



Statement on Western Sahara
to the
Special Political and Decolonization Committee

by:

International Platform of Jurists for East Timor

and

Stichting Zelfbeschikking West-Sahara

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Petitioner: Pedro Pinto Leite

Mr. Chairman, distinguished delegates,

I wish to thank you for the opportunity to speak before this Committee on behalf of the International Platform of Jurists for East Timor, an NGO made up of 650 law professors, judges, attorneys and other jurists from more than 80 countries and also on behalf of the Stichting Zelfbeschikking West-Sahara, an association established under Dutch law for the defense of the right to self-determination of the people of Western Sahara.

Mr. Chairman,

Resolution 55/146 of 8 December 2000, which declared the period 2001-2010 to be the Second International Decade for the Eradication of Colonialism, called upon Member States to redouble their efforts to implement a plan of action for the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. We are approaching the end of this second decade, and the question of Western Sahara continues to be the main stumbling block to achieving that goal. Morocco continues to defy Security Council and General Assembly Resolutions, and continues to defy international law.

For the sake of trade with Morocco, or even worse, to have a share in the pillage of Western Sahara's natural resources, some countries turned a blind eye to the illegal annexation of this territory. These same countries are now lending a veil of legality to the annexation by supporting the proposal of King Mohammed VI to give autonomy to Western Sahara within the state of Morocco in exchange for the recognition of the Moroccan sovereignty over the territory.

The comparison between the cases of East Timor and Western Sahara has been made here very often. They are like two drops of water. Let me remind you that in 1998, Indonesian President Habibie also proposed autonomy within the unitary state of Indonesia as the only way to solve the conflict of East Timor. *The Timorese, Portugal and the United Nations rejected this proposal, insisting on the application of the principle of self-determination.* A few months later President Habibie agreed to a UN-administered referendum on East Timor's political status. And the question put to the voters in the referendum was:

“Do you ACCEPT the proposed special autonomy for East Timor within the Unitary State of the Republic of Indonesia? OR Do you REJECT the proposed special autonomy for East Timor, leading to East Timor's separation from Indonesia?”

The proposed autonomy was there, but as a conclusion of a process of free choice by the East Timorese, together with the other option, the independence. By contrast, in this Moroccan so-called “solution” for the Western Sahara problem, autonomy is determined from the beginning; it is thus imposed on the Saharawi people, before they have the chance to freely choose their status. This clearly contravenes Principle IX of Resolution 1541 (XV), which provides:

“The integration should be the result of the freely expressed wishes of the Territory's peoples acting with full knowledge of the change in their status, their wishes having been expressed through informed and democratic processes impartially conducted and based on universal adult suffrage”.

Mr. Chairman,

International law is very clear on this matter. This was once more confirmed by a two-day conference held last year at the Institute of Social Studies in The Hague on 'International Law and the Question of Western Sahara' – a conference that, in the words of a thoughtful observer, could be considered more 'long overdue' than 'timely'. Twenty-six speakers from twelve countries of four continents, most of them professors of law, were unanimous in concluding that the occupation of Western Sahara, and the exploitation of its natural resources, are unlawful, and that a free and fair referendum in Western Sahara, according to the original UN/OAU Peace Plan, is the only legal and real solution for the problem. A book comprised of the presentations made in that conference will be published this month in Portugal.

Mr. Chairman,

As a Portuguese citizen, I was proud of the firm support that Lisbon gave to the East Timorese, which support helped the East Timorese to finally be able to exercise their right to self-determination. In the six times that I visited East Timor, and particularly in the last one, in May of 2002, during the ceremonies of independence, I could feel in Dili and elsewhere that the Timorese were very grateful to Portugal for that support.

I wish I could be as proud of the Portuguese stance concerning the rights of the Saharawi people, but I am not. Sixteen years ago, I wrote in an article that in order to be coherent, Portugal could not keep running away from the question of Western Sahara. I reminded that the constitutive conference of the International Platform of Jurists for East Timor had underlined in its conclusions the need for the Portuguese State to maintain consistent positions regarding East Timor and the Western Sahara, taking into account the similarity of the situations. But the appeal of the Platform fell in deaf ears. As Australia pointed out before the International Court of Justice, Portugal has dealt with Morocco in relation to the natural resources of Western Sahara in exactly the same way as it was accusing Australia of dealing with Indonesia in relation to the natural resources of East Timor.

It is not too late to change course. Clearly, other countries have much more responsibility for what is happening in Western Sahara than Portugal. But I repeat here and now my earlier appeal to Portugal, at a moment when Portugal holds the presidency of the European Union, and I extend that appeal to all its members. Have the courage to admit that you are wrong. Follow the principled position of Sweden, the only country that voted in the European Council against the EU-Morocco Fisheries Agreement. Stop the pillage of the Saharawis' natural resources. Support the inalienable right of the people of Western Sahara to self-determination.

Thank you, Mr. Chairman.