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Stephen Zunes

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## Western Sahara, resources, and international accountability

Stephen Zunes\*

*University of San Francisco University of San Francisco, San Francisco, California, USA*

The illegality of facilitating the exploitation of natural resources by an occupying power in non-self-governing territories is well-established in international law, yet – as in such cases as Namibia and East Timor – the legal principles are often overlooked by foreign corporations and their governments. The resource-rich territory of Western Sahara, under Moroccan occupation since 1975, is no exception, as European, North American, and Australian companies have sought to take advantage of lucrative fishing grounds or mineral deposits. While some have tried to claim that such resource extraction is legal since Morocco reinvests the money it receives into the territory through ambitious development programs, the benefits of such ‘development’ have largely gone to Moroccan settlers and occupation authorities, not the indigenous population. As with Namibia and East Timor, it may fall to global civil society to pressure such companies, through boycotts and divestment campaigns, to end their illegal exploitation of Western Sahara’s natural resources.

**Keywords:** Western Sahara; natural resources; accountability; conflict

### Introduction

The significance of the debate over natural resources in Moroccan-occupied territory in Western Sahara goes beyond the relatively small number of people in that country who are most directly affected, but to broader questions involving decolonization, self-determination, and international law. Ongoing Moroccan control of what is often referred to as ‘Africa’s last colony’ in violation of a series of United Nations Security Council resolutions and a landmark ruling of the International Court of Justice is a direct challenge to the UN Charter and other longstanding international legal principles and has placed the kingdom’s continued extraction of non-renewable resources in the territory as a major issue of international contention. The failure of the United Nations to enforce Moroccan compliance with international norms, due large part to the pro-Western monarchy’s close economic and strategic ties to veto-wielding members of the Security Council, has given special impetus to global civil society to step in to push for a just resolution to the conflict.

### Background

Western Sahara is a sparsely populated territory about the size of Italy, located on the Atlantic coast in northwestern Africa, just south of Morocco. Traditionally inhabited by nomadic Arab tribes, collectively known as Sahrawis and famous for their long history of resistance to outside domination, the territory was occupied by Spain from the late 1800s through the mid-1970s. With Spain holding onto the territory well over a decade after most African countries had achieved their freedom from European colonialism, the nationalist Polisario Front launched

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\*Email: [zunes@usfca.edu](mailto:zunes@usfca.edu)

an armed independence struggle against Spain in 1973. This – along with pressure from the United Nations – eventually forced Madrid to promise the people of what was then known as the Spanish Sahara, a referendum on the fate of the territory by the end of 1975. The International Court of Justice (ICJ) heard irredentist claims by Morocco and Mauritania and ruled in October of 1975 that – despite pledges of fealty to the Moroccan sultan back in the nineteenth century by some tribal leaders bordering the territory and close ethnic ties between some Sahrawi and Mauritanian tribes – the right of self-determination was paramount.<sup>1</sup> A special visiting mission from the United Nations engaged in an investigation of the situation in the territory that same year and reported that the vast majority of Sahrawis supported independence under the leadership of the Polisario, not integration with Morocco or Mauritania.<sup>2</sup>

During this same period, Morocco was threatening war with Spain over the territory and assembled over 300,000 Moroccans to march into Western Sahara to claim it as theirs regardless of the wishes of the indigenous population whose dialect, dress, and culture was very different to that of the Moroccan Arabs to their north. Though the Spaniards had a much stronger military, they were preoccupied with the terminal illness of their longtime dictator, General Francisco Franco. At the same time, Spain was facing increasing pressure from the United States, which wanted to back its Moroccan ally, King Hassan II, and did not want to see the leftist Polisario come to power.<sup>3</sup> As a result, Spain reneged on its promise of self-determination and instead agreed in November 1975 to allow for Moroccan administration of the northern two-thirds of the Western Sahara and for Mauritanian administration of the southern third.<sup>4</sup>

Only hours after the ICJ released its opinion affirming Western Sahara's right to self-determination, King Hassan announced a planned march of 350,000 unarmed Moroccans into the Spanish colony to reclaim the territory. The 'Green March' only penetrated a few kilometers into Western Sahara, but armored columns of invading Moroccan forces moved into the territory en masse supported by large-scale aerial bombardment, resulting in nearly half of the population fleeing into neighboring Algeria, where they and their descendants remain in refugee camps to this day. Morocco and Mauritania rejected a series of unanimous United Nations Security Council resolutions calling for the withdrawal of foreign forces and recognition of the Sahrawis' right of self-determination. The United States and France, meanwhile, despite voting in favor of these resolutions, blocked the United Nations from enforcing them. At the same time, the Polisario – which had been driven from the more heavily populated northern and western parts of the country – 'declared' independence as the Sahrawi Arab Democratic Republic (SADR).

Thanks in part to the Algerians providing significant amounts of military equipment and economic support, Polisario guerrillas fought well against both occupying armies and defeated Mauritania by 1979, making them agree to turn their third of Western Sahara over to the Polisario. However, the Moroccans then annexed the remaining southern part of the country.

The Polisario then focused their armed struggle against Morocco and by 1982 had liberated nearly 85% of their country. Over the next four years, however, the tide of the war turned in Morocco's favor thanks to the United States and France dramatically increasing their support for the Moroccan war effort, with US forces providing important training for the Moroccan army in counterinsurgency tactics. In addition, the Americans and French helped Morocco construct a 1200-kilometer 'wall', primarily consisting of two heavily fortified parallel sand berms,

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1 International Court of Justice, *Advisory Opinion on Western Sahara* (The Hague: International Court of Justice, 1975).

2 United Nations General Assembly, 'Report of the United Nations Visiting Mission to Spanish Sahara', *Official Records: Thirtieth Session*, Supplement no. 23, vol. 3, chap. XIII, A/10023/Add.5 (New York: United Nations, 1977).

3 Jacob Andrew Mundy, 'Neutrality or Complicity? The United States and the 1975 Moroccan Takeover of the Spanish Sahara', *Journal of North African Studies* 11, no. 3 (2006): 275–306.

4 'Declaration of Principles on Western Sahara by Spain, Morocco, and Mauritania', *United Nations Treaty Series*, 1975, November 19, 1975, 988, 1-14450, 259.

which eventually shut off more than three-quarters of Western Sahara – including virtually all of the territory’s major towns and natural resources – from the Polisario.

Meanwhile, the Moroccan government, through generous housing subsidies and other benefits, successfully encouraged tens of thousands of Moroccan settlers – some of whom were from southern Morocco and of ethnic Sahrawi background – to immigrate to Western Sahara. By the early 1990s, these Moroccan settlers outnumbered the remaining indigenous Sahrawis by a ratio of more than two to one.

While rarely able to penetrate into Moroccan-controlled territory, the Polisario continued regular assaults against Moroccan occupation forces stationed along the wall until 1991, when the United Nations ordered a ceasefire to be monitored by a United Nations peacekeeping force known as MINURSO (the French acronym for United Nations Mission for the Referendum in Western Sahara).<sup>5</sup> The agreement included provisions for the return of Sahrawi refugees to Western Sahara followed by a United Nations-supervised referendum on the fate of the territory, which would allow Sahrawis native to Western Sahara to vote either for independence or for integration with Morocco.<sup>6</sup> Neither the repatriation nor the referendum took place, however, due to the Moroccan insistence on stacking the voter rolls with Moroccan settlers and other Moroccan citizens whom it claimed had tribal links to the Western Sahara. Secretary General Kofi Annan enlisted former US Secretary of State James Baker as his special representative to help resolve the impasse. Morocco, however, continued to ignore repeated demands from the United Nations that it cooperate with the referendum process, and French and American threats of a veto prevented the Security Council from enforcing its mandate.

## Legal Status

In 1963, the United Nations placed Spanish Sahara on its list of known colonies. In 1965, following deliberations in the Fourth Committee, the General Assembly passed, in a nearly unanimous vote, Resolution 2072, which ‘Urgently’ requested that ‘the Government of Spain ... take immediately all necessary measures for the liberation of the Territory of Ifni and Spanish Sahara from colonial domination’.<sup>7</sup> Morocco, Mauritania and Algeria voted for the resolution; Spain and Portugal were the only two nations to vote against it; the abstainers were the governments of France, South Africa, the United Kingdom and the United States. (Ifni was returned to Morocco in 1968.)

In 1966, the General Assembly passed Resolution 2229,<sup>8</sup> which contained the basic formula for a referendum in Western Sahara that the United Nations would use in the 1990s, although the questionable status of some of the ‘exiles’ complicated efforts to ensure that only ‘indigenous’ Western Saharans voted. Morocco, Mauritania and Algeria voted in support of the resolutions; Portugal and Spain continued their lonely dissent.

In 1971 the Fourth Committee and the General Assembly decided to wait a year before addressing Spain’s Saharan colony. When it returned to the issue in 1972, the General Assembly’s Resolution 2983<sup>9</sup> not only reaffirmed ‘the inalienable right of the people of the Sahara to self-determination’, but also ‘to independence’. The Spanish government convinced several Latin American dictatorships, along with fascist Portugal and apartheid South Africa, to join it in

5 United Nations Security Council Resolution 690, *The Situation Concerning Western Sahara* (April 29, 1991), [http://www.un.org/en/sc/repertoire/89-92/Chapter%208/AFRICA/item%2008\\_Western%20Sahara\\_.pdf](http://www.un.org/en/sc/repertoire/89-92/Chapter%208/AFRICA/item%2008_Western%20Sahara_.pdf).

6 *Official Records of the Security Council*, Forty-fifth Year, Supplement for April, May, June 1990, S/21360.

7 United Nations General Assembly Resolution 2072, ‘Ifni and Spanish Sahara’, *United Nations Yearbook 1965* (New York: United Nations Office of Public Information, 1967), 585.

8 United Nations General Assembly Resolution 2229, *Question of Ifni and Spanish Sahara* (December 20, 1966), <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/005/32/IMG/NR000532.pdf?OpenElement>.

9 United Nations General Assembly Resolution 2983, *The Question of Spanish Sahara* (December 14, 1972), <http://daccess-ods.un.org/TMP/7801474.33280945.html>.

voting against the resolution. The United States government abstained with a number of countries, including Morocco.<sup>10</sup>

The Spanish government announced in July 1974 that it intended to hold a self-determination referendum in early 1975. In response to a Moroccan request, supported by Algeria, the General Assembly passed Resolution 3292 (XXIX) on 14 December 1974, asking the International Court of Justice for an advisory opinion regarding Moroccan and Mauritanian claims to Spain's colony, and whether or not those claims trumped the Western Saharans' right to self-determination. It also called for a special visiting mission to assess the realities on the ground.<sup>11</sup> Spain agreed to postpone the referendum.

The ICJ held hearings on the question of Western Sahara from late June to late July 1975. This came almost a month after the UN visiting mission went to the region in May. The latter's findings, which confirmed broad indigenous support for both independence and Polisario in Western Sahara, were released on 15 October.<sup>12</sup> The ICJ's ruling, which recognized the Saharawis' right to self-determination, was issued the following day.<sup>13</sup>

When it became clear that, rather than abide by the ICJ's ruling, the Moroccans would attempt to seize the territory through the Green March, the Spanish government immediately brought the issue to the attention of the United Nations Security Council while simultaneously beginning urgent discussions with King Hassan. The Security Council opened debate on a draft resolution calling on the Moroccan government to 'desist from the proposed march on Western Sahara'. Instead, on 22 October 1975, the Security Council, under pressure from the United States and France, adopted Resolution 377<sup>14</sup> that appealed for 'restraint' on all sides and requested the Secretary-General to enter into consultations with the parties.<sup>15</sup> With this weak response from the United Nations, Spain was forced to pursue direct negotiations with Morocco simultaneously, which resulted in a postponement of the march until November. As ordered by the Security Council, the Secretary-General toured the region between 25 and 28 October but obtained little cooperation from King Hassan, who favored keeping up the pressure until Spain relented.

The following week, on 2 November, the Security Council answered another Spanish request for a further emergency meeting 'to oblige the Government of Morocco to desist from the march it has announced'<sup>16</sup> by adopting Resolution 379, urging all parties to avoid any actions that might escalate tensions and requesting the Secretary-General to intensify his mediation efforts.<sup>17</sup> As the Moroccan government began ferrying marchers to the border on the evening of 5 November, the Spanish representative to the United Nations again pressed the Security Council for action. The President of the Council quickly sent an 'urgent request to put an end forthwith to the declared march into Western Sahara' to King Hassan, who replied that until the Spanish government agreed to 'undertake urgent bilateral negotiations' the march would continue.<sup>18</sup> The Security

10 United Nations Office of Public Information, 'Spanish Sahara', *United Nations Yearbook 1972* (New York: United Nations Office of Public Information, 1975), 569–70, 579–80.

11 United Nations General Assembly Resolution 3292, 'Spanish Sahara', *United Nations Yearbook 1974* (New York: United Nations Office of Public Information, 1977), 794, 805–6.

12 United Nations General Assembly, 'Report of the United Nations Visiting Mission to Spanish Sahara, *Official Records: Thirtieth Session*, Supplement no. 23, vol. 3, chap. XIII, A/10023/Add.5 (New York: United Nations, 1977).

13 For analysis, see Thomas M. Franck, 'The Stealing of the Sahara', *American Journal of International Law* 70, no. 4 (1976): 694–721; Thomas M. Franck, 'Theory and Practice of Decolonization', in *War and Refugees: The Western Sahara Conflict*, ed. Richard Lawless and Laila Monahan (New York: Pinter, 1987).

14 United Nations Security Council Resolution 377, *The Situation Concerning Western Sahara* (October 22, 1975), <http://daccess-ods.un.org/TMP/7421183.58612061.html>.

15 Karel Wellens, ed., *Resolutions and Statements of the United Nations, 1945–1989* (Leiden: Martinus Nijhoff Publishers, 1990), 49.

16 United Nations Security Council, *Documents Officiels* 30 (1975): 29.

17 Wellens, *Resolutions and Statements of the United Nations, 1945–1989*, 49.

18 United Nations Security Council, *Presidential Appeal*, November 6, 1975.

Council finally passed a more strongly worded resolution (380) late on 6 November, which 'deplored' the Green March, called on the Moroccans to withdraw immediately, to respect the Western Saharans' right to self-determination, and to cooperate with the Secretary-General's mediation efforts.<sup>19</sup>

However, France and the United States made sure that this resolution was not enforced. According to the United States' ambassador to the United Nations, Daniel Patrick Moynihan,

The United States wished things to turn out as they did, and I worked to bring this about. The Department of State desired that the United Nations prove utterly ineffective in whatever measures it undertook. This task was given to me, and I carried it forward with no inconsiderable success.<sup>20</sup>

Not only was Resolution 380 not enforced, it was the last Security Council action on the Western Sahara issue for 10 years. Unable to obtain any meaningful response from the Security Council to stop Hassan's invasion, Spain decided to cut a secret trilateral deal with Morocco and Mauritania, finalized between 12 and 14 November 1975 in Madrid.<sup>21</sup>

Notwithstanding the trilateral agreement in Madrid, the United Nations Fourth Committee held hearings between 14 November and 4 December, where the Western Sahara was a major focus of the agenda. The Committee forwarded two draft resolutions to the General Assembly. One resolution (3458A), adopted by a vote of 88 to zero on 10 December, with 41 abstentions (including the United States), called on Spain, with the help of the Secretary-General, to hold a popular referendum on self-determination in the Western Sahara.<sup>22</sup> The other resolution (3458B), passed by a vote of 56 to 42, with 34 abstentions, took note of the Madrid Agreement and requested that the parties to the agreement 'ensure' that all persons originating from the territory 'exercise their inalienable right to self-determination'.<sup>23</sup>

Throughout 1976, the United Nations, with attention focused on the guerrilla war and the massive refugee exodus triggered by the Moroccan invasion, failed to address the underlying issue of self-determination. That December, the General Assembly passed resolution 31/45, in which the body decided to hold off further deliberations on the matter until the United Nations could learn the results of a scheduled extraordinary session of the Organization of African Unity on the Western Sahara.<sup>24</sup> Resolutions adopted over the next three years revealed that the United Nations had deferred the matter totally to the Organization of African Unity.<sup>25</sup>

The Security Council again became involved in the conflict in 1990 with a series of resolutions which put in place a ceasefire between Moroccan and Polisario forces, the stationing of United Nations' peacekeeping forces in the country, and an internationally supervised referendum in which the remaining Saharawi population in Western Sahara, combined with repatriated refugees, would take part in a referendum. A series of United Nations Security Council resolutions urged the referendum process to move forward (Resolutions 690, 725, 809, 973, 995, 1002, 1017, 1033 and 1056),<sup>26</sup> but Morocco remained intransigent.

19 Wellens, *Resolutions and Statements of the United Nations, 1945–1989*, 49–50.

20 Daniel Patrick Moynihan, *A Dangerous Place* (Boston: Little, Brown, 1980), 247.

21 'Declaration of Principles on Western Sahara by Spain, Morocco, and Mauritania', *United Nations Treaty Series*, 1975, November 19, 1975, 988, 1-14450, 259.

22 United Nations General Assembly Resolution 3248A, *Question of Western Sahara* (December 10, 1975), <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/001/71/IMG/NR000171.pdf?OpenElement>.

23 United Nations General Assembly Resolution 3248B, *Question of Western Sahara* (December 10, 1975), <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/001/71/IMG/NR000171.pdf?OpenElement>.

24 United Nations General Assembly Resolution 31/45, *Question of Western Sahara* (December 1, 1976), <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/302/28/IMG/NR030228.pdf?OpenElement>. The Organization of African Unity (OAU) was the precursor to the African Union (AU).

25 See, for example, United Nations General Assembly, *Question of Western Sahara* (November 21, 1979), <http://www.un.org/documents/ga/res/34/a34res37.pdf>.

26 See United Nations Security Council Resolutions, <http://www.un.org/en/sc/documents/resolutions/>.

In 1997, UN Special Envoy Baker oversaw the signing of the Houston Accords which codified the modalities of the referendum process, including identification of voters. However, despite a series of additional United Nations Security Council resolutions,<sup>27</sup> Morocco refused to allow the referendum to go forward and, as they had done since the beginning of United Nations Security Council involvement, French and American threats of a veto prevented the Security Council from enforcing its mandate.

## Subsequent developments

For more than 40 years, the United Nations had been recognizing the question of Western Sahara as that of an incomplete decolonization, a non-self-governing territory which had the right of self-determination, including the option of independence. However, Morocco's major allies – France and the United States – pushed the idea that Western Sahara was not an occupied territory but instead a 'disputed' territory. Were the latter designation to be accepted, the transfer of Moroccan settlers into the territory and the exploitation of its natural resources would no longer be illegal.

In 2000, the Clinton administration successfully convinced Baker and Annan to give up on efforts to proceed with the referendum as originally agreed by the United Nations 10 years earlier and instead to accept Moroccan demands that Moroccan settlers be allowed to vote on the fate of the territory along with the indigenous Saharawi. This proposal was incorporated into the first Baker Plan presented to UN Secretary General in early 2001, which would have held the plebiscite under Moroccan rule after a four- to five-year period of very limited autonomy with no guarantee that independence would be one of the options on the ballot.<sup>28</sup>

Though this first Baker Plan received the enthusiastic backing of the French and US governments, most of the international community rejected the proposal, since it would have effectively abrogated previous United Nations resolutions granting the right of self-determination with the option of independence and would have led to the unprecedented action of the United Nations placing the fate of a non-self-governing territory in the hands of the occupying colonial power.

As a result, Baker then proposed a second plan where, as with his earlier proposal, both the Saharawis and the Moroccan settlers would be able to vote in the referendum, but the plebiscite would take place only after Western Sahara had enjoyed far more significant autonomy for the four to five years prior to the vote, independence would be an option on the ballot, and the United Nations would oversee the vote and guarantee that advocates of both integration and independence would have the freedom to campaign openly. The United Nations Security Council approved the second Baker plan in the summer of 2003.

Under considerable pressure, Algeria, and eventually the Polisario, reluctantly accepted the new plan, but the Moroccans – unwilling to allow the territory to enjoy even a brief period of autonomy and risk the possibility they would lose the plebiscite – rejected it. Once again, the United States and France blocked the United Nations from enforcing its mandate by pressuring Morocco to comply with its international legal obligations.

In what has been widely interpreted as rewarding Morocco for its intransigence, the Bush administration subsequently designated Morocco as a 'major non-NATO ally' in June of 2004, a coveted status currently granted to only 15 key nations, such as Japan, Israel and Australia. The following month, the Senate ratified a free trade agreement with Morocco by an 85–13 margin, making the kingdom one of only a half dozen countries outside of the Western hemisphere to enjoy such a close economic relationship with the United States. US aid to Morocco grew five-fold under the Bush administration, ostensibly as a reward for the kingdom undertaking

27 See United Nations Security Council Resolutions 1182, 1215, and 1359, available at <http://www.un.org/en/sc/documents/resolutions/>.

28 United Nations Security Council, *Report of the Secretary-General on the Situation Concerning Western Sahara*, S/2001/613 (June 20, 2001).

a series of neoliberal economic reforms and to assist the Moroccan government in ‘combating terrorism’. While there has been some political liberalization within most of Morocco in recent years under the young King Mohammed VI, who succeeded to the throne following the death of his father in 1999, gross and systematic human rights violations in the occupied Western Sahara and Saharawi-populated segments of southern Morocco continues unabated, with public expressions of nationalist aspirations and organized protests against the occupation and human rights abuses routinely met with severe repression.

The Obama administration pressed Morocco on its human rights record and briefly joined other nations calling on the Security Council to expand MINURSO’s mandate to include monitoring the human rights situation in both the occupied territory and the refugee camps in Algeria.<sup>29</sup> France and Morocco successfully blocked the effort, however, and MINURSO remains the only UN peacekeeping force without such a mandate.

### The illegality of the exploitation of natural resources

UN General Assembly Resolution 1514, passed as part of a series of resolutions addressing the rights of inhabitants of non-self-governing territories, declares that ‘peoples may, for their own ends, freely dispose of their natural wealth and resources ... based on the principle of mutual benefit and international law’ in order to realize the right to ‘freely pursue their economic, social and cultural development’.<sup>30</sup> Resolution 1803, passed two years later, underscores that ‘economic and financial agreements between the developed and the developing countries must be based on the principles of equality and of the right of peoples and nations to self-determination’. The resolution makes clear that sovereignty over natural resources belongs to the indigenous inhabitants of a non-self-governing territory rather than the occupying power in noting, ‘The right of peoples and nations to permanent sovereignty over their wealth and natural resources must be exercised in the interest of their natural development and of the well-being of the people of the state concerned.’ The resolution further put the General Assembly on record emphasizing that ‘Violation of the rights of peoples and nations to sovereignty over their natural wealth and resources is contrary to the spirit and principles of the Charter of the United Nations’.<sup>31</sup>

A series of decisions by the International Court of Justice regarding Namibia, Nauru, East Timor and Palestine further codified protection of the peoples of non-self-governing territories to sovereignty over their natural resources.<sup>32</sup> As recently as 2011, the General Assembly reiterated ‘the right of the peoples of the Non-Self-Governing Territories to self-determination in conformity with the Charter of the United Nations and with General Assembly resolution 1514(XV) ... as well as their right to the enjoyment of their natural resources and their right to dispose of those resources in their best interest’.<sup>33</sup>

29 Louise Charboneau and Aziz el Yaakoubi, ‘U.S. Proposes U.N. Western Sahara Rights Monitor; Morocco Warns of “Missteps”’, *Reuters*, April 17, 2013, <http://uk.reuters.com/article/2013/04/17/uk-westersahara-un-idUKBRE93G00Z20130417>.

30 United Nations General Assembly Resolution 1514, *Declaration on the Granting of Independence to Colonial Countries and Peoples* (December 14, 1960), <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/152/88/IMG/NR015288.pdf?OpenElement>.

31 United Nations General Assembly Resolution 1803, *Permanent Sovereignty over Natural Resources* (December 14, 1962), <http://www.ohchr.org/Documents/ProfessionalInterest/resources.pdf>.

32 See, for example, International Court of Justice, ‘Certain Phosphate Lands in Nauru’ (Nauru v. Australia), *Application Instituting Proceedings Filed in the Registry of the Court on 19 May 1989* (The Hague: International Court of Justice, 1989); International Court of Justice, ‘East Timor’ (Portugal v Australia), *Application Instituting Proceedings Filed in the Registry of the Court on 22 February 1991* (The Hague: International Court of Justice, 1991).

33 UN General Assembly Resolution 52/72, *Economic and Other Activities which Affect the Interests of the Peoples of the Non-Self-Governing Territories* (December 10, 1997), <http://www.un.org/ga/documents/gares52/res5272.htm>.



The application of these legal principles to Western Sahara was examined by UN Under-Secretary for Legal Affairs Hans Corell in regard to a request from the Security Council regarding oil exploration off the Western Sahara coast. He concluded:

while the specific contracts which are the subject of the Security Council's request are not in themselves illegal, if further exploration and exploitation activities were to proceed in disregard of the interests and wishes of the people of Western Sahara, they would be in violation of the international law principles applicable to mineral resource activities in Non-Self-Governing Territories.<sup>34</sup>

As with other issues regarding the illegality of Morocco's occupation of Western Sahara, however, the United States and France blocked the Security Council from taking further action on this question.

In late 2001, Morocco announced hydrocarbon exploration in Western Sahara and offshore. That September, Morocco's National Office for Petroleum Exploration and Exploitation (Onarep) signed contracts with French-based 'supermajor' TotalFinaElf (now Total) and the United States-based firm Kerr-McGee. As president of the Security Council in November 2001, Jamaica requested an official opinion from the Under-Secretary-General for Legal Affairs, which resulted in Corell's report, released on 5 February 2002. The opinion not only highlighted Morocco's precarious legal position in the territory (i.e. illegally obtaining status as the de facto administering power), it also clearly reiterated that Western Sahara is a non-self-governing territory (i.e. a colony) requiring self-determination. Its conclusion, however, was that resource exploration in itself, what the Moroccan concessions offered, would not be illegal under international law. However, it would be illegal for the Moroccan government, as the de facto colonizing power in a non-self-governing territory, to extract Western Sahara's resources without adequate approval from the population.

The acquisition of Western Sahara adds significant sources of revenue to Moroccan state coffers. Foremost are the phosphate deposits at Boucraa, first developed by Spain in the 1960s and now exploited by Morocco. Even without Western Sahara, Morocco is the world's leading exporter of this fast dwindling resource, which is key to modern industrial agriculture. The reserves in Western Sahara are of an extremely high quality and are close to the surface, though they still only account for a small percentage of Moroccan phosphate exports. Perhaps of more value to Morocco has been the rich fishing grounds found off the coast of Western Sahara, which is of increasing importance in light of the decline of fishing stocks off Morocco itself. In addition to Moroccan fleets, the government has signed lucrative contracts with other countries and, more recently, the European Union. Furthermore, there are numerous other sources of revenue yet to be explored or exploited, whether minerals or hydrocarbons.

Though not explicit on Western Sahara's two main exports, fisheries and phosphates, the opinion clearly implied that profits gained from those industries by the Moroccan government were in contravention of international law. In the Security Council, the opinion provoked a debate on Morocco's ambiguous and illegal status in Western Sahara, though members of the Council and Secretariat dismissed such talk as unproductive.<sup>35</sup>

Petroleum resources remain a particularly significant question. Unlike fisheries, which in most cases can be regenerated, fossil fuels are a finite resource. The burgeoning interest by industrialized countries in offshore oil in West Africa has added a significant geostrategic component. On the one hand, petroleum prospects in the Western Sahara are not a phenomenon unique to the new century. In the late 1950s, the Spanish government made moves towards exploiting known

34 United Nations Security Council, *Letter dated 29 January 2002 from the Under-Secretary-General for Legal Affairs, the Legal Counsel, addressed to the President of the Security Council*, S/2002/161 (February 12, 2002).

35 *Ibid.* See also Carola Hoyos and Toby Shelley, 'UN Throws Doubt on Oil Deals in Western Sahara', *Financial Times*, February 6, 2002, 7; 'Security Council Disagrees Over Oil Prospecting in W Sahara', *Agence France Presse*, February 20, 2002.

and assumed reserves. By the mid-1960s, different contractors had found over 27 different potential inland sites, although none were considered worth the effort. North of the Spanish Sahara, the Moroccan government commissioned an offshore study by the firm Esso, which apparently discovered a 60-mile-long field stretching off the coast of Tarfaya into the Spanish-administered waters. Following the Moroccan–Mauritanian takeover of the Western Sahara, different companies accepted various exploration contracts for the Tarfaya region yet the collapse of global oil prices inhibited interest.<sup>36</sup>

A number of countries, particularly the United States, have shown serious interest in tapping into potential West African sources. Despite the numerous conflicts that plague West Africa, the move towards offshore sources translated into a ‘stable’ source of oil for the United States, unlike Middle Eastern and Central Asian providers. Vice President Dick Cheney’s National Energy Policy report noted that West Africa had become ‘one of the fastest-growing sources of oil and gas for the American market’.<sup>37</sup> Some estimates have predicted that West African oil could soon provide up to 25% of US petroleum imports. The Institute for Advanced Strategic and Political Studies, a Jerusalem-based think tank, convened a working group comprised of US business and policy leaders called the African Oil Policy Initiative Group. Among its list of recommendations, it advised the US government to declare the Gulf of Guinea an area of ‘Vital Interest’.<sup>38</sup> Just south of Western Sahara, Mauritania signed agreements to begin oil and gas production at 75,000 barrels a day from its offshore wells by the year 2005.<sup>39</sup> However, when production finally began in 2006, output was revised significantly downward several times, eventually below 50% of the original assessment, which had been based on a single test well. Still, the increasing importance of West African oil may make it even more difficult for influential foreign governments to discourage their companies from taking advantage of Western Saharan oil resources.

Parsing the 2002 opinion, Morocco and its supporters seized on the fact that simple exploration was deemed legal. As an oil-importing country, the Moroccan regime had good reason to secure any potential Western Saharan oil reserves. Off the coast of Western Sahara the US 2000 Geological Survey of World Energy thought that reserves could be ‘substantial’, whereas sources in Morocco proper were ‘low and insecure’.<sup>40</sup> The Moroccan regime’s moves in late 2001 towards exploration and exploitation specifically targeted the waters off the coast of the Western Sahara. The firm conducting the exploration for Kerr-McGee and Total, TGS-Nopec, however, came under intense grassroots pressure from Norwegian activists, citing the company’s activities as complicit with the Moroccan occupation.<sup>41</sup> These efforts led TGS-Nopec to hastily withdraw from the affair, but only after it had completed most of its survey.

With all of this talk of oil in Western Sahara, Baker’s own oil interests began to be called into question, especially his connections with Kerr-McGee as well as the Bush–Cheney administration, known for its close ties with Big Oil. Indeed, one US journalist claimed that the Bush administration’s first ambassador to Morocco, Margaret Tutwiler, a very close and personal friend of Baker and who had served as State Department spokesperson when he was Secretary

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36 Tony Hodges and Anthony G. Pazzanita, *Historical Dictionary of Western Sahara*. 3rd ed. (Lanham, MD: Scarecrow Press, 2006), 347–50.

37 Quoted in Simon Robinson, ‘Black Gold’, *Time*, October 28, 2002, A10.

38 Institute for Advanced Strategic and Political Studies, ‘African Oil: A Priority for US National Security and African Development’ (Jerusalem: IASPS, 2002).

39 Toby Shelley, ‘Premier Oil Acquires Stakes in West Africa’, *Financial Times*, May 29, 2003: 25; Toby Shelley, ‘Oil Groups Target NW Africa: The Little-Explored Region is Attracting Much International Interest’, *Financial Times*, July 12, 2002, 28.

40 Stefan Armbruster, ‘Western Sahara’s Future Hinges on Oil’, *BBC News Online*, March 4, 2003, <http://news.bbc.co.uk/1/hi/business/2758829.stm> (accessed October 8, 2004).

41 Janos Besenyo, *Western Sahara* (Pecs: Publikon Publishers, 2000), 18.

of State, was specifically placed in Rabat to, among other things, expedite oil deals.<sup>42</sup> With the Total–Kerr–McGee deal unfolding in the context of Baker’s pro-Moroccan Framework Agreement, it was difficult for observers not to think that Western Sahara was being sold out to US energy interests. Baker, however, would prove a more honest broker, and supporters of international law in the US Congress made sure that Western Sahara was specifically exempt from provisions of a free trade agreement with Morocco. As US trade representative (and future World Bank president) Robert Zoellick noted, ‘The United States and many other countries do not recognize Moroccan sovereignty over Western Sahara’.<sup>43</sup> By then, 2004, Total had dropped out of Western Sahara ostensibly for business reasons. Isolated, Kerr–McGee came under increasing pressure, even from conservative Christian activists in its home state of Oklahoma. In 2005, Norway’s Government Pension Fund, the world’s largest sovereign-wealth fund, began divesting its \$52 million investment in Kerr–McGee stock because their Western Sahara operations constituted an ‘unacceptable risk for contributing to other *particularly serious violations of fundamental ethical norms*’.<sup>44</sup> Kerr–McGee finally withdrew in 2006.

The Moroccan government, however, has continued to seek companies interested in exploring and exploiting potential Western Saharan oil and gas. In a counter-move, the SADR signed an exploration contract in 2003 with the Anglo-Australian oil company Fusion to access the entire acreage off the coast of the Western Sahara.<sup>45</sup> Then, in 2005, SADR signed contracts with seven different companies covering areas onshore and offshore, mostly British and Australian companies. Knowing their favorable position under international law, SADR officials hoped these concessions could force some kind of international legal battle regarding sovereignty over Western Sahara, which would be to the advantage of those seeking self-determination. Yet the prospects that there might be significant deposits on- or offshore Western Sahara continue to be treated with significant skepticism, even when global oil prices were at all-time highs in 2006.

Subsequently, the Moroccan state oil company Office National des Hydrocarbures et des Mines (ONHYM) has granted five licenses for oil exploration and production in Western Sahara without the consent of the population. Kosmos Energy Offshore Morocco HC, a subsidiary of the US-based but Bermuda-registered firm Kosmos Energy Ltd, holds the license once held by Kerr–McGee off the shore from Boujdour. Total SA has signed new licenses for an offshore block to the south in 2011, 2012 and 2013. Both companies have signed agreements with ONHYM for future production. The British companies San Leon Morocco Ltd and the PetroMaroc (formerly known as Longreach Oil and Gas Ventures) hold two onshore exploration licenses in conjunction with ONHYM, primarily consisting of oil shale, in the northwestern corner of the territory.

Efforts for self-determination were set back when the European Union, in an apparently illegal move, signed a fisheries agreement with Morocco in early 2006 which included areas off Western Sahara. Organizing efforts by human rights groups in various European countries, particularly the Norwegian-based Western Sahara Resource Watch, led to it not being extended in 2011. However, in December 2013 it was surprisingly renewed, with vague references about benefits to the ‘local population’, but with no specific mention of the Sahrawis.<sup>46</sup> Former United

42 Wayne Madsen, ‘Big Oil and James Baker Target the Western Sahara’, *Counter Punch*, January 8, 2003, <http://www.counterpunch.org/madsen01082003.html> (accessed October 8, 2004). See also Frank Bruni, ‘A Loyal Lieutenant [i.e. Tutwiler] Re-enlists to Serve the Bush Brigade’, *New York Times*, March 26, 2001, A12.

43 Quoted in Jacob Mundy, ‘Mixing Occupation and Oil in Western Sahara’, *CorpWatch*, July 21, 2005, <http://www.corpwatch.org/article.php?id=12506> (accessed September 2006).

44 Ministry of Finance, Norway, ‘Recommendation on Exclusion from the Government Petroleum Fund’s Investment Universe of the Company Kerr–McGee Corporation’, June 6, 2005, [http://www.regjeringen.no/nb/dep/fin/tema/statens\\_pensjonsfond/ansvarlige-investeringer/tilradninger-og-brev-fra-etikkradet/Recommendation-on-Exclusion-from-the-Government-Petroleum-Funds-Investment-Universe-of-the-Company-Kerr-McGee-Corporation.html?id=419582](http://www.regjeringen.no/nb/dep/fin/tema/statens_pensjonsfond/ansvarlige-investeringer/tilradninger-og-brev-fra-etikkradet/Recommendation-on-Exclusion-from-the-Government-Petroleum-Funds-Investment-Universe-of-the-Company-Kerr-McGee-Corporation.html?id=419582).

45 Petroleum Exploration Society of Australia (PESA), *PESA News*, April–May 2003, 53–8.

46 European Commission, *Proposal for Council Decision on the Conclusion of the Protocol between the European Union and the Kingdom of Morocco Setting out the Fishing Opportunities and Financial Contribution Provided*

Nations legal counsel Corell declared that ‘The E.U.’s interpretation of the legal opinion is preposterous. It is utterly embarrassing that the international community has been unable to solve this conflict. Since Morocco is able to capitalize in Western Sahara, there will be no incentive at all to change the situation’.<sup>47</sup>

The Moroccan government and its supporters point to its ambitious large-scale development projects in Western Sahara, particularly in the urban areas. Morocco claims it has invested more than US\$2 billion in infrastructure development in the territory, significantly more than Morocco has procured from Western Sahara’s natural resources and more than they would be likely to obtain in the foreseeable future.<sup>48</sup> For this reason, the Moroccan government and its supporters argue that they have fulfilled the requirements regarding interests, well-being, and development needs of the indigenous population.<sup>49</sup> However, most of the infrastructure development has involved the elaborate internal security system of military bases, police facilities, prisons, surveillance, and related repressive apparatuses; housing construction, subsidies, and other support for Moroccan settlers; and airport, seaport, and other transportation development designed to accelerate resource extraction, not build up the standard of living for the territory’s people. More fundamentally, the decisions on how to use the proceeds from resource extraction are being made by the Moroccan government in the capital of Rabat, not by the indigenous people of Western Sahara.

As a result, international pressure has been increasing. In March of 2015, the Peace and Security Council of the African Union called on the UN Security Council to intervene to stop the illegal exploitation of Western Sahara’s natural resources and called for a ‘global boycott of products of companies involved in the illegal exploitation of the natural resources of Western Sahara’.<sup>50</sup> International outcry placed former US Senator and Secretary of State Hillary Clinton – a leading contender in the 2016 US presidential race – on the defensive when it was revealed that the Office Cherifien des Phosphates (OCP), a Moroccan government-owned mining company that controls one of the world’s largest phosphate mines in the occupied Western Sahara, was the primary donor to the May 2015 Clinton Global Initiative conference in Marrakech.<sup>51</sup>

## The future

Since the 1991 ceasefire, the Sahrawis have fought for their national rights primarily by legal and diplomatic means, not through armed struggle. Unlike a number of other peoples engaged in national liberation struggles, the Saharawi have never committed acts of terrorism. Even during their armed struggle against the occupation, which ended 15 years ago, Polisario forces restricted their attacks exclusively to the Moroccan armed forces, never targeting civilians. The failure of the international community to defend the legal rights of the Sahrawis despite this moderation effectively sends a signal that such moderation will not be rewarded.

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*for in the Fisheries Partnership Agreement in Force between the two Parties* (Brussels: European Commission, 2013), <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013PC0648&from=EN>.

47 Per Liljas, ‘There’s a New Terrorist Threat Emerging in Western Sahara, and the World Isn’t Paying Attention’, *Time*, August 8, 2014.

48 Sarah A. Topol, ‘Amid Moroccan Investment in Western Sahara, Tensions Simmer’, *Bloomberg Business*, May 30, 2013, <http://www.bloomberg.com/bw/articles/2013-05-30/amid-moroccan-investment-in-western-sahara-tensions-simmer>.

49 Aidan Lewis, ‘Morocco’s Fish fight: High Stakes over Western Sahara’, *BBC News*, December 15, 2011, <http://www.bbc.com/news/world-africa-16101666>.

50 African Union, *Communiqué of the Peace and Security Council of the African Union (AU), at its 496th meeting held on 27 March 2015, on the situation in Western Sahara*, <http://www.peaceau.org/en/article/communiqué-of-the-peace-and-security-council-of-the-african-union-au-at-its-496th-meeting-held-on-27-march-2015-on-the-situation-in-western-sahara#sthash.TYOHI9YB.dpuf>.

51 Stephen Zunes, ‘Hillary Clinton, Phosphates, and the Western Sahara’, *National Catholic Reporter*, May 12, 2015.

The nonresolution of the Western Sahara conflict has important regional implications. It has encouraged an arms race between Morocco and Algeria and, on several occasions over the past four decades, has brought the two countries close to war. Perhaps even more significantly, it has been the single biggest obstacle to a fuller implementation of the goals of the Arab Maghreb Union – consisting of Morocco, Algeria, Libya, Tunisia, and Mauritania – to pursue economic integration and other initiatives which would increase the standard of living and political stability in the region. The lack of unity and greater coordination among these nations and their struggling economies has contributed to the dramatic upsurge in illegal immigration to Europe and the rise of radical Islamist movements.

Over the past three decades, the Sahrawi Arab Democratic Republic has been recognized as an independent country by more than 80 governments, with Kenya and South Africa becoming the latest to extend full diplomatic relations. The SADR has been a full member state of the African Union (formerly Organization for African Unity) since 1984 and most of the international community recognizes Western Sahara as Africa's last colony. (By contrast, with only a few exceptions, the Arab states – despite their outspoken opposition to the Israeli occupation of Palestinian and Syrian land – have supported Morocco's occupation of Western Sahara.)

With Morocco's rejection of the second Baker Plan and the threat of a French and American veto of any Security Council resolution that would push Morocco to compromise, a diplomatic settlement of the conflict looks highly unlikely. With Morocco's powerful armed forces protected behind the separation wall, and Algeria unwilling to support a resumption of guerrilla war, the Polisario appears to lack a military option as well.

As happened during the 1980s in both South Africa and the Israeli-occupied Palestinian territories, the locus of the Western Sahara freedom struggle has recently shifted from the military and diplomatic initiatives of an exiled armed movement to a largely unarmed popular resistance from within. In recent years, young activists in the occupied territory and even in Saharawi-populated parts of southern Morocco have confronted Moroccan troops in street demonstrations and other forms of non-violent action, despite the risk of shootings, mass arrests, and torture. The construction of a tent city of up to 12,000 Sahrawi human rights activists on the outskirts of Al Aioun in the fall of 2010 was met by severe repression from Moroccan authorities.<sup>52</sup>

The failure of the Kingdom of Morocco and the Polisario Front to agree on the modalities of the long-planned United Nations-sponsored referendum on the fate of Western Sahara, combined with a growing non-violent resistance campaign in the occupied territory against Morocco's 40-year occupation, has led Morocco to propose granting the former Spanish colony special autonomous status within the kingdom. The plan has received the enthusiastic support of the American and French governments as a reasonable compromise to the abiding conflict. As illustrated below, there are serious problems with this proposal. However, the very fact that Morocco has felt obliged to propose a special status for the territory constitutes an admission that its previous insistence that Western Sahara was simply another part of Morocco was false. As visitors to Western Sahara in recent years have noticed, not only has Morocco's 40-year campaign of assimilation failed, but the younger generation of Saharawis are at least as nationalistic as their parents.

It is unfortunate, therefore, that the Moroccan plan for autonomy falls so well short of what is required to bring about a peaceful resolution to the conflict. Moreover, it seeks to set a dangerous precedent which threatens the very foundation of the post-World War II international legal system.

To begin with, the proposal is based on the assumption that Western Sahara is part of Morocco, a contention that has long been rejected by the United Nations, the ICJ, the African Union, and a broad consensus of international legal opinion. To accept Morocco's autonomy

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52 Stephen Zunes, 'Upsurge in Repression Challenges Nonviolent Resistance in Western Sahara', *Open Democracy*, November 17, 2010.

plan would mean that, for the first time since the founding of the United Nations and the ratification of its Charter more than 60 years ago, the international community would be endorsing the expansion of a country's territory by military force, thereby establishing a very dangerous and destabilizing precedent.

If the people of Western Sahara accepted an autonomy agreement over independence as a result of a free and fair referendum, it would constitute a legitimate act of self-determination. However, Morocco has explicitly stated that its autonomy proposal 'rules out, by definition, the possibility for the independence option to be submitted' to the people of Western Sahara, the vast majority of whom – according to knowledgeable international observers – favor outright independence.

Even if one takes a dismissive attitude toward international law, there are a number of practical concerns regarding the Moroccan proposal as well.

One is that the history of respect for regional autonomy on the part of centralized authoritarian states is quite poor, and has often led to violent conflict. For example, in 1952, the United Nations granted the British protectorate (and former Italian colony) of Eritrea autonomous, federated status within Ethiopia. In 1961, however, the Ethiopian emperor unilaterally revoked Eritrea's autonomous status, annexing it as his empire's fourteenth province, resulting in a bloody 30-year struggle for independence and subsequent border wars between the two countries, which have claimed hundreds of thousands of lives.

Based upon Morocco's habit of breaking its promises to the international community regarding the United Nations-mandated referendum for Western Sahara and related obligations based on the ceasefire agreement 18 years ago, there is little to inspire confidence that Morocco would live up to its promises to provide genuine autonomy for Western Sahara. Indeed, a close reading of the proposal raises questions as to how much autonomy is even being offered. Important matters such as control of Western Sahara's natural resources and law enforcement (beyond local jurisdictions) remain ambiguous.

In addition, the proposal appears to indicate that all powers not specifically vested in the autonomous region would remain with the Kingdom. Indeed, since the king of Morocco is ultimately invested with absolute authority under article 19 of the Moroccan Constitution, the autonomy proposal's insistence that the Moroccan state 'will keep its powers in the royal domains, especially with respect to defence, external relations, and the constitutional and religious prerogatives of His Majesty the King' appears to afford the monarch considerable latitude in interpretation.

While encouraging such compromise, or 'third way' between independence and integration, as a possible win/win situation can often be a successful formula for conflict resolution in some ethnic conflicts and many international disputes, Western Sahara is a clear-cut case of self-determination for a people struggling against foreign military occupation. This is not a matter of 'splitting the difference', given that one party is under an illegal foreign military occupation and the other party is the occupier. This is why the international community rejected Iraq's proposals in 1990–91 for some kind of compromise regarding its occupation of Kuwait. The Polisario Front has already offered guarantees to protect Moroccan strategic and economic interests if allowed full independence.<sup>53</sup> To insist that the people of Western Sahara must give up their moral and legal right to genuine self-determination is therefore not a recipe for conflict resolution, but for far more serious conflict in the future.

Morocco has succeeded in resisting its international legal obligations for more than four decades through support from permanent members of the United Nations Security Council. As a result of the French and US veto threats, the Security Council has failed to place the Western Sahara issue under Chapter VII of the United Nations Charter, which would give the international

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53 United Nations Security Council, *Letter dated 16 April 2007 from the Permanent Representative of South Africa to the United Nations addressed to the President of the Security Council, S/2007/210* (April 16, 2007).

community the power to impose sanctions or other appropriate leverage to force the Moroccan regime to abide by the United Nations mandates it has to date disregarded. Polisario's unwillingness to compromise further should not be seen as the major obstacle impeding the resolution of the conflict.

Similar support from Western industrialized nations for Indonesia for many years prevented resolution to the occupation of East Timor. It was only after human rights organizations, church groups and other activists in the United States, Great Britain, and Australia successfully pressured their governments to end their support for Indonesia's occupation that the Jakarta regime was finally willing to offer a referendum which gave the East Timorese their right to self-determination. It may take similar grassroots campaigns in Europe and North America to ensure that Western powers live up to their international legal obligations and pressure Morocco to allow the people of Western Sahara to determine their own destiny.

The growth of the non-violent resistance struggle in the occupied territories offers a unique opportunity to build international awareness of the conflict among civil society organizations that could offer much-needed solidarity with the freedom struggle inside Western Sahara. Such massive non-violent action and other forms of non-cooperation provides an important signal to the Moroccan occupiers and the international community that the people of Western Sahara still demand their freedom and will not accept any less than genuine self-determination. The use of nonviolent methods of resistance also makes it easier to highlight gross and systematic violations of international humanitarian law by Moroccan occupation forces, gain sympathy and support from the international human rights community, and provide greater pressure on the French, American, and other governments which continue to provide security assistance to Morocco and otherwise support the Moroccan occupation.

Human rights groups have increasingly been highlighting the poor human rights situation in Western Sahara, which has contributed to recent diplomatic rows between Morocco and the United States, Spain, and France. Freedom House has ranked Western Sahara as having one of very worst human rights situations in the world.<sup>54</sup> In April 2015, a Spanish court indicted 11 Moroccan former officials for genocide in connection with killings and torture in Western Sahara.<sup>55</sup> The following month, Amnesty International issued another scathing report on the human rights situation, targeting the widespread torture of political prisoners.<sup>56</sup>

There is a small but growing movement in Europe supporting the Saharawi's right to national self-determination, as well as similar civil society efforts in South Africa, other African countries, Australia, Japan, and the United States. More focus on the issue of the illegal exploitation of natural resources in Western Sahara could provide proponents of international law and human rights an issue through which to challenge governments and companies which take advantage of the occupation in such a way through campaigns advocating boycotts, divestment, and sanctions. At this point, however, such movements are too small to have much impact on government policies, particular those of France and the United States, which are the two governments most responsible for the failure of the United Nations to enforce its resolutions dealing with the conflict. This can change, however. Just over 20 years ago, there was relatively little civil society activism regarding East Timor, but a dramatic growth in such activism in the late 1990s contributed to East Timor's eventual independence.

A similar campaign may be the best hope for the people of Western Sahara and the best hope we have to save the vitally important post-World War II principles enshrined in the United Nations Charter.

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54 Human Rights Watch, *Freedom in the World 2013* (Washington, DC: Human Rights Watch, 2013).

55 Carolotta Gall, 'Spanish Judge Accuses Moroccan Former Officials of Genocide in Western Sahara', *New York Times*, April 10, 2015.

56 Amnesty International, 'Morocco: Endemic Torture Used to Incriminate Suspects, Gag Dissent', *Amnesty International*, May 19, 2015, <https://www.amnesty.org/en/latest/news/2015/05/morocco-endemic-torture/>.

If the international community cannot fulfill its responsibilities on this issue – where the legal and moral imperatives are so clear – how can it deal with more complex issues? If the international community cannot uphold the fundamental right of self-determination, how can it successfully defend other human rights? If the international community cannot enforce a series of United Nations Security Council resolutions regarding such a blatant violation of the UN Charter as a member state invading, occupying, annexing, and colonizing a neighboring country, how can it enforce other provisions of international law?

The stakes are not simply about the future of one small country, but the question as to which principle will prevail in the twenty-first century: the right of self-determination, or the right of conquest? The answer could determine the fate not just of the Western Sahara, but that of the entire international legal order for many decades to come.

### **Disclosure statement**

No potential conflict of interest was reported by the author.

### **Notes on contributor**

Stephen Zunes is a prominent specialist on US Middle East policy. Professor Zunes has presented numerous lectures and conference papers in the United States and over a dozen foreign countries. He has traveled frequently to the Middle East and other conflict regions, meeting with prominent government officials, scholars, and dissidents. He has served as a political analyst for local, national, and international radio and television, and as a columnist for the *National Catholic Reporter*, *Huffington Post*, *Truthout*, *Alternet*, and *Common Dreams*. He has published scores of articles in academic journals, anthologies, magazines, and newspaper op-ed pages on such topics as US foreign policy, Middle Eastern politics, Latin American politics, African politics, human rights, arms control, social movements, and nonviolent action.



