

Western Sahara

Is there light at the end of the tunnel?

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Introduction

In its Resolution 40/50 adopted in December 1985, the General Assembly of the United Nations argued that 'the question of Western Sahara is a question of decolonisation, which remains to be completed on the basis of the exercise by the people of Western Sahara of their inalienable right to self-determination and independence.' This definition has prevailed over the years and it has led many to consider Western Sahara as the remaining African territory to be 'decolonised' after the regaining of their independence – in the 1960s and 1970s – of almost all the other African territories occupied by the different European powers in the late 19th and early 20th centuries. (see for example Washington, 2005; Mohsen-Finan, 1999)

The current crisis in Western Sahara started in the early 1970s when Franco's Spain was forced to announce plans to withdraw from the territory it had effectively occupied since 1934.¹ As Spain withdrew from the territory in February 1976, the Kingdom of Morocco, which lies to the north of the territory, and Mauritania, located at the east and south of the territory, sent in troops to occupy parts of what was then called 'Spanish Sahara', with the lion's share going to the former.

Each of them laid claim to their occupied parts of the territory, considering them as having been part of their countries well before the coming of the Spaniards.² Morocco went further to lay claim to the whole territory, including the areas occupied by Mauritania, as it had laid claim to Mauritania itself and parts of Algeria.

Yet, before the withdrawal of the Spanish, a number of Sahrawi liberation movements had been formed in the territory with the aim of combating Spanish colonialism and regaining the total independence of their territory. One of those movements, which has proven to be

the most tenacious and durable, was called the *Frente Popular para la Liberación de Saguia el-Hamra y Río de Oro* (the Popular Front for the Liberation of the Saguia el-Hamra and Río de Oro, or the Polisario Front for short). Despite a 1975 ruling of the International Court of Justice (ICJ 1975:12)³, arguably refuting Moroccan and Mauritanian claims of ancient sovereign ties with the territory, the two countries sent in their troops to the phosphate-rich Western Sahara and effectively occupied it.

Thus, having been formed in 1973 to fight Spanish colonialism, the Polisario Front turned its guerrilla war against Morocco and Mauritania, while also escorting a significant number of indigenous Sahrawi population into exile in Algeria which was by then publicly supporting it, in financial, military and diplomatic terms (Hodges 1983: 338; De Forberville, 1994:77; Thompson 1980:136) Mauritania finally withdrew from its occupied sections of the territory in 1979 following heavy losses in guerrilla wars with the Polisario, opposed to this 'second occupation' of their territory. Morocco, however, has held on to the territory to the present day and the Sahrawi Arab Democratic

The dispute over Western Sahara has proven very divisive in the Maghreb region and the wider African continent

Republic (SADR), which was unilaterally proclaimed by the Polisario Front a few days after Morocco occupied the territory, in February 1976, lives in exile, especially in Sahrawi refugee camps in the Tindouf areas in Western Algeria and a tiny area inside Western Sahara itself.

Given the numerous factors involved, the conflict has proven very divisive in the Maghreb region and the wider African continent. The SADR government in exile was soon recognised by a number of African states, leading to its formal admission to the OAU in 1984. This move evidently harmed Morocco's friendly relationship with these countries and it led to its eventual withdrawal from the OAU, an organisation Morocco had significantly contributed towards its founding. Morocco is still not a member of the AU,



which replaced the OAU in 2002, while the SADR is recognised by and represented at the AU. For this, there have been numerous attempts at resolving the crisis, which is becoming almost intractable.

Both the OAU – before Morocco’s withdrawal – and the UN have tried to mediate between the parties and have proposed different peace plans. Both Morocco and the Polisario Front have come, in recent years, to put forward their own peace proposals. It is these proposals and peace plans that I will attempt to decipher in this paper in a bid to identify the stumbling blocks to peace and suggest a way forward. What is the content of these peace proposals and what were/are the strategies employed by their sponsors to sell them to the parties? Why have they not succeeded in getting the two parties reach a lasting and mutually acceptable solution to the conflict? What are the common grounds between the two parties in these proposals and what are the divisive ones? Is there any possibility to bring the parties closer and eventually get them agree to a mutually acceptable peace plan? What may such a plan be and what strategy can be employed to sell it to the parties? These are some of the questions that the paper will address and try to offer some answers.

Tentative solutions

As noted above, Morocco played a leading role in the formation of the OAU in 1963, and this made it an important player on the African scene. But the case of Western Sahara is seen by many African states and citizens as a matter of decolonisation, the attainment of which, is a sacred principle of African unity and that constituted one of the corner stones of the OAU. Because of this, Morocco’s ‘occupation’ of Western Sahara presented Africa with a real dilemma. The division of African countries between those that support Morocco and those that sided with the Polisario Front attests to this.

As if this was not sufficient, a third factor added to the complexity of an already daunting issue. That is the friendly consideration Morocco has, both at the time of King Hassan II and since his son, Mohamed VI, succeeded him in 1999, in many leading Western capitals, particularly Paris and Washington. Successive governments of these countries consider the Moroccan royal family as an important ally, ruling a strategic country at the entrance of the Mediterranean. Any destabilisation of Morocco is not well received in these capitals. (Hodges 1983: VIII)

The combination of these factors and perhaps others has led both the OAU and the UN to invest in finding a solution to the crisis. Both Morocco and the Polisario

Front have also put forward their own peace proposals or counter proposals, which I consider below.

The Organisation of African Unity

The involvement of the OAU in the affairs of Western Sahara followed the creation of Sahrawi liberation movements against the Spanish colonial authorities in the early 1970s. Prior to this, the pan-African institution had many things at hand and it was content to let the UN deal with the issue while it busied itself with these other matters⁴. However, as the time of the departure of the Spanish drew closer, the OAU began to pay more heed to the territory. Indeed, in January 1976 – almost a month before the Spanish withdrawal – the OAU recognised the Polisario Front as a ‘liberation movement’. This meant that the group was now entitled to at least the full diplomatic support of the OAU and its member states.

However, mindful of the difficulty of the issue, now that Morocco (and Mauritania), a leading member state, has moved in to replace the departing Spanish colonial authorities, the pan-African organisation did not rush into recognising the SADR government proclaimed by the Polisario Front, just as Spain officially completed its withdrawal from the territory in February 1976. But at the 26th ordinary session of the Council of Ministers of the OAU, held in March of the same year, the final communiqué declared that they supported the Sahrawis in their struggle to achieve their right of self-determination. (De Froberville 1996:91-92)

The OAU followed this declaration by several attempts at settling the question of Western Sahara, now between Morocco and the Polisario Front, which it had recognised as the sole legitimate representative of the Sahrawi people. The culmination of these efforts came with the 19th Assembly of Heads of State and Government of the OAU held at Addis Ababa in June 1983. This summit adopted Resolution AHG 104, which contained the first peace proposal for the consideration of the two parties to the question of Western Sahara.

The resolution recalled with appreciation King Hassan II’s acceptance to cooperate with the Organisation’s Ad Hoc Committee of Heads of State on Western Sahara in the search for ‘a just, peaceful and lasting solution’ to the crisis. It then urged Morocco and the Polisario Front to ‘undertake direct negotiations with a view to bringing about a cease-fire to create necessary conditions for a peaceful and fair referendum for self-determination of the people of Western Sahara.’ It was envisaged that this referendum would be organised

The first peace plan on Western Sahara was proposed by the OAU in June 1983

without any constraints and under the joint supervision of the OAU and the UN.

The peace plan did not provide any concrete solutions to the conflict, nor did it have a detailed and precise deadline for the implementation of any of its recommendations. In fact, the resolution charged a special committee – called the Implementation Committee of Heads of State on Western Sahara – with the responsibility of consulting with the parties to the conflict to work out the modalities and all other details relevant to the implementation of the cease-fire and the holding of the referendum by December 1983. The Plan is perhaps best described as a cease-fire appeal by the OAU, the observance of which could permit the organisation of a referendum, itself a way to enabling the OAU and the parties to ‘reach a final decision’ on other aspects of the question of Western Sahara.

As it turned out, however, the Plan failed to achieve any of its two stated goals: reaching an effective cease-fire and organising a referendum. But it may be rather difficult to say for sure who is to blame for its failure. However, the following summit of the OAU, after assessing the progress and cooperation – or lack of it – of both parties in the implementation of the Peace Plan, a majority of the Heads of State and Government decided in February 1984 to recognise and admit the SADR as a full member of the OAU. This, without surprise, spurred the withdrawal of Morocco from the Pan-African organisation and has stayed away from it to this day.

But it must be admitted that the OAU’s peace plan was not a total failure, for it is this plan that formed the basis of the joint OAU/UN settlement plan proposed to the two parties in 1988, as seen below.

The United Nations

The UN was the first international organisation to deal with the issue of Western Sahara. Its involvement in the issue was in reference to the provisions of its famous Resolution 1514 (1960), which made a solemn Declaration on the Granting of Independence

to Colonial Countries and Peoples, proclaiming that ‘all peoples have the right to self-determination’. In 1963, the UN included Western Sahara on the list of territories to which Resolution 1514 applied, and one year later, the special committee of the UN charged with the follow up of the implementation of the Declaration adopted its first resolution on the territory, lamenting Spain’s delay in implementing the provisions of the Resolution and urging it to take immediate steps to do so. (Hodges 1983:104)

In a more serious tone, the General Assembly adopted in December 1965, a resolution requesting Spain to take all necessary measures to decolonise the territory and, at the same time, urged her to enter into negotiations on ‘problems relating to sovereignty’. The Assembly then adopted seven more resolutions in the following seven years on Western Sahara. All of these resolutions reiterated the need to hold a referendum on self-determination.

The UN Settlement Plan, 1988

After a few years, in which it had been almost sidelined by the OAU on the question, the world body regained its interest in Western Sahara from the mid-1980s, thanks to the interest and personal initiative of its then Secretary-General, the Peruvian Javier Pérez de Cuéllar. In August 1988, the UN delivered to the two parties a peace proposal that later became known as the ‘Settlement Plan’. Some consider this as a joint OAU/UN proposal because its recommendations and approach were almost identical to those of the peace plan the OAU had presented to the parties some four years back. Like the OAU peace plan, the Settlement Plan urged the two parties to engage in direct negotiations and it envisaged an internationally supervised cease-fire followed by a transitional period. This phase was to lead eventually to a referendum offering the Sahrawis the choice of independence or integration with Morocco.

The Plan provided also for the exchange of prisoners of war on both sides, the proclamation of a general amnesty to be followed by the release of Western

Main points of the OAU Peace Proposal

The peace proposal of the OAU for the Western Sahara, which is contained in Resolution AHG/Res. 104 (XIX), was adopted unanimously by the Assembly of Heads of State and Government of the Organisation at its 19th ordinary session, held at Addis Ababa in the period from 6 to 12 June 1983. Consisting of five introductory paragraphs and nine main paragraphs, the main points of the proposal are the following:

- The Resolution salutes King Hassan II’s pledge to cooperate with the OAU’s ad hoc Committee on Western Sahara in the search for a just, peaceful and lasting solution to the dispute
- It urges Morocco and the Polisario Front to undertake direct negotiations with a view to bringing about a ceasefire to create the necessary conditions for the organisation of a peaceful, transparent and credible referendum on the future of the territory
- Tasks the Implementation Committee with the responsibility of working out the modalities and all other details pertaining to the effective implementation of the ceasefire and the conduct of the said referendum by December 1983
- Requests the UN to provide a peacekeeping force in the territory to oversee the ceasefire and the referendum.

* The full text of the proposal is also contained in the 1st paragraph of the UN General Assembly Resolution 38/40 of 7 December 1983.

Saharan political prisoners. Another major provision of the UN Settlement Plan was the creation of a United Nations Mission for the Referendum in Western Sahara (MINURSO), consisting of civilians, military and police components to carry out all tasks leading to the referendum. A Special Representative of the Secretary-General (SRSG) would be appointed who would have sole and exclusive authority over all matters relating to the organisation of the referendum.

Both Morocco and the Polisario Front accepted the proposals 'in principle', along with comments and suggestions, which showed their divergent views on certain fundamental issues. For example, while the Polisario Front wanted a more enhanced role for the UN and the abrogation of all Moroccan legislation in the territory during the transition period, Morocco wanted the opposite – more restricted powers of the SRSG, especially as regards his responsibility for the maintenance of public order. (Theofilopoulou 2006: 3)

However, the two parties agreed to a cease-fire, which took effect on 6 September 1991 and holds to this day, excluding some minor violations now and again. MINURSO was also deployed in the same month with the responsibility to monitor the cease-fire, verify the reduction of Moroccan troops in the territory, identify and register qualified voters, and organise and ensure a free and fair referendum and proclaim the results.

However, the transitional period provided by the UN Settlement Plan never took off, owing mainly to the parties' divergent views on some key elements of the Plan, in particular, with regard to the criteria for establishing eligibility for voting.

According to the Plan, the 1974 Spanish census in the territory was to be the basis of identification. But Morocco found this rather restrictive, citing that the Saharans who had fled the territory into Morocco during the Spanish colonial rule and were not present during the 1974 census may find it difficult to prove that they were real Saharans or Sahrawis in order to be eligible to vote. Yet, the Polisario Front did not want any amendment to this, arguing that doing otherwise would allow 'non-Sahrawis' to be included on the voters' list which, in its view, would surely sway the balance in favour of Morocco.

The period from early 1992 to mid-1996 was spent trying to mend fences between the two parties and jumpstarting the identification process so that the referendum could be organised as expected. Although both parties paid heed to some of the numerous calls by the UN and other actors and cooperated with the identification commission at times, both found arguments and strategies to interrupt and slow down the process. Thus, despite numerous attempts to

resuscitate the Plan, the UN had, by late 1996, realised the difficulties with the way the process was going and thus decided to revive the peace process with a different strategy and approach. It was time to move on, and the architect of this move was former US Secretary of State, James Baker III.

UN Settlement Plan, 1988/1991

The Settlement Plan was an avatar of the OAU 1983 peace proposal. It was the joint mission of good offices of both the UN and the OAU that led to the 'Settlement Proposals', which were accepted in August 1988 by both Morocco and the Polisario Front. The proposal, whose full text is contained in the UN Secretary-General's report of April 1991 (S/21364), became the 'Settlement Plan' after its approval by the Security Council in its resolution 690 of 29 April 1991.

- The Plan provided for an effective ceasefire, then a transitional period followed by a referendum of self-determination
- During the transitional period, the SRSG would have sole and exclusive responsibility over all matters relating to the referendum
- The SRSG will be assisted in carrying out his tasks by a United Nations Mission for the Referendum in Western Sahara (MINURSO, of its French acronym)
- The ballot of the referendum will ask the people of Western Sahara to choose between 'independence' and 'integration with Morocco'.

The Baker Plans

As soon as Kofi Annan assumed the post of UN Secretary-General in January 1997, he made the review of all UN peacekeeping operations one of his first priorities. The issue of Western Sahara occupied a prominent place on the list of the operations to be reviewed, for many efforts and resources had been devoted to the territory over the past six years, with the cease-fire and the deployment of the MINURSO being the only tangible results.

In order to have a clear idea about the question of Western Sahara, Annan asked for an assessment paper with policy options for his consideration. The paper presented the following four options:

- Retain the Settlement Plan and move ahead with its implementation despite the difficulties;
- Put the Plan aside and seek another solution;
- Seek another solution in parallel with the Plan; or
- Disengage from the question of Western Sahara until the time was 'ripe'.

The options were discussed in a policy meeting that decided on option 'b'. (Theofilopoulou 2006:6) Annan then proposed the name of former US Secretary of State, James Baker, as his personal envoy and chief negotiator or mediator. Baker was thus appointed in March 1997 and undertook his first mission to the region in the period from 23-28 April, during which he consulted with all the stakeholders (UN Secretariat 1997).

At the end of the mission, Baker realised that the parties to the conflict were still attached to the Settlement Plan and wanted to work toward breaking the impasse in the implementation of the plan rather than to adopt a new one. Baker was thus asked by the Secretary-General to work toward this aim, which he did through the Houston Agreement signed by the parties in September 1997.⁵ This agreement allowed resumption of the identification process and other blocked aspects necessary for the implementation of the Settlement Plan. But this soon ran into trouble as progress toward achieving these goals collapsed.

In April 2001, Baker prepared a draft peace plan called the Draft Framework Agreement (FA) on the Status of Western Sahara.⁶ The FA proposed a five-year period of autonomy for Western Sahara. This would allow the territory to have a local government and assembly with exclusive competence over local government administration, territorial budget and taxation, law enforcement, internal security, etc., while Morocco was to retain exclusive competence over foreign relations, national security and external defence and all other matters pertaining to national sovereignty. The FA did not spell out the final status arrangements, but provided for a referendum on the status of the territory after five years.

Morocco welcomed the proposal, while Polisario and Algeria rejected it, with Algeria accusing Baker for preparing the ground for eventual integration of the territory with Morocco. The two insisted that the UN work out ways to implement its initial Settlement Plan, which by now, they thought, was clearly in Polisario's favour. The two later suggested that they would be in favour of a division of the territory as a political compromise, but Morocco would not even contemplate this option. (UN Secretariat 2004)

This led Annan to ask Baker to devise a mutually acceptable 'political solution'. After many exchanges between Baker's team, the Secretariat and the Security Council, the mediator finally came up with the 'Peace Plan for Self-Determination of the People of Western Sahara'.⁷ From Annan's and his envoy's standpoint, as explained in his Report of 23 May 2003 to the Council, 'by combining elements of the framework agreement, favoured by Morocco, and the settlement plan, favoured by the *Frente POLISARIO*, [this plan] represented a fair and balanced approach, providing each side some, but not perhaps all, of what it wanted'. (UN Secretariat 2003b)

The Plan carried forward many elements of the FA, but it scaled down the transitional period from five to four years. The new document also differed from the

previous one; the period for the continuous residence in the territory that makes one eligible to vote in the referendum for the final status was fixed at 30 December 1999, while the FA considered this to be 31 October 1998. Another area where the two differed was in relation to the nature of the document. While the FA remained silent on the final status arrangements, the new document provided detailed information about this, including the questions of the referendum: voters were to choose between 'independence', 'autonomy within Morocco' and 'full integration with Morocco'. While the FA required the consent of both parties at each and every step of its implementation, this Plan did not foresee such a requirement.

Baker presented the Plan to the two parties as well as to Algeria and Mauritania (as neighbouring states concerned by the outcome of the conflict) in January 2003. The two parties, however, expressed reservations about some aspects of the Plan. According to the comments both parties sent to Baker, which are published in Annex III of the aforementioned Secretary-General's May 2003 report, the main objection of Morocco was that in the referendum to determine the final status of the territory, one of the ballot choices under the settlement plan was 'independence', which Morocco did not want to contemplate. But Annan was of the view that the rationale behind this objection was questionable, given that independence was also one of the two ballot choices under the 1988 Settlement Plan, which Morocco had accepted.

As for the Polisario, they clearly did not want to abandon the Settlement Plan regardless of any appeal the new plan may be said to have. But if pressed to opt for the proposed new plan, they wanted,

inter alia, a mechanism to provide for enforcement of the results of the referendum under Chapter VII of the UN Charter. In the end however, encouraged by its ally, Algeria, the group overcame its doubts and in July 2003 accepted the Plan.

Whilst Morocco was yet to explicitly accept it or reject it, the Security Council supported the plan through resolution 1495 of 31 July 2003, considering it as 'an optimum political solution'. The resolution then called upon all the parties to cooperate with the Secretary-General and his personal envoy to facilitate the implementation of the Plan. But Morocco was not impressed and, eventually, formally rejected the proposal in April 2004. As a matter of fact, Morocco did not lack allies among the permanent members of the Security Council.

In the end, Morocco's rejection of the Plan and Baker's discouragement to pursue his efforts meant the

Morocco favoured the Framework Agreement, whereas the Polisario Front favoured the Settlement Plan

collapse of his crafted plan. Baker finally resigned from his post in June of the same year.

Individual proposals

Since the start of the dispute in the mid-1970s, peace proposals and missions of good office have not lacked, especially by individuals and states considered to be common friends to both parties. Even before the OAU peace proposal in 1983, both parties had met in Bamako in July 1978 at the request of the Malian president, Moussa Traoré, in his capacity as the OAU chairman. They also met in Algiers in April 1983, in Lisbon in January 1985, as well as in the Saudi Arabian city of Taif in July 1988 at the instance of King Fahd during which Moulay Hassan Ben Driss, a member of the royal family, headed the Moroccan delegation. (De Froberville 1996:98) Although we know very little about the issues discussed at these meetings and the different positions of the parties, the ensuing developments attest to their failure to achieve their intended goals.

The Moroccan autonomy proposal, April 2007

To focus on recent developments, it is worth noting that in response to the second Baker Plan presented to the parties in January 2003, Morocco made a peace proposal of its own. First formulated in a letter to the Secretary-General in April 2004 and attached to the latter's report of the same month, a final and an enhanced version of the proposal was sent to the Secretary-General in April 2007.

The Moroccan initiative envisages an 'autonomy-based political solution'. This initiative, which Rabat considers a compromise solution, proposes an autonomy status for the Western Sahara within the framework of Moroccan sovereignty. In other words, Western Saharans would manage their 'own local affairs, with the necessary safeguards, and without prejudice to the sovereignty prerogatives of the Kingdom of Morocco and its territorial integrity'.

In a major shift from all previous proposals, Morocco suggests that this autonomy status be final, thereby ruling out any possibility of 'self-determination' for the Sahrawi people. From Morocco's standpoint, this autonomy status will 'enhance the territorial stability of the States of the region'. This does not rule out the option of a referendum, but such a popular consultation would have only one ballot question: agree or not agree with the option of autonomy as a final solution to the conflict. It is clear from this that Morocco maintains its classical position of ruling out any possibility of independence for the territory, which it considers 'out of the question'.

With no surprise, the Polisario Front and Algeria rejected this proposal before it went any further,

especially that the Moroccan proposal insists on the fact that the King of Morocco should be the one who invests the Head of Government of this autonomous region. The Polisario went further to table its own proposal, which it presented to the UN Secretary-General on 10 April 2007.

The Moroccan autonomy proposal, April 2007

In response to the Security Council's incessant calls upon the parties to the conflict to strive to end 'the current impasse' and work towards 'a political solution', Morocco submitted, on 11 April 2007, its proposal to Ban Ki-moon, the new SG of the UN. Following are the main points of this proposal of 35 paragraphs in five pages:

- Morocco proposes an autonomy statute for Western Sahara within the framework of the Kingdom's sovereignty and national unity
- Once the 'other parties' to the dispute have agreed to this proposal, the plan will then be submitted to the people of Western Sahara for a referendum whose ballot will have only one question: accept the proposal or reject it
- The 'autonomous Sahara region' that will result in this referendum will run its own affairs, through legislative, executive and judicial bodies enjoying exclusive powers over the region's local administration, local police force, planning and economic development of the region, the region's budget and taxation, housing, education, health care, employment policies, sports, social welfare and social security
- The Kingdom will retain exclusive authority over all matters pertaining to national sovereignty, especially the flag, the currency, external relations, and the constitutional and religious prerogatives of His Majesty the King
- The executive authority in the 'Sahara autonomous Region' shall lie with a head of Government, to be elected by the regional parliament, and then invested by the King, a situation very similar to that of Quebec within Canada.

The proposal of the Polisario Front, April 2007

In this proposal, after recalling all the previous peace plans, the Polisario Front maintains that the solution of the conflict lies nowhere but in the holding of a referendum on self-determination. Interestingly, in the third paragraph of the document, the Front insists on the validity of the Baker Plan and declares its readiness to negotiate directly with Morocco to move the stalled plan forward. In parallel to the Moroccan proposal, the Polisario reiterates its attachment to the idea of a referendum that will provide the voters with three choices: a) independence; b) integration with Morocco; and c) self-governance or autonomy.

In order to allay Moroccan apprehensions about any future Sahrawi state should the outcome of the proposed referendum be in their favour, the Polisario declares its readiness to guarantee 'the status, rights and obligations of the Moroccan population in Western Sahara, including its participation in the political, economic and social life of the territory . . .'. The

Front makes another concession with regard to the exploitation of the existing natural resources of the territory. Here, it undertakes to associate Morocco with the exploitation of these resources and those that could be discovered 'during a determined period of time.' But it may be a useless exercise to state that the Moroccans do not see this proposal even as a basis for negotiations.

Proposal of the Polisario Front for a mutually acceptable political solution, April 2007

As the Moroccan proposal, the Polisario Front's (submitted to the UNSG on 10 April 2007, just a day before Morocco did so) is also a response to the Security Council's calls upon the parties to the conflict to strive to end 'the current impasse' and work towards 'a political solution'. A three-page proposal in 10 paragraphs, here are its main points in brief:

- The only viable solution to the conflict is the holding of a referendum on self-determination, with the choice between 'independence', 'autonomy within Morocco' and 'integration with Morocco' on offer
- Given that there is already the Baker plan which provides for this, the Polisario Front does not want anything more than working towards the implementation of this plan
- The Front is ready to negotiate directly with Morocco, under the auspices of the UN, in view of working out the modalities of implementing this plan and holding the said referendum
- The Front reassures the 'Moroccan population in Western Sahara' of their participation in the political, economic and social life of the territory. To this end, the Sahrawi State that might result in the said referendum could grant the Sahrawi nationality to any Moroccan citizen legally established in the territory should s/he applies for it
- The Sahrawi state will work towards setting up formulas of partnership and economic cooperation in different economic, commercial and financial sectors with the Kingdom of Morocco
- The Sahrawi state will also be ready to conclude any security arrangements with Morocco as well as with other countries in the region.

The stalemate of the peace process and reasons of the impasse

In his 23 April 2004 report submitted to the Council before the resignation of his personal envoy, but after receiving the responses of the two parties to the second incarnation of the Baker Plan, Annan noted that in his view and that of Baker, there were now only two 'realistic' options for the Council to consider. The first option was to terminate MINURSO and return the issue of Western Sahara to the General Assembly, thereby recognising and acknowledging that, after the passage of more than 13 years and the expenditure of more than \$600 million, the UN was unable to solve the issue without requiring that one or both of the parties do something that they would not voluntarily agree to do. In reality, the option was a diplomatic way to disengage from the issue, for it is unlikely that the General Assembly would be able to enforce anything

the Council could not, and the Assembly would likely bounce the issue back into the Council's lap. It was perhaps also, a clever way to blame the Council for its inaction, as it had refused to agree to the provision of any enforcement measure, despite calls from some parties to do so.

The other option proposed by Annan was to once again get the parties to work towards acceptance and implementation of the Peace Plan. Here again, this was a desperate proposal to assuage concerns about the disengagement of the UN from the issue, and the developments since have proved this right. There has been a total blackout on the Plan and this remained the case as this paper was completed. In the meantime, tensions mounted in the territory, leading to clashes between the Moroccan authorities and some pro-Polisario residents. These clashes came to a head in May 2005 when pro-Polisario residents of El-Ayun, Tan Tan, Dakhla, Assa and Smara took to the streets in protest against their conditions, burnt the Moroccan flag and called for independence⁸.

But what are the factors responsible for the failure of all these initiatives? As already noted, the developments that ensued the presentation of the OAU peace proposal in 1983 insinuate that, from the standpoint of the majority of OAU leaders at the time, the plan failed owing to the non-cooperation of Morocco. It may be argued that Morocco's subsequent acceptance of the joint OAU/UN peace proposal, and then the Settlement Plan based on it in the late 1980s, was partly due to the challenge the Polisario Front had posed to it through armed struggle. Another explanation may be that Morocco accepted the proposal because it had a different interpretation of the 'referendum' proposed by the Plan, seeing it as a 'confirmative' one for Morocco. (Theofilopoulou 2006:3)

In fact, the latter assumption is what the Moroccan ambassador to South Africa confirmed during a conference at the University of Pretoria in April 2001. According to Ambassador Nacif (2001:23), his country's acceptance of a referendum on self-determination for Western Sahara was 'motivated by Morocco's concern about easing the regional tension and the *reaffirmation of its sovereignty* over the territory' (*emphasis added*).

Such a position may have been informed by one of two things. One could have been Morocco's perception of the events at the time, as being or likely to be in its favour. The position could have also stemmed from Rabat's confidence in its ability to steer the Plan to its liking. But, whatever consideration that may have spurred Morocco's acceptance of the Settlement Plan and for so many years before turning against it in the late 1990s, it is clear that, all along, the issue of sovereignty has been the fundamental issue which has divided the parties.



For Kofi Annan, as formulated in his report of April 2004, the main reason for the failure of all the settlement plans is to be found in the *parties'* unwillingness 'to fully cooperate with the United Nations, either in the implementation of the Settlement Plan or to try to negotiate a political solution that would bring about an early, durable and agreed resolution of their dispute over Western Sahara'. But others have pointed at other factors, some of which blame the approach of both the OAU and the UN in their mediation efforts.

From his experience as a member of a UN delegation to Western Sahara, Adebajo (2002) submits that the failure to hold a referendum in Western Sahara has been due to four main factors. First, both the belligerents, Morocco and the Polisario Front, transferred the military conflict to the diplomatic battlefield, and the efforts at identifying voters effectively became a proxy for waging war by other means. Second, the main external implementers of the peace agreement, the UN and OAU, were distrusted by both parties. Third, two of the five permanent members of the UN Security Council, the United States and France, remain traditional allies of Morocco and appear to value its political stability over the holding of a referendum that Morocco might lose. Finally, the success of the cease-fire in Western Sahara has combined with these three factors to reduce the urgency of finding a solution to the conflict.

But must settling the dispute be through a referendum? Mundy (2004) and Mohsen-Finan (1999) contend that the 'winner-takes-all' approach found in all these plans is what to be blamed. To Mundy, both incarnations of Baker's autonomy proposals contained provisions for a final status referendum that would inevitably produce a winner and a loser. Clearly, this led both parties to make sure they could win the referendum before deciding to cooperate on any aspect of the process, and this is evident from the parties' variable support for the different proposals when they assume the wind is blowing on their side. But how could they be sure when none of them would have controlled the process had everything gone as planned in the different peace plans?

In a July 2000 article in the English edition of *Le Monde Diplomatique*, Ignacio Ramonet quotes an unnamed Western diplomat in Morocco as saying: 'We must accept that the referendum is not the right answer.... If Morocco lost the referendum, it would be a national disaster. It would not leave the Sahara and its position under international law would be untenable. If Morocco won, the Algerians would not accept the result, and we'd run the risk of another direct confrontation.' Thus, in the view of the Western

diplomat quoted, the best way is to 'reach some sort of compromise and the Sahara will get substantial self-government'.

It seems that the UN itself, at least some of its officials working on the dossier, has come to realise the pertinence of this point. In fact, Erik Jensen, the Head of the MINURSO from 1994 to 1998, claims in a book that, notwithstanding the name of the mission, all the talks about referendum by the UN Secretariat was window dressing and that the real purpose of the MINURSO is to sustain dialogue between the two parties. In a striking statement he claims: 'although not explicit, it was my impression, subsequently reinforced by word and in action that I was not expected [in my efforts to organise a genuine, free and fair referendum] to succeed'. (Jensen 2005:59)

But whatever the obstacles and the past experiences may be, there surely should be a solution to this issue. The problem now is to identify a possible solution or a number of possible solutions that take account of current developments and can be acceptable to both parties. It is to this daunting task that I now turn in the following section.

For Annan, the main reason for the failure of all the settlement plans is to be found in the parties' unwillingness to fully cooperate

Is there a possible solution?

In a thought-provoking essay on the factors fuelling armed conflicts and those that are susceptible to lead to peace, Kalevi Holsti (1991:12-15) contends that it is the 'stakes' that lead men and countries to go to war and that they are also the ones that dictate the termination of a particular war or dispute. To him, for example, the justification declared by the Americans for their intervention in Vietnam in the 1960s and 1970s was to safeguard the independence of a political

entity called the Republic of Vietnam, in accordance with the provisions and principles of the UN Charter. But the 'stakes' for the United States, however, argues Holsti, were its credibility, its prestige and its sense of commitment to its allies, especially those in Europe. Aron (1973) is also of the same opinion, considering these factors as the real motivations that spurred the American intervention in Vietnam.

If we were to apply this theory to the Sahrawi case, the implications are to try and identify the 'stakes' that both Morocco and the Polisario Front have in holding to their current positions. The possible solution, one may suggest, will then be based on a careful analysis of these stakes, examining them against the realities on the ground or what they are likely to be in the near future. Both parties should then be encouraged to consider whether or not the 'stakes' are worth all the inconveniences entailed in the current state of affairs and the possibilities of it taking a radical shift to the

disadvantage of one of them.⁹ What this entails is to recognise that we are dealing with a matter that is both legal and political and that limiting our vision to one of these two aspects of the issue may not help the situation in any one's favour.

But because stakes are not always easily identifiable, as parties to the conflict seem to put forth the issues instead of the stakes, one can only, in most cases, speculate, based of course on a critical reading of the situation. With this caveat in mind, one may argue that the main stakes for Morocco in this dispute are a) the safeguarding of national honour by holding onto something the Crown has defended for decades, especially after the 'loss' of Mauritania and the parts of Algeria which Rabat had initially claimed to have been part of the pre-colonial Morocco; and b) the financial benefits to be gained from the exploitation of the territory's natural resources, especially oil, which Morocco can be said to count on for the acceleration of its development projects and the alignment of its revenues with those of other countries in the region. (Hodges 1983:VII)¹⁰

With regard to the first point, one must understand that the issue of Western Sahara is considered a national issue in Morocco, something that does not depend on the King alone. In fact, the King may be described to be more lenient on this than some opposition parties and ordinary people. After all, the first official claim of Morocco on Western Sahara was made in a speech of King Mohamed V on 25 February 1958, which is considered by some as a reaction to the position of the nationalist *El-Istiqlal* (Independence) party led by Allal el-Fasi, who had for sometime been making this claim. (Hodges 1983:86-88)¹¹ Even today, some claim that this internal politics is still at play and shapes the position the monarchy adopts on the issue of Western Sahara. (Mohsen-Finan 1999:96-97)

Moreover, Morocco does not consider the issue of Western Sahara as a question of decolonisation. Instead, Rabat views Western Sahara as identical to its territories formerly occupied by France and Spain and which have been returned to her or that are to be 'recovered' from their present occupiers. These territories include the Rifian zone and Tetuan (both returned to Morocco in 1956), Sidi Ifni (returned in 1969), Ceuta and Mellila (still under Spanish occupation but claimed by Morocco). (see ICG 2007b:9)

As for the Polisario Front, their stakes can be said to be the safeguarding of national honour and a determination to be in control of what they consider to be their ancestral land and the belief that all relevant

international instruments have vindicated them in this claim.¹² While controlling the resources of the territory is very crucial for the viability of any future independent Sahrawi state, political sovereignty over whatever portion of that territory seems to count more when it comes to the real motives behind the perseverance of the Polisario Front and the Sahrawi people loyal to it.

One must not also forget that both parties have allies that have their own stakes, albeit more manageable than those of the two parties to the dispute. For example, it is not a secret to anyone that Algeria is the main ally of the Polisario Front. Algeria's support for the Polisario may be said to be motivated by two considerations: one is the country's prestige and sense of commitment to a long-standing protégé, something that has almost become a matter of national honour for Algiers. Considering the Polisario as a liberation movement, supporting it for this reason is in line with Algeria's traditional support for liberation movements throughout Africa, notably the ANC in South Africa, FRELIMO in Mozambique, the MPLA in Angola, the PAIGC in Guinea-Bissau and Cap-Verde and SWAPO in Namibia. (ICG 2007b:11; Zoubir & Benabdallah-Gambier 2004:49-77)

The issue of Western Sahara is a legal and political matter and ignoring this may not help the situation in any one's favour

It can also be argued that the Algerian position on Western Sahara is informed by what the Algerians may be hoping to gain economically from an independent Sahrawi state, ruled by their former protégé and having coastlines on the Atlantic Ocean, which Algeria does not have.¹³

On the other hand, France and the United States back Morocco. Albeit France may not want the dispute to end on terms favourable to the protégé of Algeria, the most important stake for both Paris and Washington may be the stability of an important ally in the region. They are reluctant to do anything that might destabilise Rabat. In other words, neither country may be against the establishment of an independent Sahrawi state *per se*, but they would not want this to destabilise Morocco or marginalise it in the region. (Soudan 2006; Mundy 2006:225)

With these stakes identified, one must now try to see what concessions one or both parties can make with regard to these issues. From some of the points raised above, it is clear that both parties have in the past shown readiness, even if as a mere stratagem, to negotiate or give up some part of some of these issues. Morocco's acceptance of the OAU/UN Settlement Plan and all the subsequent proposals that provided for a referendum with independence as one of the choices was a clear sign of readiness to negotiate

at least the first stake identified above. In fact, King Hassan II is reported to have said in the 1980s that the 'flag and the postage stamp' apart, everything else was negotiable. (Mundy 2004:135) It must also be noted that the Polisario Front, backed by Algeria, has once proposed a division of the territory. As seen above, the group's April 2007 proposal shows its readiness to make significant concessions to Morocco with regard to the territory's resources.

It seems therefore that concessions are possible from both sides. However, one must be mindful of the fact that any concessions one or both parties have said to be prepared to make have been spurred by particular circumstances. Realities on the ground, which pertain to the political aspect of the dispute, play an important role in shaping the positions both parties hold from time to time. Yet, these realities tend to be more and more in favour of Morocco.

Morocco is almost assured of the support of some of the non-elected members of the UN Security Council, and this is a big advantage. Moreover, on 26 July 2006, the EU signed a fisheries agreement with the Government of Morocco whereby fishing vessels from countries in the Union would gain access to the territorial waters of Morocco. The agreement did not exclude the waters off Western Sahara. In a letter addressed to the UN SG on 23 May 2006, the Secretary-General of the Polisario deplored 'the exploitation by Morocco of the natural resources of the territory', stating that 'certain clauses of the agreement constituted a breach of international law and that the agreement might complicate the situation in western Sahara' (See UN Secretariat 2006).

Now the issue is for both sides to strive to make an objective and critical analysis of the situation and the realities on the ground and see where the current situation may lead us to. Any potential mediator should also engage in a similar exercise and bring home his objective conclusion to both parties. One may suggest that in order for such mediation to have a realistic chance to succeed, it must be conducted in utmost confidentiality like the Oslo peace negotiations, which the Norwegians mediated between Israelis and Palestinians in 1993. This is also a suggestion to de-internationalise the mediation process. The question now is who can step in to play this crucial role between the parties?

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Notes

- 1 Spain's presence in Western Sahara dates back to 1884, an occupation that was 'legalised' through a Franco-Spanish accord in 1912.
- 2 Some have argued that Mauritania's occupation of parts of the 'Spanish Sahara' was a strategic move to shield itself from Moroccan claims over its own national territory. The ruse was to make the occupied Sahrawi territories the subject of Moroccan claims and future negotiations with Rabat rather than Mauritania's own back yard (See Hodges 1983:VIII, 100-103).
- 3 But Attilio (1991:289), a veteran Italian journalist who has reported on Morocco for numerous Italian and French papers since the early 1950s, claims that a historical document was found in the late 1980s in the archives of the Belgian Ministry of Foreign Affairs confirming that Western Sahara was part and parcel of Morocco before the coming of the Spanish colonialists.
- 4 This was a time when gunmen were threatening many African regimes with military *coup d'états*, and many other African countries (such as Nigeria during the Biafra war) were faced with serious threats to their national integrity.
- 5 The Houston Agreement is published as Annex III to Annan's report of 24 September 1997 (S/1997/742), pp. 10-14.
- 6 The FA is published as Annex I to the Secretary-General's report of 20 June 2001 (S/2001/613), pp. 11-12.
- 7 See the full text of the plan as Annex II to the Report of the UN Secretary-General of 23 May 2003 (S/2003/565), pp. 14-18.
- 8 For more details on these unprecedented demonstrations in recent years, see Soudan 2005:48-52; Mundy 2006:263-265
- 9 For an overview of the costs of the current state of affairs, see ICG 2007a
- 10 See also an interview of Taïb Fassi Fihri, the Moroccan Minister of Foreign Affairs and Cooperation, with François Soudan, "Seule l'autonomie du Sahara est négociable" in *Jeune Afrique/L'Intelligent*, no. 2318, 12-18 June 2005, pp. 50-51.
- 11 Mohamed el-Arabi el-Masari, the former communications minister of Morocco and Managing Director of the *el-Alam* newspaper, which is the voice of the *El-Istiqlal* party, reiterated the same views in an interview, in Arabic, with Sidi Ahmed Ould Ahmed Salim of Al-Jazeera at the end of May 2003. See <www.aljazeera.net> (7 September 2007).
- 12 See, for example, an interview of Habiballah Mohamed, the Ambassador of the Polisario Front to Paris, with Al-Jazeera. Although there is no date provided, it is likely that the interview was recorded at the end of May 2003, because a) it is one of a series of interviews by Al-Jazeera on the question of Western Sahara, as the one above with el-Masari; and also b) because there is a mention of the Casablanca suicide bombings, which took place in 2003. See <www.aljazeera.net> (7 September 2007).
- 13 But Mohyiddin Amimour, the former Algerian Minister of Culture and Information Advisor to the late Algerian president, Houari Boumediene dismisses this argument as a fallacy. See his (possibly end of May 2003) interview with Al-jazeera at <www.aljazeera.net> (7 September 2007).

The ISS mission

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About this paper

Since the Spanish colonial administration withdrew from Western Sahara in February 1976 and Morocco moved in to occupy the territory, the conflict that ensued between Rabat and the Polisario Front, backed by Algeria, has proven very divisive in the Maghreb region and the wider African continent. For this reason, there have been several attempts to settle the dispute, through peace talks, plans and proposals. It is these peace plans and proposals that this paper strives to decipher in a bid to identify the stumbling blocks to peace and suggest a way forward. In doing so, it seeks answers to a number of questions, including: What is the content of these peace proposals and what were/are the strategies employed by their sponsors to sell them to the parties? Why have they not succeeded in getting the two parties reach a lasting and mutually acceptable solution to the conflict? Is there any possibility to bring the parties closer and eventually get them agree to a mutually acceptable peace plan? What may such a plan be and what strategy can be employed to sell it to the parties?

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