

ITEM B.109 FOR ACTION

FOR PRESBYTERIAN MISSION AGENCY EXECUTIVE DIRECTOR'S OFFICE USE ONLY					
	A. Finance		E. Corporate Property, Legal, Finance		J. Board Nominating & Governance Subcommittee
X	B. Justice		F. PC(USA), A Corporation		P. Plenary
	C. Leadership		G. Audit		
	D. Worshiping Communities		H. Executive Committee		

Subject: Western Sahara: Occupied, Non-Self-Governing Territory, and Test Case for International Law

Recommendation:

The Presbyterian Mission Agency Board recommends to the 221st General Assembly (2014) in response to a referral by the 220th General Assembly (2012) of legal and other factors affecting the status and future of the territory of Western Sahara:

1. Urge the U. S. Department of State and the U.S. Ambassador to the United Nations to continue to call upon the community of nations to support self-determination for the people of the region known as Western Sahara in accord with prior UN resolutions and determinations of international courts, including provision for a supervised referendum in which the human rights of all Sahrawi and others residents are protected and a fair, internationally recognized settlement is achieved, and the proposal of the United States for human rights observers in this effectively occupied, non-self-governing territory.
2. Direct the Presbyterian Ministry at the United Nations, the Presbyterian Office of Public Witness in Washington, DC, and other appropriate offices of the Presbyterian Mission Agency to work with ecumenical and interfaith partners and other non-governmental organizations (NGO's) in support of these efforts on behalf of Western Sahara, and to give attention as feasible to justice issues in other non-self-governing trust territories, territorial possessions, and occupied territories.
3. Direct the Committee on Mission Responsibility Through Investment (MRTI) to monitor the activities of international corporations in Western Sahara in which the Foundation or Board of Pensions of the Presbyterian Church (U.S.A.) may be an investor, including the Potash Corporation (currently in church portfolios), initiating correspondence on the impacts of that firm's mineral extraction, and recommending appropriate further corporate social responsibility measures consistent with the concerns noted above.
4. Direct the World Mission Africa and Middle East/Europe/Central Asia liaison offices, appropriate mission networks, and the Advisory Committee on Social Witness Policy, to monitor matters of human rights and religious liberty in Western Sahara and other countries across the Northern Africa region where ethnic and religious tensions and undemocratic governance may threaten international peace and security, and make recommendations on public policy and economic witness as appropriate.

Rationale

2012 Referral: Item 14-NB. Recommendation. The 220th General Assembly (2012) directs the Advisory Committee on Social Witness Policy (ACSWP), Presbyterian Ministry to the UN, and Mission Responsibility Through Investment (MRTI) to study and consider actions to bring justice to the disputed territory of Western Sahara, considered by many international jurists to be illegally occupied by Morocco, including the issue of corporate engagement and the renewal of diplomatic efforts to support self-determination, and report to the 221st General Assembly (2014). (Minutes, 2012, Part I, pp. 61, 64, 1347 of the CD; p. 280 of the print copy)

Introduction: This response begins by describing the concern of the minister commissioner who initiated this action on behalf of Western Sahara, a territory on the Northwestern coast of Africa, South of Morocco and North of Mauritania. The response continues with a short review of the history of this disputed region, a review of its relevance to other matters of self-determination, particularly the occupation of Palestine, and concludes with recommendations for further study and action. The debate over Palestine has received far more attention from the 2012 and previous assemblies. As a supporter of nonviolent economic pressure on Israel to end that occupation, the commissioner maintained that the church should take a morally consistent position on an analogous situation: that of Western Sahara. The 220th General Assembly (2012) affirmed that the matter was worthy of further study and directed Presbyterian Mission Agency staff to prepare a report to guide action by the next General Assembly. Because the case raises important moral and legal questions, it requires careful exposition. Commissioners pressed for time may wish to read only the first and last two sections.

Posing the question: The commissioner drew the Peacemaking and International Affairs Committee's attention to the work of Stephen Zunes, one of the most steadfast advocates of self-determination for Western Sahara. Zunes, a political scientist at the University of San Francisco, is an expert on nonviolent social change, including faith-inspired strategies of resistance.ⁱ Zunes has listened to the voices of Western Sahara people, voices that are hard for us to hear directly. His position is concisely stated:

Morocco, like Israel, is in violation of a series of United Nations Security Council resolutions and a landmark decision of the International Court of Justice regarding their occupation. Morocco, like Israel, has illegally moved tens of thousands of settlers into the occupied territory. Morocco, like Israel, engages in gross and systematic human rights abuses in the occupied territories. Morocco, like Israel, has illegally built a separation wall through the occupied territories. Morocco, like Israel, relies on the United States and other Western support to maintain the occupation by rendering the UN powerless to enforce international law. Morocco, like Israel, is able to maintain the occupation in part through the support of multinational corporations.ⁱⁱ

This set of claims requires examination, but Zunes takes this comparison to suggest that nonviolent economic pressure should be put on Morocco in the same manner that Israel—or Israel's settlements—are the focus of a boycott, divestment, and sanctions (BDS) campaign. Further, he contends that the campaign for Palestine would be strengthened if such a similar campaign were directed at the government of Morocco and the companies supporting its rule in Western Sahara. Other analogous situations could be considered for this strategy (China over Tibet, India over Kashmir, and Indonesia over East Timor in the pastⁱⁱⁱ) but the case of Western Sahara is arguably clearest due to a history of unfulfilled United Nations resolutions. At root both the Western Sahara and Palestinian struggles are seen to be about the enforcement of international law.

In addition to the academic work of Stephen Zunes and Jacob Mundy, a careful review of the legal debate over Western Sahara was published by the New York Bar Association's Committee on the United

Nations in June, 2012.^{iv} Another summary background resource for this study can be found in *The Situation of Human Rights in the Palestinian Territories Occupied Since 1967*, published by the United Nations in September, 2012.^v A key legal opinion on Western Sahara's status and use of its resources is that of UN Undersecretary for Legal Affairs Hans Corell in 2002.^{vi}

There are three primary, if partial, counter-arguments to the position of Zunes and others. The first is to claim that Morocco has a right or sufficient justification to annex Western Sahara, (either through recognized historical links or through a regional security argument). Second, Western Sahara is listed by the United Nations as a "Non-Self-Governing Territory," one "whose people have not yet attained a full measure of self-government," according to the UN Charter's definition. Thus, even if the actions of Morocco are effectively occupation, its legal status is different. And third, on a practical level, the domination of a relatively small group of people by others who share a somewhat similar history, religion, and ethnicity, is not of the same strategic and geopolitical significance as the occupation of Palestine, which keeps approximately twelve million people stateless and without full human rights on the basis of different ethnicity and religion.

Because the Presbyterian Church (U.S.A.) takes public positions based upon social witness policies that are, in turn, based on biblical and Confessional understandings as well as analysis of data and "facts on the ground" (such as this report), it is essential to note the church's long support for human rights and self-determination (including liberation from colonialism). To cite the Universal Declaration of Human Rights (1948):

that every individual and organ of society . . . shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

To make the applicability of the Declaration fully universal, article 2 states:

. . . no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, *non-self-governing* or under any other limitation of sovereignty (*italics added*).

Specific application of Bill of Rights principles was made by the 220th General Assembly (2012) in its policy statement: "For Human Rights and Civic Freedoms: Movements for Democratic Change in the Arab World." (<http://www.pcusa.org/resource/human-rights-and-civic-freedom-movements/>)

Brief Recent History: Western Sahara is about the size of Great Britain but with a population estimated at 550,000. The territory was colonized by Spain and called Spanish Sahara. That period lasted from the late 1800's through 1976. Thus it lasted as a colony longer than many countries decolonized in the 1960's. Like other former colonies, its boundaries reflect outside interests as its inhabitants were primarily nomadic Arab tribes, generally known as Sahrawis. Members of these tribes comprise the nationalist Polisario Front which began a struggle for independence from Spain in 1973. Polisario Front stands for *Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro*.

The people of Western Sahara, like those of Morocco, are almost exclusively Sunni Muslim. There are no church partners of the Presbyterian Church (U.S.A.) in Western Sahara.

The Franco dictatorship in Spain was encouraged toward decolonization both by UN policies and a popular rebellion. Madrid indicated that it would hold a referendum on the future of the territory within

1975. At the same time, the International Court of Justice (ICJ) ruled in October of 1975 in favor of the right of self-determination for the Sahrawi people, against claims by both Morocco and Mauritania (<http://www.icj-cij.org/docket/index.php?sum=323&p1=3&p2=4&case=61&p3=5>). Morocco's claims were based on traditions among some tribes to pledge support to the Sultan of Morocco. For Mauritania, there were close ethnic ties among some Mauritanian and Sahrawi groups. A special United Nations mission had visited the territory in 1975, reporting that a strong majority of the population supported independence with the Polisario rather than incorporation into either Morocco or Mauritania. (A recent commentator, Mohammed Daadaoui, responding to Zunes' pro-independence position cited above, reiterates the Moroccan traditional claims.^{vii})

No referendum was held in 1975, however. To strengthen its claims to the territory and effectively prevent Spain from holding the referendum, the Moroccan government organized a march reported at over 300,000 people, crossing the border from a southern Moroccan city and going several miles into Spanish Sahara. In Jacob Mundy's analysis, "Madrid was put in a no win situation because the UN Security Council refused to stand up to Morocco ... Following the Nov. 14, 1975 Madrid Accords between Morocco, Spain, and Mauritania, they began a tripartite administration (through) the final withdrawal of Spain at the end of February 1976."^{viii} That Morocco's military control of Western Sahara began while the territory was still under Spanish jurisdiction is relevant to its status.

The War Period

The day after power passed from the Spanish to Moroccan and Mauritanian authorities, the Polisario ceremonially established the Sahrawi Arab Democratic Republic. Conflict began between Polisario forces and the Moroccan and Mauritanian militaries. Mauritania withdrew from Western Sahara in 1979, following a series of losses to Polisario forces and internal political strife, but the conflict between Morocco and the Polisario continued. (Mauritania has less than 4 million people, including an estimated 140,000 slaves; Morocco has about 35 million people). In the 1980's, the Moroccan military constructed an extended sand wall ("the Berm") to secure the most populous and productive parts of the territory, including its entire coastline. Initially, it protected only key cities, but by 1987 the Berm enclosed two thirds of Western Sahara, excluding primarily desert wasteland in the east of the territory.

Completed with landmines, fences, and electronic surveillance, the Berm was effective at discouraging extended Polisario raids in Moroccan-controlled territory prior to a ceasefire in 1989. Morocco controls the area within the Berm; the Polisario controls the Free Zone east of it and observes the ceasefire. Thus the Berm is largely unpatrolled, though there are Moroccan military forts and bases at key locations behind it.

Cease-fire

Sporadic violence between Polisario and Moroccan forces had continued until 1991, when the United Nations Security Council passed a resolution recalling terms agreed to by both parties two years prior. The United Nations Mission for the Referendum in Western Sahara (MINURSO) was established by [Security Council resolution 690 \(1991\)](#) of 29 April 1991, in accordance with "the settlement proposals", as accepted on 30 August 1988 by Morocco and the (Frente POLISARIO). MINURSO monitored the cease-fire, to which both sides acceded, and took steps, such as identifying and registering voters, in preparation for a referendum on the sovereignty of Western Sahara.¹

Due to the Moroccan government's rejection of MINURSO's proposed voter rolls, again there was no referendum. The Houston Agreement, reached by Moroccan and Polisario representatives after the expected 1992 referendum failed to materialize, anticipated a referendum in 1998, which, similarly, did

1 <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/596/26/IMG/NR059626.pdf?OpenElement>

not come to fruition. The UN Security Council passed a resolution in 2003 endorsing the “Baker Plan,” a plan developed by UN special envoy James Baker. The Baker Plan called for five years of local rule (under Moroccan sovereignty), followed by a referendum on independence.² This plan was disregarded by the Moroccan government.

As a kind of counter-proposal and as a response to a stalled process, in 2007 Morocco offered a plan for limited autonomy well short of independence. This plan provides for greater local rule, accompanied by a referendum that would give Western Saharan voters (including Moroccan residents, but possibly excluding those living outside Moroccan control) the option between full Moroccan rule or limited autonomy under Moroccan sovereignty. Rejected as a false choice by the Polisario and many Sahrawi, neither this referendum nor the establishment of empowered local government has taken place. Moroccan media generally refer to Western Sahara as the “Southern Provinces.”

Situation on the Ground

Western Sahara has been under Moroccan rule for 38 years. During that time, conditions and demographics have changed dramatically, but the sentiments of most Sahrawi have not. While a minority (mainly Sahrawi born and living in Morocco proper) vocally oppose the Polisario and agree with Moroccan claims to the territory, the vast majority of Sahrawi resent Moroccan rule and the political oppression that enforces it. Those living within the Moroccan controlled area are split on preference for complete independence or for strong autonomy with ties to Morocco (usually hoping for something stronger than what is offered by the 2007 autonomy plan). Universally, even among Sahrawi who support Moroccan rule, there is a desire that the police and security forces be Sahrawi instead of Moroccan, as they presently are.³

Moroccan rule is enforced by systematic political repression that violates human rights, albeit on a limited basis. Effectively, there is only limited freedom of speech. While people may privately speak out against Moroccan rule, public statements, public protests, and even possession of the Sahrawi Arab Democratic Republic flag are typically met with arrest and often with beatings. A 2007 cable from the US Embassy in Morocco’s capitol, Rabat, (revealed by WikiLeaks) reports that in Layoune (the most populous city), “in general, young Sahrawis are afraid to be out at night due to fear of the police. Sahrawis are still being arrested and beaten for political offenses.”⁴ Protests in 2005 were met with a broad crackdown,⁵ and a 2010 raid which left several dead was condemned by the UN Security Council.⁶ Groups advocating for human rights or Sahrawi self-determination have been prevented from registering as NGOs (Non-Governmental Organizations) and denied access to the legal system.⁷ A strong police presence in Layoune (disproportionate to the city’s small crime rate) stands ready to respond to unrest and harasses, arrests, and encourages known human rights protesters and advocates of independence to emigrate (deportations have also occurred).⁸

For the Polisario-linked population living in refugee camps in Algeria, it is important to recognize that Algeria exerts some control over the Sahrawis and is not a democracy. Algeria, in fact, fought a very brutal war with Algerian Islamists, costing approximately 200,000 lives, and still has internal and external

2 <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N03/447/80/PDF/N0344780.pdf?OpenElement>

3 <http://cablegatesearch.wikileaks.org/cable.php?id=06RABAT1983>

4 <http://cablegatesearch.wikileaks.org/cable.php?id=07RABAT572>

5 <http://cablegatesearch.wikileaks.org/cable.php?id=06RABAT1983>

6 <http://www.voanews.com/content/un-security-council-deplores-western-sahara-violence-108552214/156841.html>

7 <http://cablegatesearch.wikileaks.org/cable.php?id=06RABAT1983>

8 Ibid.

security concerns. As this is written, the 14-year rule of its President, Abdelaziz Bouteflika, continues despite his having had a stroke in April of 2013. Rule by the National Liberation Front of Algeria is expected to continue, despite relative economic stagnation, whether or not Bouteflika remains President. So far the Arab Awakening has not led to much change in Algeria or in the response of the Polisario. If Algeria treats the Sahrawis and Polisario as a proxy to weaken its Moroccan neighbor, it is not clear that this is a very active effort.

Economics and Demographics

Western Sahara has an undeveloped economy with unproven but potentially rich mineral resources. A leaked US State Department cable doubts that Western Sahara could be economically viable as an independent country, discounting the world's fourth largest phosphate deposits and some probable reserves of gold, uranium, oil, and other minerals, in addition to still-rich fisheries.⁹ For now, the Moroccan government is providing subsidies which included a \$800 million investment program from 2004 to 2008. Layoune has a government subsidized desalinization plant which provides water at a significant loss. Other basic goods, such as gasoline and cooking oil, are subsidized. Moroccan businesses enjoy a tax-exemption. The Moroccan government has invested in fishing, Western Sahara's largest industry (two-thirds of total employment), building fishing villages and training people to fish.¹⁰ Residents of Western Sahara benefit from this government support, though with control of their own resources, Sahrawis could conceivably have a much higher per capita income.

Moroccan subsidies exist alongside discrimination and restriction of political freedoms. While fishing has come to be the most significant employer, it still employs few Sahrawis. The Sahrawi have historically lived inland, and have little tradition of fishing. According to an embassy cable, "well-informed government supporters as well as critics agreed with reports Embassy has long heard that a large part of the fishing concessions are controlled by GOM [Government of Morocco] security officials, specifically including Army Chief Benanni and Gendarmerie chief Benslimane. Kalihenna and Sahrawi businessmen close to him have reportedly also been rewarded with lucrative fishing licenses."¹¹ Corruption, however, is certainly not unheard of in Morocco itself.

Morocco appears likely to achieve victory on demographic and financial grounds, despite lack of progress towards a formal resolution to the conflict, as tax breaks and subsidies provide incentive for Moroccans to settle in Western Saharan cities. Rabat holds greater financial resources, and has shown itself willing to use those resources as a velvet glove to win tacit acceptance of its rule, while wielding its iron fist swiftly to crush hints of resistance. The Polisario, in contrast, has neither significant military nor significant financial capabilities, and continues to exist primarily because the Algerian government provides necessities to the refugee camps it controls (which contain approximately 100,000 people).

International Involvement; French and United States support for Morocco; Fear of Instability in a New State

The United States government sees Morocco as a strategic ally, and, while maintaining that the Moroccan government must participate in serious negotiations with the intention of holding a referendum, supports Morocco with significant foreign aid. Such expenditures cost \$182.9 million in 2012, and were mostly economic. US monetary support for Morocco's military was higher during the Cold War (about \$40

9 <http://wikileaks.org/cable/2006/03/06RABAT389.html> Professor Zunes critiques this cable for its pro-Moroccan tilt; the cable acknowledges the overall pro-Moroccan US position. See:

http://www.huffingtonpost.com/stephen-zunes/wikileaks-cables-on-western-sahara_b_792862.html

10 <http://www.wikileaks.org/cable/2005/05/05RABAT1052.html>

11 <http://cablegatesearch.wikileaks.org/cable.php?id=07RABAT572>

million per year), but has decreased in the last two decades (only \$4 million in 2000,¹² though that amount may have since increased slightly¹³). Officially neutral, the United States government effectively accepts the status quo, while quietly encouraging movement towards an agreement and referendum. France, Morocco's former colonial power, has a closer relationship and greater influence.

Western Sahara exports octopus and sardines, as well as other fish, and one significant farm exports 5,000 tons of tomatoes annually to Europe and Canada. These products are labeled "Produit du Maroc" (Product of Morocco) before being shipped.¹⁴ Some road salt and phosphate rock is exported to European countries, Venezuela, and New Zealand (the road salt is mined by Crystal Mountain, a US company). Kosmos Energy, a US company, is active in offshore oil exploration, and PCS Fertilizer and Mosaic Co. may have purchased Western Saharan mined phosphate rock.¹⁵ Saharan sand is shipped to repair Canary Island and other beaches. Excepting fishing, the economic impact of international trade is small, and US companies hold a small portion of that trade.

The arguments against forcing Morocco to allow a referendum or even to put human rights monitors in Western Sahara (proposed by the United States in April, 2013, responding to sporadic protests) center around the alleged dangers of instability, such as a situation of weak government with Islamic insurgents or tribal divisions. While the Polisario is sometimes criticized for Socialist-sounding language, it is not an Islamist movement. Yet the claim is that terrorist groups could set up in the open territory. Jenn Abelson, reporting for the *Boston Globe* in June, 2013, reported:

"An independent state is not viable in Sahara. You have to be very clear for security reasons. Today what is happening in Mali is happening in the Sahara. It is threatening the security of the Sahara and everywhere," said Youssef Armani, minister delegate of foreign affairs and cooperation of the Kingdom of Morocco, in a meeting with journalists in May. "There is no room for a failed state in the region."^{ix}

In contrast to that claim (from a palace-appointed official), the Sahrawis practice a form of Muslim jurisprudence that rejects Salafi-style extremism and is more liberal than Moroccan Islam when it comes to women's rights to equal inheritance and divorce rights and women's public leadership roles. According to Zunes and Mundy, intra-Polisario disputes have mainly been solved peaceably. Algeria (as noted above) is very unlikely to ally itself with Islamic extremism.

Legal Questions and United Nations Status

Western Sahara is formally listed by the United Nations as a "Non-Self-Governing Territory."

This is a term distinct from "colonization" or "occupation." It identifies an area as possessing neither independence nor formal incorporation in another country. United States territories such as Guam and the US Virgin Islands are included, but some colonial possessions, such as Singapore, were included in this list before being granted independence. Palestine is not on the list of Non Self-Governing Territories, but is considered occupied; hence there is some difference in UN categorization. Spain is annually listed as a "administering power" of Western Sahara by the UN General Assembly's 4th committee, so in a sense Morocco is controlling a once Spanish-administered non-self-governing territory. Except for a 1975 resolution calling for Morocco to withdraw its initial "Green March" into W. Sahara, Security Council resolutions focus on the referendum and do not explicitly call for Morocco to exit.^x

12 <http://www.defense.gov/News/NewsArticle.aspx?ID=44553>

13 http://news.bbc.co.uk/2/hi/middle_east/3287563.stm

14 <http://www.wikileaks.org/cable/2005/05/05RABAT1052.html>

15 Western Sahara Resource Watch - <http://www.wsrw.org/IEN>

At the same time, in 1979, the UN General Assembly (Resolution 34/37) deplored what it called Morocco's occupation of Western Sahara. According to the International Committee of the Red Cross (ICRC), '...it makes no difference whether an occupation has received Security Council approval, what its aim is, or indeed whether it is called an "invasion", "liberation", "administration" or "occupation".' According to Harvard University's International Humanitarian Law Research Initiative, 'The UN has formally agreed that Western Sahara is an occupied territory; therefore all parties would be obligated to follow the mandates of the Geneva Convention IV'. Occupation is strongly implied in the 2002 UN Legal Counsel opinion because it clearly says Morocco did not lawfully come into possession of Western Sahara.^{xi} In practice, from leaked diplomatic cables and outside observer reports, Western Sahara seems to be occupied and many NGO's use the term.^{xii}

Questions of international law with regards to Western Sahara revolve around two key principles, the right to self-determination and the right to territorial integrity. The referendum was designed to address the former principle, after the UN determined that the Sahrawis were indeed a people. The latter principle is negated by the Berm, a wall of separation dividing the territory; international law states that territory seized in war is not legitimately possessed by the conqueror and should not be colonized. That the population continue to self-identify as Sahrawis, despite the de facto annexation and economic subsidies, suggests that a referendum still could go against Morocco if one were held.

If it is the case that self-determination must be allowed (as is the position of the New York City Bar's Committee on the United Nations, which uses the word "occupation" to describe the situation¹⁶), then the continued suppression of that right through the possession of the territory without movement towards a referendum is illegal and pressure must be put on the government of Morocco to allow for a referendum. Excepting many members of the Arab League and a few other nations, most nations have not recognized Morocco's annexation and 84 have recognized Western Sahara as nation, as has the African Union (many of whose members can recall the de-colonization process quite clearly).

"Divesting of all Occupations?" The Analogy Between Western Sahara and Palestine

To return to the commissioner's original proposal, it seems clear that both Sahrawis and Palestinians are denied self-determination and that their land and resources are controlled undemocratically by neighboring powers who have brought in waves of settlers. Along with demographic pressure, there is cultural pressure to relinquish identity and history. Clearly the situation of Palestine is much more in the world's eye and a particular cause of resentment to Muslims, as noted in much testimony on terrorism and anti-US attitudes. Yet the determination of whether to apply similar BDS pressures cannot be made simply on the basis of the scale of public awareness or the number of people involved. Especially to respond to Zunes' initial comparisons, there must also be some contrasts made between the situations of the Sahrawis and the Palestinians.

In general, Morocco's occupation or annexation seems much less violent than that of Israel's subjugation of the Palestinians, and it is accompanied by economic subsidies, rather than the economic stranglehold Israel maintains throughout the West Bank, East Jerusalem, and especially Gaza.^{xiii} Furthermore, Israel is engaged in an ongoing campaign of dispossession that denies citizenship to Palestinians and deports those without residency permits, while Morocco seeks to incorporate Sahrawis as citizens and does not create internal borders via checkpoints, fences, and special sections of its Berm. Nor does Morocco discriminate against Sahrawis on the basis of their religion, while Israel clearly treats even its acknowledged 20% Arab

16 See that committee's report, "The Legal Issues Involved in the Western Sahara Dispute," for an excellent, thorough legal and historical examination of the topic: <http://www2.nycbar.org/pdf/report/uploads/20072264-WesternSaharaDispute--SelfDeterminationMoroccosLegalClaims.pdf>

population as second class citizens, none of whose religious sites (Muslim or Christian) are afforded protection by law from encroachment or isolation. Israel also maintains constant surveillance and frequent incursions into the Palestinian territories that would, by analogy, be the territory on the Eastern side of the Berm.

True, as with Palestinians, many Western Saharans live as refugees (more than 25,000 in Mauritania; between 100,000 and 125,000 in Algeria), but it is not clear that a negotiated agreement in Western Sahara would necessarily restrict their right of return, even if that agreement meant limited autonomy. Nor does the Polisario make land claims on Morocco, whose borders are not undeclared, as are Israel's. Thus it could be argued that the situation of Western Sahara could be more amenable to nonviolent agreement, possibly within an agreed upon trial period for any new arrangement, though this idea is somewhat similar to the failed 2003 peace plan. Conversely, due to relative similarities in ethnic and religious heritage, the Sahrawi people are likely more in danger of long-term absorption into the Moroccan population.

Divestment of securities in companies active in Western Sahara, for the Presbyterian Church (U.S.A.), would mean employing criteria and processes of dialogue that would evaluate a range of strategies for accomplishing the objective of self-determination. Those criteria include practical factors, such as significant allies and media scrutiny, that speak to the effectiveness of economic pressure, and matters of principle that speak to the integrity of the church as investor (or purchaser, if boycott is envisioned). The initial step in any corporate responsibility work by the Committee on Mission Responsibility Through Investment (MRTI), however, is to begin with research and dialogue with any companies in which the PCUSA holds investments. This could include seeking information on the employment status of native Sahrawis and the strategic value of products to the Moroccan government, police, and military. Other steps may include shareholder proposals to change corporate policies where improvement rather than cessation is sought. (These processes were done in the "selective, phased" divestment process with key companies that cooperated with South African apartheid, and the same approach has been taken with key companies supporting Israel's settlements in Palestine.)

Conclusion:

The issues raised by the case of Western Sahara are serious and prompt responsible action by the Presbyterian Church (U.S.A.) to support the human rights consensus of United Nations' and other legal authorities. The situation of the native Sahrawi people is worthy of attention and the resolutions of the United Nations should be implemented, namely referendum and measures to improve human rights. The de facto annexation of the territory bears similarities to Israel's occupation and effective colonization of Palestine, and other longer processes of nations incorporating other territories into their borders. While the situation of the Sahrawis is not identical to that of the Palestinians, this assessment would support further international justice advocacy for the Sahrawi people, both with governments and with Islamic, interfaith, and ecumenical bodies.

ⁱ One of Zunes' recent books is *Western Sahara: War, Nationalism and Conflict Irresolution* (Syracuse University Press, 2010), co-authored with Jacob Mundy. It may be noted that the commissioner who initiated this assessment has affirmed that it fulfills the Assembly's assignment.

ⁱⁱ This statement comes in an interview with Mark Lane, another political scientist, that was broadcast by Al Jazeera: <http://www.aljazeera.com/indepth/opinion/2012/09/2012929235952942.html>

ⁱⁱⁱ East Timor did receive its independence after years of horrific repression and war. Kashmir involves the line of religious division between two nuclear states dating back to their separation. Tibet is acknowledged by most

countries to be part of China even if many would favor its cultural autonomy, which seems to be the current position of the Dalai Lama. Zunes points out that centralized autocracies rarely respect the rights of subordinate jurisdictions.

^{iv} The New York Bar Association, *The Legal Issues Involved in the Western Sahara Dispute*, June 2012, available: NYBA, 42 W. 44th St. NY, NY 10036

^v United Nations General Assembly, Item A/67/379, by the Special Rapporteur, Professor Richard Falk, a distinguished human rights scholar.

^{vi} See <http://www.havc.se/res/SelectedMaterial/20020129legalopinionwesternsahara.pdf> Corell returns to the case in a 2008 discussion: <http://www.wsrw.org/a128x982>

^{vii} <http://muftah.org/on-stephen-zunes-statement-about-morocco-israel-the-western-sahara/>

^{viii} Personal correspondence with Professor Mundy, Dec. 14, 2013. His research in declassified CIA documents notes the presence of Moroccan troops in W. Sahara two weeks before the International Court of Justice pro-referendum decision and the “Green March” response.

^{ix} See <http://www.bostonglobe.com/ideas/2013/06/15/western-sahara-why-africa-last-colony-can-break-free/87jACxXfU5bVUtqEe6uyrM/story.html>)

^x See <http://www.worldlii.org/int/other/UNSC/toc-W.html>

^{xi} These references are drawn from Professor Mundy’s Dec. 14, 2013 communication which cites his own direct communication and analysis.

^{xii} In analyzing the Wikileaks material, Stephen Zunes summarizes a cable from the US Charge d’Affaires that shows an effort to weaken the position of the Polisario, noting that they do not claim the Tefaya region of Southern Morocco inhabited by Sahrawis, and treating the struggle with Algeria as central to resolving the conflict. (http://www.huffingtonpost.com/stephen-zunes/wikileaks-cables-on-west-b_792862.html) Zunes notes that the Polisario do not practice terrorism and respect the long incorporation of the Tefaya region in Morocco.

^{xiii} See <http://unispal.un.org/Unispal.Nsf/a39191b210be1d6085256da90053dee5/4b2de5243ebce35685257aa200487927?OpenDocument> This is an annual UN report supervised by Richard Falk; there are many book-length treatments of the consequences of Israel’s occupation of Jerusalem, West Bank, and Gaza.

Financial Implications Cover Sheet for Reports to the General Assembly**Name of Agency Submitting Report: Compassion, Peace and Justice****Program: Advisory Committee on Social Witness Policy****Date: December 19, 2013****Contact Person: Chris Iosso****Telephone#: 5814**

This RGA Cover sheet must be submitted with each Report to the General Assembly. Even if the report does not contain financial implications, the cover sheet must be attached stating that there are no financial implications. Any report received without the financial implications sheet will be returned. **If you have any questions about the form, please contact the Financial Implications Team: Chris Nicholas at 502-569-5411 for per capita, and Andrea McNicol at 502-569-5555 or Denise Hampton at 502-569-5575 for mission budget related financial implications.**

Name of Report: Justice for Western Sahara (2012 Referral: Item 14-NB)

1. Does this report include recommendations that have financial implications? NO
2. If YES: (Attach extra sheets, if necessary)
 - a. Identify the area of the reports which have financial implications.
 - b. Define the components of the financial implications (basis for computation only).
(For new committees/Taskforces- please limit as far as possible to 2 face to face mtgs, plus 2 virtual mtgs & conference calls – from GA to next GA)
 - c. Identify the proposed source of funding, and the year it will impact (2014/ 2015/2016):
 - (1) Per Capita: OGA____ PMA ____
 - (2) PMA:
 - (a) Unrestricted or Restricted (Circle one)_____
 - (b) Restricted Source _____
3. If there are financial implications, are these being absorbed in the current year budget? YES or NO
If YES, what is the source of funding:_____
4. Have these financial implications received approval from the following sources?
 _____OGA/PMA (Circle one)
 _____PMA Ministry Area: (Communications and Funds Development; Compassion, Peace, Justice ; Evangelism & Church Growth; Racial Ethnic & Women's Ministries; Shared Services; Theology, Worship and Education; World Mission,) (Circle one)
 _____Other Entities (BOP, Foundation, PILP, PPC) (Circle one)
 _____Advisory Committees (ACSWP, ACEIR, ACWC, Other - _____)
5. If the action proposed in report involves another Ministry Area to do something, has this been discussed with the areas concerned? YES/NO. (If Yes, give names)