerian desert is difficult, not because the Polisario Front places obstacles in the way of our visits but because the camps are isolated and there are few local sources that monitor human rights conditions independently. In our last major [report](#) on the camps, published in October 2014, we found that while the Polisario Front monopolizes political discourse, it appears to tolerate refugees criticizing and publicly protesting its management of day-to-day affairs. In 2010, the Polisario Front [detained](#) for two months, for political reasons, Mustapha Selma Ould Sidi Mouloud, an advocate of autonomy for Western Sahara under Moroccan rule. We are unaware of anyone since then being imprisoned for political views, expression or activity. However, we heard allegations by journalists of being reassigned within official media organs or being brought in for questioning, in response to their publishing critical commentary.

We do not believe the Polisario Front pursues a policy of preventing refugees from leaving the camps if they wish, including to Mauritania and to resettle in Moroccan-controlled Western Sahara. Some who left told us they concealed their plans before departing, fearing restrictions, but reports of actual interference were rare. We also spoke to refugees who said that they had recently visited Moroccan-controlled Western Sahara and returned to the camps without facing obstruction from the Polisario Front.

When we published our report in 2014, and again in 2016, we learned of instances of [illegal confinement](#) by families that the Polisario Front has allowed to continue, belying its claim to be a regional leader on the status of women. We are aware of at least two ongoing cases, and possibly a third, of adult women who were born in the camps and later established legal residency in Spain. Returning on visits to the camps, these women have been prevented by their families for over two years from returning to Spain. The Polisario Front is aware of these women's wishes to depart yet has proven either unwilling or unable to end these situations of illegal confinement and ensure the women's freedom of movement, preferring to seek a solution within the family that has been too long in coming. We believe that if the Polisario Front fails to restore the freedom of movement to these women, Algeria is obliged to step in to restore their, because these cases of confinement are occurring on Algerian soil.

Recommendations

From the foregoing, it is clear that stepped-up, independent and regular monitoring of human rights is needed, to better protect the rights of people in Western Sahara and in the Sahrawi refugee camps. Both Morocco and the Polisario Front are sensitive to their international images and both have told us repeatedly that on human rights, "We have nothing to hide." Given the often exaggerated accusations on human rights violations that each makes against the other, both should welcome having a source of credible and unbiased reporting.

In our view, MINURSO is the [right venue](#) for a U.N. monitoring mechanism, since modern peacekeeping missions include this in their mandate, with rare exceptions. Alternatives involving other U.N. bodies, such as the Office of the High Commissioner for Human Rights, are also conceivable, as long as the monitoring is both public and regular – in contrast to the usually one-off visits conducted by U.N. special mechanisms.

We also welcome continued efforts by the U.S. and other governments to support the work of local and international human rights organizations: to urge Morocco to grant legal recognition to all Sahrawi and other associations that have applied for but not received it, to end the restrictions on the activities of the Moroccan Association for Human Rights, and to encourage Morocco to restore access to Human Rights Watch and Amnesty International. We also urge the U.S. to press the Polisario Front and Algeria to end the ordeal of women confined against their will by their families and prevented from exercising their right to freedom of movement.

I thank you for giving Human Rights Watch to opportunity to address the Tom Lantos Commission and look forward to your questions.