

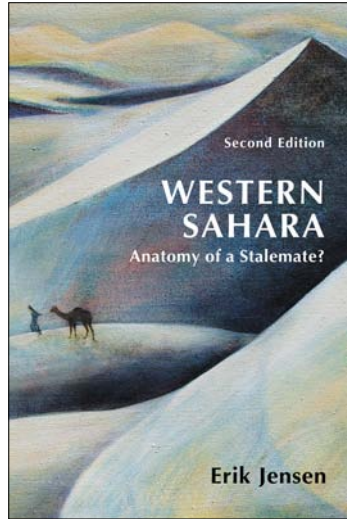
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# Western Sahara: Anatomy of a Stalemate?

SECOND EDITION

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# 1

## World Events and Western Sahara

A BOOK ABOUT WESTERN SAHARA FACES AN IMMEDIATE CHALLENGE. Outside of the region, few know where Western Sahara is; still fewer know what the conflict is about, or care. Then, why write about it? During the Cold War, the territory had some strategic significance; it has a different strategic relevance today. The momentous changes taking place across North Africa and the Middle East have focused interest on the region and given new urgency to a solution of the Western Sahara dispute.

The UN Security Council and the Secretariat have been criticized for the failure of the United Nations Mission for the Referendum in Western Sahara (MINURSO)<sup>1</sup> to implement the settlement plan supposedly agreed to by the parties. The Kingdom of Morocco and the Frente Popular para la Liberación de Saguía el-Hamra y Río de Oro (Frente Polisario or Polisario) in reality agreed to differing and incompatible interpretations of what was proposed. The core issue is who is a Sahrawi, who is a Western Saharan,<sup>2</sup> and who should be entitled to vote—in effect, who should be the determining “self” in an act of self-determination? Morocco rejected colonially imposed divisions and insisted that the right to vote be comprehensively based on the principle of *jus sanguinis* and not exclude members of Sahrawi tribes with links to the territory. For the Polisario, the right to vote should be narrowly defined, mainly according to *jus soli* and in practice limited largely to persons counted in the Spanish Sahara census of 1974. These positions were closed to compromise. The consequence of one or the other prevailing was seen as determinant in a winner-take-all referendum with the unnuanced choice between independence or integration with Morocco. That same impediment to realizing the original settlement plan has since blocked efforts to find an alternative solution.

International involvement and the waxing and waning of concern to resolve the conflict are more readily understood when placed in the context of contemporary events. The Cold War; the optimism following the end of the

Cold War; simultaneous reelection campaigns of a US president and a UN Secretary-General; the US “war on terror”; and, most recently, uprisings across the Arab world have all exerted influence. To recognize that, as explained in this introduction, helps to make the problems described in detail in the chapters that follow and the actions taken (and not taken) more intelligible, and leads into the present.

Western Sahara lies on the northwest African coast immediately to the south of Morocco, north and west of Mauritania, and southwest of Algeria. The population, currently estimated as approaching 500,000, lives in a desert exceeding Great Britain in area. The coastal waters offer rich fishing. High-quality phosphate is extracted and there is speculation about other mineral deposits.

From 1884 to 1975, the territory was a Spanish colony, although it was only in the final decades that Spain exercised administrative control over the Sahrawi tribes in the interior. When Spain agreed to relinquish colonial power, Morocco and Mauritania approached the World Court for an advisory opinion, which they interpreted as supporting their historical claims to the territory, and took administrative control. The Polisario independence movement, with notably Algerian and Libyan political and practical support, launched offensives against Morocco and Mauritania. When Mauritania was obliged to relinquish its share of Western Sahara, Morocco took over.

Though military activity continued, Morocco was able to secure possession of the territory by constructing a 2,000-kilometer defensive wall. In 1990–1991, the UN Security Council approved a settlement plan leading to a referendum where voters would opt for either independence or integration with Morocco. An informal cease-fire became formal after a renewed bout of fighting. The problem to establish an electoral roll remained: the two sides had irreconcilable views as to who should vote. When the emerging lists were upheld by one side and categorically rejected by the other, the settlement plan was abandoned. Subsequent efforts for the parties voluntarily to accept alternative plans have failed. A Moroccan initiative for a regional autonomy statute is the latest proposal. In the context of recent events across North Africa and constitutional reform in Morocco, this may provide the basis for serious negotiations in the hope of reaching a mutually acceptable political solution to the conflict.

When Spain abruptly relinquished its African colony of Spanish Sahara, it was at the time of the Cold War. Nothing illustrates more graphically the difference between the opposing camps than the two resolutions adopted by the UN General Assembly on the same day in December 1975. One, inclined toward the Western view, took note of the Madrid tripartite agreement by which Spain ceded administrative control of the territory to Morocco and Mauritania, and called for the “Saharan populations originating in the Territory” to determine their future.<sup>3</sup> The other studiously ignored the Madrid agreement and emphasized support for the inalienable right to self-determination of the people of Spanish Sahara. As a harbinger of misunderstandings to come, one member state voted for both resolutions in the ill-founded belief that the two texts were complementary.

Morocco benefited from association with the United States not only with respect to the Madrid agreement, in which the United States had a role, but already when King Hassan II led his people on the Green March into the Spanish colony and the Security Council chose not to act decisively against the incursion. The Soviet bloc was sympathetic to the Polisario, an anticolonialist freedom movement.

The geographical setting and background to the conflict are described in Chapter 2. The dispute was addressed by the Organization of African Unity (OAU before it became the African Union, or AU) after Mauritania was compelled to relinquish its share of the territory, in effect to Morocco. The organization was unable to muster coherent support for action and Africa’s nominated Committee of Wise Men achieved little. The Western Sahara issue, relegated to African infighting, remained marginal to global concern. So long as the Cold War endured, the UN was sidelined with little scope for intervening to end the conflict. For fifteen years, Moroccan and Polisario armed forces continued to confront each other.

The fall of the Berlin Wall heralded a new beginning, the new world order of President George H. W. Bush. Acting to resolve long-term disputes became possible. The UN succeeded in Namibia, Cambodia, and Central America where conflicts had long festered. The euphoria—hardly too strong a word—that accompanied the expulsion of invading Iraqi forces from Kuwait generated an expectation that every conflict was susceptible to being resolved. Without that level of expectation and confidence, it is difficult to see how the flawed settlement plan for Western Sahara could have been promoted by the Security Council. The plan was negotiated separately with the two sides and, when it was published, both submitted their serious reservations. Even the Secretary-General himself, Javier Pérez de Cuéllar, who was responsible for developing the plan, was not convinced that the plan as such would deliver an acceptable solution.

Informed members of the Security Council seem to have relied on the Secretary-General’s good offices to permit a negotiated political compromise to emerge, which could then be submitted to a popular referendum. The effective exercise of good offices depends on either the willingness of the parties to work

toward a solution, or a great-power decision in the background, or both. It is not coercive: it does not benefit from the threat of sanctions or use of force. Only the optimistic political climate of the time can explain the expectation that Morocco and the Polisario would voluntarily respond to the settlement plan as adopted or else freely agree to an alternative compromise to end the conflict.

Post-Cold War euphoria failed to deliver. This book describes step by step the process as it actually evolved. The cease-fire that was intentionally linked to other measures had to be decoupled, removing at the outset an important incentive. The task of identifying those eligible to vote followed and what had been envisaged as an essentially technical operation emerged as the hard political core. Morocco and the Polisario held incompatible views regarding who should vote, who should be the “self” in an act of self-determination. The Polisario’s position had the advantage of simplicity: it recognized as potentially eligible only Sahrawis included in the Spanish census of 1974. Morocco insisted that so limited an interpretation derived from artificially imposed colonial divisions and that the future of the territory should be decided by all Sahrawis with links to Western Sahara. That individuals had been absent during the census was not in dispute: for education (the Polisario’s own founder was at the university in Rabat); for medical treatment; for business; or as political adversaries of Spain, the colonial power. More contentious was Morocco’s determination also to include members of the populous Sahrawi tribes who were predominantly (but not exclusively) based outside the territory in southern Morocco. The Moroccan argument hinged on the fact that the Sahrawi tribes were nomadic and the deserts they traversed not frontier delineated: *jus sanguinis*, not *jus soli*, had to be the criterion.

The book explains how an identification procedure, for which no precedent existed, was elaborated and made acceptable to both sides as well as how the Identification Commission began to operate. Both Morocco and, in its own way, the Polisario sought to control the process. But despite the obstacles and constant maneuvering, which eventually ground the Identification Commission’s work to a halt, it delivered a significant interim result. The number of applicants convoked and processed came to 77,058, which exceeded the total in the revised census list of 72,370. The irreconcilable positions of the parties, however, blocked identification of twice that number remaining from the 233,487 applications originally received. The vast majority of these applicants, predominantly from the Moroccan side, depended on oral testimony, which experience showed as being open to political influence. Although the final outcome served to prove that, despite criticism, the commission’s integrity and scrupulous functioning were not in doubt, identification was never going to deliver a verdict voluntarily acceptable to both sides.

Some observers hoped that the preliminary figures, by pointing toward the likely end result, would provide the catalyst for serious negotiation—the alternative way forward they had long envisaged. After an uncertain start, the par-

ties agreed to meet together in 1996 to discuss a compromise settlement based on regional autonomy, excluding straightforward integration and independence. Morocco stipulated that talks be held in secret and not be exploited for any publicity or as “recognition.” The Polisario’s main condition was that its representatives deal with the Moroccan king or the crown prince. An exploratory encounter at Geneva exceeded expectations and, in September in Rabat, an important Polisario delegation met with the crown prince who was advised by the powerful and knowledgeable Moroccan minister of interior, Driss Basri. The first and second rounds passed successfully. They may in fact have moved too well and too fast for others affected, and in the face of vested interests. No immediate meeting with the king followed, as tentatively foreseen, but the talks concluded on a positive note with agreement to resume in the near future.

Unfortunately, this most promising development coincided with unrelated international events. President Bill Clinton was in the throes of a reelection campaign and, coincidentally, Boutros Boutros-Ghali battled to realize his aspiration for another term as Secretary-General. Influential US politicians, campaigning to oust Boutros-Ghali, had no reason to be supportive of a UN initiative and Boutros-Ghali was preoccupied with being reelected. Western Sahara was left by the wayside. Morocco and the Polisario, once aware of developments in New York and Washington, preferred to await the election of someone “more favorable to its position.”

When Kofi Annan was elected Secretary-General in 1996 one of his first acts was to appoint former US secretary of state James A. Baker III as his personal envoy for Western Sahara. Baker’s mandate was to determine whether the settlement plan could be implemented as it stood, or whether it could be implemented with agreed changes, or if there was a third way forward. The assumption was that Baker, with evident US backing, would nudge the parties toward a negotiated compromise.

As it turned out, both Morocco and the Polisario claimed that they wanted to stay with the plan—each on their terms. Through a series of encounters, Baker negotiated the Houston Accords to permit resumption of the settlement plan. Whether restarting identification was helpful is open to question. It increased the cost of the mission and prolonged the agony. Given earlier experience, the tribal leaders were virtually certain to follow their political convictions as to who should qualify, thus undermining hopes for the large number of applicants from the contested groups whose members depended almost entirely on oral testimony. Morocco became increasingly and openly critical of a process inimical to its interests, and the Polisario ever less disposed to accept any alternative.

The Polisario resisted for as long as possible identifying those groups it considered non-Western Saharan and for which there was no tribal leader, or shaikh, on their side. Morocco insisted on their identification. A breakdown was averted by agreement to identify the contested groups, with the most expert persons available fulfilling the role of shaikh. The resurrected process staggered on



to the inevitable conclusion with virtually all applicants from the contested groups being rejected. Of 195,589 persons ultimately identified, 86,412 were found eligible. Subsequently, 131,038 launched appeals against exclusion or, in a few cases, challenged names of some who were included. To have heard those appeals, on the basis of oral testimony provided by personal witnesses, would have been endless and predestined to deliver a similar outcome, equally unacceptable to one side or the other.

Having concluded by 2001 that the settlement plan would never be fully implemented with the parties' voluntary cooperation, Baker presented a framework agreement. After hesitation, Morocco accepted the agreement, but the Polisario and Algeria rejected it. Baker's subsequent attempt, in 2002, to have the Security Council choose one of four alternatives to be imposed on the parties—the settlement plan, his framework agreement, partition of the territory, or closing the mission—failed to obtain the necessary support after long and heated discussion in the Council. The Council instead asked the personal envoy to renew his efforts.

In January 2003, Baker presented his Peace Plan for Self-Determination of the People of Western Sahara to Morocco, the Polisario, Algeria, and Mauritania, and invited their comments. The plan made detailed provision for the exercise of power during a transitional period by an authority to be elected by returning refugees and persons included in a provisional voter list, but permitted all who had resided in Western Sahara continuously since 30 December 1999 to vote in the conclusive act of self-determination. Unlike the settlement plan, the peace plan did not require the consent of both parties at each and every step of its implementation. The interested parties were asked to agree that the UN Secretary-General would have the authority to interpret the plan and that his interpretation would be binding.

The Polisario reacted negatively. Algeria was also critical. Morocco, albeit uncomfortable with many provisions, did not at once reject the plan. Secretary-General Annan, reporting to the Council, addressed what he saw as Morocco's main objection and suggested adding to the ballot a third choice offering self-government or autonomy. He then presented the plan as "an optimum political solution" and warned the Council against supporting a process subject to continuing negotiation with the parties. As the Council was about to start deliberating, the Polisario sprang a surprise by officially accepting the peace plan. Morocco, in a quandary, was obliged to articulate its opposition—above all, rejecting any attempt to impose a settlement—and insisted on a mutually acceptable solution. The Council retreated to compromise: it expressed strong support for the Secretary-General's and Baker's efforts to achieve self-determination while urging a political solution on the basis of agreement with the parties. In autumn of 2003, King Mohammed VI was said to have been reassured by President George W. Bush, while both were in New York for the General Assembly, that the United States would not seek to impose a solution in the Western Sahara dispute.

Meanwhile, a serious terrorist act in Casablanca in 2003 had international

ramifications, bringing Morocco into close cooperation with the United States in its “war on terror.” Kidnapping and hostage taking in nearby Mauritania as well as further incidents in Morocco have ensured that terrorism remains an ongoing threat, a threat that has been heightened by the appearance of Al-Qaeda in the Islamic Maghreb. A vast sparsely inhabited desert stretching all across North Africa from the Middle East to the Atlantic, which lacks well-defined frontiers and frontier policing, makes for easy movement. The potential for terrorist activity becomes all the greater in lands where many, especially among the younger generation, are unemployed or frustrated at the lack of meaningful work as well as politically dissatisfied.

As described in Chapter 9, Baker’s resignation in 2004 left a vacuum. Stalemate ensued. Two personal envoys later, the parties were brought together to negotiate without preconditions, but the talks made no headway. Morocco refused to consider independence as an option; the Polisario refused to discuss any proposal that did include the option of independence. In 2007, Morocco submitted its Initiative for Negotiating an Autonomy Statute for the Sahara Region (see Appendix 5). The initiative was characterized as “serious and credible” by the Security Council. The hope was that it could provide the basis for meaningful negotiation.

Into that context has come the latest development: the uprising across Arab countries in North Africa and the Middle East, civil unrest which may prove to be the catalyst for positive change. Morocco has reacted. In an address to the nation in March 2011, King Mohammed VI announced proposals for far-reaching constitutional reform. The proposed reforms covered an ambitious program of democratization and included important human rights provisions; they would also give the region its “rightful” place with the Western Sahara being the first to benefit.

Without human rights and democratization, regional autonomy would have made little sense. And economic development is necessary to underpin democratization. Realization of the Arab Maghreb Union (AMU) offers the best hope for lifting economies across the region and bringing the improvements to people’s lives that they manifestly crave. The biggest obstacle to making a reality of the union remains the dispute over Western Sahara.

## Notes

1. The United Nations Mission for the Referendum in Western Sahara is generally known by the French acronym MINURSO, from *Mission des Nations Unies pour l’organisation d’un référendum au Sahara occidental*.

2. Saharan and Sahrawi are used interchangeably without political or other connotation.

3. UN General Assembly, Res. 3458A (10 December 1976) and UN General Assembly, Res. 3458B (10 December 1976).