



**MEMORANDUM BY THE SAHRAWI GOVERNMENT
ON THE QUESTION OF WESTERN SAHARA**

September 2014

1. Western Sahara is the last African decolonisation case on the agenda of the United Nations and it has been on the UN list of the Special Committee of 24 since 1963 when it was under Spanish colonial rule. The General Assembly has consistently recognised the inalienable right of the Sahrawi people to self-determination and independence, and called for the exercise of that right in accordance with General Assembly Resolution 1514 (XV) containing the *Declaration on the Granting of Independence to Colonial Countries and Peoples*.

2. The decolonisation process of Western Sahara however was interrupted drastically owing to Morocco's military invasion and illegal occupation of the Territory on 31 October 1975. The occupation was in violation of numerous UN and OAU resolutions and the Advisory Opinion of the International Court of Justice (ICJ). In its historic ruling issued on 16 October 1975, the ICJ affirmed unequivocally that there never existed any tie of territorial sovereignty between Western Sahara and Morocco or Mauritania and that the principle of self-determination should be implemented through the free and genuine expression of the will of the peoples of the Territory. Furthermore, in line with its resolution 2625 (XXV), the UN General Assembly has clearly described Morocco's illegal annexation of Western Sahara as an act of occupation by force (res. 34/37 of 21 November 1979 and res. 35/19 of 11 November 1980).

3. Thanks to the UN and OAU joint mediation efforts, in 1988 the two parties to the conflict, the Frente POLISARIO and Morocco, accepted a Settlement Plan whose aim was to enable the people of Western Sahara to exercise their inalienable right to self-determination and independence. The plan, which was adopted by Security Council resolutions 658 (1990) and 690 (1991), provided for a ceasefire to be followed by "*the holding of a referendum without military or administrative constraints to enable the people of Western Sahara, in the exercise of their right to self-determination, to choose between independence and integration with Morocco*" (para. 1; S/21360). The UN Mission for the Referendum in Western Sahara (MINURSO) was entrusted with the holding and supervision of the referendum and monitoring the ceasefire that came into force on 6 September 1991.

4. Nonetheless, no sooner had the implementation of the Settlement Plan started than Morocco began putting all kinds of hurdles in its way and, in 2002, it declared openly its unwillingness to go forward with the Settlement Plan (para. 48; S/2002/178) alleging arbitrarily that it was not implementable. Despite the efforts deployed by the UN, including the mediation efforts undertaken by former US Secretary of State, James Baker III, Morocco's

obstructionism continued unabated. In 2004, Morocco even went so far as to declare its official rejection of any solution that would not legitimise, *a priori*, its illegal occupation of Western Sahara, and that it would only support a political solution based on autonomy within the framework of “Moroccan sovereignty” (annex I S/2004/325).

5. It was then very clear that all the time Morocco was acting in bad faith in implementing the Settlement Plan and Houston Accords that were agreed on by the two parties in 1997 under the auspices of James Baker III. In reality, the reason behind Morocco’s volte-face and its unwillingness to go forward with the Settlement Plan was the fact that it knew too well that any free and fair referendum on self-determination to be held in Western Sahara under the UN supervision would definitely lead to the independence of the Territory.

6. After numerous attempts to overcome the stalemate caused by Morocco’s rejection of the referendum process, on 30 April 2007, the Security Council adopted resolution 1754 (2007), in which it called upon both parties, the Frente POLISARIO and Morocco, to enter into negotiations without preconditions with a view to achieving a just, lasting and mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara.

7. Following the adoption of resolution 1754 (2007), delegations from the Frente POLISARIO and Morocco met in four rounds of formal negotiations and nine rounds of informal talks under the UN auspices between 2007 and 2012. The negotiations did not achieve any substantive progress due to Morocco’s unrelenting rejection of the democratic and peaceful solution based on the exercise by the Sahrawi people of their inalienable right to self-determination and independence as provided for in the UN relevant resolutions. In addition to its obstruction of the efforts undertaken by the UN Secretary-General’s Personal Envoy for Western Sahara, Ambassador Christopher Ross (US), Morocco persists in its attempts aimed at undermining the credibility and the *raison d’être* of the UN Mission in the Territory, MINURSO, namely the holding of a free and fair referendum on self-determination.

8. In the meantime, Morocco continues to perpetrate massive violations of human rights of Sahrawi civilians in the occupied territories of Western Sahara, which have been documented by many international and African human rights organisations and highlighted by the UN Secretary-General in his latest reports on Western Sahara. These human rights violations are characterised by the disappearance of Sahrawi human rights activists, torture of prisoners of conscience, arbitrary detention, police brutality, intimidation and extrajudicial executions. The entire occupied Territory is put under a military siege where international observers and media are banned from entering it.

9. In his latest report submitted to the Security Council on 10 April 2014, the UN Secretary-General observed that “*the ability of MINURSO to form its own picture of the situation in Western Sahara for the purpose of operational awareness and reporting to the Secretariat and the Security Council remains limited*”. To remedy such a situation, he underlined that the “*end goal nevertheless remains the sustained, independent and impartial monitoring of human rights, covering both the Territory and the camps*” (paras. 48 & 100; S/2014/258). For its part, the Frente POLISARIO

has repeatedly urged the Security Council to act upon the recommendations of numerous international human rights organisations and establish a human rights component within the mandate of MINURSO with a view to protecting, monitoring and reporting on the human rights situation of the Sahrawi people as long as the conflict remains unresolved.

10. Morocco moreover continues to exploit illegally and massively the natural resources of Western Sahara including fisheries, phosphates and other minerals often with the complicity of foreign entities and in violation of the permanent sovereignty of the Sahrawi people over their natural resources. The legal opinion of the UN Legal Counsel of 29 January 2002 stated clearly that *“If further exploration and exploitation activities were to proceed in disregard of the interest and wishes of the people of Western Sahara, they would be in violation of the principles of international law applicable to mineral resource activities in Non-Self-Governing Territories”* (para. 25; /2002/161).

11. Morocco still maintains its 2720 km long military wall in Western Sahara, which is infested with more than 7 million anti-personnel mines. As underlined by the UN Secretary-General in this latest report (para. 43; S/2014/258), *“Widespread contamination caused by landmines and explosive remnants of war throughout Western Sahara continues to endanger the lives of the local, nomadic and refugee populations, along with MINURSO military observers and logistical teams”*. Landmines buried along the wall affect Sahrawi civilians on both sides who each year suffer injuries, amputations and death from accidents related to landmines and unexploded ordnance and continue to pose a serious obstacle to the possible return of refugees to their homeland.

CONCLUSIONS

12. For the United Nations, Western Sahara remains a Non-Self-Governing Territory to which the UN doctrine and practice relating to decolonisation should be applied.

13. The only viable, peaceful and democratic solution to the decolonisation conflict in Western Sahara, which can solidly foster peace, security and regional integration in the long term, lies therefore in the exercise by the Sahrawi people of their inalienable right to self-determination and independence through a free, fair and democratic referendum under the UN supervision. As the UN Secretary-General underlined in his report (para. 105; S/2012/197) of 5 April 2012, *“Ultimately, any settlement that the parties reach will require the support of the people of Western Sahara for it to be just, lasting and mutually acceptable and if future tensions are to be avoided”*.

14. Morocco has shown beyond any doubt that it is still unwilling to go along the peaceful, democratic and viable path leading to a lasting solution to the conflict in Western Sahara, namely the self-determination referendum. In addition, it persists in violating systematically the human rights of the Sahrawi population living in the territories under its illegal occupation and in plundering their natural resources.

15. In his latest report (para. 94; S/2014/258), the UN Secretary-General concluded that *“If... no progress occurs before April 2015, the time will have come to engage the members of the Council in a comprehensive review of the*

framework that it provided for the negotiating process in April 2007". This is a clear indication that the Security Council should no longer tolerate Morocco's repeated attempts to prevent the UN from accomplishing its mission in Western Sahara, namely the holding of a free and fair referendum on self-determination for the Sahrawi people.

16. It is therefore imperative that the Security Council, the General Assembly and the international community as whole send Morocco a strong message that peoples' inalienable right to self-determination and independence cannot indefinitely be held hostage to the intransigence of an occupying power whose irresponsible behaviour, if left unchecked, may jeopardise peace and security in the whole region.