



# HOUSING AND LAND RIGHTS NETWORK

## H a b i t a t I n t e r n a t i o n a l C o a l i t i o n

### **Response to the Questionnaire on transitional justice measures to address the legacy of serious violations of human rights and humanitarian law committed in colonial contexts**

**Mandate of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence**

#### **Reparation in the Case of Western Sahara**

During the last decade of his life, Morocco's King Hasan II created his Human Rights Advisory Council (CCDH) in 1990, which undertook to create an Independent Arbitration Body in 1999, then an Equity and Reconciliation Commission (IER) in 2004 to address the period of grave state-sponsored human rights abuses known as the "years of lead." The former was responsible for compensating victims, and the latter was charged with investigating past violations to find extra-judicial remedies.

The IER created a paradox, whereas "Morocco had "turned the page" without recognizing any state crimes."<sup>1</sup> It produced another anomaly among "transitional justice" experiences in that it pursued some forms of justice, including compensations and rehabilitation, but without entertaining a transition in the governmental system. The monarchy remained unaltered and, albeit with some liberalizing constitutional adjustments amid the spreading Arab region's uprisings in 2011 calling for deep reform, Morocco's crimes of state persisted at least in the forms of illegal occupation, annexation, plunder and population transfer in Western Sahara.

The IER ran from 1 December 2004 to 30 November 2005 and addressed disappearances, arbitrary detention and torture, as well as some losses of property and livelihood. Since 2006, the CCDH made substantial progress in carrying out IER-endorsed reparations programs. The distribution of compensation to individual victims was nearly completed by 2009, with \$85 million distributed to some 9,000 people, covering also medical care and vocational training at the state's expense. CCDH also identified 11 regions and communities deserving communal reparations, and established a program to manage that while involving national and local actors.<sup>2</sup>

In the IER, events related to the Western Sahara accounted for only 2% of those described by witnesses during the hearings on the disappeared, although those "disappeared" in the Western Sahara constituted at least 60% of the "disappeared" under Moroccan state responsibility.<sup>3</sup> The IER never published compensation details, but victims from Western Sahara reportedly did not receive equal reparations.<sup>4</sup> No trials resulted from the IER, and some alleged perpetrators continue to hold high Moroccan government posts, while specific human rights violators in Western Sahara received public promotions and economic rewards.<sup>5</sup> One Sahrawi political prisoner was on the 13-member IER executive committee;<sup>6</sup> however, the final IER report was silent on the Western Sahara, the territory "hardest hit by repression."<sup>7</sup> And it continues to be so.

Prosecutions may never be likely; however, it remains possible to outline parameters of remedy that seeks to **hold responsible parties accountable, establish the truth and memorialize, provide reparation and guarantee non-recurrence**. The victims' **satisfaction** would complete this formula and enable the equally urgent and essential **reconciliation** process.

## Perceptions and Priorities

Although Morocco has repeatedly sabotaged the legally required<sup>8</sup> referendum on Western Sahara self-determination, some external survey indicators attempt to envision what remedy should look like from the victims' perspective. One such survey of victims' demands and perceptions indicates almost half of a sample (n = 125; 47.89%) consider reparation as part of a more-general demand for the right to the Sahrawi people's self-determination and to prevent human rights violations in the future. This implies Sahrawis' ability to decide on their status in a referendum on self-determination, recovering their land, returning refugees and displaced persons, and other forms of restitution after having undergone repression, bombings, torture, enforced disappearances, dispossession and other violations.

The second most-important demand was for prosecution of perpetrators (37.16%) up to the present. Nearly one-third of the victims interviewed (31.42%) demanded the truth of what happened and, for 12.26% of the victims, reparation is linked to investigation of the whereabouts/fate of the "disappeared." One of every six Sahrawi victims (16.48%) expressed how reparation involved the return of the land and territory to the indigenous population. Just one out in ten (10.34%) referred to economic measures such as compensation. Respondents also spontaneously mentioned specific forms of restitution, rehabilitation and the transitional justice-related legal and institutional reform processes.<sup>9</sup>

The victims/respondents referred to both the remedial and preventive dimensions of legal and human rights criteria. Among these is the reparation framework, which the UN General Assembly adopted in 2006.<sup>10</sup> The present input to the questionnaire seeks to proffer criteria to fulfill the specific priority of reparation for Western Sahara—the land and its people—within that framework.

*Question 3: Please indicate which measures have been established in the concerned country to **provide reparation** to victims of gross violations of human rights and serious violations of international humanitarian law committed in colonial contexts. If such processes were established, please indicate which type of reparation was provided to victims (for example: restitution, compensation, satisfaction, and /or rehabilitation). If such measures were not adopted, please explain why. Please indicate the challenges and opportunities encountered in this regard, whether victims and affected communities have been effectively consulted in the design and implementation of these measures, and whether a gender perspective was adopted.*

## Provide reparation

International law provides, demands and frames the Sahrawi people's rights to self-determination and reparations and compel states and nonstate actors to bring an end to this, one of the world's longest state-sponsored protracted crises. However, many of the available tools have not been applied.

This submission addresses the feasibility of fulfilling the reparation entitlements of return, restitution and compensation to the invasion and continuing illegal occupation of Western Sahara within the terms of legality determined in the 1975 ICJ Advisory Opinion rejecting the Kingdom of Morocco's various claims to sovereignty of the territory, the UN Legal Advisor's counsel to the UN Security Council,<sup>11</sup> the relevant ICJ precedents<sup>12</sup> and principles of international law, including peremptory norms.<sup>13</sup> While numerous external parties also have benefitted from the illegal situation, the costs, losses and damages are addressed in this input within the scope of the Kingdom of Morocco's obligation as the invading and occupying power.

This outline pursues the elements of reparations for victims toward the objective of restorative justice, rather than retributive justice, or other forms of justice. Therefore, the criminal law and transitional justice subjects of prosecution and punitive measures remain apart.

### ***Return***

The number of entitled persons is still imprecise. However, the registered Sahrawi refugee population living in refugee camps around Tindouf, Algeria since 1975 is about 174,000.<sup>14</sup> This figure represents only those formally counted by UNHCR in the refugee camps and does not allow for those Sahrawi refugees in other locations such as neighboring Mauritania, or further afield. Nor does it count those dispossessed and/or displaced by the Moroccan military occupation since 1975 inside Western Sahara and also entitled to return and HLP restitution as a component of reparation.

For Sahrawi refugees, displaced persons and others in exile, property restitution should not be contingent upon returning to their places of origin, but rather be part of a reparations program of consensual return as a separate entitlement. The Moroccan state is obligated to allow and enable the return of those refugees and other Sahrawi dispersed during the occupation of the territory and the Sahrawi people's exodus.

### ***Restitution***

The restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one's place of residence, restoration of employment and return of property.<sup>15</sup> These forms of individual and collective restitution could feasibly be ensured through the self-determination long denied Sahrawi people. Assuming that the form of self-determination would be determined by the required referendum among Sahrawis, the restoration of place of residence, [housing, land and] property (HLP), identity, freedom of movement and residency, identity, citizenship, family life and family reunification could be realized within a state with the power and political will to implement these forms. Given the pattern of behavior and ideology of the occupier, it is highly doubtful that the Kingdom of Morocco would possess the requisite qualities to make these forms of restitution.

Restitution of livelihoods would also require the state to prioritize the material access to, and use of natural resources, services and infrastructure to the benefit of Sahrawi citizens. The restitution of intangible values of the dignity and reputation<sup>16</sup> may be considered under the entitlement of **Satisfaction**. However, this aspect of restitution would require the Moroccan state and its organs to reverse its propagation of notions that the Sahrawis are "separatists," "insurgents," "rebels" or other designation other than holders of the sacrosanct right to the self-determination, including by way of a referendum that Morocco has consistently denied.

No reliable inventory of properties or other resources lost to the occupier and its settlers is yet known or available. However, these would include the many homes and other property occupied, confiscated and trespassed upon that belong to Sahrawis abducted into secret detention centers or in exile. The plunder and pillage of camels and goats belonging to Sahrawi pastoralists and the frequent burning or destruction of their tents are still among the restitution demands of both refugees and those who stayed in Western Sahara.<sup>17</sup>

Despite still-needed inventories and enumeration of material losses, the land lost and subject to restitution is roughly quantifiable. Given that 80% of Western Sahara's overall land area of 266,000 km<sup>2</sup> (26,600,000 ha)<sup>18</sup> is Moroccan occupied, that remainder represents a land area of 212,800 km<sup>2</sup> (21,280,000 ha) subject to restitution to the Sahrawi people.

The costs, losses and damages arising from the construction of the Moroccan-built wall across Western Sahara pose a greater methodological challenge to determining their values. However, the pursuit of reparation for related violations could draw on the established methods developed for, and lessons learned

the UN Register of Damage from the Apartheid Wall in Palestine and its operation since 2008, noting, however, that that example did not provide for any restitution or other purposeful reparation outcome.<sup>19</sup>

### ***Resettlement***

Resettlement is a part of restitution when it is impossible to return to, or restore the Sahrawi refugee or displaced person's original home, land or other property. Consensual and adequate resettlement is also a form of durable solution to which refugees and involuntary displaced persons are entitled. All affected persons, groups and communities have the right to resettlement,<sup>20</sup> which includes the right to alternative (equal or better quality) land and housing that must satisfy the criteria for adequacy: accessibility, affordability, habitability, security of tenure, cultural adequacy, suitable location, and access to essential public and environmental goods and services such as water and sanitation, health and education.<sup>21</sup>

Resettlement is otherwise specified as the voluntary transportation of a person or persons (as an integral family and/or community) for relocation at a settlement different from the original, as after some kind of upheaval. Resettlement includes:

1. The relocation of living quarters;
2. Finding and engaging in decent and acceptable new employment for those whose jobs are lost or severely curtailed;
3. Restoration (or compensation, as necessary) of affected productive resources, including land, workplaces, trees and infrastructure;
4. Restoration of other values and living standards (quality of life) adversely affected through
  - adequate land acquisition for affected persons and communities;
  - restoration of, or compensation for affected private and public enterprises;
  - restoration of cultural or common property, as appropriate.<sup>22</sup>

### ***Rehabilitation***

The entitlement of rehabilitation involves the restoration of normal living conditions following a disruption or displacement so as to return the inhabitants to a state of personal and community integrity. Such process "should include medical and psychological care as well as legal and social services."<sup>23</sup> Without any limiting qualifier, the reparations framework allows for all forms of rehabilitation needed to restore normal living conditions. This would involve, *ad minimum*, "economic and social rehabilitation,"<sup>24</sup> as recognized in the case of Palestinian refugee return.

However, certain types of entitled rehabilitation extend to non-refugee and non-displaced Sahrawis. These forms would involve the restoration of the range of civil, cultural, economic, political and social rights. Rehabilitation of the human rights to the highest attainable standard of physical and mental health, for example, would require the extension of a wide range of therapeutic and prophylactic measures and services. These call for material provisions on the part of the Kingdom of Morocco, as well as in-kind efforts and affirmative actions.

Rehabilitation of reputation may require the reversal of propaganda and other forms of defamation that have sought to denigrate and dehumanize the Sahrawi people as a whole, but also including and especially individuals who have resisted the occupation and its various forms of repression and persecution. As noted under **Restitution** above, this aspect of reparations spans other reparation entitlements, and may also take material form in positively memorializing persons and/or groups for their roles in the human rights and self-determination struggles of the wider Sahrawi community.

### ***Compensation***

Compensation is a monetary indemnification to cover values that are physical impossible to restore, including to assuage pain and suffering, loss of life and limb, financial support to recover or replace lost heirlooms or cultural heritage. However, compensation does not substitute for the other elements of reparation, including restitution of the original situation before the violation, among others.

In notable cases, individuals and families had to hastily sell-off property to keep their families alive or ensure greater economic security in advance of having the Moroccan occupation forces forcibly occupying or confiscating it. Renter who suffered similar losses, costs and damages should be included also in this category of evicted or displacement persons. These cases would require compensation for both tangible and intangible losses, costs and damages in addition to any prospective restitution of property.

Monetary compensation for land is permissible only with the consent of the right holder, as liquid cash is no substitute for such a permanent asset. Land for land is the habitual formula, and both monetary compensation or land swaps would not qualify as compensation in lieu of restitution of landed property or the 212,800 km<sup>2</sup> of contiguous Sahrawi territory currently under occupation.

Quantification of compensation to be paid must follow a thorough qualitative and quantitative valuation. Actuary methods would be required to determine appropriate compensation for the many forced disappearances, deaths, tortures, arbitrary detentions and imprisonments, wrongful terminations and other such abuses.

Payment should be provided also for any economically assessable damage for moveable an immovable property at *replacement* value. For replacement of intangible values, compensation also should be proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law, such as:

- (a) Physical or mental harm;
- (b) Lost opportunities, including employment, education and social benefits;
- (c) Material damages and loss of earnings, including loss of promotion and earning potential;
- (d) Moral damage;
- (e) Costs required for legal or expert assistance, medical care, and psycho-social services.<sup>25</sup>

As for depleted and renewable resources plundered by the occupying power and its cohorts, Morocco is liable for payment to the Sahrawi people for extraction of such mineral resources as phosphate, uranium, precious metals and stones, aggregate and sand, as well as gains from investment in commercial and industrial activities, ranging from trade advantages to the harnessing of solar energy to the benefit of any party other than the Sahrawi people and its legitimate representatives.

Bases exist for quantifying values extracted from Western Sahara's territorial waters, for example. The proceeds of the EU-Morocco Fisheries Partnership Agreement (FPA) demonstrate the material consequences arising from the measurability of costs, losses and damages subject to compensation. However, it is but one of many measures taken by the occupying power, through partnership or unilaterally, that seek benefit from its illegal and forcible control over the territory at the exclusion of the Sahrawi people, its right to self-determination and sovereignty of its own means of subsistence and natural resources in violation of peremptory norms of international law.

To wit, German federal trade statistics indicate that Sahrawi fishmeal imported from "Morocco" into Bremen is valued at €1,218/tonne in 2019. Applying this value to the overall exports of fishmeal from Western Sahara to Germany and Turkey combined, the companies on occupied territory earned an income of astonishing €102,921,000 that year alone.<sup>26</sup> However, such data are available for calculating each year of occupation. The combined export of fishmeal and fish oil exports from "Morocco" for the period 2014–19 was 794,944 tonnes of fishmeal and 228,735 tonnes of fish oil. The total commercial value of these

extracted natural resources for that period was €1,005,471,428.04 worth of fishmeal and €329,690,384.00 of fish oil.<sup>27</sup>

Since the turn of the century, fishmeal production has more than doubled in Morocco, from 71,000 tonnes in 2000 to 170,000 tonnes in 2019.<sup>28</sup> Morocco's production total for 2019 ranked it 10<sup>th</sup> among global fishmeal exporters.

The EU-Morocco Fisheries Partnership Agreement, is taken as an emblematic case because of its timeliness. However, the legal issues and measurable consequences largely would apply to any process of extracting natural resources or any other benefit from an illegal situation of occupation. Through the FPA and other forms of cooperation, EU states collectively and severally have falsely recognized Morocco as the *de facto* administering power of the territory with rights to dispose of the indigenous people's natural wealth and resources. By doing so, those states have violated obligations arising out of international cooperation, instead basing cooperation upon the principle of mutual economic benefit. Collaborating EU states also bear responsibility not only to bring an end to the illegal situation, but also to make reparations to the Sahrawi people for their part in the plunder until the European Court of Justice annulled the FPA.

US diplomatic cables leaked in 2010 revealed that the fishing industry in Western Sahara was controlled by generals of the Moroccan army.<sup>29</sup> This was corroborated by independent Moroccan media, which in 2012 published a list of the principal possessors of fishing licenses.<sup>30</sup>

A new EU-Morocco Sustainable Fisheries Partnership Agreement (SFPA) entered into force on 18 July 2019. It is implemented through a Protocol, detailing the technical aspects to the agreement for a four-years period, until 17 July 2023. In return for the opportunity to fish in the unspecified Moroccan "fishing zone," which covers Western Sahara territorial waters, the EU has agreed to remunerate Morocco on an annual basis, with the added condition that Morocco is to annually report on how it spent that money.

The Moroccan government's first report shows most EU funding from July 2019 to October 2020 was not spent in Morocco, but in occupied Western Sahara. Out of €45,35 million given by the EU, *at least* €35 million (over 77%) has been spent in occupied Western Sahara. However, that the exact amount is even higher, as several EU-funded projects are executed partly in Morocco and partly in Western Sahara, although the Moroccan government does not report to what extent these split projects were carried out at which location.<sup>31</sup>

The Moroccan monarch's phosphate company Office Chérifien des Phosphates (OCP) took over from the former Spanish company, Phos Bou Craa. Sahrawis form some 9.5% of the workforce of 1,700<sup>32</sup> at the Bou Craa phosphate mine with an annual output of about 2.5 million tons per year. That is only a portion of the annual 27-million-ton output of Morocco, the world's largest phosphate exporter.

In 2008, prices for phosphate ore skyrocketed, incentivizing Morocco's to exploit Western Sahara's phosphate illegally. Prices have since declined, but long remained 300% higher than in 2007. The royal Moroccan OCP operation is uninterrupted, and foreign companies such as Canada-based PotashCorp continue to purchase phosphate from the occupier.

At 2013, a normal 75,000-ton shipload of phosphate rock would have reached at least \$14 million (€11,621,000).<sup>33</sup> Currently, that shipment would sell for \$7,125,000 (€5,876,160).<sup>34</sup> At that modest calculation based on output from one relatively small-scale mine, the loss of this natural resource would be valued at \$466,666,200 (€387,350,000) for the year 2013, and \$237,262,500 (€211,848,196) for 2019.<sup>35</sup> Restitution of the natural resource and the lost sovereignty over it is not possible, as it has been dispersed through export and subsequently processed and consumed. Thus, the monetary reparations due to Western Sahara can only rely on actual transactions, adjusted for currency rates at the time of effecting compensation.

These data are only a preliminary indication of the outright losses and opportunity costs incurred in this particular aspect of the extraction of natural wealth and resources from occupied Western Sahara. The extraction of mineral wealth and other resources, including human labor, have created costs and losses also that would figure in an audit of values subject to restitution under reparations to the indigenous population. Notable, too, are the use of Sahrawi water and soil for agriculture, including the Moroccan king's production and export monopoly over Sahrawi "conflict tomatoes."<sup>36</sup>

Among the consequences of such forms of cooperation with the occupying power, the illegal trade in Sahrawi products through Morocco with the EU and other countries deprives the indigenous people of pursuing its economic, social and cultural development, and of its own means of subsistence. This breaches human rights treaty obligations, including under the International Covenant on Economic, Social and Cultural Rights (ICESCR), which Morocco ratified on 3 August 1979. Morocco and other state parties bear the obligation to apply ICESCR extraterritorially, as well as domestically, individually and collectively.

### **Conclusion**

This submission in response to the Special Rapporteur's call for input on transitional justice measures to address the legacy of serious violations of human rights and humanitarian law committed in colonial contexts is only an illustration of what measures remain to be done to institute justice for Western Sahara. This follows the highly selective and partial truth-telling and compensation exercises that have taken place in the territory of the occupying power since they began over two decades ago.

The costs and complications of reparation mount with time. At this writing, the Moroccan occupation of Western Sahara has passed its 45<sup>th</sup> year, and the quantification and other calculation processes required to enable return, restitution and compensation for the Sahrawi people still remain to be done. And they are long overdue.

## Annex 1

### Other Entitlements of Reparation Applicable to the People of Western Sahara

#### *Guarantees of non-repetition*

Any needed guarantees of non-repetition of the crimes associated with Morocco's aggression, population transfer and colonization of Western Sahara could be foreseeable with international mechanisms to monitor the terms of reparation beyond the currently limited MINURSO mandate, which lacks capacity to protect the effected population or monitor human rights standards. Contribution to preventing repetition of the crimes, human rights violations and breaches of IHL would further require:

1. Effective civilian control of security and armed forces, beyond the command of the military or monarchy;
2. An independent judiciary such that all civilian and military proceedings abide by international standards of due process, fairness and impartiality;
3. Protection of persons in the legal, medical and health-care professions, a free media and other related professions, and human rights defenders;
4. Keen attention to gender sensitivity and the needs of women, girls of the victim population;
5. Remedial human rights and international humanitarian law education to all sectors of the concerned societies, including related training for law enforcement officials, military and other security personnel;
6. Adoption and observance of international standards, codes of conduct and ethical norms for public servants, including law enforcement, correctional, media, medical, psychological, social service and military personnel, as well as by economic enterprises;
7. Processes linked to other transitional-justice measures; i.e., criminal justice; memorialization, protection of evidence and truth telling; law, policy and institutional reform; and reconciliation.
8. Mechanisms for preventing, monitoring and resolving social conflicts;
9. International political support for processes and specialized bodies corresponding to the various aspects of transitional justice;
10. Funding for reparation processes modelled after international precedents such as the UN Compensation Commission to process claims and pay compensation for losses and damage suffered as a direct result of Iraq's unlawful invasion and occupation of Kuwait in 1990–1991.

#### *Satisfaction*

*Satisfaction* should include, where applicable, any or all of the following:

1. Effective measures aimed at the cessation of continuing violations;
2. Verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victim, the victim's relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations;
3. The search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of those killed, and assistance in the recovery, identification and reburial of the bodies in accordance with the expressed or presumed wish of the victims, or the cultural practices of the families and communities;
4. An official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim;
5. Public apology, including acknowledgement of the facts and acceptance of responsibility;
6. Judicial and administrative sanctions against persons liable for the violations;
7. Commemorations and tributes to the victims;
8. Inclusion of an accurate account of the violations that occurred in international human rights law and international humanitarian law training and in educational material at all levels.

## Annex 2

### Potential Values to Quantify as Costs/losses/damages to the People of Western Sahara

Lost revenues from natural resources:

- Fisheries
  - Revenues from Moroccan fishing industry in WS
  - Revenues from selling licenses/permits for foreign industries to utilize WS waters
- Mineral extraction (Moroccan and other foreign companies)
  - Phosphate
  - Uranium extraction
  - Gold and diamonds
- Agricultural exports/agribusiness (namely tomato exports to EU and US)
- Sand export (beaches, construction)
- Oil exploration
  - No oil has been found as of yet; however, numerous firms have provided revenues to the occupying Power for exploration rights
- Tourism revenue
- General controls and revenues from economic activity in WS
- Labor and Migration
- Domestic job market: In addition to the lost revenues, high unemployment among Sahrawis in favor of Moroccans settling in WS as laborers for public and private Moroccan companies
- Loss of human resources due to out-migration
  - In POLISARIO-controlled zones, consequences of the lack of suitable physical environment: no sea access; food insecurity (C.F.: IOM study)

Land

- 21,280,000 ha (occupied territory)

Food/Water

- Constant food and water shortages in WS
- Refugee camps lack of access to clean or sufficient water

Land mines

- POLISARIO-controlled territory unusable for many years due to the presence of land mines, shrinking the amount of usable/livable territory
- Cumulate costs of land mine and UXO removal borne by the Sahrawi people and international organizations

Livelihood

- Labor rights
- Opportunity costs & returns from the denial of sovereign usufruct of land and natural resources
- Losses, costs and damages to pastoralists and their livelihoods

Human and Social Costs

- Life and limb
  - Military/conflict deaths and casualties
  - Landmine fatalities and injuries
  - Torture and its consequences
  - Maiming and its consequences

- Forced disappearances
- Malnutrition
- Psychological distress
- Social marginalization
- Social/cultural homogenization
- Urbanization/peri-urbanization (nomadic tribes)
- Family separations

Other

- Use/rent of property belonging to WS refugees
  - Land (also factor in herding/grazing land specifically)
  - Housing
  - Buildings/businesses
  - Inheritance prospects
- Cost of wall/berm removal

***International Costs***

- Algeria: costs of servicing 174,000 refugees<sup>37</sup>
  - “The multilateral aid (from WFP, ECHO and UNHCR) to the Sahrawi refugee camps 2007 amounted to approximately 30 million dollars. As a comparison: Morocco probably earned around 1500 billion dollars on the illegal phosphate exports from the occupied territory in the year 2008 lone.” (WSRW)
- Foreign aid/relief programs in occupied WS
  - WFP assistance to refugees in Algeria since 1986; 2012 budget is US \$67,471,053; (will also try to find numbers since 1986)
- UN peace keeping mission MINURSO operations;
- “The multilateral assistance and cooperation (through WFP, ECHO and UNHCR) to the Sahrawi refugee camps 2007 amounted to approximately \$30 million.
- Foreign aid/relief programs in occupied WS
  - WFP assistance to refugees in Algeria (1986–2012: US \$67,471,053)
  - IOM assistance
  - ICRC assistance
  - Red Cross/Red Crescent Society assistance
  - UNHCR assistance
  - Other multilateral and NGO assistance
- UN Secretariat expenditures

## Endnotes:

- <sup>1</sup> Susan Slyomovics, “A Truth Commission for Morocco,” *Middle East Report*, no. 218, spring 2001, pp. 18–21, [https://www.jstor.org/stable/1559305?read-now=1&refreqid=excelsior%3A335c93e1c5a31b96d251a81b56e627c9&seq=1#page\\_scan\\_tab\\_contents](https://www.jstor.org/stable/1559305?read-now=1&refreqid=excelsior%3A335c93e1c5a31b96d251a81b56e627c9&seq=1#page_scan_tab_contents).
- <sup>2</sup> International Center for Transitional Justice, “Truth and Reconciliation in Morocco,” 2009, <https://www.ictj.org/sites/default/files/ICTJ-Morocco-TRC-2009-English.pdf>.
- <sup>3</sup> Report of the Working Group on Enforced or Involuntary Disappearances, Mission to Morocco, A/HRC/13/31/Add.1, 9 February 2010, para. 45, <https://undocs.org/en/A/HRC/13/31/Add.1>.
- <sup>4</sup> *Ibid.*, paras. 45 and 53.
- <sup>5</sup> United Institute for Peace (USIP), “Truth Commission: Morocco,” accessed 2 May 2021, <https://www.usip.org/publications/2004/12/truth-commission-morocco>; Carlos Martin Beristain and Eloísa Gonzalez Hidalgo, *Truth, justice and reparation in the Western Sahara. The Oasis of Memory* (Bilbao: Hegoa, 2016), p. 70, <https://publicaciones.hegoa.ehu.eus/es/publicaciones/349>.
- <sup>6</sup> Sahrawi political prisoner (1977–82), Hassan Muriq Sahrawi (Groupe Meknès) was appointed at the founding Casablanca conference, 27–28 November 1999. Slyomovics, *op. cit.*
- <sup>7</sup> USIP, *op. cit.*
- <sup>8</sup> **Recalling that Morocco pledged in 1975 to treat the ICJ decision as binding.**
- <sup>9</sup> Beristain and Gonzalez, *op. cit.*, pp. 6–7.
- <sup>10</sup> “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,” A/RES/60/147, 21 March 2006, [http://www.hlrn.org/img/documents/A\\_RES\\_60\\_147\\_remedy\\_reparation\\_en.pdf](http://www.hlrn.org/img/documents/A_RES_60_147_remedy_reparation_en.pdf).
- <sup>11</sup> “Letter dated 29 January 2002 from the Under-Secretary-General for Legal Affairs, the Legal Counsel Hans Corell, addressed to the President of the Security Council,” S/2002/161, 12 February 2002, <https://www.securitycouncilreport.org/un-documents/document/s2002161.php>.
- <sup>12</sup> For example, the Wall decision of July 2004.
- <sup>13</sup> Matthew Saul, “The Normative Status of Self-Determination in International Law: A Formula for Uncertainty in the Scope and Content of the Right?” *Human Rights Law Review*, Vol. 11, No. 4 (2011), at: <http://www.corteidh.or.cr/tablas/r27634.pdf>; Matthew Saul, “Identifying Jus Cogens Norms: The Interaction of Scholars and International Judges,” *Asian Journal of International Law* (May 2014), pp. 1–29; United Nations, “Serious Breaches of Obligations under Peremptory Norms of General International Law,” Chapter III, Legislative Series, Part Two, *Book 25: Materials on the Responsibility of States for Internationally Wrongful Acts* (New York: United Nations, Codification Division, Office of Legal Affairs, 2019), at: [file:///E:/HIC-HLRN/Research%20Subjects/S-D\\_statehood/SeriousBreachesBook25\\_part2\\_ch3.pdf](file:///E:/HIC-HLRN/Research%20Subjects/S-D_statehood/SeriousBreachesBook25_part2_ch3.pdf).
- <sup>14</sup> Rounded from UNCHR’s total camp census of 173,600 in March 2018. UNHCR, “Sahrawi Refugees in Tindouf, Algeria: Total In-Camp Population,” March 2018, [http://www.usc.es/export9/sites/webinstitucional/gl/institutos/ceso/descargas/UNHCR\\_Tindouf-Total-In-Camp-Population\\_March-2018.pdf](http://www.usc.es/export9/sites/webinstitucional/gl/institutos/ceso/descargas/UNHCR_Tindouf-Total-In-Camp-Population_March-2018.pdf).
- <sup>15</sup> A/RES/60/147, *op. cit.*, para. 19.
- <sup>16</sup> A/RES/60/147, *op. cit.*, para. 22(d).
- <sup>17</sup> Beristain and Gonzalez, *op. cit.*, p. 72.
- <sup>18</sup> The *Encyclopedia Britannica* cites the land area as 252,120 square km (uncited), <https://www.britannica.com/place/Western-Sahara>.
- <sup>19</sup> Establishment of the United Nations Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory, A/RES/ES10/17, 24 January 2007, <https://undocs.org/A/RES/ES-10/17>.
- <sup>20</sup> Basic Principles and Guidelines on Development-based Evictions and Displacement, Annex 1, of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, A/HRC/4/18, 2007, [https://www.ohchr.org/documents/issues/housing/guidelines\\_en.pdf](https://www.ohchr.org/documents/issues/housing/guidelines_en.pdf).
- <sup>21</sup> Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 4: the right to adequate housing (Art. 11 (1) of the Covenant), 13 December 1991, E/1992/23, para. 8, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fGEC%2f4759&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fGEC%2f4759&Lang=en).
- <sup>22</sup> Objectives of Resettlement Plan and Definition of Resettlement Terminology, [http://209.225.62.100/Documents/Resettlement\\_Plans/PRC/Ningxia/ningxia\\_chap01.pdf](http://209.225.62.100/Documents/Resettlement_Plans/PRC/Ningxia/ningxia_chap01.pdf).
- <sup>23</sup> A/RES/60/147, *op. cit.*, para. 21.
- <sup>24</sup> Resolution 194 (III) “Palestine—Progress Report of the United Nations Mediator” (11 December 1949) refers to the right to return and to “economic and social rehabilitation,” para. 11, <https://digitallibrary.un.org/record/210025?ln=ar>.
- <sup>25</sup> “Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law,” Commission on Human Rights Resolution E/CN.4/2005/35, Article 20.
- <sup>26</sup> Statistisches Bundesamt Deutschland [Federal Statistical Office of Germany], [http://endrom.bplaced.net/wp-content/uploads/2020/10/447142\\_656352.xlsx](http://endrom.bplaced.net/wp-content/uploads/2020/10/447142_656352.xlsx). The file can also be downloaded here: [https://vest-sahara.s3.amazonaws.com/skvs/feature-images/File/202/5f958144303d6\\_Germany2019](https://vest-sahara.s3.amazonaws.com/skvs/feature-images/File/202/5f958144303d6_Germany2019).

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- <sup>27</sup> This statistic shows the average annual price of fish oil worldwide from 2015 to 2019 (in U.S. dollars per metric ton). “Morocco fishmeal production by year,” *Index Mundi*, <https://www.indexmundi.com/agriculture/?country=ma&commodity=fish-meal&graph=production>; “Fishmeal Monthly Price - US Dollars per Metric Ton,” *Indexmundi*, [https://www.indexmundi.com/commodities/?commodity=fish-meal&months=120#google\\_vignette](https://www.indexmundi.com/commodities/?commodity=fish-meal&months=120#google_vignette);
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- <sup>28</sup> *Ibid.*
- <sup>29</sup> “US wiki cable: Moroccan general controls fisheries in Western Sahara,” *Western Sahara Resources Watch* (WSRW) (16 October 2013), <https://wsrw.org/en/archive/1719>.
- <sup>30</sup> “Moroccan government refuses to disclose fish licence holders,” WSRW (30 December 2010),
- <sup>31</sup> “Morocco spends most of EU’s fish support in occupied land” WSRW (25 February 2021), *Protocole de mise en œuvre de l’Accord de partenariat dans le domaine de la pêche durable entre le Royaume du Maroc et l’Union Européenne (2019–2023)* (Rabat : Ministère de l’Agriculture de la Pêche Maritime du Développement Rural et des Eaux et des Forêt0073, 2020), <https://wsrw.org/en/news/morocco-spends-most-eus-fish-support-in-occupied-land>; [https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/93/60365184d63e6\\_MoroccoFishReport2020.pdf](https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/93/60365184d63e6_MoroccoFishReport2020.pdf).
- <sup>32</sup> Cate Lewis, “Review of Australia’s Relationship with the Countries of Africa,” Joint Standing Committee on Foreign Affairs, Defence and Trade, Australian Parliament, Australia Western Sahara Association, submission 115, at:
- <sup>33</sup> Kristen Chick, “Prized Phosphate drives controversial investments in Western Sahara,” *The Christian Science Monitor* (25 January 2013), at: <http://www.alaskadispatch.com/article/prized-phosphate-drives-controversial-investments-western-sahara>.
- <sup>34</sup> At \$95.00 per tonne as of 30 April 2021. “Morocco Phosphate Rock Price,” *Y Charts*, accessed 5 May 2021, [https://ycharts.com/indicators/morocco\\_phosphate\\_rock\\_price](https://ycharts.com/indicators/morocco_phosphate_rock_price). Euro exchange rate on the same date was 0.82472. OANDA, “Currency Converter,” <https://www1.oanda.com/currency/converter/>.
- <sup>35</sup> At the comparable rate of 33.33 shiploads per year.
- <sup>36</sup> Ian Black, “Western Sahara’s ‘conflict tomatoes’ highlight a forgotten occupation,” *The Guardian* (4 March 2015), <https://www.theguardian.com/world/2015/mar/04/western-sahara-conflict-tomatoes-occupation-morocco-labelling-tax>.
- <sup>37</sup> Sahrawi refugee population is rounded from 173,600. UNHCR, “Sahrawi Refugees in Tindouf, Algeria: Total In-Camp Population,” March 2018, at: [http://www.usc.es/export9/sites/webinstitucional/gl/institutos/ceso/descargas/UNHCR\\_Tindouf-Total-In-Camp-Population\\_March-2018.pdf](http://www.usc.es/export9/sites/webinstitucional/gl/institutos/ceso/descargas/UNHCR_Tindouf-Total-In-Camp-Population_March-2018.pdf).