

Refugee Rights and the Western Sahara

- Tens of thousands of refugees have been sequestered in refugee camps in southwest Algeria near the town of Tindouf for more than thirty years. Having initially fled or been forced to flee to the camps during hostilities between Morocco and the Polisario Front, the refugees are now warehoused¹ in Algeria in deplorable physical and moral circumstances. The international system has done little to protect the rights of these refugees in what has now become, according to UNHCR, one of the longest encamped refugees situations in the world today.
<http://moroccanamericanpolicy.com/refugee/report.pdf>
- Although warehoused on foreign soil, the Sahrawi refugees have a substantial number of rights under international law, which, unfortunately have not been protected by the parties with direct responsibility for their welfare: Algeria, the Polisario Front, and the United Nations High Commissioner for Refugees (UNHCR). Under international law to which it is a signatory, Algeria is responsible for the well being of the refugees and protection of their rights, since they are warehoused on Algerian soil.
http://reliefweb.int/sites/reliefweb.int/files/resources/C5AE2685410413C5852576AC0071904A-Full_Report.pdf
- Although Algeria is a signatory to both the 1951 Convention relation to the Status of Refugees and its 1967 Protocol, the two most important refugee protection mechanisms in international law, it has not discharged its responsibilities vis-à-vis the refugees on its territory, including according refugees the right to juridical status, gainful employment, welfare, freedom of movement, and documentation.
http://www.uscerefugees.org/2010Website/3_Our%20Work/3_2_1_3_Morocco/Stonewalling.pdf
- The refugees are almost completely dependent on international aid, as prospects for livelihood are limited both by the difficult physical environment and Algeria's refusal to grant refugees the right to work outside of the camps, in direct violation of its obligations under international refugee law. The refugees rely on aid for food and non-food items, health care, education, water, sanitation, transportation, and other basic services. Anemia and malnutrition remain high, water resources are insufficient, primary school and health care centers operate with meager resources and supplies, and there is a dearth of secondary education facilities. These conditions all violate refugee rights under international law to a basic standard of living.
http://www.uscerefugees.org/2010Website/3_Our%20Work/3_2_1_3_Morocco/Stonewalling.pdf
<http://www.unhcr.org/4b05117f9.html>
- Algeria and the Polisario have refused to allow a census to count, register, and provide internationally-recognized documentation for the refugee population, which is a

¹ The anti-warehousing campaign of the United States Committee for Refugees and Immigrants defines warehousing as the "practice of keeping refugees in protracted situations of restricted mobility, enforced idleness, and dependence, with their lives on indefinite hold."

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contravention of their right to travel documents. The US State Department has recognized this refusal as a violation of refugee rights, noting in its 2011 human rights report on Algeria that “neither the Algerian government nor the refugee leadership allowed the UNHCR to conduct a registration or complete a census of the Sahrawi refugees.”

<http://www.state.gov/documents/organization/160446.pdf>

- These policies have facilitated violations of refugees’ right to freedom of movement, another right guaranteed under international refugee law. The Polisario and/or Algerian military maintain checkpoints at roadways leading to, from, and in between the camps in order to restrict the freedom of movement of the refugees. Although Sahrawi refugees can travel to Mauritania, they are restricted from voluntarily repatriating to Morocco or traveling to other foreign countries. Without travel documents and visas, they are prohibited even from traveling around Algeria.

http://www.uscritefugees.org/2010Website/3_Our%20Work/3_2_1_3_Morocco/Stonewalling.pdf

- There are more than just legal and moral imperatives for promoting the rights of Sahrawi refugees. It is also in the interest of UNHCR, Algeria, and donors to open the Tindouf camps since the long-term care and maintenance programs come at a significant human and material cost. Over the past 30 years, the facts and realities on the ground have changed, unfortunately, UNHCR’s and Algeria’s policies relating to refugees have not. A rights-based strategy combined with a development-based strategy that would enable refugees to have access to an economic future, would be beneficial to the surrounding states, UNHCR, and most importantly, the refugees.

<http://moroccanamericanpolicy.com/refugee/report.pdf>

- Moreover, the continued warehousing of Sahrawi refugees in Algeria is a threat to the security and stability of the entire region. The camps are situated close to the porous border area between Mali, Mauritania, and Algeria, which is the crossroads of AQIM terrorism and trafficking in the region, not to mention precariously close to the area now controlled by AQIM and MUJAO in northern Mali. This makes it essential to open the camps and resolve the conflict in Western Sahara. Following a tour of the region in November 2012, Personal Envoy the UN Secretary General for the Western Sahara Christopher Ross emphasized the dangers of failing to resolve the conflict, arguing that it, “would be a serious miscalculation (to maintain the status quo), especially since the status quo is not threatened by the rise of extremist, terrorist, and criminal elements in the Sahel region. This dispute, if left to fester in this new situation, could spark renewed violence or hostilities that would be tragic for the people of Western Sahara and for North Africa as a whole.”

<http://www.google.com/hostednews/afp/article/ALeqM5htH7sXEM6mE9j-NsimrXas4hWToQ?docId=CNG.714d6206df93e4c0d2493c2c67d87693.311>

- On April 9, 2013 UN leader Ban-Ki Moon underscored these sentiments and called for urgent international efforts to end the Western Sahara conflict because of fears the Mali war will spill over into the territory. In a report to the 15-member Security Council, Ban argued, “The rise of instability and insecurity in and around the Sahel requires an urgent settlement of this long-standing dispute.” The report continued, “All governments consulted raised serious

concerns over the risk that the fighting in Mali could spill over into neighboring countries and contribute to radicalizing the Western Saharan refugee camps," with one government leader in the region calling the Western Sahara camps "a ticking time bomb," according to the report.

http://www.google.com/hostednews/afp/article/ALEqM5iOnupKvBuc8I_WTR3J5BnNCFnmEw?docId=CNG.566cbe22180951c72bc8d9c6ad6fd9d1.d1

- Now is the time to take action to guarantee the stability and security of the Maghreb and Sahel by resolving the refugee crisis. UNHCR must:
 - Monitor the Sahrawi situation more effectively to ensure accountability and transparency in aid distribution.
 - Call for an immediate census.
 - Establish a significant presence in the camps to ensure the protection of refugee rights, especially freedom of movement.
 - Establish an intimidation-free, voluntary repatriation program for those Sahrawi refugees who wish to return to their previous homes and families in Morocco or elsewhere.
 - Prevent the militarization of the camps.
 - Reconstitute its humanitarian approach into a rights-based approach that bridges the gap between relief and development to ensure the realization of all refugee rights.
- Likewise, under its obligations to collaborate with UNHCR, Algeria must remove all obstacles to this rights-based approach, including its opposition to the census and documentation, its continued support for the Polisario jurisdiction over the camps, and its military cooperation with the Polisario that contributes to restrictions on freedom of movement.
- Sahrawi refugees must not continue to suffer for the failures of UNHCR, Algeria, and the Polisario. It is legally, morally, and financially imperative that the Sahrawi refugees in Algeria be granted all of the rights they are entitled to under international law so that they do not have to live as warehoused refugees for another 30+ years.

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