

Speaking Points for Mr. Francesco Bastagli

**Tom Lantos Human Rights Commission Hearing: Human Rights
Threatened, Self-Determination Deferred: the Status of Western
Sahara
23 March 2016**

Mr. Co-chairman,

Thank you for inviting me.

I left the United Nations ten years ago. Thus, I participate in this hearing in a personal capacity. Nothing that I will say is meant to represent the views of the United Nations.

Mr. Co-chairman,

Human rights challenges are best addressed within their broader historic and political context. This will be the focus of my contribution.

Western Sahara represents a decolonization process gone awry. When colonial Spain withdrew from the Territory in 1975-76, it was supposed to hold a referendum for the self-determination of the Sahrawi people. It is through such processes that in the nineteen sixties and seventies countries in Africa and around the world secured nationhood and independence. But Spain left without honoring its obligation. Instead, at the instigation of their government tens of thousands Moroccans crossed the border into Western Sahara in what is known as the Green March. A new occupation began. This happened just weeks after an advisory opinion of the International Court of Justice had denied Morocco's legal claims on the Territory. The opinion confirmed that the Sahrawis had an inalienable right to self-determination under international law.

War ensued with many Sahrawis fleeing eastward into the desert. It wasn't until 1991 that a ceasefire was agreed and the UN mission

MINURSO was established to monitor the ceasefire and prepare the ground for the referendum. This proved impossible. To break the stalemate, in 1997 UN secretary-general Kofi Annan appointed former US Secretary of State James Baker as his personal envoy. By 2003 Baker produced a plan whereby, following a short interim administration, the Sahrawis would be asked by referendum to choose among three options. These were: annexation to Morocco, autonomy under Moroccan rule or independence. In a rare instance of unanimity, Security Council members welcomed the plan as an “optimal political solution.” Yet, Morocco rejected the Baker plan. Any proposal that might lead to Western Sahara independence would not be acceptable to Rabat. The situation has remained basically unchanged ever since. Morocco insists that independence is off the table and offers autonomy. The Sahrawis maintain that it is absurd to exclude a priori the option of independence from a process of self-determination.

Mr. Co-chairman,

To this day, the Sahrawis are deprived or constrained in respect of most of the rights recognized to individuals and peoples under the UN Charter and international conventions. A 2006 report by the UN Human Rights Office concluded that the human rights violations suffered by the Sahrawis find their common origin in the denial of a single fundamental right: the right to self-determination.

The impasse burdens Morocco too. Morocco is the only African country that is not a member of the African Union. Relations with neighboring Algeria are in a Cold War-mode. As a consequence, the Maghreb Union, which should promote regional trade and development, is paralyzed. Yet, some 40 years after the Green March, no country has recognized Rabat’s sovereignty claim over Western Sahara.

For the international community the situation causes also growing security concerns as lawlessness and unrest spread throughout West Africa. The unresolved issue of Western Sahara could provide fertile grounds, geographically and ideologically, for radicalism. Today more than ever, Western Sahara is a textbook case of the importance of conflict prevention.

Mr. Co-chairman,

The world must face up to its responsibilities towards Western Sahara; neglect is no longer a policy option. There must be greater engagement and sense of urgency, especially among UN Security Council members. Face-to-face negotiations, which have not taken place since 2012, should resume without preconditions. A deadline should be set for the negotiations to produce results and options should be envisaged in case of failure.

Neglect hasn't affected the political and security agendas only. The international community owes it to the Sahrawis to move swiftly towards better protection of human rights. We must secure regular, reliable and independent human rights monitoring through a dedicated on-the-ground presence in the territory and in the refugee camps. Beyond monitoring, it will be necessary to actively promote compliance with international human rights and governance standards. Local authorities should be held accountable for improving the situation. But this engagement with local authorities should not turn Morocco into an *interlocuteur valable*, as the French say, implicitly legitimizing its de facto control over the Territory. Under the circumstances, overall responsibility to ensure the protection of human rights must rest with the United Nations; it can't and shouldn't be simply sub-contracted to others.

Mr. Co-chairman,

The Western Sahara debate takes place in a vacuum; it has become arcane and repetitious. At the UN, Sahrawis are a faceless people. Hardly anything is reported to United Nations bodies on the actual circumstances of their lives, their civil and political liberties, their access to justice, their health and education needs. Filling the gap will not just help protect the rights of the people of Western Sahara. It would also add substance and vigor to the urgent search for a political resolution of this long-standing injustice.

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