



## Sovereignty and the Western Sahara

George Joffé

To cite this article: George Joffé (2010) Sovereignty and the Western Sahara, The Journal of North African Studies, 15:3, 375-384, DOI: [10.1080/13629387.2010.520237](https://doi.org/10.1080/13629387.2010.520237)

To link to this article: <https://doi.org/10.1080/13629387.2010.520237>



Published online: 20 Oct 2010.



Submit your article to this journal [↗](#)



Article views: 1324



View related articles [↗](#)



Citing articles: 3 View citing articles [↗](#)

# Sovereignty and the Western Sahara

George Joffé\*

*Centre of International Studies, University of Cambridge, UK*

The Western Sahara conflict, now in its 35th year, is a conflict that challenges concepts of territorial sovereignty and self-determination and of the alleged linkage between them. It is also a manifestation of the struggle for regional hegemony between Algeria and Morocco and, by extension, a struggle by both regional powers to capture the attention and support of Europe and the United States. Amidst these major concerns, the interests of the Western Saharans themselves are being increasingly ignored, a situation that raises further questions about popular legitimisation of sovereignty in the contemporary world order.

**Keywords:** Sahara; sovereignty; Polisario Front; Morocco; Algeria; Western Sahara conflict

Just over 33 years ago, as Spain was undergoing a difficult transition from the dictatorship of Generalissimo Franco towards a democracy, Morocco, in the wake of considerable domestic turbulence in the previous four years, annexed the former Spanish colony of the Western Sahara. Although its actions flouted resolutions in favour of self-determination from both the United Nations and the Organisation of African Unity (today the African Union), Morocco claimed that it was merely restoring its territorial integrity, disrupted by French and Spanish colonialism. Observers noted, however, that King Hassan had, during the previous two years, also manipulated the kingdom's longstanding claim to the region to maximise the monarchy's domestic support.

It was a claim challenged by Sahrawi nationalists in the Polisario Front, backed by Algeria, who both relied upon the decisions of the international and regional organisations cited above and on the advisory decision of the International Court of Justice, issued in October 1975. The Court, which, at the request of the United Nations General Assembly a year before, had considered submissions from Morocco, Algeria and Mauritania on the issue, had concluded that, although Western Saharan tribes had had liens of fealty with the Moroccan sultanate in pre-colonial times, these did not amount to legitimate claims of territorial sovereignty, as Morocco had claimed. It was to be a judgement that was exploited by both sides; Morocco claimed that the first part of it justified its own claim, while the Polisario Front insisted that the second part implicitly required a process of self-determination as an expression of the sovereign will of the Sahrawi people.

---

\*Email: [giris@msn.com](mailto:giris@msn.com)

In essence, these positions have not changed through the last three decades, raising the question whether, given the enduring intransigence of the immediate parties to the dispute, any resolution of it can reasonably be expected in the foreseeable future. There have, of course, been tactical changes – Mauritania was forced to abandon its claim in 1979 by the military actions of the Polisario Front and, in September 1991, the United Nations was able to impose a ceasefire, monitored by a special mission, Mission for the Referendum in Western Sahara (MINURSO), for the past 15 years, against the promise of a referendum, endlessly delayed by disputes over who should participate. Algeria, too, has restrained the Polisario Front from taking up the military option once again. In reality, however, none of those involved has been prepared to fundamentally moderate their positions; Morocco still insists upon its sovereign claim and the Polisario Front, with Algerian support, will not compromise on its demand for a referendum for self-determination.

### **The essence of the dispute**

The reason for the enduring nature of the dispute is simple; both sides make a claim of sovereign right to the control of the territory that, by its very nature, cannot be compromised. Sovereignty, after all, is classically a statement about the articulation of exclusive and indivisible power and cannot be fragmented (see Østerud 1994, pp. 19–20). Even though in recent years that bald definition has been modified by arguments about the nature of the legitimacy of the expression of sovereign power by states, in international law it remains essentially unchallenged (Chopra 1994, pp. 39–41). The Western Sahara dispute does raise challenges to this traditional position, however, and it is those potential challenges that suggest a solution to the dispute might eventually emerge.

This is because the dispute has brought together two quite different approaches to sovereignty. The Moroccan position is based on the classical expression of sovereignty as the innate right of a state to express sovereign power over its territory, whereas the Polisario Front insists that sovereignty is legitimised only by the fact that it reflects the rights of a nation inhabiting a territory to claim sovereignty over it – the essence of self-determination, in short (*viz.* Chopra 1994, pp. 43–45). The problem for the United Nations and, by extension, for the African Union, is that neither has ever resolved the contradiction between state and nation, since they have simply assumed the two to be coterminous. International law, however, favours the former definition, although there have been increasing pressures for the latter to be adopted instead, ever since the end of the Cold War.

It is not that international organisations have been unaware of the contradictions; they have simply never confronted them. The United Nations, after all, has always assumed that the domestic affairs of states – the arena of sovereign authority – are not normally its concern, yet it has long promoted the right of ‘peoples’ to self-determination through General Assembly Resolution 1514 (XV) (1960), if only in the developing world.<sup>1</sup> Ironically enough, Morocco has recourse to paragraph 6 of the resolution, which denies self-determination if it disrupts the pre-colonial integrity of a state, to justify its claim to the Western Sahara. In fact, the exception was only intended to apply to small enclaves separated by colonialist practice, such as Cabinda in Angola.

More recently, in the contemporary world of pre-emptive intervention favoured by major states – particularly the United States and Britain, with other European states teetering on the brink of acceptance – the United Nations has adopted the principle of the ‘Responsibility to Protect’, the right of intervention if a state cannot or is unwilling to protect its population. Yet the reluctance to intervene remains its guiding legal principle. This, coupled with the

unwillingness of either the Polisario Front (with Algeria behind it) or Morocco to compromise, has increasingly irritated the Security Council, thus finds itself powerless to do more than renew the mandate for MINURSO every six months.

Indeed, as King Hassan once said, all Morocco wants is 'the stamp and the flag', the classic symbols of sovereignty. Yet that, in essence, is all the Polisario Front wants too! All else is negotiable, hence the repeated Moroccan proposals of internal autonomy and the failure of United Nations-sponsored initiatives, such as the two plans put forward by James Baker when he was the United Nations special envoy to the region between 1997 and 2004. Hence, too, the failure of the four rounds of face-to-face talks sponsored by the United Nations at Manhasset between January 2007 and March 2008, followed by the despairing comments of the then special envoy, Peter van Walsum, that the United Nations would have to compromise on its support for self-determination, comments that ensured that his appointment was not renewed last August.

### **Wider concerns**

Yet the Western Sahara issue is not just a problem for Morocco and the Polisario Front; there are at least two wider dimensions that affect its outcome. One is the tense relationship between Morocco and Algeria inside North Africa. Morocco is conscious of its thousand-year tradition of statehood inside North Africa and resentful of the way in which France dictated its borders during the colonial period. Indeed, Moroccan nationalists still maintain an atavistic claim to the country's 'lost provinces' that today form part of Western Algeria and the Moroccan government is still uncomfortable with Algerian assumptions of its hegemonic role inside the region.

Algeria, on the other hand, has built its international reputation on its revolutionary legitimacy as a result of the war for independence from France between 1954 and 1962 and its leading role within the Non-Aligned Movement in the 1970s. For it, self-determination has always been the path to legitimate independent statehood and it has always contested Morocco's claims to regional leadership, hence the 'War of the Sands' between the two neighbours in 1963. Thus Houari Boumediène, Algeria's charismatic president during the 1970s, always sought regional unity through the construction of a 'Maghreb des Peuples', rather than through what he claimed was the Moroccan vision of a 'Maghreb des Etats'.

In 1975, therefore, it was Algeria, together with Libya, which supported the Polisario Front, although Libya later fell away because, so Colonel Qadhafi claimed, continued support would 'balkanise' the Maghrib. And when Algeria sought to actualise its vision of regional unity, through the Treaty of Concord and Fraternity in 1984, Morocco was excluded because of the Western Sahara issue, so it riposted with its own Arab-African Union, with Libya – by then another state excluded from the Algerian vision – as its partner. That initiative may only have lasted for a couple of years but it was long enough to make the point that not only Algeria had sustainable claims to regional leadership. Then, in 1989, Morocco led the way towards a new regional vision; that of the Maghrib Arab Union but it was tensions between Morocco and Algeria in the 1990s together with Libyan irritation over North African lack of support over the Lockerbie affair, that led to its effective suspension.

In these terms, therefore, the Western Sahara dispute has become a paradigm, indeed even a metaphor, for the wider dispute between the two leading North African states over regional hegemony. Hence King Mohammed VI's increasing irritation with Algeria today for not accepting its autonomy plans for the Western Sahara and for maintaining the frontier between the two countries closed. At the same time, President Bouteflika, who was, after all, Algeria's foreign minister when

the Western Sahara issue first flared up, sees no reason to abandon Algeria's support for both the Polisario Front and self-determination, as a way of cutting Moroccan pretensions down to size!

Nor does either state operate within a diplomatic vacuum. Morocco has traditionally been a pro-Western bulwark in North Africa and the wider Arab world, particularly during the Cold War, and has, as a result, traditionally benefited from American and European support. The Western Sahara issue did, it is true, create some embarrassment but apart from initial reticence on the part of the Carter administration in the 1970s and in newly democratic Spain, other European states have tended to look for compromise over the issue and have increasingly leaned towards Moroccan preferences. This has caused some embarrassment over European fishing policy and, in 2002, the United Nations legal advisor had to rule that a Moroccan oil exploration contract was illegal because the Western Sahara was, for the United Nations, still a non-self-governing territory, as it had been defined in 1963 when Spain was appointed the administrative power, a right it ceded to Morocco and Mauritania in 1976.

Nonetheless, France and, latterly, Spain have been active in trying to persuade other countries to accept Morocco's arguments over Western Saharan autonomy under Moroccan sovereignty. The Polisario Front has long been active in seeking diplomatic support for its government-in-exile, the Saharan Arab Democratic Republic, which with 125,000 Saharan refugees, has been located and protected on Algerian territory around the western desert town of Tindouf ever since 1975.<sup>2</sup> At one time, up to 73 countries did recognise it diplomatically but only one of them – Yugoslavia, now itself fragmented into smaller sovereign entities – was in Europe. In any case, the one state which was crucial, because of the diplomatic pressure it could bring to bear on the two key protagonists and the role it played in the United Nations, was the United States, and Washington, despite an initial ambivalence under the Carter administration, has been a faithful supporter of Morocco over the past 30 years.

Over the last decade, however, that support has not been quite as steady as in the past. The Cold War, after all, is over and the constancy of alliances that characterised that period has eased. Secondly, Algeria has come to terms with the disappearance of the Non-Aligned Movement and the emergence of hegemonic stability centred around the United States, especially since 11 September 2001 and the start of the War on Terror. During Abdelaziz Bouteflika's long presidency, Algeria has successfully rebuilt its international reputation and has dramatically improved its relations with the United States, particularly over a shared approach to trans-national terrorism. Washington, too, has been irritated by the failure of the Baker mission to find a solution to the Western Sahara issue.

Morocco now seems to sense that time is of the essence – hence its pressure on Algeria to collaborate over finding a compromise that grants it sovereignty at the price of domestic autonomy. It also knows that attitudes inside the Western Sahara are still hostile to the annexation, as the constant round of demonstrations and arrests there makes clear (Human Rights Watch 2008). Yet the Moroccan monarchy cannot, for reasons of domestic support, abandon its demands over the past three decades for recognition of its sovereign annexation.<sup>3</sup> Indeed, it believes that its goal is in sight if only its international support can be maintained – a reasonable enough assumption, given the experience of the past. Yet Algeria remained the rock that could still cause a shipwreck and the Obama administration, may well re-evaluate its policies and alliances in North Africa, a development that could prove very difficult for Morocco.

### **The fundamental issue**

Such political developments, however, will not alter the basic theoretical problem posed by the Western Sahara dispute. For, despite its apparent intractability, it is based on a simple issue of

the attribution of sovereignty. In essence, either Morocco, basing its arguments on historic rights and the classic interpretation of sovereignty, is entitled to sovereign control, or the Polisario Front – the national liberation movement in the Western Sahara, founded in 1973 – can claim rights of self-determination for the Sahrawi populations it claims to represent. The latter interpretation is, indeed, the position that has been adopted by the international community since Morocco's occupation of the territory in 1975 and the position that seems to accord with current interpretations of international law.

The dispute remains unresolved, however, because Morocco has refused to accept this and because the United Nations and the Organisation of African Unity (and, latterly, The African Union) – as the two supranational organisations most acutely involved in the issue – have not been prepared to push the issue. Morocco's refusal does present another problem as well, in that its claim reflects specific problems associated with its argument that they are based on historic rights. These arise because, in pre-colonial times, the Moroccan state based its concept of state sovereignty on quite different assumptions than those that inform the modern concept (Joffé 2007). In the pre-colonial state, sovereignty was both a divine attribute and a communal concept in that unoccupied territory had no political significance whereas communal fealty did.

When modern nationalism became the driver for independence, the European political vocabulary seems to have been adopted instead, so that communal links became the basis of territorial claims (Joffé 1987).<sup>4</sup> It was on this basis that Allal al-Fassi advanced a territorial claim for the Moroccan state in 1956, which encompassed Western Algeria, the Western Sahara and Mauritania, reaching as far south as Timbuktoo and the Niger Bend. Although the claim on Mauritania was abandoned in 1969 and the Western Algeria issue was ostensibly resolved in 1972 (Joffé 1996), the claim to the Western Sahara was maintained after King Mohammed V's speech on the issue at M'hamed in 1958, to become a convenient means by which national solidarity could be asserted after the tumultuous years between 1971 and 1973 when the Moroccan monarchy was threatened by domestic disaffection (Joffé 1995). For the Moroccan state and for the population, traditional concepts of communal sovereignty had been transmuted into European-style territorial sovereignty, in a manner consonant with international law, even if, for those committed to the principles of political Islam, sovereignty itself remained a divine attribute (Joffé 2008, p. 169).

Behind this, however, lies a much more complicated and general issue touching on the nature of sovereignty itself, at least that vision of it that emerged in Europe and is now enshrined in international law. To what extent does the concept of sovereignty, however defined, authorise the entity controlling a state to exercise absolute power within its borders on that ground alone? Does not sovereignty itself need to be legitimised by some other principle before it can be legitimately exercised? And, if that is the case, what is the nature of that principle which can legitimise it? Indeed, is that principle universal or historically conditioned so that different principles co-exist? And that, in turn, raises questions about the universality of the applicability of international law.

The conventional answer today is that, unlike the Islamic vision, states must 'earn' the right to express sovereignty in terms of the respect they bestow on the rights and liberties of individual citizens resident within them. It is an argument that is an outgrowth of ideas that can be traced back to the French Revolution; namely that the state is an expression of the nation that inhabits it<sup>5</sup> and to which it provides form and structure. In the contemporary world, especially in the wake of the Cold War, these ideas have been reworked to suggest that governance, not social – national – identity, is the key so that, unless the polity is democratic, the state itself

is illegitimate and thus cannot legitimately express sovereignty because it does not enjoy popular sanction.

The problem is that this is not the formal position traditionally under international law. Since international law conventionally governs relations between states and only recently has begun to regulate individual behaviour in the international arena, it has not normally considered the internal arrangements of states to be within its purview. Thus sovereignty is a manifestation of the state and the fact that it can be so manifested is, in itself, its own legitimisation. As conventionally defined, state sovereignty is also territorial sovereignty and consists of the 'right to exercise therein [its territory], to the exclusion of any other state, the functions of a state' (Isle of Las Palmas case 1928). One consequence of this refusal to engage with issues of legitimacy within the state has been the doctrine of sovereign immunity for the leaders of states, whatever the regime that governs them.

Another consequence of this arises from the practice of the United Nations. The United Nations is based on the implicit assumption that its members are all nation states – the typical construct that developed as the European paradigm in the nineteenth century – in which the nation inherently legitimises the state. It might, therefore, be expected to endorse the position that state sovereignty is not sacrosanct. Yet, in reality it argues that the domestic integrity of the state – its sovereignty – cannot be challenged except in very special circumstances in which aggression is threatened against another state (UNGA Resolution 2131; United Nations 1965).

Even then, such challenges require prior United Nations sanction. Only very recently has this been expanded to allow appropriate means, including military means, to be used for intervention in circumstances when a state has failed in its duty to protect its population, under the 'Responsibility to Protect' mechanism. This was approved at a General Assembly plenary session on 15 September 2005, as part of the 'World Summit Outcome' for that year. In its comprehensive condemnation of violence to domestic populations, its implications for classical views of sovereignty are wide-ranging (UNGA A/60/L.1; United Nations 2005, pp. 138–139).

There is a further problem, too, which attaches to the intrinsic meaning to be attached to the concept of sovereignty. One aspect of this has to do with the way in which a state's exercise of sovereignty is legitimised, an issue linked to the tensions between the international legal definition of sovereignty and the implicit concept of the state in the United Nations Charter. It is a consequence of the way in which the idea of what sovereignty is has evolved. Precursors to sovereignty considered the power of the state incarnated in the person of the ruler through divine sanction but still subordinated to the external powers that controlled the universe. For the Greeks, rule personified law and both ruler and community were subordinate to it.

It was only with the Roman Empire that a concept approximating to the modern view of sovereignty emerged. For the Romans, any entity that applied law had to be above the law in order to do so. In other words, state action was supra-legal and unlimited (Chopra 1994, p. 40). The state, in short, as the emperor, was truly the Leviathan and, as such, its own legitimisation. It also followed from this that its power was limitless, a feature appropriate for imperial ambition. This assumption was carried through into the Holy Roman Empire, which saw itself as a theologically legitimated political hegemon, articulated through a theoretically universal temporal power. It was that assumption that was to be destroyed by Reformation and the Thirty Years War.

The first stage in this process was the location of sovereign power within the person of the prince, rather than a universal concept symbolised by the emperor. This seems to have been the real significance of the Augsburg Compromise – '*Cuius religio, eius regio*' – in 1555. This was to be underpinned almost a century later, in 1648 by the Treaty of Westphalia. The treaty – actually there were two such treaties – in essence, confirmed the principles enshrined in the



Augsburg Compromise and, through the negotiations over territorial compromise, establishing that the limitless attribution to sovereignty typical of the Roman concept was abandoned in favour of territorial delimitation between areas of equal sovereign competence. Thus emerged the concept of the sovereign territorial state, foreshadowed in Jean Bodin's seminal work, *De la république*, which was published in 1576, in which the ruler was absolutely sovereign within his domains but, by implication, had no power beyond their borders (Bodin 1992, p. 46).

Yet Bodin, alongside his preferred form of sovereign expression within the state, through a monarchy, a single figure as ruler with absolute power, did concede that aristocracies and democracies could also exist as sovereign entities (Bodin 1992, p. 89). This was to be important for it provided a link between his concept of absolute power and the eighteenth century vision of such power being symbolically enshrined in the people as a whole, Rousseau's vision of popular sovereignty.<sup>6</sup> It was this that the French revolution was to reify in the Declaration of the Rights of Man. And it has been this tradition that has come to be normatively dominant within the contemporary world. Yet those normative assumptions about the nature of sovereignty seem to contain their own contradictions for both the concept of the 'general will' as the legitimising mechanism and the absolute nature of sovereignty are increasingly contested.

One problem lies in the nature of the legitimating agency; the monarch as emperor with absolute power within his own restricted territory for Bodin, society for Rousseau, the nation for Revolutionary France or democratic representation and governance in the twentieth century. The other problem resides in the reality of the absolutist nature of sovereignty in a complex, interconnected world. And, linked to both are competing visions of agency and reality as far as the very concept of sovereignty is concerned. Cynthia Weber has suggested that the concept itself has no independent existence and requires its counterpart, intervention, to acquire meaning. Furthermore, as the enabling agent of the state itself, sovereignty has no absolute reality, whether as 'God', the 'sovereign' or the 'people' but is simulated by external attribution. Agency then becomes the prerogative of external actors through their act of symbolic (or real) intervention (Weber 1995, pp. 123–129).

Thus the Concert of Europe could, during the nineteenth century, legitimate or de-legitimate other states by recognising or rejecting their rulers, as it did with Spain and Naples. In the twentieth century, the United States could decide, particularly in Latin America, what constituted the 'democratic will' of another state by selecting the socio-political element within that concurred with American objectives – as the Wilson administration did with Mexico. More recently, American intervention in Panama was justified by the argument that General Noriega – wanted by the American courts for drug-smuggling as a 'narco-terrorist', in President Bush's words (Friedman 1989) – had negated the sovereign rights of the Panamanian people and thus its enabling function in legitimising the sovereignty of the Panamanian state. He could therefore be removed through an armed intervention to restore 'sovereignty' to them. Similar arguments, based on grounds of national security and preventing a Soviet takeover, were used by the Reagan administration to justify its intervention in Grenada in 1983, despite strenuous British and United Nations objections (United Nations 1983).

### **The consequences**

In short, the recent practice of the United States in international affairs contrasts with the traditional position of international institutions such as the United Nations and reflects the concept of simulated sovereignty – at least for others. Although it is a profoundly realist power that does not tolerate interference in its domestic affairs – a statement about the



traditional view of sovereignty – it has few inhibitions about interference in the domestic politics of others, through intervention, in effect. Originally, this was cloaked by the ‘Monroe Doctrine’ as far as the Americas were concerned, from 1823 onwards. Since the advent of the twentieth century, however, alternative approaches have been used to legitimate the process of forceful intervention; the Wilsonian concept of democratic choice, resisting Communism or, latterly, confronting the global threat of terrorism in Afghanistan and Iraq.

In effect, this means that the original concept of sovereignty has been denuded of much of its meaning, such that states must now legitimate themselves through other mechanisms. Not only has the state lost its innate right to resist intervention by outside powers but its sovereign rights to exercise exclusive domestic power<sup>7</sup> have also been formally undermined. It is not only a question of American practice through pre-emptive intervention; it is also a consequence of the United Nations adoption of the ‘Responsibility to Protect’ mechanism. Beyond this are the consequences of economic globalisation and the attack this implies on the autonomy of the state. And, furthermore, the growth of international organisations, especially in the financial and economic sphere, alongside the extension of the principles of regionalism (Thomas 1998, p. 63), has added an informal aspect to this dilution of the classic concept of state sovereignty and its transformation into a simulacrum of its original self.

In essence, sovereignty is increasingly being replaced by a simulation of the concept, which is itself determined by agencies outside the state. The state itself may well retain relevance as an entity in the context of international relations but its significance is undergoing incremental change as the characteristics by which it is defined alter. Instead of the articulation of power being its primary characteristic, perhaps today, it is its regulatory and facilitating role in manipulating its resources within the public and private sphere as well as in its international operations. Yet even here, the boundaries that originally set territorial limits to its sovereignty and defined the process of intervention have become porous, as regional and international organisations habitually intervene through the process of global regulation.

Even concepts such as ‘earned sovereignty’ and ‘disaggregated sovereignty’ really reflect the concept of sovereignty as a simulacrum of the self-legitimation of state power. Earned sovereignty, after all, is a statement about the legitimisation of state sovereignty by self-determination or by humanitarian intervention, and the development of responsive institutions reflecting popular will and democratic choice (Scharf 2003, p. 1). Disaggregated sovereignty (Slaughter 2004) is that conferred by membership of international and transnational institutions in a world dominated by institutional networks that supervene over the autonomous state of the realist vision. In both cases legitimacy is conferred on the power of the state by external agencies and its sovereign expression is thus simulated by their priorities, not those of the embodiments of the state itself.

From this point of view, the Western Sahara issue seems part of a distant past, a relic from a realist world that should have given way to a world of simulated states in which the real nature of the international system involved supra-state sovereign entities at either the regional or the global level. The fact that it continues suggests that the ideal simulated vision is not yet achieved and some meaning still attaches to the concept of sovereignty itself because of the continued existence of a Sahrawi nation capable of autonomous political expression. Even if the two regional protagonists, Morocco and Algeria, have tried to appropriate and define in their different ways the legitimising community in the Western Sahara as they reify colonial territorial dispensations to either confirm or destroy them, they still dispute a sociological and political reality; a Sahrawi nation that has emerged from the experiences of Spanish colonialism and the subsequent conflict. It continues as an irreducible reality, whether under Morocco’s control or as a refugee population under Algerian protection.

The question is whether this entity can replicate itself through sovereign expression as a territorial state (vide Weber 1919) or whether this right will be transferred to its territorial neighbours, either as a simulation or subjugation. Ironically enough, neither of the two external agencies really has a desire to support its sovereign claims; Morocco simply denies them and Algeria would manipulate them for a wider, regional purpose. It seems extremely unlikely that either of them can be coerced into altering this stand. The only solution, therefore, will emerge when sovereignty no longer continues to be the vehicle through political autonomy is articulated. Since its simulation is now increasingly the property of external actors, only by enlarging the entity through which such a simulated characteristic is expressed can its necessity be eliminated. The only possible way in which this could be achieved is by the creation of a meaningful regional political structure within North Africa in which national sovereignty can be abrogated by all actors, not just in the one entity where it is currently contested.

## Notes

1. The so-called 'Blue Water Convention' or 'Salt Water Convention' (Østerud 1994, p. 25). This assumes that Europe's and the United States sovereignty has already been reified in stable states, so that issues of self-determination only arise amongst former colonies and in the developing world.
2. The Republic was proclaimed in February 1976, as Spain handed over its administrative powers to Morocco and Mauritania. It claims to be a state-in-exile – a concept unknown under international law, where the matter was settled by the 1933 Montevideo Convention on the Rights and Duties of States (see Østerud 1994; p. 20) requiring a state to have a territory under its control, although it has been used in political studies since the 1970s. It is used of refugee groups with strong and effective political leadership, either in exile, as with the Western Saharans or under alien occupation, as with the Palestinians in the Occupied Territories before 1993, when the PLO acted as a clandestine state-in-exile (Keynon-Lischer 2006; p. 19).
3. The Moroccan situation is a very good example of what is known to international relations theorists as the 'sunk cost effect'. So much capital – moral and diplomatic as well as financial – has been invested in the Western Sahara that the conviction must be that only further investment can bring success for the previous commitment cannot be abandoned (von Hippel 1996; pp. 95–116).
4. Mohammed Kamali regards this process as a kind of 'neo-*taqlid*', the imitation of Western paradigms, itself a consequence of the colonial experience (Kamali 2008, p. 308).
5. Article III, Declaration of the Rights of Man, 'The Nation is essentially the source of all sovereignty' (Paine 1969; p. 132).
6. The first and most important deduction from the principles we have so far laid down is that general will alone can direct the State according to the object for which it was instituted, i.e., the common good: for if the clashing of particular interests made the establishment of societies necessary, the agreement of these very interests made it possible. The common element in these different interests is what forms the social tie; and, were there no point of agreement between them all, no society could exist. It is solely on the basis of this common interest that every society should be governed (Rousseau 1762).
7. 'Every state is founded on force,' said Trotsky at Brest-Litovsk. That is indeed right. If no social institutions existed which knew the use of violence, then the concept of 'state' would be eliminated, and a condition would emerge that could be designated as 'anarchy,' in the specific sense of this word. Of course, force is certainly not the normal or the only means of the state – nobody says that – but force is a means specific to the state. Today the relation between the state and violence is an especially intimate one. In the past, the most varied institutions – beginning with the sib – have known the use of physical force as quite normal. Today, however, we have to say that a state is a human community that (successfully) claims the *monopoly of the legitimate use of physical force* within a given territory. Note that 'territory' is one of the characteristics of the state. Specifically, at the present time, the right to use physical force is ascribed to other institutions or to individuals only to the extent to which the state permits it. The state is considered the sole source of the 'right' to use violence. Hence, 'politics' for us means striving to share power or striving to influence the distribution of power, either among states or among groups within a state (Weber 1919, p. 1).

## References

- Bodin, J., 1992. *On sovereignty*. Franklin J., trans. Cambridge: Cambridge University Press.
- Chopra, J., 1994. The obsolescence of intervention under international law. In: M. Heiberg, ed. *Subduing sovereignty: sovereignty and the right to intervene*. London: Pinter.
- Friedman, T.L., 1989. After Noriega: US and Rome. *New York Times*, 28, December.
- Human Rights Watch, 2008. *Human rights in the Western Sahara and in the Tindouf refugee camps*. New York: Publisher.
- Isle of Las Palmas case, 1928. UNRIIA II 829, 838.
- Joffé, E.G.H., 1987. The International Court of Justice and the Western Sahara dispute. In: R. Lawless and L. Monahan eds. *Refugees and conflict in the Western Sahara*. London: Frances Pinter.
- Joffé, E.G.H., 1995. Territory, state and nation in the Middle East and North Africa. In: R. N. Schofield and C. Schofield, eds. *International boundaries: fresh perspectives – Volume III: the Middle East*. London: Routledge.
- Joffé, E.G.H., 1996. Self-determination and uti possidetis: the Western Sahara and the ‘Lost Provinces’, *Morocco*, 1(NS).
- Joffé, E.G.H., 2007. Politics in the Muslim world: Morocco, Iran and Indonesia. In: L.S. Graham, ed. *The politics of governing: a comparative introduction*. Los Angeles: Congressional Quarterly Publications.
- Joffé, E.G.H., 2008. Democracy and the Muslim world. In: S. Nuno Texeira, ed. *The international politics of democratization: comparative perspectives*. London: Routledge.
- Kamali, M.H., 2008. *Shari’ah Law: an introduction*. Oxford: Oneworld.
- Keynon-Lischer, S., 2006. *Dangerous sanctuaries: refugee camps, civil war and the dilemmas of humanitarian aid*. New York: Cornell University Press.
- Østerud, Ø., 1994. Sovereign statehood and national self-determination: a world order dilemma. In: M. Heiberg, ed. *Subduing sovereignty: sovereignty and the right to intervene*. London: Pinter.
- Paine, T., 1969. *The rights of man*. Harmondsworth: Penguin.
- Rousseau, J.-J., 1762. The social contract or principles of political right. In: J.D. Cole, trans. *That sovereignty is inalienable*. Book 2, Section 1 [online]. Available from: [http://www.constitution.org/jjr/socon\\_02.htm](http://www.constitution.org/jjr/socon_02.htm) [Accessed 10 October 2008].
- Scharf, M.P., 2003. Earned sovereignty: juridical underpinnings. *Denver journal of international law and policy*, 31 (2), [online]. Available from: [http://findarticles.com/p/articles/mi\\_hb3262/is\\_3\\_31/ai\\_n29059222](http://findarticles.com/p/articles/mi_hb3262/is_3_31/ai_n29059222) [Accessed 10 October 2008].
- Slaughter, A.-M., 2004. *A new world order: whither thou Pollyanna?* Princeton: University of Princeton Press.
- Thomas, G., 1998. Globalisation versus regionalisation. In: E.G.H. Joffé, ed. *Perspectives on development: the Euro–Mediterranean partnership*. London: Cass.
- United Nations, 1965. *General Assembly (XX) of 1965 Declaration on the inadmissibility of intervention in the domestic affairs of states and the protection of their independence and sovereignty*, 21 December.
- United Nations, 2005. *General Assembly A/60/L.1 2005 World Summit Outcome*. Articles 138–140: Responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, 15 September.
- United Nations, 1983. *General Assembly Resolution No 38/7*, 2 November.
- Von Hippel, K., 1996. Sunk in the Sahara. *Journal of North African studies*, 1 (1), 95–116.
- Weber, C., 1995. *Simulating sovereignty: intervention, the state and symbolic exchange*. Cambridge/New York: Cambridge University Press.
- Weber, M., 1919. Politics as a vocation. Lecture to the Free Students Society at Munich University, January 1919. In: H.H. Gerth and C. Wright Mills, trans/ed. *From Max Weber: essays in sociology*. Oxford/New York: Oxford University Press.