

The Role of the United Nations Resolutions in Achieving Justice and Peace in the Western Sahara Conflict: A Case Crisis of Relevance

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Abstract

Since the founding of the United Nations, it has successfully played the proper role in international disputes, though sometimes failures remain. Each case has its causes and ends. This paper aims to analyze the UN Resolutions to argue how to implement international legal principles and resolutions in constructing world order and international governance. The case study is the key focus of this paper and tries to highlight the impact of UN failure in terms of peace development and the UN consistency with international law. The case analysis uses the example of the UN's failure in resolving the Western Sahara conflict as an African problem. It also argues the interests of foreign states involved in the Western Sahara issue and the new balance of supported powers imposed by the Arab and African alliance in the face of regional rivalry. Finally, the paper explains and assesses the challenges and difficulties that the role of the United Nations Security Council as well as the personal envoys of the UN Secretary General for Western Sahara have been facing since the conflict in Western Sahara territory transformed into a regional proxy war, in which several neighboring states around the Maghreb region, such as Algeria, Mauritania, and the African Union states, as well as the Polisario Front, used free force to reach their geopolitical outcomes.

Keywords

Western Sahara, Morocco, Algeria, Polisario United Nations, UN Resolution, North Africa

1. Introduction

In 1884, previously a Spanish colony known as Spanish Sahara, the area is characterized by a historical and ongoing territorial conflict between the Kingdom of

Morocco and the Sahrawi rebel movement the Frente Popular de Liberación de Saguía el Hamra y Río de Oro, known as the Polisario Front which is backed by Algeria. A dispute marked by colonization, decolonization, invasion, and an intermittent political stalemate has given rise to “one of the longest, most intractable conflicts in Africa” (Mundy, 2009).

The conflict in Western Sahara started in 1975 after the Spanish withdrew as a colonial power, allowing the Kingdom of Morocco to legalize this region. Morocco’s possession was challenged by the Polisario Front; a group that had been created to fight for independence from Spain (Volman, 1991). Originally, the Polisario began effective guerrilla warfare against the Moroccan forces, with extraneous support from Algeria. The United Nations (UN) was involved in and brokered a ceasefire in 1991 that prevented the war between Morocco and the Polisario Front and began a new adventure of diplomatic scenes and peace settlement resolutions to the Western Sahara dispute. The United Nations has indeed been so keen on promoting its resolutions of peace and stability in the conflict of Western Sahara, yet in response to all its resolutions to solve this issue, the UN was trapped at the edge of a puzzling conflict that required regional states’ efforts to end this territorial dispute. All these circumstances explore the reasons that caused the United Nations (UN) failure of the peace settlement in terms of International law doctrine. Due to this complicated Western Sahara’s status, this peace agreement brought about an end to active confrontation, but in the end, it did not resolve the dispute. Voting on the referendum was frequently delayed, and diplomatic discussions still existed, making the Western Sahara conflict remain neglected and generally unresolved for more than half a century.

2. Historical View of Western Sahara

Western Sahara has been called the “old disputed desert” on the African continent. It is located in the northwest of Africa and it has nearly about 266,000 square kilometers of Sahara land. In geopolitical terms, Western Sahara is also rich in natural resources, for instance, having one of the biggest sources of phosphate¹ in the world and offshore. At the same time, it is conspicuous about the possibility of oil and natural gas exploitation. Besides this, Western Sahara has more than 720 miles of coastline with rich fishing resources that have attracted canary islanders for many centuries. For not only economic but also political reasons, Moroccan nationalism is based on the “notion of recovering the lost territory of Moroccan Sahara” (Western Sahara)²—it is hard for the Moroccan government to compromise on a solution. Furthermore, because of the geopolitical interest of powerful states, particularly the United States and France, Morocco has continued the possession of its lost territory without strong pressure from the international community.

¹Morocco is one of world’s largest exporters of phosphate (Europa Yearbook, 1999).

²Yahia H. Zoubir and Daniel Volman (eds.), *The International Dimension of the Western Sahara Conflict* (Westport, CT: Praeger, 1993); Ali Bahajjoub, *Western Sahara Conflict: Historical, Regional and International Dimensions* (London: North-South Books, 2010).

Historically, in 1884, Spain, a latecomer to the colonial scramble for Africa, seized Western Sahara. Local tribes refused to accept this territorial claim, instead choosing to engage in a 50-year fight against the colonial power for control over the land. After Morocco won independence from its northern territory in 1956, Spain maintained control over the coastal region of the country known as the Western Sahara. June and July 1956 marked the start of the Morocco Liberation Army's (MLA) actions and two major Saharan tribes—Tekna and Reguibat—against Spanish rule to have Western Sahara reintegrated into Morocco (Attilio, 1972).

The Polisario Front was set up on 10th May 1973, and established itself as the sole representative of the Sahrawi people, with support from the Algerian government and other African states.

3. The Factual Dispute of Western Sahara Territory

In 1963, Morocco successfully lobbied to have the United Nations (UN) formally declare Western Sahara a non-self-governing territory and requested Spain to decolonize it under General Assembly Resolution 1514 (XV) of 14 December 1960 (Rockower, 2002). The Polisario Front was set up on 10th May 1973, and established itself as the sole representative of the Sahrawi people, with support from the Algerian government and other African states.

In October 1975, during the Green March, 350,000 Moroccan citizens crossed the frontiers into the Western Sahara as a significant action to recover the missing land. Spain, Mauritania, and the Kingdom of Morocco signed to divide the territory between Mauritania (one-third) and the Kingdom of Morocco (two-thirds).

The early Saharawi movements did not aim to separate Western Sahara from Morocco, instead, they wanted to fight the French and the Spanish alongside opposition parties from Rabat. Stephen J. King et al. explicitly stated that “[t]he Basiri-led independence movement hoped for a Western Sahara integration with Morocco. He had studied in Morocco and, in 1966, briefly published a periodical in Morocco called *Al-Shihab* (The Torch), which espoused Moroccan claims to Western Sahara” (2013: 74). The El Ouali Mustapha Sayed led-movement sought help from political parties. The group met with Allal El Fassi, the UNFP, the PLS, and the trade Morocco Union to seek support, but the Moroccan authorities did not respond to their request. Accordingly, these Sahraoui students “lost patience with the Moroccan opposition parties, who, despite their verbal anti-Spanish militancy, they were not prepared to provide any practical support” (Hodges, 1983). Lacking the necessary support from the Moroccan government, the group started to consider itself a more autonomous entity and began to think about the notion of an independent Sahraoui state, especially after Morocco began to oppress protesters who took to the streets to protest against Spanish colonization.

The Sahrawi Arab Republic (SADR) was declared by the Polisario Front in 1976. The Polisario Front and their supporters sought refuge in Tindouf, in South

West Algeria with the help of the Algerian military. Since Spain officially withdrew, the two military forces, Morocco and Mauritania were in the role of most of Western Sahara. In 1979, Mauritania abandoned its interests in the territory of Western Sahara, and the Kingdom of Morocco reintegrated it (Durch, 1993; Smith, 2005). In addition, in time the Polisario Front restarted to undermine Moroccan forces. As a result, the Moroccan government decided to build up the Berm; a 2200-kilometer-long and heavily militarized sand wall to keep out the guerilla fighters of the Polisario Front. In 1988, the United Nations brokered a ceasefire, and made up a peace plan in partnership with the Organization of African Unity (OAU) (Durch, 1993; Smith, 2005). In 1991, the ceasefire agreement initiated by the UN and the United Nations Mission for the Referendum in Western Sahara (MINURSO, 2013) force was deployed. The fundamental step of the MINURSO was to label and register Sahrawis voters and to supervise the referendum (Durch, 1993; Smith, 2005). In 1988, both parties signed upon some principles for being registered as a voter in the referendum. The condition covered being a Western Saharan included in the 1974 Spanish Census of the population in the territory and being aged 18 years (Sola, 2006). The accurate plan for the settlement proposals was announced in 1991, with some changes. The condition for being classified as a voter in the referendum was changed from the original ones. The order was now to update the 1974 census by deleting deceased Sahrawis people from the list and consider applications by Sahrawis previously deleted. The introduction of a proposal process for individuals not recovered from the voters' list was also an important change. Sola (2006) highlights that the peace plan was implemented to Morocco's policies by the involvement of the new condition of ability by including all of the Sahrawis with family or blood ties to the region. Noting that these families fled the western sahara to other regions in Morocco after the eruption of The Polisario Front disagreed with the new condition. This position was shared by the former UN Secretary-General, Javier Perez de Cuellar who stated that the Spanish census of 1974 could not be the main basis to conduct the referendum. He claimed that the Sahrawis nomads are in constant move across national borders, whether for economic reasons because of the harsh weather, or to flee colonialism and wars. At the end of 1999, after several interruptions, the identification commission showed a conational voters list of 86,386 voters. Currently, the voters' list was faced with 131,038 appeals. The UN was unwilling to reject these calls and diplomatically dropped the 1991 Settlement Plan. Kofi Annan asked James Baker to find out the capabilities for an intermediate resolution. Baker came up with the structure Plan in 2001. The plan approves a period of autonomy before the referendum, and that all settlers in the territory are allowed to vote. The plan was refused by Polisario Front, the Kingdom of Morocco, and the UN Security Council. In 2003, Baker recommended the Baker Plan II. The plan was an upgraded version of the new structure Plan. The Polisario Front willingly accepted the new peace plan. Morocco rejected the plan, arguing that Baker's new proposal was aligned with the failed Settlement Plan, reintroducing the

holding of the referendum that would provide the concerned parties with the initial options. This plan did not consider the sociological, tribal, and ethnic composition of the population of Western Sahara, as well as the need for the genuine adhesion of all populations to the status given to them.

After Morocco's official rejection of the plan, the UNSG's Personal Envoy James Baker resigned, resulting in a sudden end to UN and US mediation efforts. After a two-year gap, the Secretary-General appointed Peter van Walsum to the post in 2006. Morocco decided to reinvigorate its autonomy plan for Western Sahara on April 11th, 2007. The proposed autonomy plan presented by Morocco asserted that it was based on internationally recognized norms and standards, and detailed the proposed powers of the Sahara autonomous region, the bodies of the region, and modalities for approval by the population concerned with the statute. Through US Undersecretary of State Nicholas Burns, the US quickly welcomed Morocco's proposal, characterizing it as serious and credible (ElPais, 2008). The Moroccan initiative was not a decisive solution but provided a platform for negotiation. On the other hand, the Polisario Front proposed an anti-draft proposal to Morocco's autonomy plan. The opposing plan supported self-determination towards a free referendum with sovereignty as an option. The Polisario Front proposal proposed some deals, for instance, guaranteed citizenship for all Moroccan residents in the area.

4. The United Nations Resolutions

The Dispute in Western Sahara is treated as a non-international armed conflict. Protocol II of the 1977 Geneva Convention describes non-international armed conflicts as "disputes on the territory of one of the High Contracting Parties between its armed forces and dissident armed forces or other armed groups and under the responsible command of a part of its territory of control so that it can conduct continuous and coordinated military operations" (Protocol II), 8 June 1977. The interference of the Security Council in such subjective conflicts is focused on the principle of the international protection of civilians under international humanitarian law, according to the 2005 Sovereignty and Non-Intervention Committee. In this way, the Security Council's interference in the conflict of Western Sahara is distant from the stages of its development. The International Court of Justice also acknowledged the Security Council which is the unrestricted authority to interfere in non-international armed conflicts toward its decision that this conflict forms to be a risk to international and regional peace and security, while its powers are limited to making recommendations to the parties of the conflict to settle down the dispute peacefully. By analyzing resolutions made by the United Nations concerning the conflict in Western Sahara, it is noteworthy to highlight the most important cases in which the Security Council has experienced many challenges to overcome and settle disputes that represent a threat to international peace and security:

- 1) The occurrence of violations of human rights and international humanitarian

law: the high level of violence in the conflict and the high number of refugees disrupt access to humanitarian assistance in Tindouf Camps to those in need.

2) The use of weaponry in the conflict against civilians or refugees.

3) The embezzlement of EU humanitarian aid intended for Tindouf camps in Algeria.

4) The failure to conduct the census in Tindouf Camps which led to social up rising.

In the framework of the interference of the United Nations and foreign states to supply and sustain humanitarian assistance, two significant issues must be identified:

First of all, to support the state to safeguard its citizens and supply humanitarian assistance, which must be subject to the consent and needs of the state concerned.

Secondly, the United Nations' interference to respond to a humanitarian armed crisis, should be connected to the Security Council's decision to be able to protect its citizens, and interfering in this situation includes a variety of diplomatic and coercive measures to protect citizens.

Finally, the United Nations must act and engage itself in the preservation of international peace, security and the protection against invasion. When the UN resolutions are taken under Chapter VI, as the Sovereign and Prevention of Intervention Committee have concluded, military interference by the United Nations can only be justified when non-military alternatives fail to resolve the conflict or crisis peacefully, and when there are objective circumstances to believe that peaceful measures will not succeed in resolving the conflict such as the case of Western Sahara conflict.

5. Analyzing the UNSC Resolutions

In the following parts of analyzing the UNSC, the review of some content of the UN Security Council resolutions has been selected for the legal approach of the United Nations and intervention in Western Sahara between 1991 and 2014. The UN documents for Western Sahara Security Council Resolutions were chosen under subsequent framework measures that formed the peace settlement process in the Western Sahara conflict. Although this chronological analysis is formally written in The United Nations Security Council Report³. Starting with the first UNSC Resolution 690, dated April 29, 1991, emphasizes the organization and the supervision by the United Nations of a referendum for the self-determination of the Sahrawi population and called the Secretary-General to maintain the UNSC posted on the status of the settlement plan. It points out the cooperation of the organization of the African Unity (OAU) in the establishment of the Settlement Plan. Due to this, UNSC Resolution 1108, dated May 22, 1997, mentions extending the MINURSO mission Mandate in Western Sahara's disputed territory. It

³The United Nations Security Council Reports and Resolutions in UNSC regarding the Western Sahara Conflict 1991-2014.

highlights the implementation delay of the referendum as agreed with both parties in the 1991 settlement plan.

UNSC Resolution 1238, adopted on May 14, 1999, proposes the resumption of the identification of the voters illegible to take part in the referendum. It mentions the acceptance by both parties (the Kingdom of Morocco and the Polisario Front) of the set of preferences made by the UN Secretary-General Kofi Annan in line with the identification, the appeals, and the new schedule for the referendum.

UNSC Resolution 1292, updated on February 29, 2000, restates the commitment of the United Nations to implement what the parties have agreed upon, regarding the Referendum, during the 1991 settlement plan. It emphasizes the existence of potential issues and endorses the UN Secretary-General Personal Envoy to Western Sahara to examine and update new resolutions of these conflicts while consulting with both parties.

UNSC Resolution 1301, on May 3, 2000, encourages both parties to give the UN Secretary-General Personal Envoy the final proposal's plan agreed upon to prevent the issues that are blocking the implementation of the Settlement Plan.

UNSC Resolution 1309, adopted on July 25, 2000, notes the area of disagreements between Morocco and the Polisario over the Settlement Plan. It urges both parties to explore another mutually agreed solution for the conflict over Western Sahara.

Yet, the UNSC Resolution 1359, adopted on June 29, 2001 outlines the Polisario Front proposals to renew the implementation of the Settlement Plan, taking into account the draft of the Framework Agreement formulated by James Baker, the UN Secretary-General Personal Envoy to Western Sahara, without removing self-determination for the Sahrawi population. It pushes both parties to negotiate the draft of the Framework Agreement and also other possible political solutions that could reach a mutually agreed-upon settlement.

UNSC Resolution 1394, dated on February 27, 2002, deals with the four options mentioned in this UNSC report for the future of the Western Sahara conflict. It examines the failure of cooperation and commitment of both parties with the United Nations to settle down this longstanding dispute.

UNSC Resolution 1495, adopted on July 31, 2003, points out that the unsolved conflict of Western Sahara stops the development of the Maghreb region. It backs, under Chapter VI, the Baker Plan II as a reasonable resolution to the conflict if mutually agreed upon by both parties. It urges the Polisario Front to release all the remaining prisoners of war without further delay.

UNSC Resolution 1541, adopted on April 29, 2004, restates the UN commitment to help both parties to reach a final political solution that ensures the self-determination of the Sahrawis people and highlights that this settlement needs the cooperation of both parties and the neighboring states, especially Algeria and Mauritania.

Additionally, UNSC Resolution 1754, voted on April 30, 2007, described the Moroccan proposal for the autonomy of Western Sahara territory, handed to the

UN Secretary-General on April 11, 2007, as a credible and reasonable effort which can lead to a final settlement of the conflict. It highlights the need for direct negotiations without any requirements.

As noted, UNSC Resolution 1813, adopted on April 30, 2008, illustrates that the status quo is not an acceptable solution and that the progress of the negotiations will have to enhance the living circumstances of the Sahrawi population. It pushes both parties to maintain cooperation and negotiations with the supervision of the UN.

6. The Practice of the United Nations Consistent with International Law

Under the UN guidance, the Western Sahara dispute has seen divergent shifts, especially in the practice of the Security Council in its involvement regularity of international law. Article 1 of Protocol II to the 1977 Geneva Convention states that “the provisions of this Protocol shall not apply to situations of internal unrest and tension”;⁴ therefore, the intervention of the Organization of African Unity and the Maghreb-Arab Union States and other States and their support of the opposition groups (SADR) at this stage of the armed conflict is investigated. Accordingly, the Security Council concludes to extend the mandate of MINURSO and calls on the parties, Morocco, Algeria, the Polisario, and Mauritania, to cooperate with the UN mission, including its free interaction with all interlocutors, and to take the necessary moves to guarantee the security. Additionally, the Moroccan government has the right to accept the mediation of the Maghreb-Arab Union States that the Security Council resolutions 2044 (2012) and 2044 (2012) supported ending the issue and reaching progress through a political solution on the Western Sahara conflict in contravention of the UN Charter and international law.

In the same way, Security Council Resolution No. 1979 (2011) violated the international by laws for providing humanitarian assistance to aid agencies in coordination with the government of the targeted state (Tindouf Camp in) Algeria. The Moroccan government’s role was bound to assist the humanitarian aid escorts while neighboring states (Algeria) were fully responsible for implementing the monitoring mechanism, health assistance, and subduing of their demilitarization process. Besides, the Security Council welcomed the creation of a National Council on Human Rights in Morocco and the proposed constituent regarding the Western Sahara conflict, and the commitment of Morocco to guarantee unqualified and retained access to all Special Procedures of the United Nations Human Rights Council and also notes the importance of the parties to maintain the process of diplomatic negotiations under the United Nations—supervision talks. To that extent, all Security Council outcomes on the resolution of the conflict in the

⁴Adopted on 8 June 1977 by the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts Entry into force: 7 December 1978, in accordance with Article (full accessed <https://www.ohchr.org>).

Western Sahara impasse refer to the liability of non-state armed groups, creating crimes of human rights, the existence of slavery and servitude, and blocking all states from maintaining to back these groups, as well as human trafficking and arms smuggling to them. Although, the failure of the Security Council to step in to take any measures against those countries that keep on discarding international legitimacy is considered contrary to the Charter of the Commission and is a peril to international peace and security.

7. The Impact of UNSC Involvement in Western Sahara

Since the beginning of the Western Sahara conflict, the Security Council has ratified its commitment to the sovereignty and territorial integrity of Western Sahara as a part of Moroccan conflictual territory and to the United Nations Charter and its principles in resolution S/RES/1495 (2003) which highlights that the regular violations of the Western Sahara territorial sovereignty through a direct Polisario Front aggression endorsed by the Algerian coalition as well is illegal. The only legitimate intervention is the MINURSO's intervention, which came through the request of the legitimate government of Morocco, under the Charter of the United Nations and must be recognized in legitimacy and coordination with the government of Morocco by the states wishing to or not to advance to settle the Western Sahara impasse within the Moroccan integrity. Despite this, the Security Council did not decide to prevent Algeria from enduring its irresponsible practices, which allowed it to replay aggression against Sahrawis in Tindouf Camp throughout the Western Sahara conflict.

The Council acknowledged that: "the peril of the Polisario Front (SADR) groups and terrorist-affiliated organizations in Western Sahara and its borders towards its resolution S/RES/1979 (2011)". Seemingly, the reports of the African Union and the UN observers as well as documents of the Secretary-General of the United Nations all highlight the existence of the Polisario (SADR) groups who carry out armed-operations which supported the import of money and weapons that would facilitate these groups to take control over the Western Sahara.

Accordingly, it makes sense to see Resolution S/RES/1979 (2011) as a reflection of the classical possibility of including armed groups (SADR) on terrorist lists, which highlights the lack of a coherent classification of terrorist groups. This provides the extension of the conflict due to the involvement of regional and international actors in advocating armed groups (Polisario Front) which would then make them identified as terrorist-supporting states after being assisted as Saharawi human rights supporters. Many members of the Polisario groups have been increasing the Islamic banner since the starting point of the Western Sahara dispute (Damis, 2003).

Yet, the Security Council hasn't taken any serious action to stop states (Algeria) from supporting armed groups such as the Polisario Front outside its UN framework or to enact states to fulfilling their obligations to fund humanitarian response plans of up to 15% while asking for neighboring states not to interrupt the

UN response plan to compromise a political settlement for the Saharawi people and the Western Sahara impasse as a whole. The Security Council did not seek any report on the circumstances of Sahrawi refugees in these camps and no action was taken in the sense of accusation of vulnerability to illegitimate practices and disciplines by those states particularly (Algeria).

Since the Western Sahara tension started between Morocco and the Polisario Front (SADR), the African state's attention focused on the prospects of the disagreement between Algeria-backed SADR and Morocco. At that point, the Security Council intervened in 1984 as a supporter of the settlement resolution of the Polisario Front (SADR) through its support for the decisions of the African Union States, with the unwavering support of the Algerian government, including the their recognition as a legitimate representative of the Saharawi people, and despite the acceptance of the documents of the international observers and resolutions issued by the Council on human rights abuses and mistreatments committed against the Saharawi people, that they call on the legal authorities in the Kingdom of Morocco to negotiate with their SADR representatives on the future of the Western Sahara dispute, and the protection of its population.

For sure, the Security Council has linked the political resolution of Western Sahara to the consensus of conducting the diplomatic negotiations with Algeria and its counterpart the SADR's representatives, which are already connected to the positions of the advocating and funding states, which was approved by the Council in its resolution S/RES/2044 (2012). With this, the Council certifies the close link between the ceasefire and the launching of the political settlement process.

In all the UNSC decisions, the Council declares that the Sahrawi people will determine the future of the Western Sahara. However, this Council decides to create a Transitional Governing Committee with all involved powers and to modify the resolutions and other peace settlement procedures of the final political resolution process. The Council acknowledges that its conditions will be agreed upon between the representatives of the Polisario Front (SADR) and the legitimate authorities of Morocco. The function that the UN observers will play in pushing the conflictual parties to complete the process of a peace settlement which will be decided upon, and the fact that the reports of the UN Secretary-General to the Security Council show the SADR's rejection of any solutions implemented by Moroccan authorities.

In UNSC affairs, "consensus" means the accepted framework in which the involvement of the Security Council as a party to the conflict reflects the adjustment of disputes through diplomatic negotiation as the only legitimate way. Yet, its decision, the resulting balance of world power highlights the argument that the most significant role in determining the plans for ending the dispute in Western Sahara will be fixed on the outcomes of these international balances, while the role of the Council will be restricted to interpreting these balances into a plan that will pave the way for a post-end-of-the-dispute time.

8. The Role of the Personal Envoys of the UN Secretary-General for Western Sahara: Continuity and/or Change

For more than half a century, the United Nations has sought to resolve the Western Sahara dispute, balancing and settling the concerns of the main parties' goals: autonomy/sovereignty and self-determination. The status quo is the outcome of an unusually significant and consistent set of factors. First, interest from the international community in this conflict is small, and insufficient international attention is given to the conflict, despite the continuing major threats of terrorism developments and the spike in instability and insecurity in the Sahel and neighboring regions, where links between Al-Qaeda in the Islamic Maghreb (AQIM) and the Polisario Front have been revealed. Second, the persistence of the intermittent historical tensions between Algeria and Morocco as well as Algeria's lack of genuine commitment to resolving this dispute seriously hinder its resolution.

In the UN, the lack of political momentum reveals the divergence of intentions between states in the UNSC or UNGA, or the upcoming rounds of negotiations. The conflict tested James Barker's imagination and patience from 1997 to 2004 during which he proposed a referendum that did not lead anywhere. His successor as the UNSG's Personal Envoy to Western Sahara, Peter Van Walsum, resigned after three years because he believed that independence was not a viable solution. For Van Walsum, the referendum was a "recipe for violence", but a political solution based on direct negotiations between the protagonists was seen as the only reasonable option. Direct negotiations without preconditions, it was argued, should work out a compromise between international legality and political reality which would provide for the self-determination of the people of Western Sahara. The Polisario along with Algeria refused to continue the negotiation process under Van Walsum's supervision and held no confidence in him as the Security General's envoy. A few weeks later, the UN Secretariat ended Van Walsum's contract and Christopher Ross took over.

Taking up where Van Walsum left off, Ambassador Christopher Ross—one of the US's leading Middle East diplomats—started to mediate the four-decades-long conflict. Before joining the UN, Christopher Ross served as the U.S. Ambassador to Syria and Algeria. In his post in Algeria where he served from 1988 to 1991, Ambassador Ross was successful in establishing personal ties with many Algerian officials and diplomats.

Mr. Ross' mandate was to work with the parties and neighboring states based on the UN Security Council resolution 1813, which calls on the Council to assist the parties to achieve a just, lasting, and mutually acceptable political solution. His first visit to Morocco and the region from February 18-24, 2009, was a time for him to get in touch with the parties, to hear their views on the next rounds of negotiation, and to study the conditions of the preparation of the fifth round of the process, which was launched in 2007.

Morocco reaffirmed to the Personal Envoy its commitment to implement the

Security Council Resolution 1813 within the framework of the continuation of the work done by Mr. Van Walsum and to enter into an intensive and substantial phase of negotiations, based on the Moroccan autonomy initiative.

Ross served for eight years trying to get the Moroccan government and the Polisario Front independence movement to settle the Western Sahara dispute. He was, however, unable to help the parties achieve any progress.

The informal rounds that took place between the parties all ended in deadlock and failed to achieve any progress. Ross's main failure was his closeness to Algerian officials, which made his declarations biased. He was more amenable to Algeria's wishes, pushing for independence and implementation of a human rights monitoring component within the duties of the MINURSO.

Ross was known to be a fastidious defender of human rights, and his apparent mission was to kill the autonomy proposal presented by Morocco—making it all the more apparent that Algeria did influence the UN envoy regarding Western Sahara's decisions and outcomes. Morocco kept calling attention to Ross' positions on the Western Sahara conflict—urging the UN to put a stop to it. Omar Hilal, the UN Ambassador to Morocco, described Ross as a diplomat that was too close to Algeria, stating that “*Christopher Ross has been the best diplomat Algeria has ever had during the last forty years. [Though he] had the mission to facilitate negotiations, he, unfortunately, has become the problem.*” (United Nations Security Council, 2017)

What Christopher Ross did time and again is to disregard several important facts as well the UNSC resolutions through which one can get a clearer grasp of the complexity and implications of the Western Sahara Conflict. After 13 rounds of informal talks between the parties, all failed as every party rejected the proposal of the other as the sole basis of negotiation. Christopher Ross, instead of proceeding with the parameters clearly defined by the UN Security Council by bridging the gap between the parties and bringing to come up with a political compromise and realism to reach a political solution decided to leave aside these central questions by dividing the disputes into specific themes, articulated in particular around the management of major natural resources (phosphates, fisheries), mine clearance and the consolidation of confidence-building measures (family visits). Drafts have been finalized on all these points, but this was not enough to initiate a process that could lead to substantive negotiation. The UN envoy also overstepped his role as a mediator by pushing for the establishment of a mechanism to monitor human rights in Western Sahara under the auspices of the MINURSO. The latter whose mission is mainly technical. As a matter, under Christopher Ross's mandate, the UN overlooked its main mission which is to be a helpful organization to assist the parties to reach a political solution, but instead became a liability.

In September 2018 the new UNSG Personal Envoy to Western Sahara, Horst Kohler, invited the four parties, Morocco, the Polisario, Algeria, and Mauritania to Geneva on 4 and 5 December 2018 with a new dynamic and spirit through the

roundtable initiative. However, these meetings came to a halt due to Algeria's decline to take part in the Western Sahara round table even though almost all UNSC resolutions mention Algeria more than 5 times as an important party in the resolution of this dispute. Equally important, during Kohler's tenure, he capitalized on the UNGA to examine and discuss Western Sahara with the African Union Chairperson Moussa Faki, whereas, this dispute must be resolved within the scope of the United Nations and not the African Union. Horst Kohler stepped down for health reasons.

With the appointment of the new Personal Envoy for Western Sahara in October 2021 Mr. Steffan De Mistura, things have not much changed. De Mistura's mission as his previous predecessors is faced with the divergence of the positions of the main parties to the conflict:

1) The Moroccan position is based on the affirmation of Morocco's full sovereignty over the Western Sahara. As a solution to this protracted conflict, Morocco presents the Plan of Autonomy as the only solution. Morocco also maintains that this is a regional dispute with Algeria and not with the Polisario, and insists that any negotiation, discussion, or solution must take place within the framework of a full engagement with Algeria. Finally, Morocco sticks and commits to UNSC resolutions that call for a political, realistic, and practical solution to the Western Sahara conflict and categorically refuses to return to the referendum, identification, and the right to self-determination which was excluded from the UNSC resolutions for more than two decades.

2) As per the position of the Polisario Front which withdrew from the 1991 ceasefire agreement on November 23, 2020, decided to resume fighting as a "sacred right of self-defense". It also insisted on the initiative that it submitted to the Secretary-General on April 10, 2007, on the holding the referendum, after a transitional period.

3) Finally, De Mistura is faced with the tension between Morocco and Algeria, which hits its lowest point. Algeria's stubbornness not to take part in the negotiations makes the whole process very complicated.

De Mistura came at a time during which Algeria cut off its diplomatic relations with Morocco, hardened its tone to any compromise with its neighbor, and showed in its official documents that it is part of the dispute and not an observer as it had pretended. The Polisario continued to send signals of war escalation in the short and medium term. This was evidenced by the resumption of hostilities in several parts of the region of Guerguerat. Despite his regional tours in Morocco and Algeria and his intention to relaunch the round tables initiative, De Mistura's mission turned out to be fruitless. This has been hindered by Algeria's unwillingness to cooperate and collaborate with the parties and defying all the UNSC resolutions which call for Algeria to take part in the negotiation process, the roundtables meetings, and without pre-conditions.

By adopting this position, Algeria pushes towards a situation of armed conflict in which it would be a co-belligerent. Morocco on the other hand is currently

putting pressure on the international community, trying to convince the latter that the plan of autonomy remains the most serious option as it was reiterated in several UNSC resolutions (United Nations (General Assembly), 1990, 2654).

As the political solution seems to be the only concrete approach to solving the Western Sahara dispute, De Mistura's instant triumph or failure will depend on whether he can rally the parties concerned around the "*new momentum*" formula. Thus, it is important to learn from the approaches of former UN diplomats, which did not lead Western Sahara to a major political solution, and from the stubbornness of the UNSC to pander to unfeasible mechanisms such as self-determination leading to independence. The latter instance, which when applied through the UN to some conflict zones such as in South Sudan, brought chaos and instability to the citizens. Finally, the UN's mediation role in this conflict should be redefined in light of current developments in the region, as well as the threats of refugee Tindouf camps on the stability and security of the region and Algeria's full-fledged role in the conflict.

Algeria's leadership's reaction to the Autonomy Plan

In his November 2005 speech marking the Green March, King Mohammed VI had already revealed that he would enter into a national dialogue with Morocco's political parties regarding the Autonomy Plan Project of Western Sahara. Rabat submitted its proposal to the new UN Secretary-General, Ban Ki-moon, on April 11, 2007. This happened a day after Polisario submitted—without notice to the UN Secretariat—several dramatic bridging proposals to revive the 2003 Peace Plan. However, the long-anticipated Moroccan proposal received far more attention than Polisario's desperate attempt to steal the spotlight.

Morocco proposed the creation of a "Saharan Autonomous Region" (SAR) with locally elected government elements (executive, judicial, and legislative) granted for specific competencies. The autonomy plan was presented as an alternative to the Moroccan blockade to the "Baker Plan". This initiative received high praise from many North American, French, and Spanish officials. In June 2007, the U.S. State Department's Undersecretary for Political Affairs William Burns called it "a serious and credible proposal to provide real autonomy for the Western Sahara, a phrase later repeated before the U.S. House of Foreign Relations Committee by Assistant Secretary of State for Near Eastern Affairs David Welch". From an international law perspective, the Moroccan "initiative" constituted a turning point in foreign policy on the Western Sahara question and was described as a new serious basis of negotiation. Welch went on to insist that the Western Sahara conflict needed to be resolved quickly as he saw that the Polisario administered refugee camps present a potentially attractive haven for terrorist planning or activity.

By the same token, the Security Council's response to the Moroccan proposal was welcoming, borrowing the exact language—"serious and credible"—of Washington and Paris. Though it also took note of Polisario's concessions and reiterated the Council's support for a mutually acceptable political solution that will provide for the self-determination of the people of Western Sahara, its most

important aspect was its call for direct negotiations, which had been abandoned in 2000.

On February 26 and 27, 2008, a meeting took place with the U.S. State Department Near Eastern Assistant Secretary C. David Welch, President Bouteflika, and Prime Minister Abdelaziz Belkhadem in attendance. Bouteflika and Belkhadem insisted on their usual direction of self-determination for Western Sahara and discussed the need to find a solution that would permit Algeria to avoid embarrassment due to its direct involvement in the blockade of the peace process.

Bouteflika conveyed to the officials that relations with Morocco were “brotherly” and that Western Sahara was the only concern between them. Bouteflika did not hesitate to declare that Morocco felt threatened by the possibility that Western Sahara could gain independence, and he blamed Rabat for the ongoing situation due to the “clumsy” manner in which it handled the issue. Welch drew the Algerian president and his delegation’s attention to the fact that the U.S. was looking for a pragmatic solution that could lift the blockade and help negotiate the peace process and that the Autonomy Plan provided such a possibility. Bouteflika responded that the Autonomy Plan was considered an empty shell as it would merely delay the problem without offering any alternative solution. He insisted, however, that the Framework Agreement of the former secretary James Baker presented a serious alternative to the conflict. In addition, Bouteflika strongly and bluntly blamed France for supporting Morocco’s new proposal and described it as a powerless player—unable to adopt a constructive role in resolving the Western Sahara dispute. According to Bouteflika, France has never really accepted Algerian independence. Moreover, he claimed that France was trying to settle scores with Algeria by interfering in Western Sahara in support of Morocco.

In sum, Algeria’s policy-making towards the new proposal, the Autonomy Plan, was driven by ideological motivations. Algeria has always claimed to have no interest in blocking the Western Sahara peace process progress, stating that it welcomes every proposal put forward by the concerned parties. However, this claim seems to be at odds with Algeria’s reaction towards the Autonomy Plan proposed by Morocco, which the Algerian president condemned and described as an empty shell that would dramatically slow the peace process. Furthermore, the president portrayed Morocco as clumsy in dealing with the conflict; this hostile attitude toward Morocco on behalf of the Algerian leadership demonstrated that Algeria did not respect its status as an observer. Instead, its actions and statements clearly showed that it was a central part of the conflict, contrary to its claims of neutrality. Thus, the status of Algeria as an observer of the Western Sahara conflict must be brought into question. Even the UN envoy to Western Sahara, Peter Van Walsum, concluded that Algeria plays “a preeminent and dominant role” in the Western Sahara conflict, going further to say that “*there is hope if at last Algeria’s role can be candidly discussed. The question of Western Sahara’ does not stand a chance of ever being understood as long as Algeria’s deep involvement is not considered*”.

9. Conclusion

This research paper was built to analyze the failure of UN resolutions and settlement processes in the case of the Western Sahara conflict, which was preliminary with the ceasefire in 1991 until 2014. It analyzed and examined the main reasons behind the UN's failure in implementing reliable resolutions in the Western Sahara conflict and their positions, as well as the distinctive plans that were invented by the United Nations and the Organization of African Union to end the Western Sahara conflict.

The research also investigated the peculiar inability of the UN failure of the settlement process in Western Sahara, provided some resolutions on how to settle the dispute, and debated several possibilities that should be taken to operate the stipulations for a settlement of this longstanding dispute. In addition to this, the research paper positioned the essential involved parties in the Sahara impasse since its ending in 2014. The recent key parties are the Kingdom of Morocco, Algeria, and the Polisario Front (SADR), along with neighboring Mauritania, which still act as a subordinating role. The essential supporters of these significantly involved parties were also recognized alongside the fewer conditions of each party to settle the conflict of Western Sahara territory. Though, the 1991 UN resolution which is the Settlement or Referendum proposition was the prior UN failed plan analyzed in this research paper, proceeded by the Baker Plan I in 2001 and the Baker Plan II in 2003. It is noted that the 2007 proposals for both conflictual parties Morocco and Polisario Front (SADR), were also reviewed, along with the four parties discussions (review) of uncooperative and ineffective diplomatic negotiations between the Kingdom of Morocco and the Polisario Front that were held in the United States during 2007 to 2008. The most important motives for the United Nations' failure of the Resolution Plan were disputes and mistrust throughout the identification process.

Since 2007, the United Nations adopted the same UNSC resolutions calling the parties to cooperate fully with the United Nations Secretary-General and his envoy to reach a political solution to this regional dispute based on the resolutions adopted by the Security Council in 2007. The Security Council supports this policy based on more than 19 resolutions to achieve as "lasting and mutually acceptable political solution" to the question of Western Sahara. However, what the UNSC overlooks is the remaining party, Algeria, considering the dispute effectively confined between Morocco and the Polisario and not regional issues that highly require the political will of Algeria.

Algeria is the one that endorses the Polisario militarily, financially, and diplomatically and shelters the SADR in its territory in southwest Algeria. The latter can solve this dispute with a brave decision for the sake of peace in the whole region and the interest of the Arab-Maghreb, its construction, and development.

One piece of the puzzle in the United Nations' role in solving the western sahara conflict is its continuous decision to put this dispute in bodies like the UN Special Committee on Decolonization known as C-24 which one has to question whether

it is still necessary to discuss this conflict within the framework of the C-24. In other words, the file was put at this committee in 1963 at the request of Morocco to achieve independence from Spain only and not from the Polisario which was formed ten years after. The Madrid Accord between Spain, Mauritania, and Morocco irreversibly sealed the decolonization process. This dispute was examined next by the Security Council under Chapter VI of the UN charter to seek an acceptable political solution beneficial to all parties. Additionally, now the Security Council is in a position to make recommendations and extend the MINURSO terms. Article 12 of the UN charter endorses the latter argument which clearly states that while the Security Council is exercising in respect of any, the General Assembly and its bodies shall not make any recommendation concerning that dispute or situation unless the Security Council so requests.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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