

**STATEMENT BY FADEL KAMAL
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Mr. Chairman, Members of the Special Committee, Honourable delegates,

I should like, first of all to express, on behalf of the Frente Polisario and the Saharawi people our sincere thanks and gratitude to the Government and people of the Republic of the Fiji Islands for their warm hospitality and assistance in the holding of this Seminar.

I would like to congratulate H.E. Anthony Bryan Severin for his election as chairman of the Special Committee and wish him success in the important and immense task of leading this esteemed Committee.

May I also commend the tireless efforts and dedication of the members and staff of the UN Special Committee on Decolonisation.

Mr. Chairman,

The United Nations has been involved in the decolonisation of Western Sahara for over forty years since it was placed on the list of the Non-Self-governing Territories in 1963. Today Western Sahara is the only African Territory still under colonial occupation.

In December 1966 the UN called for the organisation of a referendum in Western Sahara “under the auspices of the UN with a view to enabling the indigenous population of the Territory to exercise freely its right to self-determination”. Initially Spain, the then *de facto* colonial power and still the *de jure* colonial power, resisted such a call. However, in August 1974, it informed the UN that it was prepared to organise a referendum on self-determination in the territory.

However, Morocco and Mauritania opposed the referendum idea and claimed legal title over the Territory. They asked the UN General Assembly to seek arbitration from the International Court of Justice (ICJ) on the sovereignty issue over Western Sahara.

On 15th October 1975 the ICJ unanimously concluded that:

“The materials and information presented to it do not establish any tie of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco or the Mauritanian entity. Thus the court has not found legal ties of such a nature as might affect the application of resolution 1514 (XV) in the Decolonization of Western Sahara and, in particular, of the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory.” (ICJ Rep. 1975 12 para 162)

The King of Morocco ignored the decision of the ICJ and ordered the invasion of Western Sahara. The UN Security Council adopted resolution (S/RES/380 (1975)) deploring the invasion and calling on Morocco to withdraw from the Territory but Morocco ignored the resolution as well as those of the General Assembly which called for the end of the occupation: A/RES/34/37 21 November 1979 and A/RES/35/19 11 November 1980.

For example resolution 34/37 of the UN General Assembly “urges Morocco to join the peace process and to terminate the occupation of the Territory of Western Sahara” and “recommends to that end that the Frente Popular para la liberacion de Sagui el-Hamra y Rio de Oro, the representative of the people of Western Sahara, should participate in any search for a just, lasting and definitive political solution of the question of Western Sahara, in accordance with the resolutions and declarations of the United Nations, the Organisation of the African Unity and the non-aligned countries.”

In 1979 Mauritania renounced its claim, signed a peace treaty with Polisario and withdrew from the part of Western Sahara it occupied. It has subsequently officially recognised the Saharawi republic.

In 1989 Morocco and Polisario accepted the UN and OAU Settlement Plan which called for the organisation of a referendum of self-determination. The UN deployed its mission MINURSO in Western Sahara with a view to holding the referendum that was supposed to take place in 1992. But Morocco reneged on its agreement and obstructed the implementation of the Settlement Plan.

There was little progress until the appointment of the former US Secretary of State, James Baker as Personal Envoy of the UN Secretary-General who managed to reactivate the implementation of the Settlement Plan by concluding the Houston Agreement in September 1997 which were signed by both parties to the conflict. The referendum was then supposed to be held in 1998. But again Morocco obstructed it.

The UN special envoy and MINURSO persisted with the preparation for the holding of the referendum and, in spite of the immense hurdles and the high cost, the UN published the list of the eligible voters on 17 January 2000 with a view to holding the referendum soon after. But Morocco undermined the remaining stages of the Settlement plan fearing the verdict of the Saharawi people.

The UN Secretary General stated in his report of February 2002 that Morocco has officially declared that it was no longer prepared to co-operate with the UN in its efforts to organise the referendum in Western Sahara.

In 2003, in an attempt to break the deadlock, James Baker presented the Peace Plan for self-determination of the people of Western Sahara, which was endorsed by the Security Council in its resolution 1495 of July 2003. The plan envisages four to five years autonomy under Moroccan sovereignty followed by a referendum on the final status of the Territory in which Moroccan settlers who resided in the territory since December 1999 would vote. As a gesture of good will and in a spirit of cooperation, Polisario accepted the Plan despite the risks involved in it. But Morocco rejected it.

Mr. Baker resigned in June 2004 after realising that Morocco was not interested in a just resolution to the conflict and when it became apparent to him that the Security Council, due to the influence of some of its permanent members, was not prepared to put the necessary pressure on Morocco to abide by the relevant UN resolutions.

What is astonishing is that when Morocco openly declared its rejection to the idea of the referendum process, which is the main purpose of its mission in Western Sahara and the cornerstone of its doctrine of decolonisation, the UN turned a blind eye to such an outrageous position. The UN just kept rearranging the deck chairs on the sinking MINURSO.

In order to achieve its colonial ambition and legitimise its illegal occupation of Western Sahara, Morocco is now trying to convince the international community to adopt a process that denies the right of the Saharawi people to self-determination.

Morocco wants the Saharawis to enter into negotiations about an autonomy option that excludes independence. The Moroccan idea of so-called “autonomy” is a unilateral project aimed at manipulating and undermining the process of self-determination in Western Sahara.

To negotiate with Morocco about the autonomy is to accept that Western Sahara is already a part of Morocco. This is not the case as no country in the world recognises Moroccan illegal occupation or sovereignty over Western Sahara. To commence negotiations on this basis is to ignore the fact that the two parties have entered into negotiations on many previous occasions and, under the auspices of the UN, signed agreements that Morocco has subsequently repudiated.

The UN Secretary-General in his latest report on Western Sahara of October this year rightly stated that the “United Nations could not sponsor a plan that excluded a referendum with independence as an option while claiming to provide for the self-determination of the people of Western Sahara.”

The Moroccan autonomy project is contrary to the principle of self-determination. It is important to recognise that Morocco cannot decide on behalf of the Saharawi people on how their right to self-determination should be exercised.

Self-determination is a fundamental human right under international law. It is a political, moral and legal right. The right to self-determination is an important element of the UN Charter. It is enshrined in the UN’s Resolution 1514 (XV) of 1960 and various UN covenants.

The right to self-determination is an inalienable right to be exercised by the people and not a gift that is granted by an occupying power. What Morocco ought to do is to respect its obligations under International law and abide by UN resolutions calling for the respect of the Saharawi people right to self-determination and independence.

By rejecting the UN Settlement Plan, the Houston Accords and Baker’s Plan, Morocco has clearly shown to the international community its unwillingness to cooperate in order to achieve the peaceful and final decolonisation of Western Sahara.

From our part we have done all that is possible in order to facilitate UN’s efforts so that peaceful decolonisation process in Western Sahara is achieved

Therefore, we can not understand why the UN and particularly the Security Council is allowing Morocco to violate its resolutions and ignore the various Peace Plans.

We also find it hard to comprehend why MINURSO is tolerating the brutal suppression of innocent Saharawis without even a word of condemnation. The legitimate question on every Saharawi lip these days is why doesn't the UN include the monitoring of the human rights in the mandate of its mission in the area.

Mr. Chairman,

The invasion of Western Sahara in 1975 forced a 165,000 Saharawis to flee Moroccan air strikes and seek refuge in the southwest of Algeria where they have been living in inhuman conditions waiting for the UN to organise the promised referendum.

In the occupied zone, the Saharawi people endure a premeditated campaign of human rights abuses, including murder, torture, disappearance as well as harassment and intimidation.

The country has been partitioned into two areas by a 2400km long wall which seals the occupied areas from the outside world. This rock and sand installation stands approximately 3 metres high with regularly spaced garrisons, with the foreground covered with trenches and barbed wire and extensively seeded with an estimated 3 million landmines. It is patrolled by more than 120.000 soldiers.

There are numerous and well-documented reports on human rights abuses by the Moroccan police and military forces in the occupied areas despite UN presence in the Territory:

Amnesty International, in its report of November 2005 stated that:

“Since May 2005, the territory of Western Sahara, particularly the town of Laayoune, has been rocked by a series of demonstrations. In many of them, Sahrawi (Western Saharan) demonstrators have expressed their support for the Polisario Front or called for independence from Morocco. These views are anathema to the Moroccan authorities, which have not only responded in a heavy-handed manner to the protests, thereby exacerbating tensions, but also widened the scope of the repression by arresting and detaining long-standing human rights activists who were monitoring and disseminating information on the crackdown.”

Amnesty called on Morocco to:

“put an immediate end to the arrest, harassment and intimidation of human rights defenders, including by ensuring prompt, independent investigation of all allegations of torture and assaults and other excessive force by security forces and by bringing to justice any officials responsible for such abuses.”

The Human Rights Watch World Report 2006 stated that: “In the Western Sahara, authorities continue to prosecute advocates of independence and are quick to put down protests.”

The US State Department recent report on Western Sahara released in March 2006 stated that:

“The Moroccan government generally restricted freedoms of expression, assembly, and association. In late November the government blocked several Sahrawi-based Internet websites. Sahrawi activists claimed that they were unable to form political associations or politically oriented NGOs... Sahrawis continued to have difficulty obtaining Moroccan passports. “

Freedom House, Annual report of 2006 states that:

“For decades, Saharawis who have defied Moroccan government have been arrested, killed, disappeared, and tortured.”

The Office of the United Nations High Commissioner for Human Rights (OHCHR), managed after many delays and obstacles by the Moroccan authorities, to send a delegation to the Saharawi territory in May this year. It issued a report on 8 September 2006. The report was transmitted to the parties but unfortunately it has not been made public yet. The report states that:

“The question of the right to self-determination of the people of Western Sahara is paramount to the consideration of the overall human rights situation” and that “almost all violations of human rights noted (in the report) stem from the non-realization of this right, including civil and political rights as well as economic, social and cultural rights of the people of Western Sahara in all locations where they currently reside. In accordance with international obligations with respect to the question of Western Sahara, the international community should take all necessary measures to ensure the right of self-determination of the people of Western Sahara.”

The conclusion of the report stated that:

“Overall, the human rights situation is of serious concern, particularly in the Moroccan-administered territory of Western Sahara. Currently, the Sahrawi people are not only denied their right to self-determination, but equally are severely restricted from exercising a series of other rights, and specially rights of particular importance to the very right of self-determination, such as the right to express their views about the issue, to create associations defending their right to self-determination and to hold assemblies to make their views known. In order to comply with its international obligations, particularly under the Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, serious changes to both legislation as well as government practice on the issue of Western Sahara are required.”

In its recommendations the Office states that:

“As has been stated in various UN fora, the right to self-determination for the people of Western Sahara must be ensured and implemented without any further delay...[C]loser monitoring of the human rights situation both in Western Sahara and in the refugee camps in Tindouf is indispensable. The United Nations should explore with all relevant actors the best way to ensure adequate and continuous monitoring of the human rights situation in the region, and to offer effective capacity building, protection and redress.”

The UN Secretary-General stated in his report of 16 October 2006 that

“...during the period under review, demonstrations by Saharans calling for respect for human rights and the right to self-determination continued in the Territory. Violent confrontations were reported between Moroccan security forces and demonstrators, leading to arrests and detentions.” ...I support the recommendation of OHCHR that all possible efforts be made to ensure respect for the human rights of the people of Western Sahara by all actors and that the United Nations explore with all relevant actors the best way to ensure adequate and continuous human rights monitoring in the region so as to guarantee the full protection of the human rights of the people of Western Sahara.”

The recommendation of the OHCHR and that of the UN Secretary General to ensure adequate and continuous monitoring of the human rights situation in the region have not been implemented.

Francesco Bastagli, former UN special representative for Western Sahara wrote in International Herald Tribune on 24 November 2006, *that* “ Since November 2005, there has been an ebb and flow of unrest in the territory. Morocco's response has been harsh. Men, women and children have suffered beatings, arbitrary arrests and detentions.”

Few journalists or independent observers have been able to gain access to the occupied areas. On 4 October 2006, Morocco refused to allow the visit to the Territory of the European Parliament's ad hoc delegation for Western Sahara which was planned for over a year. The delegation's aim was to assess the situation of human rights in the region. The delegation had already visited the Saharawi refugee camps. On 24 October 2006, two Norwegian journalists, Anne Torhild Nilson and Radmund Steinsvag, on arrival in El Ayoun, were prevented from entering the Territory and forced to return by plane to the Canary Islands.

Freedom House's annual global survey on political rights and civil liberties of 2006 states that:

“Moroccan authorities tightly control press access to Western Sahara... Moroccan authorities summarily expel reporters from the region. During protests in Laayoune in May, authorities expelled several reporters and prevented others from entering the city. Even Moroccan journalists who defy Morocco's position on the Western Sahara face legal harassment.”

There are no indications that Morocco is taking any notice of these criticisms. Human rights abuses continue unabated. The price for the Saharawis has been heavy during the past year. At least two Saharawis were killed and one young man was doused with petrol and set alight by Moroccan police agents, hundreds of Saharawis continue to languish in prison while the fate of about 500 Saharawi civilians and 151 Saharawi prisoners of war is still unknown.

Mr. Chairman,

The other issue that I would like to bring to the attention of this Seminar is the systematic plunder of the natural resources of Western Sahara particularly fisheries and phosphates by Morocco in violation of international law.

It is worth noting that the Security Council asked the UN Office of Legal Affairs to investigate the legality of exploration and exploitation of mineral resources in Western Sahara.

The Under-Secretary-General of Legal Affairs and the Legal Counsel of the UN, Hans Correll, issued his opinion on 29 January 2002. He reaffirmed that the question of Western Sahara is a question of decolonisation and that Morocco has no sovereignty over that Territory.

Mr. Correl reiterated that Morocco is not considered as an administering power because "The Madrid Agreement did not transfer sovereignty over the territory, nor did it confer upon any of the signatories the status of an administering Power - a status which Spain alone could not have unilaterally transferred."

Mr. Correll concluded that "...if further exploration and exploitation activities were to proceed in disregard of the interests and wishes of the people of Western Sahara, they would be in violation of the international law principles applicable to mineral resource activities in Non-Self-Governing Territories".

Given the aforementioned opinion, we once again call on the UN to intervene to stop the illegal exploitation of our natural resources.

Mr. Chairman,

The UN mission (MINURSO) in the territory has neither been able to organise the promised referendum nor help in the protection of human rights in the occupied territories or the prevention of the exploitation of our natural resources.

It remains the responsibility of this esteemed committee to continue to monitor the situation in Western Sahara and endeavour to push forward the process of decolonisation until the Saharawi people are given a chance to exercise their legitimate and inalienable right to self-determination.

We believe that the best way to achieve the decolonisation of Western Sahara is through the organisation of a free and fair referendum under the auspices of the UN and the African Union. A referendum is the best, neutral and democratic way to undertake the decolonisation process. It is a manner that has been implemented in other similar cases such as East Timor, Namibia and Eritrea.

A just and lasting solution in Western Sahara will be of benefit to the Saharawi and Moroccan peoples and will contribute to the stability and progress of the whole Maghreb region.

The Frente Polisario is willing to continue to cooperate with UN in the endeavour to fulfil its responsibility towards the people of Western Sahara.

Mr. Chairman,

I would like to make the following recommendations to the Seminar:

- The responsibility of the UN towards the Saharawi people must be upheld.
- The only viable and democratic resolution to the question of Western Sahara is through the organisation of a free, fair and transparent referendum under the auspices of the UN and the African Union.
- Morocco must not be allowed to violate UN resolutions and thwart its efforts with impunity.
- The UN Special Committee on decolonisation should send a delegation to Western Sahara and report on its findings.
- The UN should mandate its mission in Western Sahara to monitor the human rights situation and provide protection to the Saharawis. We call on the Office of the High Commissioner for Human Rights (OHCHR) to make public its report of 8 September 2006 on Western Sahara.
- The UN and the international community to do their utmost to stop the illegal exploitation of the resources of Western Sahara which is taking place against the wishes of its indigenous population. The natural resources of this non-self-governing territory must be protected. The responsibility of Spain as the *de jure* administering power must be emphasised in view of recent fishing agreement between the European Union and Morocco.
- The UN Special Committee should continue to monitor closely the decolonisation process in Western Sahara. The latest UNGA resolution which adopted by consensus, (A/RES/60/114), on 8 December 2005, “requests the Special Committee on the situation with regard to the Implementation of the Declaration on the granting of Independence to Colonial Countries and Peoples to continue to consider the situation in Western Sahara and to report thereon to the General Assembly at its sixty-first session.”.