



# General Assembly

Sixty-eighth session

Official Records

Distr.: General  
31 October 2013

Original: English

## Special Political and Decolonization Committee (Fourth Committee)

### Summary record of the 5th meeting

Held at Headquarters, New York, on Wednesday, 9 October 2013, at 3 p.m.

*Chair:* Mr. García González . . . . . (El Salvador)

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\* Items which the Committee has decided to consider together.

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*The meeting was called to order at 3.10 p.m.*

**Agenda item 56: Information from Non-Self-Governing Territories transmitted under Article 73 e of the Charter of the United Nations** (*continued*) (A/68/23 (chaps. VII and XIII) and A/68/64 and Add.1)

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**Agenda item 60: Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples** (*Territories not covered under other agenda items*) (*continued*) (A/68/23 (chaps. VIII-XI and XIII) and A/68/330)

1. **Mr. Arias** (Spain) said that the principle of territorial integrity applied to the question of Gibraltar, as the General Assembly had made clear in its relevant resolutions, and that bilateral negotiations between Spain and the United Kingdom must respect that principle. For Spain, the solution was the restitution of both the territory transferred from Spain under the Treaty of Utrecht and the land later occupied illegally by the United Kingdom. The interests of the people of Gibraltar must of course be taken into account and, in the negotiations with Spain, the United Kingdom was responsible for those interests as the administering Power. However, Gibraltar could not be a party to sovereignty talks, and there could be no independence for Gibraltar without the consent of Spain. The principle of self-determination valid for most colonized Territories did not apply in the case of Gibraltar, where the original inhabitants had been displaced by settlers imposed in the course of colonization by the United Kingdom.

2. Tension between Spain and the colony had worsened since March 2012, when the authorities of Gibraltar had terminated the informal 1999 agreement

with Spanish fishermen's associations: in the summer of 2013, concrete blocks had been placed in waters Spain considered its own, and work had continued on a wharf on the eastern side of the Rock, expanding the Territory. The British desire to create a new reality on the ground was behind all such problems.

3. Spain was willing to maintain good relations with the United Kingdom but only in accordance with international law and established doctrine. Spain did not accept the Trilateral Forum for Dialogue, which had become a tool for advancing Gibraltar's claim to sovereignty, but viewed the British proposal of an ad hoc dialogue positively, as it could create a framework for greater regional and local cooperation and eventually a political solution. The United Kingdom, a friend and ally, should restart bilateral dialogue on issues of sovereignty, considering the particularities of the case.

**Agenda item 60: Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples** (*Territories not covered under other agenda items*) (*continued*)

*Hearing of representatives of Non-Self-Governing Territories and petitioners*

4. **The Chair** said that, in line with the Committee's usual practice, representatives of Non-Self-Governing Territories would be invited to address the Committee and petitioners would be invited to take a place at the petitioners' table, and all would withdraw after making their statements.

*Question of Gibraltar* (A/C.4/68/3/Rev.1)

5. **Mr. Picardo** (Chief Minister of Gibraltar) said that, fifty years after Gibraltar's representatives had told the Special Committee on decolonization that their aim was self-government, a status had been achieved that was self-government, short of independence. If the General Assembly agreed with that statement, then it should remove Gibraltar from the list of Non-Self-Governing Territories, and if it did not, then the Committee and the Special Committee on decolonization should assist in addressing whatever shortcomings needed to be addressed in its Constitution.

6. It was not true that certain colonial situations were special and particular owing to sovereignty disputes, as maintained by Spain, and by Argentina in

the case of the Falklands, which were making a concerted effort to create a doctrine that had no basis in resolutions of the United Nations or customary rules of international law. They did so to avoid the application of the inalienable right of self-determination to the peoples of Gibraltar and the Falklands.

7. Despite the reality of the Gibraltarians as a people wanting nothing other than to be allowed to live without interference, in friendliness with all peoples and in cooperation with their immediate neighbours, they had been subjected by Spain to an unprecedented campaign of incitement to hatred against them, to economic sanctions, physical restrictions at the frontier, police and military invasions of their territorial sea and shots fired against them, and arson and damage directed against their property in Spain.

8. Having rejected the promising Trilateral Forum for Dialogue and intending to unravel the agreements reached under it, the current Government of Spain had taken eighteen months to accept the proposal of ad hoc contacts to address areas of potential mutual benefit and understanding. But there could be no negotiated transfer of sovereignty under the Brussels Process because the people of Gibraltar were never going to consent to any such discussion or transfer. Spain must move on and tackle its own problems instead of chasing windmills.

9. **Mr. Matthews** (Chairman, Self-Determination for Gibraltar Group) said that the Committee should either agree with the view of the United Kingdom that the level of self-government under Gibraltar's 2006 Constitution amounted to a decolonized status, or advise on how to achieve decolonization, based on the right to self-determination. Spain's Government had been blocking the decolonization process, thereby perpetuating the present status about which it complained so much. Together with the State-controlled media, the Government had undertaken a campaign against Gibraltar, inconveniencing and harassing their two peoples and harming the economies on both sides of the frontier, in a way reminiscent of the brainwashing of the Franco era. The Spanish Government's actions against Gibraltar fell squarely within the definitions of terrorism contained in the European Union Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism.

10. The future of Gibraltar was for Gibraltarians to decide and, pursuant to the Treaties of Utrecht, Seville, Paris and Versailles, Spain's claim on the basis of territorial integrity must be seen as frivolous and without merit, since the land had been ceded in perpetuity three hundred years earlier. There was thus no justification for any involvement by Spain in anything relating to Gibraltar's decolonization.

*Question of New Caledonia (A/C.4/68/5/Rev.1)*

11. **Mr. Forrest** (Front de libération nationale kanak et socialiste (FLNKS)) said that the Nouméa Accord had bolstered the FLNKS political programme to redress the regional economic imbalances of New Caledonia and, in that regard, the new development of nickel resources in the North Province would benefit the entire nation and was an important step in the independence movement's demands for emancipation and decolonization.

12. However, essential provisions of the Nouméa Accord had not been applied: progress in the transfer of powers fluctuated, dependent on the will of political and institutional actors, especially in the areas of local administration, higher education and communication; the electoral list for the coming election was far from complete, jeopardizing the holding of the self-determination referendum; land titles faced hurdles; the planned exploitation of nickel resources for national growth was incomplete; and a legal void stood in the way of true citizenship as envisaged in the Accord. France must respect implementation of the Nouméa Accord and of relevant United Nations resolutions.

13. FLNKS would not flag in achieving its political goal of full international sovereignty on Kanak land, with the total support of the Melanesian Spearhead Group (MSG) as reaffirmed in the recent Nouméa Declaration. It requested that a United Nations mission should visit New Caledonia before the May 2014 elections to assess the current political process.

14. **Mr. Wamytan** (President of the Congress of New Caledonia) said that the French refusal to fully disengage was unacceptable to FLNKS. The future of New Caledonia lay in its relations with MSG and the Pacific Islands Forum.

15. The crucial 2014 elections renewing the government at all levels — the last elections before completion of the Nouméa process — might lead to a

first referendum on independence if there was enough support from the new lawmakers. The latest electoral rolls were of concern because they had been found to contain many thousands of foreign-born voters who did not meet the criteria for inclusion and excluded thousands of Kanaks who did. The May 2014 vote would not be legitimate with the rolls as they stood.

16. He believed that a visiting United Nations mission prior to and during the elections would help to guarantee their fairness. He also supported the request of Vanuatu to host the Special Committee's 2014 regional seminar.

*Question of Western Sahara (A/C.4/68/6/Rev.1)*

17. **Mr. Leibling** (Western Sahara Resource Watch) said that phosphate rock, fish, agricultural produce and sand were being taken from the occupied part of Western Sahara. Although there was no significant oil and gas exploitation, the Sahrawi Arab Democratic Republic had asked for seabed exploration to be stopped. Most damaging was the trade in the Territory's phosphate by foreign corporations, especially from Canada and the United States. Phosphate, the most important of the resources, would form the basis of the economy of a fully independent Sahrawi people and its removal was in violation of international law.

18. The Committee should adopt a resolution addressing the plunder of Western Sahara's natural resources, and the International Court of Justice should issue an advisory opinion on the legality of the development and export of its natural resources.

19. **Ms. Scholte** (Defense Forum Foundation) said that Spanish experts had proven that the Sahrawis whose bodies had been recently discovered in a mass grave in occupied Western Sahara had been extrajudicially executed and buried by Moroccan armed forces. They had been going about their daily lives when they had been killed decades ago simply because they were Sahrawis.

20. The Committee should call for Morocco to end its illegal occupation of Western Sahara and, in view of the abuses, should support an extension of the United Nations Mission for the Referendum in Western Sahara (MINURSO) mandate to include human rights monitoring.

21. Failure to hold the long-promised referendum had allowed Morocco to continue its brutality against the Sahrawis, steal natural resources and force the population into refugee camps, and had stifled economic growth throughout the Maghreb. The ways forward were non-violence, the rule of law and trust in the United Nations — the approach followed by the Sahrawis.

22. **Mr. Legros**, speaking in his personal capacity as an honorary professor at the University of Brussels, recalled that in 2010 a Spanish television programme had shown photographs of bloodied corpses, allegedly provided by the Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro (Frente Polisario), that purportedly depicted the violent dismantling of a Sahrawi encampment in Western Sahara by the Moroccan army, but had actually been taken 10 months prior to the alleged event in an entirely unrelated context. In 2012, a Belgian court had justly condemned the television channel in question; yet the false reportage was still being circulated worldwide. While freedom of the press was essential, journalists should not falsify evidence to manipulate public opinion. It was incumbent upon professional organizations to impress that basic moral duty on their members.

23. **Ms. Hernández Hernández** (Centro de Estudios para la Democracia Popular) said that the question of Western Sahara had arisen as a result of the historic rivalry between Algeria and Morocco and that the Saharan population's wish to administer its own affairs — quite different from a purported Saharan nationalism — could be satisfied, as in several highly developed democratic States, through self-determination under a system of territorial self-rule. Through its large-scale support for the Frente Polisario, Algeria continued to foster instability, whereas Morocco's proposal for regional autonomy under local legislative, judicial and executive bodies and with a share in the nation's economic, social and cultural development would reduce tension, resolve disputes and ensure equal treatment. Morocco's long-term strategy for the development and regional integration of the Sahara in conjunction with the ongoing international final-status negotiations was the option best in line with the United Nations goals for the region.

24. **Ms. Mroue** (International Center for Conflict Resolution) said that the international community had failed to improve human rights in the Tindouf camps, thereby denying dignity and social justice to the

inhabitants, prolonging their suffering and jeopardizing regional security. The inhabitants could not leave the camps without prior approval of the Frente Polisario or the Algerian authorities, and were subjected to strict surveillance and intimidation through the rationing of humanitarian aid. Furthermore, non-governmental organizations and the international media could not enter without Algerian permission.

25. Sahrawi women were the victims of harassment, rape, forced marriage and even slavery; children were being given heavy military indoctrination; demonstrators against the authorities or in support of the autonomy proposal were arrested, without access to a fair trial; no accurate census of the population of the camps had been permitted, though mandated by the Security Council; and there were credible reports of international food aid being sold by the Frente Polisario on the black market.

26. **Mr. Bouzas Ortiz**, speaking in his personal capacity as an academic at the National Autonomous University of Mexico, said that the Moroccan proposal should be addressed, discussed and refined, with the participation of all those concerned. In essence, it was based on the need for consensus; the right of the Sahrawi people to determine their own future; decentralized control of the regional economy; integration of the region in the central Government; representation for women; and the guarantees enshrined in the new Moroccan Constitution of 2011.

27. **Mr. Eriksson**, speaking in his personal capacity as chairman of the Swedish association Security and Human Development, said that Morocco offered a blueprint of how to make democratic reforms and sustainable economic progress in the Arab world. The country was investing billions of dollars in the infrastructure of the Saharan region, boosting prosperity and employment.

28. The West could support that human and economic progress by keeping political and business connections open and actively investing in the Moroccan Sahara, thereby also helping to prevent the violent clashes being fomented by some extremist European organizations in the service of geopolitical opponents seeking to destabilize the Sahara region for their own ends.

29. **Mr. Braham** (International Association for Strategic Studies) said that he had travelled to Morocco to monitor transparency in elections in the country's

Saharan region and had seen democracy in action as people had exercised their rights in an atmosphere of freedom, prosperity and well-being. The region enjoyed large-scale investment in infrastructure and rising employment.

30. In the Tindouf camps in Algeria, on the other hand, people were being deprived of their human rights and subjected to abuses that even included torture.

31. **Mr. Ballali**, speaking in his personal capacity as a politically active citizen from the Saharan provinces of Morocco who defended his country's national cause against separatism and attempts to undermine its territorial integrity, said that the international community should spare no effort in finding a solution to the dispute over the Sahara because its initiatives would lead to stability and security in the greater region.

32. The Frente Polisario continued to call stubbornly for an outdated referendum that was no longer appropriate in the light of the problems involved in preparing electoral rolls, while it subjected the Sahrawi brothers whom it held hostage in the Tindouf camps to daily violations of their human rights. The Algerian authorities should face up to their responsibilities and cease all support for those causing the Sahrawi people such suffering.

33. **Mr. El Kantaoui**, speaking in his personal capacity as a member of the Regional Council of Oued Eddahab-Lagouira, said that allegations that Morocco was perpetrating human rights violations in its southern provinces were utterly baseless. Those allegations were made by so-called human rights defenders in a brazen attempt to cast doubt on the legitimacy of Moroccan rule over the Sahara region. Those individuals were not, however, in the least concerned about human rights violations perpetrated by other States or by the Frente Polisario. Morocco was a staunch defender of freedom and human rights and welcomed all visits by human rights activists. Algeria, on the other hand, continued to prohibit all visits by human rights investigators to the camps in Tindouf, where the Frente Polisario continued to commit gross human rights violations. Those crimes must be investigated. The victims of the Frente Polisario deserved justice.

34. **Mr. Assor** (Surrey Three Faiths Forum) said that the inhabitants of the Tindouf camps were subjected to human rights violations on a daily basis. Enslaved by their jailers, they suffered from malnutrition and

disease and were the victims of forced labour and child trafficking. Meanwhile, humanitarian food and medical aid sent to ameliorate their situation were being misappropriated and resold on the black market. It was truly shocking that the camp jailers claimed to constitute a liberation movement. The camps must be closed and all camp detainees released.

35. **Mr. Nafaa** (Association citoyenneté et développement humain de Dakhla) said that Morocco had achieved considerable progress in recent years in its efforts to promote human rights. A new Constitution had been approved and efforts were under way to promote national reconciliation. Organizations seeking to promote awareness of democracy and to safeguard human rights, including the rights of women, had also been established. There was a strong democratic tradition in Moroccan society and Moroccans were convinced that the democratic reforms being undertaken would strengthen their efforts to build a modern, progressive State.

36. **Ms. Toutain** (Association des amis de la République arabe sahraouie démocratique) said that, although Morocco was determined to continue its occupation of Western Sahara, the residents of the camps in Tindouf remained steadfast in their determination to realize their right to self-determination. There was growing opposition to the Moroccan occupation of Western Sahara. In October 2010, the Moroccan authorities had forcibly broken up a large peaceful protest in Gdim Izik, arresting hundreds of protesters. At an elaborate show trial after two years of detention, 24 individuals accused of organizing that protest had received harsh sentences on the basis of confessions that they had all insisted were extracted under torture. It was clear that those individuals had been punished because they had dared to organize a protest against the Moroccan occupation. The Sahrawi people must be allowed to peacefully protest without fear of reprisal and MINURSO must be mandated to monitor freedom of expression, because the opposition to the occupation would continue unabated.

37. **Mr. Boutin**, speaking in his personal capacity as a professor of law at the University of Caen, said that the Arab Maghreb Union, comprising Algeria, Libya, Mauritania, Morocco and Tunisia, had failed both politically and economically. One of the causes of that failure had been the long-standing conflict in the Saharan region, which had fed regional instability and was currently taking place in a totally changed

geopolitical and economic situation. Frente Polisario leaders acknowledged that they were unable to guarantee the safety of MINURSO patrols or staff of non-governmental organizations operating in the Tindouf camps. Disaffected young people in the camps across the region had become easy targets for recruitment by criminal and terrorist organizations. It was therefore essential for Maghreb Union member States to promote intraregional integration in order to foster regional economic growth and make common cause against international crime and terrorism.

38. At the same time, Morocco must continue strengthening respect for human rights and working closely with United Nations agencies to improve security in its territory while promoting a moderate version of Islam. Morocco had, in fact, proposed a serious and credible initiative to grant autonomy to the Saharan region that would respect local sovereignty and cultural identity and thereby help promote cooperation in the Maghreb.

39. **Ms. Hoorn**, speaking in her personal capacity as a historian of African decolonization, said that, prior to 1976, a substantial majority of Saharans had favoured the reincorporation of Western Sahara into the Kingdom of Morocco. However, a large number of Saharans had subsequently been displaced by the conflict in that Territory and it was impossible to organize a referendum on its future status without taking account of the diaspora.

40. Despite its best efforts, the United Nations had been unable to resolve the conflict and safeguard both territorial integrity and minority wishes. The Moroccan Government, desiring to achieve a negotiated and fair solution in accordance with the Charter of the United Nations, had proposed that the Territory should be afforded a wide degree of autonomy within the democratic Kingdom. The Saharan region would run its own affairs, determine its own culture, shape its own economy and select its own local and national authorities under Moroccan sovereignty. The autonomy initiative would safeguard everyone's interests, and Morocco stood ready to negotiate and compromise with all representatives of the Saharan population, including those who favoured independence.

41. **Mr. Jensen**, speaking in his personal capacity as former Head of MINURSO and Acting Special Representative of the Secretary-General for Western Sahara, said that 60 per cent of people in the Arab

world were less than 30 years old, and that if their aspirations for a better life were not met, many of those young people could be exploited by extremists and terrorists. It was therefore critical to resolve the conflict in Western Sahara, which impeded efforts to foster peace and stability and promote economic development in the Maghreb.

42. He reviewed the serious proposals advanced over the years by the United Nations to bridge the gap between Morocco and the Frente Polisario, the two parties to the conflict, all of which had for various reasons failed. Rounds of negotiations between the parties in recent years had also made no real progress, until Morocco had in 2007 presented a regional autonomy proposal and in 2011 adopted a new Constitution, established a National Human Rights Council and committed itself to tackling corruption. Both Morocco and the Frente Polisario must now make concessions. The success of any future peace accord was, moreover, heavily dependent on the support of Algeria. Much also depended on other interested and influential countries: Algeria was key. It was high time to resolve the issue of Western Sahara, in order to permit reconciliation and development throughout the Maghreb region and the future to which its peoples — not least the young — aspired. Failure to do so threatened regional destabilization, clandestine emigration, a widening menace of terrorism and even armed conflict.

43. **Mr. Fekhri**, speaking in his personal capacity as a young Sahrawi academic, said that he fully supported the reforms being implemented by Morocco to promote democracy and human rights. The Frente Polisario and Algeria obstinately refused to allow a census to be conducted in the camps in Tindouf to determine how many Sahrawis lived there. It was clear that the Algerian authorities had inflated their numbers in order to bolster their claim that the Frente Polisario represented the majority of Sahrawi people. He asked how the United Nations could provide effective assistance to people in the Tindouf camps when it did not know their numbers or aspirations. He called on the international community to take action to compel the Algerian authorities to allow a census to take place.

44. **Mr. Abba** (Association marocaine pour le développement humain de Boujdour) said that several Frente Polisario leaders, including Ibrahim Ghali, the so-called ambassador to Algeria, had been indicted in Spain on charges of perpetrating gross human rights

violations. Members of the Frente Polisario had carried out summary executions, had tortured and raped with impunity and had turned the camps in Tindouf into huge prisons. Although the perpetrators of those crimes remained at liberty, protected by the Algerian secret services, the Spanish indictments meant that there was hope that they would eventually be brought to justice.

45. **Mr. Tamek** (Association marocaine du festival d'Assa) said that he was a Sahrawi who had had the good fortune to have been born in Morocco, a free and democratic country. He had been elected to the Moroccan Parliament in free and fair elections and represented the southern provinces. Appealing to the conscience of his Sahrawi brothers abroad, he called on them to return to their country, Morocco, with their families. Morocco was patiently waiting for its adversaries to adopt a more rational position and agree to engage in constructive dialogue on the future direction of their country. Morocco stood ready to work with all stakeholders to promote development and foster prosperity for all its citizens.

46. **Mr. Ahmed**, speaking in his personal capacity as a member of the Boujdour Provincial Council, said that Morocco's enemies continued to provide safe havens for terrorists, extremists and criminal gangs. Morocco had repeatedly appealed to the international community to take action to combat all armed insurgent groups operating in the Maghreb. Without concerted efforts to eradicate those groups, they would continue to threaten regional and global peace and stability.

47. **Mr. Bossoula** (Centre de proximité de Laâyoune) said that the reforms implemented by Morocco had notably strengthened respect for human rights within the country. Morocco had adopted legislation to safeguard the rights of children, amended its family and criminal codes to ensure their compliance with international human rights instruments, initiated a dialogue with non-governmental organizations active in the field of human rights and amended school curricula to include the study of human rights concepts. Independent investigations of human rights abuses were conducted with a view to bringing perpetrators to justice, establishing the fate of disappeared persons and compensating victims. The National Human Rights Council had been empowered to summon witnesses and investigate prison conditions. Seminars and meetings on human rights were also held to raise awareness of past abuses and ensure that past errors were not repeated.



48. Morocco was actively promoting national reconciliation with a view to defusing social tensions and strengthening national solidarity. The reforms enacted by Morocco had been commended in numerous reports by United Nations agencies. Morocco was proud of the progress it had achieved and would continue to strive to safeguard human rights in the country.

49. **Mr. Khalili**, speaking in his personal capacity as a Sahrawi community activist living in Morocco, said that he had never felt that he was living under occupation. Although France and Spain had split Morocco into separate entities during the colonial period, all history books made it clear that, historically, the Sahara region was an integral part of the Kingdom of Morocco. He asked why the Sahara region had been afforded its exceptional status by so many activists and why no appeals had been made for referendums to be held in Morocco's other regions. It was clear to everyone that Algeria was exploiting the issue of the Sahara region in an attempt to incite global opinion against Morocco, further its expansionist agenda and gain control of seaports on the Atlantic Ocean. Although peoples were entitled to self-determination, States also had a right to preserve their territorial integrity.

50. **Mr. Cameron** (World Action for Refugees) said that freedom was denied to the residents of the camps in Tindouf and that, unless they were closed and their residents released from unacceptable captivity, there could be no peace in the region. Member States must therefore demand the closure of the Tindouf camps and the repatriation of those imprisoned there. Recalling that many States had granted autonomy to minority populations, he further called upon the international community to support Morocco's initiative to grant autonomy to its Sahara region, possibly the single most important step in creating a Sahrawi homeland.

51. **Ms. Kahn** (United States Citizens for Western Sahara) said that it was shocking that MINURSO had not been given a mandate to monitor human rights. The Moroccan authorities could therefore act with impunity as they continued their campaign of violence and abuse against Sahrawis living in the occupied Territory. Morocco continued to abduct human rights activists, loot Western Sahara's natural resources and forcibly divide the Sahrawi population between occupation in their own land and refugee camps in the most inhospitable part of the Algerian desert.

52. Refugees in the Tindouf camps had described to her how they had been forced into exile and how Morocco had used napalm bombs against them. More than two thirds of the Sahrawi population now lived in the camps. For 38 years, Sahrawi women had managed to feed their families and create a sense of tradition, order and continuity in a land without running water and where people could not grow their own food. In collaboration with Sahrawi families, she had produced a book documenting how Sahrawi women played a key role in providing a sense of home to a people who were homeless.

53. The Sahrawi people had fully complied with the United Nations ceasefire agreement of 1991. Like all other peoples, they were entitled to self-determination. The international community must immediately set a date for the referendum to enable them to exercise that right.

54. **Mr. Gookin** (Western Sahara Human Rights Watch) recalled that a 2006 mission sent by the Office of the United Nations High Commissioner for Human Rights to Western Sahara and the refugee camps in Tindouf had found that denial of the right of the Saharan people to self-determination was at the root of almost all the human rights violations against them. It was all the more vital now to hold a referendum of self-determination in the Territory.

55. Western Sahara was the touchstone of credibility for the United Nations. If the Organization wished to be taken seriously, it should state clearly that Morocco, the occupying Power, must immediately hold a free, fair and internationally monitored referendum; destroy the berm that divided Western Sahara and remove the millions of anti-personnel mines surrounding it; immediately release all Sahrawi political prisoners; lift the ban on certain Sahrawi cultural practices; enjoin Spain and Morocco to open a judicial enquiry to identify the perpetrators of war crimes committed under the de facto tripartite interim administration of Western Sahara; and urge the European Union not to conclude any treaties with Morocco that violated the economic rights of the Saharan people.

56. **Mr. Margelletti** (Centre for International Studies, Rome) said that unresolved conflicts in Western Sahara, like those in the neighbouring Sahel, continued to feed instability, poverty and violence. There were lessons to be drawn for Western Sahara from the destabilization of the Sahel. Common regional political



goals and cooperation had to be developed. The rights of ethnic and cultural minorities within a nation had to be protected, and they must be given institutional representation in a way that upheld both the territorial integrity of the State and the principle of self-determination, by granting them the autonomy to run their own affairs as part of the nation. Local people must also be ensured the means for their own economic development and a decent quality of life. The events in Mali and the Sahel had revealed, however, that each crisis was unique and must be addressed on the basis of its particular circumstances.

57. **Ms. Hamdi**, speaking in her personal capacity as representative of the Frente Polisario to Greece, said that the Sahrawi people had been waiting patiently for almost four decades to exercise their legitimate right to self-determination and that they would continue to wage their peaceful struggle to end the colonization of their homeland. Wholly dependent on donations and humanitarian assistance, thousands of Sahrawis continued to languish in refugee camps while the Moroccan occupation authorities, often in partnership with companies based in other States, looted Western Sahara's natural resources in a brazen violation of international law. Sahrawi women living under occupation had been raped and subjected to psychological and physical torture and forced disappearances merely because they had dared to defend their legitimate rights under the Charter of the United Nations. In the light of those and other gross human rights violations and Morocco's ongoing brutal oppression of the Sahrawi people, it was imperative for the international community to reject Morocco's application for membership in the United Nations Human Rights Council. Morocco must release all political prisoners and must allow international observers and the media to travel freely in Western Sahara. Moreover, MINURSO or some other independent international body must be empowered to monitor human rights there.

*Statements made in exercise of the right of reply*

58. **Mr. Tatham** (United Kingdom), replying to the Spanish delegation's statement, recalled that the United Kingdom had sovereignty over Gibraltar and the territorial waters surrounding it and that, as a separate Territory, Gibraltar enjoyed the individual and collective rights accorded by the Charter of the United Nations. The 2006 Gibraltar Constitution provided for

a modern and mature relationship between Gibraltar and the United Kingdom, not one based on colonialism. The United Kingdom would not enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another State against their wishes and would not enter into sovereignty negotiations which they opposed.

59. The United Kingdom and Gibraltar wished to continue to take part in the Trilateral Forum for Dialogue, which was the most credible, constructive and practical means of strengthening relations between the United Kingdom, Gibraltar and Spain for the benefit of all parties. The United Kingdom regretted that Spain had withdrawn from those talks in 2011. However, following a proposal by the United Kingdom and Gibraltar to Spain in April 2012, his country noted a constructive move to ad hoc talks with the aim of strengthening cooperation on issues of mutual importance through means which fully reflected the interests, rights and responsibilities of the people of Gibraltar.

60. The United Kingdom denied the allegations that it had illegally occupied the isthmus and the waters surrounding it. Pursuant to the United Nations Convention on the Law of the Sea, territorial waters flowed from sovereignty over the land. When land was ceded, as under the Treaty of Utrecht, sovereignty over the corresponding waters followed. The United Kingdom was therefore assured of its sovereignty over British Gibraltar territorial waters. The United Kingdom would continue to uphold British sovereignty and would use a range of proportionate naval, police and diplomatic responses to incursions and other incidents.

61. The United Kingdom also denied the allegations concerning concrete blocks in the Bay of Gibraltar. Creation of the reef was legal and was part of the government of Gibraltar's long-term marine environment management plan to improve fish stocks and regenerate habitat. The use of inert concrete blocks to create artificial reefs was consistent with international best practice and with Spain's own approach to artificial reefs.

62. **Mr. Gutiérrez Blanco Navarrete** (Spain) said that the position of Spain regarding the areas ceded to Great Britain under the Treaty of Utrecht remained unchanged. Spain did not acknowledge that the United Kingdom had any rights to the land, air and sea not

included in article 10 of the Treaty, under which only the city and castle of Gibraltar, its port, defences and fortresses, had been ceded.

63. The isthmus had not been ceded by Spain to the United Kingdom under the Treaty of Utrecht, and had always been under Spanish sovereignty. Spain had repeatedly stated that the mere continued occupation by the British did not meet the requirements of international law for the acquisition of sovereignty. Spain therefore understood that the occupation of the isthmus was illegal and ran counter to international law.

64. **Mr. Tatham** (United Kingdom), replying to the statement by Spain, reiterated that, under international law, territorial waters flowed from sovereignty over the land. The United Kingdom was therefore assured of its sovereignty over Gibraltar's territorial waters.

65. **Mr. Gutiérrez Blanco Navarrete** (Spain) said that his Government did not share the position expressed by the representative of the United Kingdom to the effect that the United Nations Convention on the Law of the Sea applied to the waters surrounding Gibraltar.

*The meeting rose at 6 p.m.*