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The Unresolved Western Sahara Conflict and Its Repercussions

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Abstract: *Western Sahara conflicts have yet to be definitively resolved. It now belongs to the category of “forgotten” or “frozen” conflicts. The conflict itself is not the only issue to have been forgotten. Power politics have overridden questions of international legality despite the unlawful occupation of the territory and the legitimacy of Sahrawi rights. What should have been a straightforward case of decolonization in the Western Sahara has become a conspicuous failure of the UN; mainly due to the disinclination of its most powerful members in the Security Council, chiefly the United States and France.*

Key Words: *Western Sahara Conflict; Sahrawi; Morocco*

I. Introduction

The Cold War came to an end over two decades ago; however, the conflict in the Western Sahara has yet to be definitively resolved. It has become an unfortunate reality that, this 34-year-old dispute now belongs to the category of “forgotten” or “frozen” conflicts. The conflict itself is not the only issue to have been forgotten. Despite United Nations resolutions, the Sahrawi refugees, their struggles, the deplorable conditions under which they live, and their recognized

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right to self-determination through a free and fair referendum, have been overlooked as well. The Western Sahara conflict only attracts sporadic attention mainly because of the national, geopolitical and economic interests of stakeholders inside and outside the region - not because of Sahrawis' legitimate rights. The occupied region is often misrepresented as an empty desert, although the territory does in fact boast rich resources and a 700-kilometer Atlantic coast of strategic importance. It is also important to mention that this territory has one of the richest fishing waters in the world: waters which are currently being illegally exploited by Morocco and certain members of the European Union. The Western Sahara's natural resources also extend to impressive mineral deposits. Valuable minerals such as iron ore, titanium oxide, vanadium, iron and, possibly, oil may be abundant throughout the territory. The territory possesses extremely rich phosphate reserves and could become one of the largest exporters of phosphates in the world. Beyond the acknowledged riches of the land, the prospects of oil and natural-gas discoveries in recent years have further complicated the resolution of the conflict.^①

What should have been a straightforward case of decolonization in the Western Sahara has become a conspicuous failure of the UN; mainly due to the disinclination of its most powerful members in the Security Council, chiefly the United States and France. This political indisposition was born from the Cold War dynamics in 1975, at which time Morocco was unequivocally anchored in the Western camp and Algeria, was perceived as an ally of the former Soviet Union.^② Having

^① See Jean-Paul Le Marec, "Exploitation illégale des ressources naturelles du Sahara occidental ;" available at: <http://www.arso.org/LemarecResnat0106.pdf>. See also the 2002 of France-Libertés Foundation's investigation in Western Sahara which documents the exploitation of the occupied territory by the Moroccans and the exclusion of the Sahrawis from such benefits. See France-Libertés. Report: International Mission of Investigation in Western Sahara the situation of the civil, political, and socioeconomic and cultural rights of the Saharawis. The situation of the economic exploitation of this non-autonomous territory (Paris: France- Libertés/ AFASPA, 2003).

^② See Yahia H. Zoubir, "The United States and Morocco: The Long-Lasting

often played a proxy role for France and the United States in defeating nationalist and anticommunist forces in Africa, Morocco benefited from strong political, economic and military support from its Western and Arab allies, which also included the wealthy Gulf monarchies. Consequentially, the United States played a key role in making it possible for Morocco to seize the Western Sahara.^①

Power politics have overridden questions of international legality despite the unlawful occupation of the territory and the legitimacy of Sahrawi rights. The consequences of this geopolitical power play include: the prevailing tension in Algerian-Moroccan relations; a freeze of the Arab Maghreb Union, instituted in 1989; the lack of feasibility of Maghreb integration; intermittent tensions in Franco-Algerian relations; occasional frictions in Moroccan-Spanish and Algerian-Spanish relations, respectively; regional insecurity and arms' race; Algeria's and Morocco's arms purchases at the expense of much-needed socioeconomic development; and cyclical uprisings in the occupied territory accompanied by human rights violations against the Sahrawis. This article also asserts that outside powers particularly UN Security Council members France and the United States and to a lesser degree Great Britain have prevented the resolution of this dispute. Their interference draws from the long-standing friendship between the United States and Morocco and the services the latter renders to the former, on the one hand, and France's considerable interests in Morocco, on the other hand.

Alliance," in Robert Looney, Editor. *Handbook on US Middle East Relations*, London & New York: Routledge, forthcoming and Yahia H. Zoubir, "Algeria and U.S. Interests: Containing Radical Islamism and Promoting Democracy," *Middle East Policy*, Vol. 9, No. 1 March 2002, pp. 64-81. This observation is confirmed by former US Secretary of State James A. Baker III; see, "Former U.S. Secretary of State, and former Personal Envoy of the U.N. Secretary General to Western Sahara, James A. Baker III, discusses the protracted conflict in Western Sahara with host Mishal Husain" *PBS TV*, August 19, 2004, accessed August 22 2004 from <http://www.pbs.org/wnet/wideangle/shows/sahara/transcript.html>.

① See, Jacob Mundy, "Neutrality or Complicity? The United States and the 1975 Moroccan Takeover of the Spanish Sahara," *The Journal of North African Studies*, Vol. 11, No. 3 (September 2006): pp. 275-306.

Morocco played a prominent role in the war against communism and nationalist forces in the past and now in the “Global War on Terror.”

There are a number of points that need to be reiterated before analyzing the recent regional and geopolitical considerations that surround the dispute. While it has become fashionable nowadays to speak about a “political solution that is mutually acceptable,” many often conveniently disregard the fact that the right to self-determination of Western Sahara, a non-autonomous territory, already exists within the framework of international law and UN resolutions. The right to self-determination is inscribed in the *Declaration of the Granting of Independence of Colonial Countries and Peoples* contained in General Assembly Resolution 1514 (XV) of December 14, 1960. In 1963, the United Nations recognized the Sahrawis’ right to independence, and it has restated that right in every resolution since. In fact, on February 11, 2004, UN Secretary-General Kofi Annan declared at the Special Committee Session of the Fourth Committee on Decolonization:

“In the twenty-first century, colonialism is an anachronism. I therefore hope that, in the year ahead, all administering Powers will work with the Special Committee, and with people in the territories under their administration [which includes Western Sahara], to find ways to further the decolonization process. After all, decolonization is a United Nations success story, but it is a story that is not yet finished.”^①

In March 2003, American and British troops invaded Iraq under the pretext that the country did not comply with UN resolutions. At the same time, the United States and France have shown no such concern for similar violations Morocco has committed since its invasion of the former Spanish colony in 1975. The territory is still *de jure* under Spanish administrative control. Spain’s attempt to transfer

^① Sixteen non-self-governing territories, including Western Sahara remain on the Committee’s list. Quotation is from UN Press Release SG/SM/9155-GA/COL/3091, 11 February 2004.

administrative power to Morocco under the Madrid Accords of November 14, 1975 has no legal validity, and indeed the UN has never recognized those Accords.^① The third point is related to King Hassan II's declarations in 1981 and 1983 which stated that he was favorable to the holding of a referendum on self-determination in Western Sahara. Of course it is common knowledge that the King only suggested a "referendum of confirmation" and had no intention of allowing a genuine referendum to ever take place, a policy continued by his son, Mohamed VI, who succeeded him in July 1999. Furthermore, Morocco accepted the UN 1991 Settlement Plan, which included the holding of such a referendum. But, as shall be seen, France and the United States, the key players on this issue at the UN Security Council, continue to propose solutions to the conflict that ignore these extremely valid principles. Not only do the political heavyweight powers choose to ignore the legal precedents and diplomatic *acquis* made over the past thirty-five years, they also continue to demand that Sahrawis make concessions to Morocco, the occupying power, without putting any pressure on the latter to comply with UN resolutions. In fact, Morocco's refusal to comply derives from the impunity guaranteed by its two supporters. This has continued until today as the analysis below demonstrates.

II. The Futility of Negotiations

The second round of informal talks between the Moroccan government and the POLISARIO Front, the Sahrawi nationalist representative, conducted under United Nations auspices and in the presence of Algeria and Mauritania as observer countries, was held on

^① For a recent, rigorous treatment of the question of Western Sahara from a legal point of view, see, Christine Chinkin, "Laws of Occupation," paper presented at the International conference on multilateralism and international law, with Western Sahara as a case study, Pretoria, South Africa, 4-5 December 2008, available at: <http://www.arso.org/ChinkinPretoria2008.htm>, accessed January 28 2009.

February 10-11, 2010. Announced as a preliminary informal meeting to the fifth round of direct negotiations between the Western Saharan independence movement and Morocco, these discussions succeeded four sessions of direct talks, which began in June 2007, without producing any tangible results. At least for the informed analyst, the latest meeting would likely hold few differences from the previous ones – which was indeed the case – even if the international context has changed somewhat since the arrival of Barack Obama (January 2009) to the White House. The Western Sahara conflict, defined as “forgotten conflict” or “frozen conflict” (Zoubir, 2010: 303-336), is approaching its 35th year; it has had significant damaging effects. A proposed regional trading bloc, *L’Union du Maghreb Arabe* (UMA, Arab Maghreb Union), inaugurated with great fanfare in February 1989, has been in hibernation since 1996, precisely because of this conflict. The question has poisoned relations between Algeria, the main sponsor of Sahrawi self-determination, and Morocco, which claims the territory it has illegally occupied since 1975. Even if it very rarely makes the headlines, the Saharawi conflict has a significant impact on the development of the region. Indeed, the lack of regional integration weighs heavily on the balance: trade between the Maghreb states represents only 1.3% of their global trade, the lowest regional trade in the world. Economists in the United States have shown that an integrated Maghreb market and a free trade area would have highly beneficial results for the populations of this region (Hufbauer, & Brunel, 2008: October). In addition, the land border between Algeria and Morocco has been closed since August 1994, seriously affecting the economic life of the city of Oujda, which depended heavily on trade with and tourism from Algeria. Morocco has repeatedly called on the Algerian authorities to reopen the border, but Algiers has decided that reopening the border without a comprehensive agreement, which would include the settlement of the conflict in Western Sahara, would be useless, no matter the cost of a non-integrated Maghreb. Furthermore, not surprisingly, tension

between Algeria and Morocco has led to a rather costly and dangerous arms race.

In addition, the conflict has generated other tensions. Besides tense relations between Algeria and Morocco, it has affected relations between France (which defends the Moroccan monarchy's irredentist claims) and Algeria, as well as relations between Spain (the former colonial power in Western Sahara) and Morocco, on the one hand, and, on the other hand, Spain and Algeria. The United States, which during the Cold War allowed the occupation of the former Spanish colony by Morocco (Mundy, 2006: 275-306), has also suffered some of the consequences in its policy in the Maghreb: Its repeated calls for Maghreb integration and improvement in Algerian-Moroccan relations have proven fruitless, especially at a time when it is consolidating its security arrangements in the Maghreb-Sahel region.

Only a geopolitical analysis can explain the deadlock that has persisted in the Western Sahara conflict. The alleged technical difficulties to ensure a referendum have been mere pretext to allow Morocco to continue its colonization of the territory. If today, powers like the United States, France and Spain, support, albeit to different degrees, the concept of "autonomy for the Sahrawi people," they have failed to impose it because international law is unequivocally on the side of the Sahrawi people (Chinkin, 2008: December 4-5).

The conflict has increased even more in intensity as younger generations of Sahrawis have resorted to active, continued peaceful resistance which has succeeded in alerting the international community on human rights issues. The case of the militant Amenatou Haidar is a perfect illustration. In fact, her hunger strike which she observed in November-December 2009 and the diplomatic implications that ensued have had such reverberations that the Personal Envoy of the Secretary General of the UN, Christopher Ross, asked the UN Security Council on January 28, 2010, during a closed-door meeting to include human rights monitoring in the prerogatives of the UN Mission for Western Sahara (MINURSO) - the

only United Nations peacekeeping force that does not have as part of its mandate the protection of human rights. The same request had been made in 2009 but France opposed it in April 2009. On 30 April 2010, France once again opposed the inclusion of the protection of human rights in MINURSO's mandate. Therefore, UNSC Resolution 1920, which has extended MINURSO's mandate for another year, does not contain any mention of human rights. In the meantime, the violations of human rights in occupied Western Sahara have in fact amplified despite their denunciations by respectable human rights organizations, such as Amnesty International or Human Rights Watch. The lack of resolution of the Saharawi conflict boils down to two main points: the conflicting positions of Moroccans and Sahrawis, on the one hand and geopolitical considerations on the other hand. These geopolitical interests have been the main impediment to the resolution of the conflict because they strengthened the obstinate position of the Moroccans who argue that due to external support they will only negotiate the "autonomy" proposal which enjoys the implicit consent of France, the United States, and Spain, regardless of UN resolutions that refute any preconditions for the negotiations.

III. Moroccan and Sahrawi: Irreconcilable Positions

Despite the acceptance of the peace plan by Morocco and the POLISARIO Front in 1991, all attempts to organize the referendum on self-determination of the last colony in Africa have failed. Since 2001, Morocco has continuously opposed the inclusion of the option of independence to any referendum process based on self-determination. Today, Moroccans consider the referendum process altogether as an "obsolete practice." They are comforted in their position owing to the backing they receive from France and the United States at the Security Council. The UNSC refused to impose a solution that includes the option of independence, as inscribed in UN resolutions. In 2003, as the UNSC failed to impose the Baker Plan II owing to US volte-face but

also because France made clear it would exercise its veto to such imposition. Recently, France, the US (under Bush) and then Spain made no doubt as to their support for the proposal Morocco made in 2007 of supposedly granting Sahrawis “autonomy” within the Moroccan Kingdom. Implicitly, these countries have recognized Morocco’s occupation over Western Sahara, although adopting an official position that indicates that they do not recognize Morocco’s sovereignty. Thus, since the adoption on April 30, 2007, of UN resolution 1754, Moroccans have reiterated their position that they would not negotiate anything other than their own proposal, insisting that they have garnered support from France and the United States under the administration of George W. Bush, as well as under the current Barack Obama Administration, following Hillary Clinton’s declarations in Morocco in November 2009. During all the meetings they held with POLISARIO representatives, Moroccan officials refused to discuss the Sahrawis’ counter-proposal thus bypassing UN resolutions which insist on “negotiations without preconditions and in good faith...with a view to achieving a just, lasting and mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara...” The Sahrawis’ counterproposal submitted to the UN in 2007, which is more in line with international legality, does not reject outright the Moroccan option, but insists that the autonomy proposal be considered only as a third option (independence and integration being the others) as part of talks between the two parties. POLISARIO has also committed to accepting the results of the referendum whatever they are and to negotiate with the Kingdom of Morocco, under the auspices of the United Nations, the guarantees that it is prepared to grant to the Moroccan population residing in Western Sahara, as well as to the Kingdom of Morocco, in terms of Morocco’s political, economic and security interests in Western Sahara, in the event that the referendum on self-determination would lead to independence (ARSO, 2007: April 10).

The perpetuation of this impasse is inevitable despite the optimism of US diplomat, Christopher Ross appointed in January 2009 to serve as UN Secretary General Ban Ki-moon's Personal Envoy. Prudently, Ross had first arranged for an informal meeting between the two parties in Dürnstein, Austria, on 10 and 11 August 2009. Unsurprisingly, no progress was made despite a fairly positive statement issued at the end of the meeting. The two parties however agreed to pursue yet another informal round of discussions in Armonk, New York. According to Ban Ki-moon, the meeting would be "based on guidelines provided by resolution 1871 (2009) and other previous resolutions of the Security Council." But the reality on the ground was and still is favorable to Morocco, not only because it has consolidated its colonization of the territory, but it also exploits illegally with no fear of punishment the natural resources of Western Sahara, primarily phosphates and fisheries. The European Union is complicit in this exploitation through the fisheries agreement with Morocco, which includes Western Sahara, notwithstanding the opinion that the European Parliament has expressed on the reasonableness of EU policy; in fact, it deemed EU fishing in Western Saharan waters to be illegal. In view of Morocco's intransigence and the support it receives from external actors, it is thus not surprising that the second informal meeting held in New York to prepare for the 5th round failed, like the previous ones to produce any tangible results. Given that neither side has accepted the proposal of the other as the sole basis for future negotiations, it is obvious that short of unforeseen developments, the status quo will undoubtedly persist.

IV. Geopolitics as Impediment to Resolution of the Conflict

The United Nations is responsible for the decolonization of Western Sahara, but the key to breaking the stalemate and implementing the legal solution lies in the hands of France and the United States which, even if they do not recognize Morocco's

sovereignty over the territory, allowed the latter to consolidate its control over it. The ingredients that have led to the status quo are in fact contained in UN resolutions, which while reaffirming the right to self-determination for the Saharawi people encourage the latter to seek with Moroccans, the colonizers, a “mutually acceptable” political solution (Theofilopoulou, 2010: April 23). In other words, each party has a veto, even if Morocco has the advantage.

France regardless of its official position considers Western Sahara as an integral part of Morocco. Since 1975, successive governments have never hidden their opposition to an independent Sahrawi state that would purportedly fall under Algeria’s influence. In addition, the emergence of an independent Sahrawi state is seen as a destabilizing factor for the Moroccan Kingdom, in which France has considerable political, economic, military and cultural interests. With nearly 70 percent of total Foreign Direct Investments in Morocco, France is the largest trading partner and major investor. France’s steadfast support of Morocco’s irredentist claims has inevitably complicated further Algerian-French relations. The French government is of the conviction that the resolution of the conflict is between Algiers and Rabat, an attitude that irritates Algiers, which considers the conflict to be a question of decolonization and self-determination.

The United States, too, supports the position of Morocco, a reliable ally in the Arab world (Zoubir, 2009: 237-248). A priori, the US does not oppose the right to self-determination of peoples, but in the case of Western Sahara, geopolitical considerations determine the US attitude toward the question. There were times, as under the Bush senior administration, in the late 1980s, when the US was open to the idea of an independent Sahrawi state. Then in 2003, the US, supported the second Baker Plan, under which the Saharawi were to have autonomy for a period of five years before the holding a referendum on self-determination that would include the three options, of which independence was one, inscribed in UN resolutions. Moroccans have objected to such referendums in spite of the numerical advantage of

Moroccan settlers in the territory. At the time, the first Bush administration had promised Algerians that if they and the Sahrawis accepted the plan, the United States would impose that solution at the Security Council. However, perhaps not wishing to aggravate the rift with the French over the issue of Iraq, coupled with the threat of a veto from France, pushed the United States to renege on its promise. The Bush administration supported the Moroccan autonomy proposal despite its illegality--for what gives Moroccans the right to offer autonomy to Sahrawis--and its utter ambiguity (Miguel, 2007: June 15).

It would be naive to believe a reversal of US position in this conflict under the current Obama Administration despite the seeming shift in attitude towards the autonomy proposal. There have been some signs indicating that the Obama administration may not be decidedly biased in favor of Morocco. Indeed, in June 2009, it appeared that the US no longer supported unequivocally the Moroccan autonomy plan; Obama's evading the mention of the autonomy plan in his letter to King Mohamed VI was interpreted as a reversal in US policy on the question. A passage in the letter was particularly revealing: "I share your commitment to the UN-led negotiations as the appropriate forum to achieve a mutually agreed solution...My government will work with yours and others in the region to achieve an outcome that meets the people's need for transparent governance, confidence in the rule of law, and equal administration of justice." (World Tribune, 2009: July 9). Citing diplomatic sources, the report in which the letter was quoted suggested that "The United States no longer supports or endorses the Moroccan autonomy plan . . . Instead, the administration has returned to the pre-Bush position that there could be an independent POLISARIO state in Western Sahara." (World Tribune, 2009: July 9). US officials refused to confirm or deny such reports, stating only that the US encourages the parties to engage in discussions under the United Nations auspices (See Elmuhaier TV). Undoubtedly, by referring to international legality, which in the case of Western Sahara

would include the option of independence, Obama seemed to abide by the values he promised to uphold. However, as UNSC Resolution 1920 makes clear, the United States does not seem to have undertaken any shift in policy toward Western Sahara. What is certain is that the administration is torn between continuing to support a traditional ally and setting a new course that would contradict the interests of that ally. The conflicting pronouncements in Obama's letter and those issued by Hillary Clinton during her visit to Morocco in November 2009 highlight the policy constraints of the Obama administration. During her visit to Marrakesh in November 2009 to attend the Forum for the Future, Clinton responded to the question as to whether the Obama administration had changed its position on the autonomy plan by saying that, "Our policy has not changed, and I thank you for asking the question because I think it's important for me to reaffirm here in Morocco that there has been no change in policy." (Clinton, 2009: November 2). In another interview, she was asked, what she meant by her affirmation that there was "no change in the Obama Administration's position as far as the Moroccan autonomy plan in the Sahara is concerned." Her response was:

This is a plan that originated in the Clinton Administration. It was reaffirmed in the Bush Administration and it remains the policy of the United States in the Obama Administration. Now, we are supporting the United Nations process because we think that if there can be a peaceful resolution to the difficulties that exist with your neighbors, both to the east and to the south and the west that is in everyone's interest. But because of our long relationship, we are very aware of how challenging the circumstances are. And I don't want anyone in the region or elsewhere to have any doubt about our policy, which remains the same (Clinton, 2009: November 3).

This being said, the US displayed a tougher stand toward Morocco during the hunger strike of Haidar. The US was instrumental in resolving the case (Rhanime, 2010: January 22), thus making it possible for Haidar to return to Western Sahara. However, powerful

lobbies, including the American Jewish Committee in Washington have urged the US Senate to support Morocco (Isaacson, 2010: March 10); numerous Senators, in turn, pushed the White House to resolve the conflict along the Moroccan proposal (PR Newswire).

One of the major questions to be asked is whether the White House, despite the seemingly evenhanded approach, will succumb to the Senate's pressure to endorse Morocco's illegal annexation of Western Sahara (Zunes, 2010: April 7), at the risk of alienating Algeria, a major US partner in the war against terrorism in the region (Zoubir, 2009: Autumn, 977-995), and an important oil producer.

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