



**WESTERN SAHARA: THE DIPLOMATIC DIMENSION, PAPER DELIVERED BY AMBASSADOR MZUVUKILE MAQETUKA AT THE 3<sup>RD</sup> SUMMER UNIVERSITY IN ALGERIA FOR THE YOUTH OF WESTERN SAHARA, ALGIERS, 15 JULY 2009**

## **Introduction**

For South Africa, the struggle for the people of Western Sahara is a struggle for self-determination and is based on the principles of decolonisation, promotion of human rights, international legality, stability and security of the African continent. Above all, the situation of Western Sahara is similar to the struggle the majority of South Africans waged against the apartheid regime.

It is indeed regrettable and a matter of great shame that some fifty odd years since the liberation of the first African state from the yolk of colonialism that Western Sahara an entity officially recognised by the African Union (AU) is still denied its right to self-determination. This presents a challenge to the African continent in particular and the international community in general to ensure that the Saharawi people also enjoy this fundamental and inalienable right whose defence by the African continent ushered our own freedom on 27 April 1994.

Our aim therefore, is to share with this gathering, South Africa's positions and intentions on the question of Western Sahara.

## **Right to Self-determination and Decolonisation**

There is a general consensus amongst scholars that the right to self-determination means that all peoples have the ultimate authority without adjourning their self-determination and without any other intervention in the political, economic, social and cultural fields<sup>1</sup>. This right is considered as an important principle of international contemporary positive law stipulated in the United Nations General Assembly resolution 1514 (XV) of 14 December 1960 which contained the Declaration on the Granting of Independence to Colonial Countries and Peoples. According to this resolution, self-determination is a right rather than a simple principle of the UN Charter. According to Sidi Omar, the political imperative of decolonisation also served as the driving force behind that shift and consolidated the right of colonial peoples to self-determination as expressed later in the international human rights covenants.<sup>2</sup>

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<sup>1</sup> Seddouk, O; Applying the right to self-determination in the Western Sahara, Paper presented at a day of the Parliamentary Study in Algeria, 2008

<sup>2</sup> Omar, S; The Legal Claim of the Saharawi People to Self-Determination and Decolonisation, Paper delivered at the Conference on Multilateralism and International Law with Western Sahara as a Case

By virtue of resolution 1514 (XV) and other legal instruments, the colonial peoples were given an inalienable right to self-determination to be exercised by the establishment of an independent state, integration or association with another state. According to Omar, in later cases, the outcome should be the result of the free choice by the people of the territory concerned and expressed through democratic processes.<sup>3</sup>

In sum, the legal basis for the right of the Saharawi people to self-determination lies in the UN doctrine relating to decolonisation and the continuing status of Western Sahara as a Non-Self Governing Territory. This entails that the Saharawi people have an inalienable right to self-determination and independence to be expressed in a free, fair and democratic manner in line with the UN resolutions.

It is thus important to note that Western Sahara remains the last remaining colony on the African continent and it has been on the United Nations list of Non-Self-Governing Territories since 1963 when it was under Spanish colonial rule. As stated earlier, resolution 1514 (XV) of the General Assembly recognised the inalienable right of the Saharawi people to self-determination and independence. Therefore, the continuous colonial occupation of Western Sahara by Morocco constitutes a challenge to the principles of the UN Charter.<sup>4</sup>

It should also be mentioned that the United Nations or any other international and regional organisation have never recognised Morocco's territorial claims of sovereignty over Western Sahara. The Moroccan claims to Western Sahara have been rejected by the advisory opinion of the International Court of Justice on 16 October 1975. It will be recalled that the International Court of Justice stated that there were no links of territorial sovereignty between Morocco and Western Sahara prior to Spanish colonisation of the territory. It is therefore incumbent upon the United Nations to assume its responsibilities to redress this injustice and ensure a speedy completion of the decolonisation process in Western Sahara.

The right to self-determination was the basis upon which our own nation, South Africa was formed. Self-determination is enshrined in the United Nations Charter and the African Union Constitutive Act and is regarded as a basic human right. The United Nations in its numerous resolutions reaffirming the right to self-determination of the Saharawis, establishing the Mission for the Referendum in the Western Sahara (MINURSO) in 1991. The United Nations has been unequivocal in its support of this right and has indicated that when territories such as the Western Sahara are transitioning out of colonialism, the people of those territories should have the option of freely choosing between independence, association with an independent state, or integration with an independent state.<sup>5</sup>

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Study, Pretoria, 2008

<sup>3</sup> Ibid. p.2

<sup>4</sup> Kumalo, DS; Statement on the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples at the Special Political and Decolonisation Committee (Fourth Committee), New York, 2008

## **South Africa and the Recognition of the Saharawi Arab Democratic Republic**

In his State of the Nation Address, in June 2009, the President of the Republic of South Africa, President Jacob Zuma remarked that, “We will support the peace efforts of the African Union and the United Nations on the African continent, including in the Saharawi Arab Democratic Republic...”<sup>6</sup> President Zuma’s statement is consistent with the rich tradition bequeathed to us by that great son of Africa, Oliver Reginald Tambo who expressed in his speeches without fail the constant support of the people of South Africa for the right of the Saharawi people to self-determination. To this end Tambo remarked, “We will continue to support your struggle by all means necessary, in order for both our causes to triumph”<sup>7</sup>.

All present here today will recall that South Africa was also at one stage seized for many years with the struggle for self-determination and against apartheid colonialism. It was in this context that the bonds between the people of South Africa and Western Sahara were forged that endures till this day. This was particularly exemplified by the spirit of solidarity that the primary liberation movements of South Africa and Western Sahara, namely the POLISARIO Front and the African National Congress (ANC) displayed towards each other even whilst intensely engaged in the revolutionary duty of liberating their people.

Shortly after the inauguration of South Africa’s first post-apartheid government in 1994, the former South African President, Mr Nelson Mandela, announced a decision by the South African government of its intention to recognise and establish diplomatic relations with the Saharawi Arab Democratic Republic (SADR) consistent with the earlier decisions of the Organisation for African Unity (OAU) which South Africa formally joined in 1994. This intention was translated into action when South Africa formally recognised SADR on 15 September 2004.

We remain firm in the belief that our non-recognition of SADR would constitute a betrayal of our own struggle and commitment to the respect of the UN Charter and the Constitutive Act of the African Union.<sup>8</sup> Against this background, our government holds the view that the recognition of SADR is not an end in itself, but, a means to an end, which is the attainment of self-determination and decolonisation of Western Sahara. In pursuit of the freedom of Western Sahara, at present South Africa is engaged in regular diplomatic consultations with the SADR government in a bid to strengthen and

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<sup>5</sup> Van Der Merwe, S; Multilateralism and the Respect for International Law as Strategic Objectives of South Africa’s Foreign Policy, Conference on Multilateralism and International Law with Western Sahara as a Case Study, Pretoria, 2008

<sup>6</sup> State of the Nation Address by His Excellency J G Zuma, President of the Republic Of South Africa, Joint Sitting of Parliament, Cape Town 03 June 2009

<sup>7</sup> African Communist, Issue 141, 1995

<sup>8</sup> Ibid, p.4

consolidate bonds of friendship and cooperation between the two countries in the spirit of African solidarity.

### **Western Sahara: A Foreign Policy Perspective**

Through our various bilateral and multilateral relations, the South African government is committed to promoting the African Renaissance and the creation of a better world for all in pursuit of the vision of an African continent that is prosperous, peaceful, democratic, non-racial, non-sexist and united and which contributes to a world that is just and equitable<sup>9</sup>. This means contributing to the formulation of international law and enhancing respect for its provisions thereof, as well as, promoting multilateralism to secure a rule-based international system.

In an increasingly conflict ridden world, the role of international law and the continued affirmation of the legal rights of the people and nations through the promotion of multilateralism, human rights and democracy are the central pillars of a policy of securing peace and prosperity at home, on the African continent and the world at large.<sup>10</sup>

South Africa foreign policy on Western Sahara remains anchored on the following priorities<sup>11</sup>:

- Right to self-determination;
- Decolonisation and the sanctity of colonial borders;
- Respect for human right and humanitarian support;
- International legality and the centrality of the United Nations;
- Non-exploitation of natural resources of the illegally occupied territory, and
- Peace, security and stability of the Maghreb region

It is in this context that South Africa supports the inalienable right of the Saharawi people to self-determination and finds utterly regrettable the countless violations of United Nations Security Council and International Court of Justice resolutions by Morocco.

During its tenure as a non-permanent member of the UN Security Council from January 2007 to December 2008, South Africa joined other Council

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<sup>9</sup> Strategic Plan 2009-2012, Department of International Relations and Cooperation, Government Printer, 2009

<sup>10</sup> Van Der Merwe, S; Multilateralism and the Respect for International Law as Strategic Objectives of South Africa's Foreign Policy, Conference on Multilateralism and International Law with Western Sahara as a Case Study, Pretoria, 2008

<sup>11</sup> Western Sahara Strategic Document, Department of International Relations and Cooperation, Government Printer, 2008

members in regularly renewing the mandate of the UN Mission for a Referendum in Western Sahara (MINURSO) and encouraged both parties to the dispute to participate in negotiations<sup>12</sup> in pursuit of a just, lasting and mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara. We remain confident that in the spirit of African solidarity that Uganda which took over the seat from us as a Non-Permanent Member of the Security Council in January 2009 will continue to champion the cause of the Saharawi people and the African continent at large.

South Africa envisages that the current Personal Envoy of the United Nations Secretary General to Western Sahara, Mr Christopher Ross, will take heed of previous United Nations and International Court of Justice resolutions which reaffirm the international recognition of the right of the Saharawi people to self-determination through the organisation of a referendum. We are therefore encouraged by Ross' stance that a final solution to Western Sahara needs to take into account the right of the Saharawi people to self-determination in line with the previous UN resolutions on Western Sahara.

### **What we believe is to be done?**

At this juncture, I would like to share with you the most critical issues surrounding the question of Western Sahara as we see it:

- We support the participation of both parties (POLISARIO Front and Morocco) in negotiations and in compliance with UN Security Council resolutions<sup>13</sup> on Western Sahara which reaffirm its commitment to assist the parties to achieve a just, lasting and mutually acceptable solution, which will provide for the self-determination of the people of Western Sahara.
- We condemn profusely the human rights violations inflicted on the Saharawi people in the occupied territories. It is in this context that we support the proposal that the monitoring of human rights be included within the broader mandate of MINURSO. On the same wavelength, we are aware that an information embargo is currently in place in the Western Sahara occupied territories meaning that the people are denied access to basic information to what is happening outside the territories and the international community unaware of what is happening in the occupied zones. This hides the sustained human rights abuses such as the right to freedom of association, assembly, movement and expression being constantly inflicted on the Saharawi people by the occupying forces.

It is indeed a travesty that as a result of this engineered media blackout, the international community is deprived of seeing an injustice being committed right before it. In this context, we call for the lifting of

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<sup>12</sup> South Africa in the United Nations Security Council (2007-2008), Department of International Relations and Cooperation, Government Printer, 2009

<sup>13</sup> United Nations Security Council Resolutions on Western Sahara: 1754 (2007), 1783 (2007) and 1813 (2008) and 1871 (2009)

the information blockade imposed on the occupied territories and allow for the free movement of people and information in the occupied territories. We also call for the release of all political prisoners and prisoners of conscience and that the 'disappeared' Saharawis be accounted for.

- We are alarmed by the harsh conditions which the Saharawis have been confined to in the refugee camps for more than 30 years mainly due to the non-resolution of this urgent matter by the international community. We as South Africa thus support the provision of humanitarian aid to the Saharawi refugees in a way that is predictable, sustained and timely. To this end, we applaud initiatives recently taken by the United Nations High Commission of Refugees (UNHCR) and the World Food Programme (WFP) who coordinated a donors Mission composed of Donor Embassies accredited to Algeria to the Saharawi Refugee Camps in Tindouf in March 2009. Similarly, we find very important the recent fact-finding mission by the African Union Committee on Refugees, Returnees, and Internally Displaced Persons to the Saharawi Refugee Camps in June 2009, the first visit by an AU delegation since 2006.
- We specifically encourage participation by stakeholders within the African Union member countries to spear head the campaigns aimed at contributing to the independence of the Saharawi people. In this regard, we applaud groundbreaking initiatives by the Nigerian media houses such as *This Day* newspaper and Nigerian National Television which recently visited the Saharawi Refugee camps and liberated territories in a bid to sensitise the Nigerian populace about this urgent matter. Prior to the visit of the Nigerian media contingent, a survey had been conducted amongst the youth of the most populous country on the continent on their knowledge of the issue of Western Sahara which came out negative. The visit by the Nigerian media contingent was therefore an attempt to address the apparent lack of knowledge of the youth on Western Sahara. A precedent for all to follow has been set!
- We discourage the illegal exploration and exploitation of the natural resources of Western Sahara and the involvement of foreign companies in such activities.
- In the era of globalisation, the youth of our continent must utilise the internet to popularise and educate their peers about the challenges that the Saharawi people are faced with. This action must begin with the youth of Western Sahara that is currently attending this Summer University. The internet has proven to be a powerful mode of communication on various occasions.

It is in this context that we encourage the progressive forces of this world to garner their resources together and mobilise in a similar manner they did in the struggle against apartheid in our country. Our internationalist and solidarity obligations dictate to us that the struggle of the Saharawi people is a struggle for the decolonisation of Africa!

## Conclusion

In conclusion, the Saharawi Arab Democratic Republic (SADR) is a fully fledged member of the African Union. The pending resolution of the Saharawi question, the remaining decolonisation issue on the agenda of the African Union thus presents the continent with its biggest moral dilemma. The non-resolution of the Western Sahara dispute is detrimental to the development and reconstruction of the whole continent and ultimate integration. Any solution would thus need to take into account the principle of the right of the peoples of former colonial territories to self-determination.

South Africa remains fully committed to the resolutions of conflicts in the African continent in particular and the world at large. The case of Western Sahara thus places the inevitable mandate on us to work together to seek a just and mutually acceptable political solution to the current impasse. A just and lasting solution for the people of Africa's last remaining colony is imperative for the peace and prosperity of the continent as a whole.

The international community and South Africa cannot afford to be silent when international law principles are violated.<sup>14</sup> South Africa's commitment to the struggle of Saharawi people for self-determination was succinctly captured by our Minister of International Relations and Cooperation, Minister Maite Nkoana-Mashabane when she remarked, "There can be no lasting peace in the African continent as long as the people of Western Sahara continue to suffer and to live in conditions of occupation. We are convinced that urgent steps are needed to resolve this last case of decolonisation in our continent in line with UN processes"<sup>15</sup>.

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<sup>14</sup> Madasa ZL; Geopolitics and Realpolitik as Impediments to the Saharawi's Right to Self-Determination, Conference on Multilateralism and International Law with Western Sahara as a Case Study, Pretoria, 2008

<sup>15</sup> Address by Minister of International Relations & Cooperation Maite Nkoana-Mashabane on the occasion of the DICO Budget Vote, National Assembly, 18 June 2009