

The Unfinished Business of Decolonisation: West Papua and Western Sahara as Occupied Territories

The Sydney Centre for International Law at the Faculty of Law at the University of Sydney organised on 9 June 2010 an important public Seminar under the title: The Unfinished Business of Decolonisation: West Papua and Western Sahara as Occupied Territories. The Seminar was fully booked. It was well attended by students, academics and the public in general.

The seminar explored the unfinished business of decolonisation, by considering the legal, political and historical aspects of two territories which raise questions about the international right to self-determination and the enduring legacies of colonialism and occupation.

The following speakers participated in the Seminar:

Kamal Fadel, Polisario (Western Saharan) Representative to Australia.

Clinton Fernandes, Senior Lecturer, School of Humanities and Social Sciences, UNSW

Gennaro Gervasio, Senior Lecturer, Macquarie University

The Chair of the Seminar, Ms. Irene Baghoomiansa member of the Sydney Centre for International Law, commented on international law aspects of both cases. On Western Sahara she mentioned Australia's involvement in the exploitation of phosphates and the importance for Australia to play a positive role in this issue given its attempt to join the UN Security Council.

In his presentation Kamal Fadel said:

That Morocco breached the UN Charter, Article 2 and Chapter VII when it undertook an act of aggression against Western Sahara in 1975. It also violated UN Security Council, S/RES/380 (1975) of 6 November 1975 which deplored the holding of the "Green March" of 1975 and called upon "Morocco immediately to withdraw from the Territory of Western Sahara all the participants in the March."

He added that Morocco has since denied the Saharawi people their right to self-determination which is enshrined in the UN Charter Article 1, Chapter XI and the landmark Resolutions 1514 and 1541 of 1960. It has also undertaken a systematic illegal exploitation of the natural resources of Western Sahara in violation of a the UN Legal opinion of 29 January 2002.

Morocco has also denied the Saharawis their civil and political rights in violation of the International Covenant on Civil and Political Rights (ICCPR). In this regard it has increased the violation of human rights in the occupied areas of Western Sahara targeting particularly human rights activists and students.

In giving a background to the issue the Saharawi representative mentioned that Western Sahara has been occupied by Morocco since the mid-1970s, despite a recognition by the International Court of Justice that the Saharawi people have an inalienable right to self-determination.

Western Sahara is Africa's last colony. There are striking similarities between East Timor and Western Sahara. Both were abandoned by their former colonial occupiers and invaded by neighbouring countries in 1975, but while East Timor has gained its independence, Western Sahara is still on the UN's list of non-self-governing territories waiting for the right to self-determination. During the past 35 years Saharawis have endured war, exile and horrendous human rights abuses. The continued occupation of Western Sahara is a violation of the fundamental norms of international law. The lack of political will and competing national interests of some members of the Security Council have contributed to UN's failure in Western Sahara so far.

In his presentation Dr. Gennaro Gervasio said:

The Democratic Forces in the Moroccan Opposition and Civil Society, from the Islamists to the Left, rarely address the question of Western Sahara in their political discourse, and everyday politics towards change in the Alawite kingdom. Likewise, the vibrant independent press in Morocco, which has dared to attack the monarchy several times already, is often silent if not part of the mainstream discourse when it comes to the conflict. On the other hand, there's a declining -if any- interest from Saharawis in engaging with the democratic elements in Moroccan civil society. Based on recent fieldwork on Civil society in Morocco, Dr. Gervasio tried to offer some explanation for this 'missing link', which constitutes a further obstacle on the way of any possible political settlement of the conflict. He said that it probably due to those forces fear of being labelled traitors or losing popularity in Morocco. There is also a lack of trust between Saharawi nationalist and democratic forces in Morocco due perhaps to lack of dialogue.

Dr. Gervasio mentioned that the reason behind the lack of discussion of Western Sahara inside Morocco could be due to one of the three taboos in Morocco that are prerogatives of the King, the so-called territorial integrity, which could lead to imprisonment if it questioned. The two other redlines not be questioned in Morocco and considered sacrosanct are Islam and the institution of the monarchy.

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