

**A briefing note for the Pan-African Parliament
Committee on International Relations, Cooperation
and Conflict Resolution:**

On Western Sahara

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Introduction

1. Western Sahara is a desert territory in north-west Africa that borders Morocco to the south, Mauritania to the north and Algeria to the west. The territory covers an area of about 252,120 sq km (97,344 sq miles), has a population of about 300,000 mostly inhabiting the main city of *Laayoune*. The inhabitants, the Saharawis, are nomadic Arabs who subscribe to Islam. This briefing note seeks to provide an overview of the historical and political dynamics pertaining to the country with the view to exploring possible roles that the Pan-African Parliament could play.

Historical Background

2. Western Sahara fell under Spanish rule in 1884, becoming a Spanish province in 1934. Saharawi nationalism was emboldened by the independence wave sweeping through Africa as well as the invasion of the occupation of the desert territory by Morocco and Mauritania forced Spain to hand over the territory to the two in 1976.¹ To resist re-colonization, the Popular Front for the Liberation of the *Saguia el-Hamra* and *Rio de Oro* (POLISARIO) Front immediately declared the Saharawi Arab Democratic Republic (SADR) and established a government in exile.² Mauritania withdrew and formally rescinded its claim to the territory in 1979 due to POLISARIO resistance and Morocco's hostility. Since then, this territory has been the subject of a long-running dispute between Morocco and the Algerian-backed POLISARIO Front. Africa's last decolonization problem has indeed been a scene of a litany of failures for the UN-led attempts to find a political settlement on the basis of UN resolutions affirming the right of the Saharawis to self-determination.

UN intervention

3. A UN-administered cease-fire has been in effect since September 1991 when a cease-fire agreement was reached between the POLISARIO and Moroccan government. The mandate of the UN mission to Western Sahara, MINURSO has been extended over 15 times since it was first mandated to preside over a possible referendum and to ensure the ceasefire was upheld. Unfortunately, MINURSO has not been able to eradicate hostilities altogether let alone attempting to hold a referendum on the future of Western Sahara question without success. Part of the territory is controlled by a nationalist group, the Polisario Front, as the Sahrawi Arab Democratic Republic.

4. In 1985, nine years after Moroccan occupation of Western Sahara, the UN in collaboration with the OAU began a joint mission of good offices in the search for a solution to the question of Western Sahara. By August 1988, the joint mission's special envoy presented to Morocco and POLISARIO a set of

¹ In November 1975, King Hassan II of Morocco instructed more than 300,000 Moroccans to march into the territory in defiance of an International Court of Justice (ICJ) ruling. The Green March was designed to force Spain to hand over the territory to Morocco and Mauritania. The UN failed to condemn it.

² The POLISARIO-led government in exile is based in Tindouf, Algeria and since 1976 POLISARIO has been hosted and backed by the Algerian government.

proposals for a settlement based on the 1960 General Assembly Resolution 1514 (XV) that sought a just and definitive solution by means of a ceasefire and the holding of a referendum to enable Saharawis to exercise their right to self-determination and choose between independence and integrating their territory with Morocco. The proposal led to a broader settlement plan proposed by the UN Secretary General (UN SG) and affirmed by the UN Security Council Resolution 658 two years later.

5. The UN SG proceeded with implementation plans on the understanding that the transition period would begin as soon as the outstanding tasks had been completed. The implementation plan proposed entailed a ceasefire taking effect in September 1991, a date both parties had accepted, and a referendum the following year. It is on this basis that MINURSO was established to monitor the ceasefire, including the verification of Moroccan troop reduction, release of political prisoners as well as to prepare and organize a free referendum for the Saharawis.

6. However, even before MINURSO began its work, there were numerous signs that due mainly to the intransigence on the part of Morocco, MINURSO would not be able to deliver on its mandate. MINURSO's implementation tasks depended on parties agreeing on various modalities – most crucially, the identity of voters. While POLISARIO supported the idea that all Saharawis within the territory be eligible to vote, Morocco insisted that only the pre-1975 Saharawi population be eligible to vote. Morocco reasoned that such a Saharawi population was too small to deliver a pro-independence verdict in the referendum. Sensing the possible unfavourable outcome of a vote on the future of Western Sahara, Morocco sent thousands of Moroccan settlers to the territory in an attempt to stack the referendum process and force the UN to accept new settlers as eligible voters.

7. In 1997, the UN again made fresh efforts to deal with the impasse by means of direct negotiations including high-level Algerian and Mauritanian observers chaired by the eminent person of former US Secretary of State, James Baker³, in Houston, US. Like the 1988 plan, the resultant Houston Agreement represented a significant step forward since it provided for the full implementation of the settlement plan. The agreement entailed, among other things, a proposed code of conduct for the referendum on Western Sahara, guidelines for the role of the UN during the transition period, and the principles that would govern the process of identifying voters who could participate in the referendum. However, erstwhile disagreements re-emerged over potential voters causing another stalemate.⁴

8. Weighed down by Morocco's obstinacy and emboldened by tacit support from the US, France and other big powers, the UN sought to play into the hands of Morocco in a manner that almost sacrificed the self-determination principles underlying all previous UN resolutions. In 2001, the UN adopted a

³ James A. Baker III was later appointed by the UN Secretary General to be his Personal Envoy to Western Sahara.

⁴ This was the 12th time the referendum had been delayed and this led to a very explosive situation in the territory.

Moroccan proposal that called for a substantial devolution of authority to Western Sahara during a 10-year transition period, during which the implementation of a self-determination referendum would be studied.⁵ Seeing that the Baker I Plan, as the plan was known, did not guarantee a referendum, the POLISARIO rejected it off-hand.⁶ When the Baker II plan ensued in July 2003, the UN good offices seemed to have lost the plot and disillusioned at the Morocco-orchestrated stand-off and fatigued by growing doubts within the UN Security Council about the UN SG efforts. Baker II called for an initial vote on autonomy, followed by a second vote on independence after five years. Although this arrangement favoured Morocco, Morocco had been emboldened by willingness of mediators to bend over to its position, to reject any mention of independence or self-determination in the text, refusing to take even a minimal risk at the polls. It was at this point that James Baker reached a cul-de-sac and tendered his resignation as UN SG Personal Envoy, effective June 2004. The UN special representative in charge of MINURSO, Alvaro De Soto, took over from Baker but a year later, he too had tendered his resignation, leaving the UN SG at wits end about what to do next and who to appoint.

9. Against this background, the Security Council's extension of MINURSO's mandate came amidst a litany of failures, but the process stood at the confluence of possibilities arising out of fresh thinking, new measures and new envoys expected. The extension was intended to maintain the existing ceasefire in Western Sahara and facilitate a peaceful settlement of the low intensity conflict that had been on-going since 1976. The extension of the UN's mandate, however, has evoked mixed feelings within the international community. On the one hand, there appears to be hope for Western Sahara, judging from a recent UN Secretary General report that the political climate in the territory had improved and that MINURSO was in a position to provide adequate and effective monitoring of the unstable ceasefire. On the other hand, the unstable ceasefire could escalate to an all-out war if not monitored effectively. This fear is not unfounded, given POLISARIO's ongoing plans to conduct military exercises in the *Tafriti* region of the territory and its recent threat to resume armed struggle. Overall, the tendency of 'good offices' route of the UN to rely too much on the willingness of the players to reach an amicable solution is a major weakness in the peace process.

The role of major players

10. The United Nations views Western Sahara as a case of incomplete decolonization, until the Sahrawi people are able to use their right of self-determination in the form of a referendum. This makes Western Sahara the last major remaining colony in the world. The UN, therefore, considers Western Sahara an occupied territory which should be decolonized – since Spain remains the legal administrator of the territory. Although the Sahrawi

⁵ The UN Secretary General then proposed that the UN abandon the settlement plan by offering instead a "framework agreement" (the Moroccan proposal), thereby denying the Saharawi people their inalienable right to self-determination.

⁶ Contrary to POLISARIO's position, the Moroccan King publicly dismissed any UN Settlement Plan for Western Sahara but indicated that the territory could be granted autonomy as part of Morocco.

republic is not recognized as a member state of the UN, Polisario is recognized as the legal representative of the Sahrawi people.

11. On its part, the African Union has given the Sahrawi Arab Democratic Republic (SADR) full recognition, and accepted it as a member - a position behind Morocco's withdrawal of its AU membership.

12. The position of the Kingdom of Morocco is that the Western Sahara is an integral part of the Kingdom. The Moroccan government refers to Western Sahara only as the "Sahara" - "Moroccan Sahara" - "Saharan provinces" or the "Southern Provinces".

13. The Polisario Front is for full independence and contends that Western Sahara is an occupied territory, the rightful government of which is the exiled Sahrawi Arab Democratic Republic (SADR) based in Tindouf, Algeria.

14. As POLISARIO's host and foremost supporter, Algeria is a key player in the resolution of the problem of Western Sahara. In the past few years, Algeria's political profile as a major player in Maghreb politics has increased. Algeria's position is that Western Sahara needs to hold a referendum in pursuit of its self-determination.

16. As Morocco's closest ally, France supports a solution that ultimately gives jurisdiction over the territory to Rabat. France's support of the Moroccan cause is related to the former's vested economic interests in the territory. On 19 October 2001, Morocco allocated to French conglomerate *TotalFinaElf* a 200 square mile territory off the coast of Western Sahara by signing contracts to explore possible oil reserves there.

17. Even though Spain left its colonial acquisition 30 years ago, it still has a unique and important role to play in the politics and resolution of the crisis in Western Sahara. The historical, cultural and linguistic links with the Saharawis give Spain the potential to act as an arbiter in the dispute apart from their traditional support for the idea of a referendum as regards the future of the territory. In addition, the UN still considers Spain the legal administrator of the territory.

18. Consistent with the US's position regarding Western Sahara that has vacillated between supporting Morocco and aiding the Baker efforts, Washington signed a bilateral free trade agreement with Rabat in 2004 that specifically excluded the territory of Western Sahara and its resources. This was an attempt at striking a delicate balance between US interests in maintaining strong trade relations with Morocco and its reluctance to cement Morocco's disputed control over the Saharawi Republic, although Washington

supports the involvement of US companies in the Morocco-sanctioned exploitation of Western Saharan resources despite UN legal opinion.⁷

19. Norway's fishing companies have continued to exploit Western Sahara's fishing endowment with the tacit approval of the Norwegian government. This is in spite of the official government position in favour of the Saharawi cause. Norway is one of Europe's leading nations in the fisheries industry that includes the construction of fisheries vessels, fishing technology, fish processing and distribution technology.

International recognition

20. The SADR is recognized by 46 states (not including 22 states that have cancelled their earlier recognitions and 13 that have frozen their relations). Although Morocco claims that no recognition is required, Moroccan sovereignty over the territory is explicitly supported, but not recognized formally by the Arab League.

21. There are a number of governments in the international community that formally recognize Western Sahara as a sovereign state, with the exiled Sahrawi Arab Democratic Republic as its legitimate government. After recognizing an independent Western Sahara, some states have since retracted their recognitions. Others have chosen a milder option, to "freeze" recognition pending the outcome of a referendum on self-determination (which has been scuttled by Morocco). If the results are in favor of independence, these governments would then resume contacts. Currently, 46 countries recognize the Sahrawi Arab Democratic Republic (13 of these are home to Sahrawi embassies while 13 have "frozen" relations).

Challenges and Obstacles for the UN and MINURSO

22. The UN's inability to force Morocco to abide by its international obligations and allow a referendum demanded by the UN Security Council in 1991 to take place will undercut the success of MINURSO's extended tenure. Furthermore, the UN and MINURSO have not voiced serious objections when Morocco, on numerous occasions, adopted actions that were unsettling the status quo in the territory such as the 2 720 km long wall cutting through Western Sahara. The wall effectively incorporates into Morocco a large part of the territory and undermines a just resolution of the dispute.⁸

⁷ An opinion issued by the UN Under-Secretary General for Legal Affairs in 2002 that as long as the status of Western Sahara remained unresolved further exploration of oil and mineral resources were "in violation of international law". This UN legal opinion effectively implies that Morocco had no right to act on behalf of Western Sahara and market its resources.

⁸ The wall cuts across the territory and divides Saharawis living on both sides of it and as such Saharawi families living on both sides of the wall have been separated by this barrier for almost three decades. The wall grants Morocco two-thirds of the territory, which contains most of the fertile land, the coast with its excellent fishing industry, huge phosphate deposits, and recently discovered oil reserves. The wall is reinforced by soldiers, anti-personnel and anti-tank mines, trenches, radar detectors, barbed wire and several million landmines. The wall holds the biggest concentration of landmines in Western

23. At the same time, both Morocco and POLISARIO do not hold the UN in high esteem; Morocco views the UN as the enemy and POLISARIO sees the UN as either toothless or unwilling to respond effectively to Moroccan violations of the ceasefire. In these circumstances MINURSO does not have an easy task, since it can hardly be argued that it has the full support of any party in this conflict. The situation in which MINURSO officials have to operate is also aggravated by Moroccan security forces that prevent MINURSO officers at gunpoint from performing their duties, thus virtually making them hostages without UN condemnation or sanction. Furthermore, there are no signs of UN presence or evidence of its authority, such as flags that could foster hope within the population. Moreover, Morocco does not permit any contact between the population and MINURSO.

Recommendations

24. In the light of the above, the Committee should consider the following recommendations:

- a. The PAP should appeal to the UN Security Council to enforce its own resolutions regarding Western Sahara.
- b. The PAP should support the position of the AU regarding the membership of Western Sahara in the Union and call upon the Government of Morocco to respect this position.
- c. The PAP should call upon the Government of Morocco to abide by existing UN resolutions on Western Sahara and commit itself to finding an amicable settlement.
- d. The PAP should call upon the POLISARIO to continue using diplomatic (rather than military) means in pursuit of the self-determination of the people of Western Sahara.
- e. The PAP should call upon foreign enterprises operating on the basis of agreements signed with the Government of Morocco to withdraw from Western Sahara's territory and not to do anything that would compromise the peace process.

Sahara. It was built following advice given to Hassan II by Ariel Sharon, and obtaining the financing from Saudi Arabia. Morocco built this long defensive barrier to prevent POLISARIO from continuing its attacks on occupying forces. Effectively, POLISARIO Front controls all areas to the east of the barrier. The wall is dubbed by the Sahrawis "The Wall of Shame".