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SECOND INTERNATIONAL DECADE FOR THE ERADICATION OF COLONIALISM

Pacific Regional Seminar on the implementation of the Second
International Decade for the Eradication of Colonialism:
priorities for the remainder of the Decade

Bandung, Indonesia
14 to 16 May 2008

STATEMENT BY MR. FADEL KAMAL

FRENTE POLISARIO (WESTERN SAHARA)

**STATEMENT BY FADEL KAMAL
REPRESENTATIVE OF THE FRENTE POLISARIO- WESTERN SAHARA**

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 Indonesia for their warm hospitality and assistance in the holding of this Seminar.

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

It is rather fitting that the Committee is holding this Seminar in the city of Bandung which has a significant place in Indonesia's struggle for independence from colonial rule. Bandung has also hosted the historic Asian-African Conference of 1955 that played an important role in supporting the process of decolonisation throughout the world.

Mr. Chairman,

The United Nations has been involved in the decolonisation of Western Sahara for forty five years. Western Sahara is the only African Territory still on the UN list of the Non-Self-Governing territories.

I will not go into the details of this long history here, a background note is attached to my written statement. Rather, I want today to examine where we stand on the implementation of the right of self-determination for the people of Western Sahara. The short answer is that the Saharawi people are as far as ever away from the realisation of this right.

The Saharawi people expected to get the chance to decide their own fate when a referendum process was agreed by both Polisario and Morocco under UN auspices. It was endorsed by the UN Security Council and represents a just and democratic solution in line with UN doctrine and international legality. But Morocco, uncertain whether the vote would yield the outcome it preferred, rescinded on the agreement and has obstructed a referendum process ever since.

Mr. Chairman,

The Frente POLISARIO is ready and willing to cooperate in the rigorous implementation of the resolutions of the Security Council which reaffirm the

validity and relevance of the principle of self-determination for the people of Western Sahara.

Therefore, we have put forward a proposal for a lasting and comprehensive solution of which the Security Council has taken note in recent resolutions (1754 (2007), 1783 (2007) and 1813 (2008)).

Our proposal has the merit of not only complying fully with international legality but also laying out a vision for the future that would be conducive to the establishment of friendly and cooperative relations with Morocco in political, economic and security domains. A free and fair referendum is an integral part of our plan.

We are committed to accepting the results of the referendum and to negotiating with Morocco, under the auspices of the United Nations, issues of special concern to it, in the event that the voters in the self-determination referendum opt for the independence of Western Sahara.

On the other hand, the Moroccan "autonomy" proposal is a unilateral project aimed at undermining the process of self-determination in Western Sahara, maintaining the *status quo* and legitimizing the illegal occupation of our country.

The "autonomy" proposal starts from a very mistaken premise that Western Sahara is already a part of Morocco. Yet, as the esteemed participants of this seminar are aware, the reality is that Western Sahara is still a decolonisation issue and that no country in the world recognises Moroccan sovereignty over homeland.

The Moroccan proposal furthermore excludes the option of independence and does not give the Saharawi people a chance to decide their own future in accordance with UN resolutions and the verdict of the International Court of Justice.

I would like to remind you that the Personal Envoy of the UN Secretary-General stated unequivocally that "the United Nations cannot 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" (para.14, S/2006/817 of 16 October 2006).

Anything short of a genuine exercise by the Saharawis of their right to self-determination will seriously affect the UN's credibility and will not contribute to a lasting peace and stability in the region.

Mr. Chairman,

While the decolonisation process of Western Sahara drags out, the situation for the Saharawi people remains dire.

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.

There are numerous and well-documented reports, by Amnesty International, Human Rights Watch and others, on human rights abuses by the Moroccan police and military forces in the occupied areas despite UN presence in the Territory. The US based human rights organisation Freedom House included Moroccan-occupied Western Sahara in its Annual report "The Worst of the Worst: The World's Most Repressive Societies 2008" released on 6 May 2008.

The Office of the United Nations High Commissioner for Human Rights (OHCHR) issued a report on 8 September 2006 following a visit to the region. The report was transmitted to the parties but unfortunately it has not been made public yet.

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."

The recommendations of the report underline 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."

The recommendations of the OHCHR to ensure adequate and continuous monitoring of the human rights situation in the region have not been implemented.

Indeed, human rights abuses continue. Morocco uses intimidation and harassment to silence the Saharawis in the occupied areas. 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. Morocco continues to restrict the access of journalists and independent observers to Western Sahara.

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.

The Under-Secretary-General of Legal Affairs and the Legal Counsel of the UN, Hans Correll, reiterated in an opinion on 29 January 2002 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".

CONCLUSION

Mr. Chairman,

The United Nations does not recognise Morocco's illegal occupation of Western Sahara.

It is worth noting however that over 80 countries worldwide have recognised the Saharawi Republic which is a full fledged member of the African Union (AU).

The international community has failed the Saharawi people: The UN mission (MINURSO) in the territory has been able neither 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 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 the UN in the endeavour to fulfil its responsibility towards the people of Western Sahara.

RECOMMENDATIONS

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.
- 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 urge the Office of the High Commissioner for Human Rights (OHCHR) to make public its report of 8 September 2006 on Western Sahara.
- The UN should demand a halt to the illegal exploitation of the resources of Western Sahara. The exploitation is taking place against the wishes of the indigenous population. The natural resources of this non-self-governing territory must be protected until the decolonisation process is achieved.
- The UN Special Committee should continue to monitor closely the decolonisation process in Western Sahara. The latest UNGA resolution adopted by consensus, (A/RES/62/116), on 17 December 2007, "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-third session."

I thank the Committee for the opportunity to address you today and wish you a successful seminar.

ANNEX

Historical Background

In 1975 Morocco embarked on an act of aggression against our country as it invaded and occupied by force our homeland. This was undertaken to further its dream of a "Greater Morocco" that would include the entire Western Sahara, the whole of Mauritania and parts of Mali and Algeria.

However, the International Court of Justice was very clear in its decision of 15th October 1975, when it 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)

Our people were the subject of a war of extermination where Napalm, cluster and white Phosphorus bombs were used against innocent Saharawi civilians. The war against our people continues today through the means of systematic human rights abuses.

The military war which lasted 17 years was imposed upon us by our two neighbouring countries. But we have always yearned for peace, non-violence and stability.

We quickly seized the opportunity of peace offered by the UN and the OAU. We have shown sincere will and fully cooperated with the UN and spared no efforts to make the UN successful in its search for a just and lasting peaceful solution to the conflict.

Both the Frente Polisario and Morocco accepted a Settlement Plan based on a referendum of self-determination. The UN declared a ceasefire in 1991 and a UN mission - MINURSO - was established in the Territory to prepare for the holding of a free and fair referendum that will give a chance for the Saharawi people to exercise their right to self-determination in accordance with UN resolutions and its doctrine of decolonisation.

But the referendum process is now obstructed unilaterally by Morocco. It is not because the referendum cannot be organised or that the UN is not capable of implementing the Settlement Plan that is based on a referendum process.

Seventeen years later and despite huge efforts and costs the Saharawi people are still waiting for an opportunity to decide their own future. This is due to Morocco's obstruction and violation of UN resolutions and Peace Plans.

It is worth noting that the late King of Morocco Hassan II declared at the OAU Summit held in Nairobi in 1981 that Morocco would accept a referendum in Western Sahara. He later said that Morocco would be the first country to open an embassy in the El Aiun, the capital of Western Sahara, should the Saharawis choose independence.

Morocco also accepted the UN/OAU Settlement Plan which is based on the organisation of a referendum of self-determination. Furthermore, Morocco signed the Houston Agreements negotiated under the auspices of James Baker the former Personal Envoy of the Secretary-General. The agreements were endorsed by the Security Council and should have lead to the organisation of the referendum.

However, in August 2004, Morocco decided to abandon the peace process and the referendum idea altogether. The reason why Morocco wants to avoid the referendum process is because it fears the verdict of the Saharawi people.

In 2007 the he Security Council called on both parties- Morocco and Polisario- to enter into direct negotiations without preconditions, in good faith, with a view to ensuring the respect for the right of the Saharawi people to self-determination.

We are pleased that that the UN Security Council in its Resolution 1813 adopted on 30 April 2008 underlined, once again, the prevalence of international legality in relation to the question of Western Sahara.

The Council reaffirmed "its commitment to assist the parties to achieve a just, lasting and mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara."

The Council also reaffirmed the relevance of resolutions 1754 and 1783 that have defined the framework and ultimate goal of the ongoing direct negotiations between the Frente Polisario and the Kingdom of Morocco.

In Resolution 1813, the Council called upon "the parties to continue negotiations under the auspices of the Secretary-General without preconditions and in good faith." The Frente POLISARIO stands ready to continue the UN-led negotiation process.

The UN has a duty to ensure that Morocco abides by UN resolutions and the ICJ verdict which call for the respect of the Saharawi people right to self-determination and independence.