

## PROFILE

# Out with the Old, in with the New: Western Sahara back to Square One?

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### Introduction

The closing months of 2008 saw the end of a chapter and the opening of a new one in the Western Sahara conflict. Over the past three years, the peace process in Western Sahara, what the United Nations considers Africa's last colony, was under the guidance of former Dutch diplomat Peter Van Walsum, who lost his position as UN Secretary General Personal Envoy at the end of August. Taking up where Van Walsum left off, the United States put forward the nomination of Ambassador Christopher Ross – one the US's leading Middle East diplomats – to mediate the three decades old dispute between the occupying power, Morocco, and the Sahrawi pro-independence movement, the Polisario Front.

The change of leadership in the Western Sahara peace process in autumn 2008 came shortly before the election of Barak Obama to the US presidency. Since 2001, the George W. Bush administration had taken a decidedly pro-Moroccan stance on the issue of Western Sahara, one that grew more explicit approaching the end of his second term. Though Obama won the election on a pledge to revise the Bush administration's foreign policies, especially in the Middle East, it was still unclear – at the time of writing – whether the new administration in the White House would also revise the US position on Western Sahara. As one of the most important Western powers with an interest in Western Sahara, next to France and Spain, yet with the power either to leverage or augment the stances of Paris and Rabat, the United States remains the linchpin to the (ir)resolution of the Western Sahara conflict.

### The Sustainable Intractability of Western Sahara

Despite the consistent peacemaking efforts of the UN Secretariat since 1985, the Morocco–Polisario dispute over Western Sahara celebrated its thirty-third birthday in November 2008 and looked set to last well beyond 2009. Few in 1975 would have

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guessed that Morocco's attempt to forcibly annex Western Sahara would trigger one of the longest, most intractable conflicts in Africa. But at that time the resolve of the Western Saharan independence movement, and the willingness of Algeria to support it, was little understood.

One major effect of Morocco's 1975 invasion was not only a 16-year war with Polisario, but also the flight of nearly half the native Sahrawi population into exile in Algeria. From four refugee camps near Tindouf in the south-west of Algeria, Polisario has led the Western Saharan independence movement's armed struggle and international diplomatic efforts, the crowning achievement being its recognition as a full member-state of the African Union in 1984. The other major effect of Morocco's forced annexation was the collapse of relations between Rabat and Algiers, which have failed to recover since then.

While Morocco and Polisario laid down their arms in 1991, under the auspices of a UN ceasefire, since monitored by the UN Mission for the Referendum in Western Sahara (MINURSO), their diplomatic war of attrition continues unabated. No one can reasonably argue that this issue is any closer to resolution than when the UN Security Council first became 'seized of the matter' in 1988.

Since 1991, the peace process in Western Sahara has gone through roughly three stages. The first period, encompassing the initial nine years of the UN mission, saw the intense efforts from the international community to organize a referendum on independence from, or integration with, Morocco. Following the death of Morocco's King Hassan II in 1999, the Security Council ostensibly abandoned the 'winner take all' framework of the referendum in favour of a negotiated compromise solution so that Morocco's new king, Mohamed VI, would not face a potentially destabilizing vote in Western Sahara. Yet the Security Council simultaneously maintained its rhetorical support for Western Sahara's right to self-determination, which should afford the native Sahrawi a plebiscite on independence. During this second phase of the peace process, 2001 to 2004, the lead negotiator was former US Secretary of State James Baker, having accepted the assignment in 1997. By June 2004, Baker was essentially forced to resign because the Security Council would not make the difficult choice of either rejecting Western Sahara's right to self-determination or forcing Morocco to participate in a vote on independence. What followed, the third and latest stage in the Western Sahara peace process, failed to resolve this fundamental contradiction as well.

### **'Quasi-Irreconcilable'**

In the year following Baker's departure, the Western Saharan peace process drifted dangerously towards total collapse. Digging in its heels, Polisario initially refused to participate in talks – either direct or indirect – until Morocco accepted Baker's 2003 Peace Plan, which called for a referendum on independence after a four-year trial period of autonomy under Moroccan sovereignty. Algeria, echoing Polisario's attitude, increased its vocal support for Western Saharan independence, not just self-determination. Upon Baker's resignation, and the simultaneous awarding of a bilateral Free Trade Agreement and major non-NATO ally status from the United States, Rabat felt secure in Washington's support.

The only member of the Western Saharan ‘Group of Friends’ at the United Nations – France, United Kingdom, United States, Russia and Spain – to make an effort in the immediate post-Baker period was Spain. Yet Madrid’s efforts were clouded by mixed messages; one seemed tailored for Rabat and one for Algiers. During the summer of 2004, when MINURSO lacked both a special representative and a personal envoy, and in the midst of the largest pro-independence demonstrations in Western Sahara’s history, in May–July 2005, Spain quietly approached Morocco, Algeria and Polisario about holding direct talks without preconditions. For Algeria and Polisario, trilateral negotiations were as repugnant as bilateral Algeria–Morocco talks. Algeria’s position, since day one, has been that the dispute is between Morocco and the Sahrawi people. Morocco’s position, on the other hand, has been that the dispute is really an affair between Rabat and Algiers because Polisario would not exist if not for the latter. Having failed to spur either Moroccan–Polisario or Moroccan–Algerian dialogue, Spain pressed the United Nations for a new personal envoy.

Approaching the final year of his tenure, Secretary-General Annan appointed Van Walsum as his new personal envoy to Western Sahara on 25 July 2005. Following his first tour of the region, 11 to 17 October, Van Walsum summed up the attitudes of Morocco and Polisario as ‘quasi-irreconcilable’ – a botched attempt to sound both diplomatic and realistic. Then, in his first briefing to the Security Council, in January 2006, he stated his belief that a solution was at least a year away. Regarding Baker’s 2003 Peace Plan, Van Walsum noted that recent Security Council resolutions had shown no renewed support for the plan. Likewise, little pressure had been put on Morocco by its allies – France and the United States – to reconsider its stance towards a referendum. The Western Sahara paradox, as the secretary-general and his personal envoy described it, remained the same:

A new plan would be doomed from the outset because Morocco would reject it again, unless it did not provide for a referendum with independence as an option . . . [T]he United Nations could not endorse a plan that excluded a genuine referendum while claiming to provide for the self-determination of the people of Western Sahara.

There were thus two realistic options, according to Van Walsum. The United Nations could either wait for a ‘different political reality’ or ‘direct negotiations between the parties’. As the former was deemed a ‘recipe for violence’, the latter 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’. According to Annan, Van Walsum felt, ‘the question of Western Sahara can only be achieved if the parties work to seek a mutually acceptable compromise with each other based upon relevant principles of international law as well as current political realities’ (S/2006/249: para. 31–39). An astute observer should quickly notice the inherent paradox in the UN Secretariat’s reasoning, simultaneously supporting and rejecting Western Sahara’s right to independence.

In typical fashion, the Security Council simply deferred the issue for another six months, to October 2006.

### **‘Serious and Credible’**

In his November 2005 speech marking the thirtieth anniversary of the invasion of the Spanish Sahara, King Mohammed had already announced that he would enter into a national dialogue with Morocco’s political parties on the subject of granting autonomy to Western Sahara. Once this internal process was complete, the Moroccan regime promised to present its own autonomy proposal to the United Nations in early 2006. By MINURSO’s April 2006 deadline, nothing had been put forward. A month later, it seemed that Morocco’s ‘autonomy’ proposal amounted to little more than reviving CORCAS, the Monarchy’s Saharan advisory council, with Khalihenna Ould Rachid as its head. First groomed by Madrid as a part of a neo-colonial elite, but having defected to King Hassan in May 1975 in the face of near unanimous Sahrawi support for Polisario, Ould Rachid had served several positions in the Moroccan government and earned a small fortune from various enterprises and corruption in Western Sahara. As the new face of Morocco’s peace-making efforts, Ould Rachid toured several important global capitals to tout the virtues of autonomy.

For Rabat’s autonomy project to be taken seriously as a legitimate peace offer by the Security Council, Morocco would first have to present Van Walsum with a detailed proposal. Yet Morocco stalled, knowing that once its ideas were made public, Rabat would be committing itself to something less than full integration. There were two clear disincentives for this course of action. First, the Security Council would likely hold Morocco to its commitment to autonomy. Though France and the United States had provided the political cover on the Security Council in 2000 to allow Mohammed VI to back away from his father’s commitments to self-determination, this had been done so that a compromise solution like autonomy could be found. On the other hand, the Moroccan government’s autonomy proposal would have to find a delicate balance between domestic and international interests. While the former would call for the weakest autonomy possible (to ensure continuity of political, economic and security interests), the latter expected something that both Polisario and the Security Council would have to take seriously. Though it was understood that Mohammed VI had accepted Baker’s 2001 Framework Agreement, Rabat’s secret autonomy proposals of late 2003 and 2004 – rejoinders to Baker’s Peace Plan – indicated that Morocco’s conception of ‘autonomy’ still needed time to mature. The problem for Mohammed VI’s patron states – France, Spain and the United States – was that Morocco had yet to provide a serious rejoinder to the peace process. Given that Paris, Madrid and Washington had all helped scrap Baker’s Peace Plan for Morocco’s sake, the onus was on Rabat to provide a credible counter-proposal.

With quiet French, US and Spanish nudging, Rabat finally submitted its long-anticipated autonomy proposal to the new UN Secretary-General, Ban Ki-moon, on 11 April 2007. This came a day after Polisario submitted – without warning the

UN Secretariat – several dramatic bridging proposals to revive the 2003 Peace Plan. Yet the long anticipated Moroccan proposal received far more attention than Polisario's desperate attempt to steal the spotlight.

The minimum international standard for an autonomy regime is to have a locally elected government that cannot be abolished by the central state. This was not envisioned by Morocco for Western Sahara. Rabat proposed the creation of a 'Saharan Autonomous Region' (SAR) with locally elected government (executive, judicial and legislative) granted specific competences. Yet the constraints upon the central state were not fleshed out; ultimate power appeared to rest in the hands of the Moroccan monarch, with the implicit ability to nullify the democratically elected government in Western Sahara. Instead of being separate but not equal (autonomy), Morocco's statute proposed a Western Sahara neither separate nor equal. Furthermore, the fact that Morocco offered no mechanisms for international monitoring, enforcement of the agreement and international protection force for the population left the door open for massive repression and a unilateral renegeing of the statute in the name of 'territorial integrity' (e.g., as with Ethiopia in Eritrea 1961 and Serbia in Kosovo in 1989). The Moroccan government and its supporters rejected specific criticisms of the statute on the grounds that it represented a basis for negotiations rather than a finalized proposal.

Despite serious problems with the Moroccan proposal, the Bush administration and some congressional leaders rushed to legitimize it. That June, the 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 refrain later repeated before the House Foreign Relations Committee by Assistant Secretary of State for Near Eastern Affairs David Welch. Welch even warned in the course of his testimony that the conflict needed quick resolution because the Polisario-administered refugee camps present 'a potentially attractive safe haven for terrorist planning or activity' – an audacious claim with no empirical backing. Nor was there any change in French policy following the election of President Nicholas Sarkozy in May 2007, who continued the staunchly pro-Moroccan policy of Jacques Chirac. In a speech before the Moroccan parliament several months after his election, Sarkozy, like the Bush administration, described Morocco's proposal as a 'serious and credible' basis for a 'political solution, negotiated and agreed by the two parties'. When it came to negotiating the future of Western Sahara, the new president added, 'France will stand shoulder to shoulder with you'.

The Security Council's response to the Moroccan proposal (Resolution 1754) was equally welcoming, borrowing the exact language – 'serious and credible' – of Washington and Paris. While 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.

It was a victory for Van Walsum's slow and steady approach. With little carrots and no sticks, the personal envoy had to use time, encouragement and evolving power relations to his advantage. Following Van Walsum's dire assessment in early

2006, he slowly manoeuvred the parties – first Morocco and then Polisario – into positions where their rejection of negotiations would be patently unreasonable. In the wake of Baker, and the Security Council's demand that a solution would have to come from the parties, the first step was to convince Morocco and its allies that it was Rabat's responsibility, as the more powerful party (not to mention the previously rejectionist one), to devise a credible counter-offer.

Simultaneously, the Security Council and the Secretariat would have to distance themselves from Baker's 2003 Peace Plan, while at the same time convincing Polisario that their right to a referendum on independence was still guaranteed. Such assurances would force Polisario into talks, as the independence movement would ostensibly have nothing to lose boycotting the negotiating table. The problem was that these negotiations would be in bad faith. Morocco had no intention of discussing self-determination and Polisario had no intention of discussing autonomy. Though Van Walsum had set the stage for the first direct talks in almost seven years, it would take little to knock over his house of cards.

### **The Performance of Peace**

Two months after the Security Council called for new talks, delegations from Morocco and Polisario met in Manhasset, New York, in June and August, with Algerian and Mauritanian observers present for the two-day events. A second set of talks followed the Security Council's review of MINURSO in October, with parties again meeting in Manhasset in January and March 2008. According to internal accounts and statements issued afterwards, there was little substance to the meetings. This partially resulted from the composition of the Moroccan delegation. The Polisario team – Mahfoud Ali Beiba, Brahim Ghali, Ahmed Boukhari and Emhammed Khaddad – was essentially unchanged from talks in 1997 and 2000, underscoring the continuity of Polisario's position. The Moroccan side was almost entirely new, formed of Mohammed VI's most trusted advisors, including Minister of the Interior Chakib Benmoussa, then Minister delegate for Foreign Affairs Taieb Fassi Fihri, Minister delegate for the Interior Fouad Ali Al Himma, counter-intelligence chief Yassine Mansouri, and Morocco's UN representative Mostafa Sahel. Provocatively, Rabat had also dispatched members of CORCAS, including Ould Rachid. Anna Theofilopoulou, who held the Western Sahara dossier in the UN Secretariat during Baker's tenure (1997–2004), later commented,

The composition of the delegations sent to Greentree gave testament to the firmness with which both sides were holding to their positions... Thus Morocco emphasized its point that the issue of Western Sahara is an internal one, and that the matter should really be discussed among Saharans on both sides of the divide – the 'separatists,' as Morocco often calls Polisario officials, and those loyal to Morocco. Polisario, on the other hand, sent the exact same delegation that it had sent to all direct talks held under Baker's auspices, thus making it clear that as far as Polisario was concerned nothing had changed in its position since that time.

As Polisario's side was not used to these new Moroccan faces, and the Rabat's team had yet to get acclimatized to dealing with Polisario at all, the first two meetings in 2007 were little more than introductions. The second set in 2008 were perfunctory (re)statements of position.

Having gone through the motions for almost a year, Van Walsum decided it was time to call the Council's bluff. Briefing the Security Council at the end of April 2008, he bluntly said Western Saharan independence was unrealistic and the Security Council should say so. Van Walsum's statements were quickly leaked in the Moroccan press. The Security Council, however, opted not to take such a bold step; instead of the normal six-month extension, MINURSO was given a full year mandate, while more negotiations were demanded (Resolution 1813). Polisario's response came quickly: a statement from Polisario headquarters near Tindouf on 4 May declared the movement no longer held any confidence in the secretary-general's personal envoy. Polisario would attend negotiations, but not under Van Walsum's auspices.

In the weeks following these developments, the UN Secretariat remained eerily silent on the matter. Showing obvious frustration, Van Walsum gave his first interview on Western Sahara to the Dutch paper *NRC Handelsblad* (24 May 2008). There he explained his belief that Western Sahara will not achieve independence if the United States and France do not support it. He then expressed similar statements in the leading Spanish daily, *El País*, on 8 August. Van Walsum acknowledged that 'international law is on [Polisario's] side', but he felt that it was in the best interests of Western Saharan nationalism to accept 'reality' and agree to share power with Morocco. Three weeks later, at the end of August, the UN Secretariat unceremoniously fired Van Walsum by simply letting his contract expire.

### **Getting Realistic**

Already waiting in the wings to replace Van Walsum was retired US ambassador Christopher Ross, an Arabic-speaking official with an extensive background in the Middle East and, more importantly, Algeria. Ross had attended the first four Manhasset rounds as a US observer, suggesting either a keen interest in the issue or a pre-existing effort by the State Department to insert Ross into the process. When Ross' name was first floated, it seemed that he was an envoy of the United States rather than the UN secretary-general: Secretary of State Condoleezza Rice welcomed Ross' selection before the United Nations had secured the consent of Morocco and Polisario to his appointment. While Polisario would have welcomed increased attention from the United States in 2004, recent statements by the Bush administration had renounced the United States' long-standing rhetorical support for self-determination. This went far beyond earlier statements of support for Morocco's autonomy proposal, openly declaring autonomy as the only feasible solution. Following the extension of MINURSO in April 2008, a State Department official said the US position was that, 'An independent Sahrawi state is not a realistic option. In our view, some form of autonomy under Moroccan sovereignty is the only realistic way forward to resolve this longstanding conflict'. This was followed by a letter from President Bush on the ninth anniversary of the ascension

of Mohammed VI, 23 July, which reiterated US support for autonomy as the only solution. Secretary of State Rice further underscored the new US position against independence when she announced Ross' appointment as the new personal envoy: 'There are proposals on the table. We don't need to go back to square one. Obviously, this is going to involve some kind of autonomy.'

With deepening Franco-American opposition to the national rights of the Western Saharans, Polisario faced serious choices as 2008 drew to a close. Though the May 2005 Intifada, which was still simmering in the streets of Western Sahara, had given Sahrawi nationalists some hopes. Morocco's selective yet persistent use of torture, intimidation and detainment had kept protests to a minimum while further convincing the Sahrawi refugees that they are better off in exile. On the international stage, Polisario's successful rejection of Van Walsum suggested, in the short term, that they did not have to fear an imposed solution. In the long term, Polisario could either continue to cooperate with the United Nations, in the face of Morocco's continued rejection of self-determination, or it could pursue independence through other means. Towards the end of 2007, it seemed that Polisario's leaders were taking the military option more and more seriously, or being forced to do so by their constituents in the camps. The December 2007 triennial congress of Polisario in Tifariti, Western Sahara, resolved to increase the readiness of their armed wing, the Saharan People's Liberation Army (SPLA), in case the talks failed. Independent accounts from the Congress (subtitled the 'struggle to impose sovereignty and full independence') indicated widespread support for war among the 2,000 delegates and attendees, though Polisario's diplomatic core pressed for more time. On 20 December 2007, the Congress stated its opposition to negotiations that would 'drag on and become an end in itself in the service of colonial designs'. As always, Western Saharan nationalism lacked a sufficient *casus belli* that would pass muster with Algeria or the international community. However, it was clear that the Franco-American consensus had, once again, backed Western Saharan nationalism into a corner, robbing it of hope and leaving it few alternatives.

The choices facing the international community in Western Sahara at the end of 2008 remained fundamentally unchanged. Though the ideal situation is obvious enough (a just, durable, timely and non-violent settlement), the will to achieve it will probably never coalesce so long as Morocco remains a steadfast ally of the United States and France. Between the options of accepting Morocco's occupation as a *fait accompli* or endorsing the creation of an independent Western Sahara through self-determination, the Security Council is likely to take the path of least resistance and risk: the status quo. If the options are either destabilizing Morocco or radicalizing Polisario, the choice is clear enough for policy makers. Yet such short-term thinking does just that: meet short-term needs. Though Polisario is unlikely to launch a new war for Western Sahara, the conditions for a rapid escalation under a number of plausible scenarios are clearly present. One way or another, the hard choices in Western Sahara will have to be made. It is only a question of when.