

Excerpts:

**Report of the Secretary-General on the situation concerning
Western Sahara**

V. Humanitarian activities and human rights

A. Persons unaccounted for in the conflict

51. The International Committee of the Red Cross continued to work with the parties and families concerned in pursuing the question of persons still unaccounted for in relation to the conflict. An exhumation of a mass grave near the Mehaires team site east of the berm by Spanish forensic experts allowed eight Saharan families to recover the remains of relatives missing since 1976. MINURSO's observers attended their burial ceremony on humanitarian grounds. Findings were corroborated by interviews of relatives and eye witnesses and published in a report on 10 September 2013. The team stated that it is aware of additional mass graves in the area.

52. In a letter addressed to the High Commissioner for Human Rights, the CNDH stated that, like other unsolved cases, the eight cases concerned had been the subject of ongoing exchanges between the Government of Morocco, the United Nations Working Group on Enforced or Involuntary Disappearances (WGEID), the Advisory Council on Human Rights (CCDH), the CNDH and the International Committee of the Red Cross (ICRC). The CNDH stressed that it was ready to receive any formal information that would help achieve progress in establishing the truth. It had committed to contacting the families of the eight persons referred to in order to gather new information, "bearing in mind that these cases can always be tried through Moroccan courts, according to Moroccan law and international law".

53. Further to conflicting accounts on those disappearances by Amnesty International and Morocco's Instance Équité et Réconciliation, several nongovernmental organisations called for investigations to be re-opened into cases of enforced disappearance. Non-governmental organisations further called for the preservation of evidence of these and other mass graves.

D. Human rights

75. In June 2013, the Special Rapporteur on Trafficking in Persons, Especially Women and Children, visited Morocco, as well as the city of Dakhla in Western Sahara. She expressed her appreciation for the open and frank discussions she held with the authorities and civil society organizations. She also noted the authorities' willingness to institutionalize best practices, as seen in hospitals and court-based approaches to gender-based violence. At the same time, she expressed concern over the situation of irregular migrants and domestic workers as well as cases of child labour and sexual exploitation. The Special Rapporteur will present her report to the Human Rights Council in June 2014.

76. In December 2013, the Working Group on Arbitrary Detention visited Morocco, as well as Laayoune in Western Sahara. During its stay, it enjoyed the full cooperation of the authorities, was able to access every place of detention it had indicated a desire to visit and was able to interview detainees of its choice in private. In its preliminary statement and its Opinion 19/2013, the Working Group expressed concern over the number of confessions allegedly obtained as a result of torture in the course of preliminary investigations. The Working Group will present its report to the Human Rights Council in September 2014.

77. For 2014, Morocco has expressed its readiness for a follow-up visit by the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to review implementation of the steps Morocco has taken in this domain. In addition, Morocco has informed me that visits of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and the Special Rapporteurs on the Independence of Judges and Lawyers and on Freedom of Religious Belief are expected in the course of 2014.

78. Regarding civil and political rights, the United Nations continued to receive communications alleging abuses in Western Sahara west of the berm, particularly in the form of arrests without warrants, cruel, inhuman and degrading treatment in detention, limitations on family and advocate access to detainees, confessions extracted under torture, violation of the right to a fair trial, conditions that may amount to enforced disappearance and infringement of the rights of freedom of speech, association and assembly. OHCHR also received complaints about specific cases in which investigating judges failed to open investigations into defendants' allegations of torture and other forms of ill-treatment despite their lawyers' requests to do so.

79. Civil society organizations, including human rights groups active in Western Sahara west of the berm, continue to face obstacles in registering as nongovernmental organizations despite a judicial decision in their favour. These obstacles have deterred several associations from initiating the registration process, while others suspended their activities after the authorities allegedly refused to receive their applications.

80. Regarding freedom of speech, association and assembly, the United Nations received reports that several individuals, including children, had been arrested for participating in demonstrations in Laayoune and Smara. Charges against these individuals included "violence against public officials", "participating in an armed gathering", "placing objects on a road obstructing traffic" and "damaging public property". The complaints relating to arrests without warrants, torture and other forms of ill treatment and repeated postponements of defendants' hearings that were lodged by families of alleged victims met with no response.

81. The case involving the Saharan civilians convicted to long sentences by the Military Tribunal in Rabat on the basis of charges brought after the 2010 Gdim Izik events is ongoing (S/2013/220, para. 89). Local and international human rights organizations have reported serious concern for the health of 17 out of 22 prisoners pursuant to allegations of torture and other forms of ill-treatment committed by Moroccan law enforcement officials. Members of the Working Group on Arbitrary

Detention visited the prisoners at their place of detention in Salé in December 2013 and expressed concern over their deteriorating health. The Working Group added its voice to mine and to those of the High Commissioner for Human Rights and the Special Rapporteur on Torture in expressing its disapproval of the use of military **tribunals to try civilians.**

84. In several letters to me, Frente Polisario Secretary-General 'Abdelaziz called repeatedly for "international monitoring of the observance of human rights in both Western Sahara and the refugee camps", arguing that this would provide the best possible guarantee that violations will not occur and would also constitute the best possible confidence-building measure for the negotiating process. He also reiterated the readiness of the Frente Polisario to cooperate with the human rights bodies of the United Nations, called for monitoring the observance of human rights in the refugee camps even in the absence of an overall mechanism, and proposed that the High Commissioner for Human Rights visit the refugee camps and Western Sahara itself for a first-hand assessment of the situation. Also, in the refugee camps administered by the Frente Polisario, Secretary-General 'Abdelaziz announced the **creation of a Sahrawi National Council for Human Rights.**

VII. Observations and recommendations

93. In light of the presence of Western Sahara on the list of Non-Self-Governing Territories since 1963, the efforts of the United Nations, through the work of my Personal Envoy, my Special Representative and MINURSO, will remain highly relevant until its final status is established.

94. As noted in this report, my Personal Envoy has embarked on yet another approach in the negotiating process, one based on bilateral consultations and shuttle diplomacy. The October briefing to the Council will provide an opportunity to convey a first assessment on whether or not this new approach is proving fruitful. I call upon the parties to recognize the need for urgent progress and to engage seriously on the two core issues in the Security Council's guidance – the content of a political solution and the form of self-determination. I ask that the international community, and in particular the neighbouring states and the members of the Group of Friends, provide support for this endeavour. If, even so, no progress occurs before April 2015, the time will have come to engage the members of the Council in a comprehensive review of the framework that it provided for the negotiating process in April 2007.

95. I am pleased that the humanitarian family visit flights, which are aimed at uniting people separated for the last 40 years, will resume on 17 April 2014. I congratulate UNHCR on its efforts and encourage it to continue with its wider CBM activities. I am also pleased to note the steps taken on the pending issue of registration of refugees. In line with its mandate and principles, UNHCR will be discussing the modalities of carrying out this exercise with the concerned authorities, and I encourage continued progress and full cooperation with UNHCR in this regard.

96. I urge the international community to provide urgent funding for the CBM programme and the UNHCR mandate programme in the refugee camps near Tindouf, given the existing gaps in key areas of assistance such as protection, health, nutrition, food security, shelter, water and sanitation. I also urge the relevant United Nations Agencies, the donor community, the Frente Polisario and the Algerian authorities to explore programmes to respond to the developmental needs in the camps, especially education and employment for the youth.

97. In light of increased interest in the natural resources of Western Sahara, it is timely to call upon all relevant actors to “recognize the principle that the interests of the inhabitants of these territories are paramount” (UN Charter Chapter XI, art. 73).

98. I welcome Morocco’s cooperation with the Special Procedures of the Human Rights Council. I note with satisfaction the steps which Morocco has taken, such as those related to CNDH and the military tribunals as described in paragraphs 71, 72 and 84. I look forward to their full and speedy implementation.

99. I also take positive note of the Frente Polisario's expressed readiness to cooperate with United Nations human rights bodies, and of its establishment of the Sahrawi National Human Rights Council.

100. While welcoming these developments, I encourage both parties to continue and further enhance their cooperation with United Nations human rights bodies. I believe that such actions, covering both Western Sahara and the refugee camps, would contribute to creating an environment conducive to the initiatives taken so far, as well as to the negotiating process. Such positive developments should contribute to a more balanced and comprehensive monitoring of human rights. The end goal nevertheless remains a sustained, independent and impartial human rights monitoring, covering both the Territory and the camps.

101. I believe that, as a guarantor of the stability of the ceasefire and as visible evidence of the international community’s commitment to achieving a resolution of the conflict, the presence of MINURSO remains relevant as (a) an instrument of stability in the event that the political stalemate continues; (b) as a mechanism to support implementation of successive Security Council resolutions related to the mandate of MINURSO (United Nations Mission for the Referendum in Western Sahara); and (c) to provide independent information on the conditions on the ground to the Security Council, the Secretariat and the international community. I therefore seek the assistance of the Council in reasserting the mandated role of MINURSO, upholding peacekeeping standards and United Nations neutrality and ensuring that the conditions for the successful operation of the Mission are met. I also call on both parties, Morocco and the Frente Polisario, to cooperate fully with MINURSO in achieving these objectives.

102. MINURSO has helped keep the peace through its effective monitoring of the ceasefire, as well as by reporting on the military activities of both sides and on developments in and affecting its area of responsibility, conducting demining activities and providing logistics support to the confidence-building measures programme of UNHCR. Within the constraints in which it operates, MINURSO has maintained its ceasefire monitoring function, and its presence on the ground has played an important role in deterring the parties from breaking the ceasefire

agreement or resuming hostilities. In this context, and in the light of the continuing efforts of my Personal Envoy, I recommend that the Council extend the mandate of MINURSO, with a modest increase of 15 military observers to the authorised strength, for a further 12 months, until 30 April 2015.

103. In addition to its ceasefire monitoring function and as the only significant international presence in Western Sahara, MINURSO is also responsible for standard peacekeeping functions, such as monitoring, assessing and reporting on local developments affecting or relating to the situation in the Territory, as well as on political and security conditions affecting the negotiating process led by my Personal Envoy. The reporting function of MINURSO, although still limited, is indispensable, including for my Personal Envoy. I hope that the limitations that still exist with regard to MINURSO's "free interaction with all interlocutors" as referred to by the Security Council in its resolution 2099 (2013) can be overcome, building **on the progress achieved so far.**