

Western Sahara: A Year of UN Impotence

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The Western Sahara conflict remains a major expression of rivalry between Morocco and Algeria. Simultaneously, it soaks up vast financial and military resources of Morocco and exposes the kingdom to charges of human rights abuse and colonialism, keeping it out of the African Union. It leaves the people of the Western Sahara divided between exile in refugee camps and life under a government they have not sanctioned. Spain and France are intimately involved in the issue, the first as former colonial power in the territory and the latter as former dominant imperial power in the Maghreb. The EU has become more implicated through a legally contentious fisheries agreement with Morocco under which European vessels work in Saharan waters.

The UN Security Council's settlement route for the Western Sahara conflict proved impassable in 2008, leaving the Polisario Front and Morocco to follow their own paths towards their distinct destinations. The direct negotiations that commenced in 2007 at the behest of the Security Council remained blocked as Morocco promoted its autonomy plan for the territory and Polisario insisted resolution could only be reached through an act of self-determination that included the option of independence for the territory. The Secretary General's special envoy left in frustration and the time taken to approve a successor to the role, combined with the hiatus caused by the US presidential election, further postponed progress.

Failure in Manhasset

Polisario and Morocco met briefly under UN auspices in Manhasset, near New York, in January and March of 2008. They made no progress towards a consensual settlement of the conflict that began when Moroccan troops and settlers moved into the former Spanish colony in 1975. Morocco insisted it would offer the people of the Western Sahara extensive autonomy under Moroccan sovereignty. Polisario argued that international law, natural justice, and the will of the Sahrawis required a vote in which independence would be an option. By-the-by, the movement said that the local government introduced by Rabat to the territory had amounted to no more than a panel of notables appointed by the crown and the promises in the autonomy package were empty. In moments of frustration, Polisario said it was under pressure from its constituency to return to armed conflict.

The lack of progress at Manhasset meant no further rounds were scheduled for 2008 and at the time of writing no dates had been set for 2009. Mirroring this, only one report to the Security Council was made by the Secretary General where several were customary in previous years. His special envoy departed in the summer but it was January this year before US State Department veteran Christopher Ross was approved as the new appointee.

The departing Peter van Walsum, a former Dutch diplomat, encapsulated the mechanics of the deadlock in a document published by Spanish newspaper *El País*: "I thought the two main ingredients of the impasse were Morocco's decision of April 2004 not to accept any referendum with independence as an

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option, and the Security Council's unwavering view that there must be a consensual solution to the question of the Western Sahara." International legality supported Polisario's position but the fact of long-term Moroccan occupation of most of the territory, combined with the consistent refusal of the Security Council to act under Chapter VII of the UN Charter, which would permit force to impose a settlement, meant the only conceivable outcome from direct negotiations "would fall short of an independent Western Sahara", he wrote.

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Van Walsum's analysis was excoriated by some in Polisario. The movement had been unenthusiastic about his appointment, saying a relatively unknown, retired Dutch diplomat did not have the weight needed to pressure key international players into actively supporting a just solution. Yet former senior UN officials sympathetic to the cause of Sahrawi self-determination argue that van Walsum was expressing a truth that all could see but none would state publicly. Where they disagreed with him was in his implication that the situation could not change.

The Challenge for the New Envoy

Indeed Polisario shares part of van Walsum's reading, openly accusing successive French governments of blocking progress towards a solution by protecting Morocco within the Security Council, of which it is one of the five permanent members with veto power. This protection allowed Morocco to reject the second settlement plan put forward by van Walsum's influential predecessor James Baker, the former US Secretary of State. Baker had proposed a period of autonomy followed by a vote on the long-term future of the Western Sahara. To the surprise of all, Polisario had accepted the plan, only to see it fall by the wayside as Morocco vetoed it. By 2007, the US appeared to have abandoned Baker's plan, moving closer to

the French position so that by April 2007 it drafted an early version of resolution 1754 that expressed even stronger support for Morocco's proposals. As it was, 1754 welcomed "serious and credible Moroccan efforts to move the process forward" while only noting Polisario's position, albeit with a repetition of the mantra of providing for self-determination of the people of the Western Sahara. By September, Secretary of State Condoleezza Rice, on a visit to Rabat, would indicate US support for Morocco. By December, Morocco's senior diplomat Taieb Fassi-Fihri was confident enough to state that "negotiation will be on autonomy as the definitive solution of the conflict".

Mr Ross will find it difficult to roll back the Moroccan advance, yet Polisario has hope that the new appointee will do so. Where van Walsum had no plan of his own and no mandate from the Security Council to threaten the parties with active intervention, Polisario believes Ross will come forward with an initiative. Sahrawi diplomats point to his active engagement with the parties and involvement in the issue prior to his nomination and to his knowledge of the region. However, they also have the nagging fear that Morocco imposed conditions on its approval of his appointment. By April 2009, the mandate of the UN monitor force (United Nations Mission for the Referendum in Western Sahara, or MINURSO) will expire and Ross will have to have formulated a position to justify its renewal.

The Manhasset negotiations made no progress, but they allowed the Security Council to sideline the Western Sahara. The number of resolutions on the issue dropped to one in each of 2007 and 2008, compared with five in 2003, four in 2004 and two in each of the following two years, and just the one report by the Secretary General, against a more usual two or three. While resolutions extending MINURSO's mandate are no measure of progress, their number does indicate how often the opportunity to discuss the issue arises.

The change of president in Washington may bring changes in the US approach to the Western Sahara, which, in the Bush years, was driven by the National Security Council with little or no engagement by the White House. But any such change will result from a more general shift in the US approach to foreign affairs rather than any pre-existing sympathy for Polisario on the part of key figures. Indeed, given the strongly pro-Israeli inclinations of some influential members of the Obama administration and

the support the Israel lobby in the US has afforded to Morocco, there may be an initial suspicion of Polisario. The movement has been disappointed before in its hopes that regime change in another Security Council permanent member –France– would break the deadlock.

Natural Resources Come to the Fore

If the direct negotiations between the parties stultified in 2008, that does not mean that the parties did not continue to press their positions on other fronts. Morocco maintained its settlement of the territory and promoted its unelected regional council. For its part, Polisario deepened its relationship with South Africa, deflecting Moroccan claims that the movement is wholly dependent on Algeria for diplomatic and logistical support. It also made a decisive move on the vexed question of Western Saharan natural resources. Shortly after an important clarification of the 2002 UN legal opinion on oil exploration in the territory by its author, former top UN lawyer Hans Corell, the Sahrawi Arab Democratic Republic (SADR), Polisario's embryonic state, declared an economic exclusion zone in the waters of the Western Sahara.

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Morocco has exploited Western Saharan phosphates since its forces moved into the territory. Since then, as its own marine resources depleted through over-exploitation and shoal migration, its fishing industry has become dependent on Saharan waters that also earn a considerable rent from permits granted to EU and Asian trawlers. The discovery of oil offshore Mauritania led to Morocco issuing exploration licences in 2001. Mr Corell was asked to issue a legal opinion on these licences. His 2002 advice to the Security Council was subjected to various interpretations until December 2008, when he clarified it once and for all. Speaking in Pretoria, Mr Corell stated that exploita-

tion of any natural resources of the Western Sahara without consultation with the people of the territory was illegal. He specifically criticised the EU fishing agreement with Morocco under which European vessels work in Saharan waters.

Polisario's response to the exploitation of Saharan resources had been to protest and, indeed, to issue provisional offshore exploration licences in the name of the SADR. Meanwhile, the multinational non-governmental organisation Western Sahara Resource Watch forced a number of international companies to cease business activity involving Western Saharan resources. But the declaration of an SADR economic exclusion zone in the territory's waters in January 2009 took things a step further. Henceforth, companies dealing in Western Saharan resources would have to confront explicitly a claim of sovereignty. Moreover, while the SADR cannot itself take that claim to international courts for confirmation, the way lies open for a supportive state to do so. While a US trade agreement with Morocco excludes produce of the Western Sahara, the EU could be embarrassed by its fishery agreement with Rabat. Indeed, it might allow Sweden, which led a campaign against the agreement, to challenge it when it comes up for renewal.

Other Areas of Contest

Another front on which Polisario pushed in 2008 was the monitoring of human rights in the area controlled by Morocco. MINURSO is based in Laayoune, the principal town of the Western Sahara, yet it has no mandate to monitor the conditions under which Sahrawis live under Moroccan rule. So, during long periods of civil unrest when numerous Sahrawis have been detained, with or without trial, and accusations of brutality and injustice have been many, the UN force has not dispatched observers or prepared reports, let alone taken action. From the Sahrawi perspective, the civilian population has been unprotected, while from the Moroccan point of view its security forces have been unable to demonstrate that they act in compliance with the law. The mandate of MINURSO, which, in the absence of a referendum process to supervise, is limited to cease-fire monitoring, has brought the force into disrepute among many Sahrawis. With protests against Morocco continuing, resulting in detentions, Polisario has asked the UN to establish human rights moni-

toring. But the UN's wider record in ensuring respect for human rights in the Western Sahara was sullied by the continued refusal to publish a 2006 report by its own human rights commission that was critical of Morocco.

The SADR is based in refugee camps in the south of Algeria. But the movement controls a swathe of territory in the east of the Western Sahara. In recent years it has raised its profile there, beginning modest development of the settlement at Tifariti. Some official meetings are held there and foreign delegations taken there. Yet Polisario has not made definitive moves to establish its state inside the Western Sahara. Senior officials cite lack of funds but some observers sense a lack of political will. The limited moves to establish the presence of a Sahrawi state on Sahrawi soil infuriated Rabat and in March last year its military, in a minuted meeting with MINURSO, threatened air strikes to prevent construction work.

Since 2004, there has at least been some deepening of contacts between family members divided between the refugee camps and the area of the territory controlled by Morocco. Under the auspices of the United Nations High Commissioner for Refugees (UNHCR), thousands of people have visited relatives unseen for a quarter of a century and free telephone calls have been introduced. To a large extent, these developments simply recognised an unofficial trend enabled by the spread of the mobile telephone and the internet and meetings in northern Mauritania. Greater communication among families is precious

in its own right, but in this case it has another value. It allows ordinary people to learn from each other about life under Morocco and Polisario, perhaps meaning that if they are ever allowed to decide on their future, their choice will be better informed.

Bibliography

- ARTS, Karin and PINTO LEITE, Pedro (eds.). *International Law and the Question of Western Sahara*. Leiden: International Platform of Jurists for East Timor, 2007.
- ASSOCIATION DE SOUTIEN À UN RÉFÉRENDUM LIBRE ET RÉGULIER AU SAHARA OCCIDENTAL (ARSO). Compilation of UN resolutions and documents relating to Western Sahara. www.arso.org/06-0.htm
- CORELL, Hans. "The Legality of Exploring and Exploiting Natural Resources in the Western Sahara." Paper presented to the Conference on Multilateralism and International Law with Western Sahara as a Case Study, Pretoria, December 2008. www.havc.se/res/SelectedMaterial/20081205pretoriawesternsahara1.pdf
- JENSEN, Erik. *Western Sahara — Anatomy of a Stalemate*. London: International Peace Academy, 2005.
- MERCER, John. *Spanish Sahara*. London: George Allen & Unwin, 1976.
- SHELLEY, Toby. *Endgame in the Western Sahara — What Future for Africa's Last Colony?* London: Zed Books, 2004.

The resolution on Western Sahara adopted by the UN General Assembly in December 2015 clearly lacks teeth. That resolution
«[s]upports the process of negotiations» conducted in 2007-2008 and requests the UN Secretary-General to continue to report on
the situation. And that's it. The last time the UN Security Council discussed the question of Western Sahara in November
2015 for some reason it did so behind closed doors. In April 2015 the UN Security Council refused to hear (!) the African Union's
special representative for West Africa, the former President of Mozambique Joaquim Chissano. A few days before the new year of
2016, a whole series of resolutions were adopted at the 70th session of the UN General Assembly, one of which deserves special
attention. The UN operation in Western Sahara between 1991 and 1997 was so ineffectual that it became one of the main symbols of
UN waste and inefficiency for a hostile US Congress. It cost more than five million dollars a month yet did little useful work. UN staff
were paid inflated salaries due to the 'hardship' conditions. It is claimed that some UN staff would overstay their tour of duty by a day so
as to qualify for a second tranche of 'hardship' money. In January 1995 Ambassador Frank Ruddy, who had been deputy chair of the
MINURSO voter-identification commission the previous year... The United Nations has long been engaged in the search for a peaceful
solution to the conflict over Western Sahara. On 16 August 2017, the Secretary-General appointed Mr. Horst Köhler as his Personal
Envoy for Western Sahara to continue the search for a negotiated settlement under UN auspices. Mr. Köhler resigned on 22 May 2019
for health reasons. Refugees walk near the Awsard Refugee Camp. UN Photo/Evan Schneider. The United Nations has long been
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Mr. Horst