

# Unlocking the Conflict in Western Sahara

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At the end of April, the UN Security Council will have the opportunity to make the right choice or the safe choice when it renews the authorization for the UN Mission for the Referendum in Western Sahara (MINURSO). The right choice would be to give the new UN envoy a mandate for peace. To do this, the Security Council would have to secure the commitment of both sides of the conflict, Morocco and the pro-independence Polisario Front, to power-sharing and self-determination. The safe choice, meanwhile, would be to continue under the weak mandate that contributed to the failure of the previous UN envoy.

Though the UN has ritually reauthorized MINURSO since its creation in April 1991, this will be the first time under the Obama administration and its new UN envoy to Western Sahara, Christopher Ross. With an extensive diplomatic background in Middle East and North Africa posts as ambassador to Algeria and Syria, Ross is already quite familiar with the dynamics underlying the conflict.

But will he and the Obama administration back the right choice or the safe choice?

## Background to the Dispute

In 1975, Morocco took over Western Sahara, which had been a Spanish colony. The Polisario Front, representing Western Sahara's nascent nationalism, contested Rabat's claim, receiving support from Morocco's regional adversary, Algeria. Their war lasted until 1991, when MINURSO arrived to organize a referendum on independence.

In 1997, Kofi Annan called in former Secretary of State James Baker to clean up the mess. But when Morocco's King Hassan II died in 1999, the new King, Mohammed VI, soon dropped Morocco's support for a referendum. Baker resigned in 2004, largely as a result of weak, often contradictory, support from the Security Council.

Starting in summer 2007, Morocco and Polisario engaged in four rounds of negotiations in Manhasset, New York. The mandate of then-UN Envoy Peter Van Walsum, a former Dutch diplomat, was to lead negotiations "with a view to achieving a just, lasting and mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara." On the face of it, Van Walsum's mandate seemed contradictory. How can the Security Council expect to achieve a mutually acceptable solution if Morocco rejects a referendum on independence while Polisario demands it?

The Obama administration is well placed to make a clear break with the past habits of the Security Council when it comes to the question of Western Sahara. The most important thing

the administration can do is provide the leadership and the political will to resolve the Western Sahara conflict. Western Sahara isn't a problem of imagination; it's a problem of political will, at the level of the parties and the Security Council.

Considering the arc of peace in Western Sahara, waiting for the parties by themselves to develop the political will to enter into good-faith negotiations is decades — not years — away. The prospect of letting the issue of Western Sahara drag on for one or two more generations isn't only morally intolerable, but potentially dangerous.

This, however, does not necessitate taking a partisan position. Rather, it requires that the Security Council act upon its own words to achieve a mutually acceptable political solution that will provide for self-determination. Peace in Western Sahara will require that both Morocco and Polisario accept something they don't like. Polisario must accept that the achievement of a comprehensive power-sharing agreement with Morocco is a prerequisite for the holding of a referendum. Morocco, on the other hand, must commit to a self-determination referendum as a necessary condition for power-sharing negotiations to start.

Instead of hoping for the situation to ripen the UN envoy should, at the next round of negotiations, secure the commitment of the parties — in writing — to the Security Council resolutions that have guided the previous Manhasset negotiations. Both sides will have to commit to negotiating a political solution and a referendum. This approach not only balances the interests of the parties but also unblocks the commitment problem currently stalling negotiations.

### **Learning from Baker**

The ideological impasse that governs the broader conflict — independence versus integration — was compounded during the 2007-08 Manhasset rounds by a commitment problem. Nether side will take a step until the other does so first. Until Polisario engages in substantive discussions of autonomy, Morocco is unlikely to make concessions for a referendum. But Polisario won't talk autonomy until Morocco first concedes a vote including independence.

Is there a way to break this jam? During the 1997 Morocco-Polisario negotiations that led to the Houston Accords, one of Baker's negotiating tactics was to guarantee that nothing was agreed until everything was agreed. This enabled Morocco and Polisario to engage in detailed negotiations on the particulars of one element of the 1991 Settlement Plan without fear of prejudicing their position on other parts of it. This helped to alleviate the commitment problem while allowing negotiations to progress at a relatively fast pace.

Could such an approach work again for Western Sahara? It's highly unlikely, given the nature of the current ideological impasse. The major difference between 1997 and 2009 is that Morocco is no longer committed to a referendum on independence. In 2001, King Mohammed VI renounced his father's 1981 pledge to allow a self-determination referendum in Western Sahara. Baker was unable to find a formula that would entice Morocco to participate in a referendum on independence. Baker even proposed in 2003 that Moroccan

settlers in Western Sahara could vote in referendum on independence alongside the native Sahrawis. Even though Moroccan settlers now outnumber the native Western Saharans by as much as three to one, Polisario was willing to accept this concession for peace. Morocco, on the other hand, staunchly refused to put its claim on Western Sahara to a popular vote, even one that Morocco would likely win hands down.

Baker didn't fail because he was unable to find the magic formula. Western Sahara does not suffer for lack of creative proposals. It is and always has been a problem of political will. Having secured the commitment of Algeria and Polisario to his 2003 proposal, Baker called on the Security Council to commit to its implementation as the only possible compromise between the interests of the parties and international legality. Yet France backed Morocco's rejection of the proposal and successfully watered down Security Council support for the Baker plan. This was the same Security Council that, in 2002, mandated Baker to devise a proposal that would provide for self-determination (Resolution 1429). A year later, it refused to support Baker when he delivered on that requirement. The lesson of Baker's seven-year intervention (1997-2004) is that the Security Council needs to exercise the political will necessary for the UN envoy to achieve peace.

Yet instead of learning the right lesson, the Security Council came away from the Baker experience blaming the parties — if not Baker as well. Peace, the Council assumed, would have to come from Morocco and Polisario voluntarily and not, it seemed, from a strong-handed envoy. The subsequent three-year effort of Van Walsum (2005-8) was predicated on the idea that peace in Western Sahara required the parties to do it themselves. While such an approach relieves the Security Council of having to exercise any overt pressure, it has proven as unproductive as it is quixotic. Van Walsum was able to arrange the first face-to-face negotiations between Morocco and Polisario because the parties feared the repercussions of boycott, not because a breakthrough was on the table. Indeed, there were no talks at Manhasset, only statements of position.

### **Power Sharing and Self-determination**

The Security Council must first realize that prevailing notions of sovereignty are unhelpful. As the work of political scientist Stephen Krasner has vividly shown, sovereignty is rarely absolute in the Westphalian sense. Very few nations have all the attributes of sovereignty. Shared sovereignty and semi-sovereignty are the norm, rather than the exception, in world affairs. The list of such entities is extensive, suggesting that autonomy does not have to be within the framework of Moroccan sovereignty *only*. It is not only possible for Morocco and Polisario to share sovereignty, it would be quite normal for them to do so. If the choice is presented as power-sharing within Moroccan sovereignty, what dignity does that offer Western Saharan nationalism or Algeria's support for it? Instead, the UN envoy should endorse power sharing *without prejudice* to either side's claim of sovereignty.

Morocco now seems committed to power-sharing, but what about Polisario? During secret negotiations in late 1996, Polisario was willing to discuss power-sharing within the framework of self-determination. And, likewise in 2003, Polisario committed to a peace plan

that involved five years of power-sharing, followed by a referendum that could make the autonomy permanent. And in its 2007 proposals, Polisario further accepted the reality of Moroccan settlers as a permanent fixture in Western Sahara and the need for robust cooperation with Morocco in all areas. Polisario seems willing to consider power-sharing but only in the context of self-determination.

This brings us to the second step: a referendum on self-determination. A referendum including, but not limited to, the option of independence isn't only legally necessary within the current UN framework, but also politically essential. Until Morocco recommits to a self-determination referendum, negotiations in Western Sahara will remain at a standstill. Otherwise, there will be no incentive for Polisario to engage in substantive negotiations over power-sharing. Indeed, one of Polisario's fears is that if they engage in power-sharing talks, the Security Council will back away from its current commitment to self-determination.

The promise of a referendum will encourage the good-faith participation of Polisario, while Morocco will finally be able to negotiate the nitty-gritty of power-sharing. The point is not necessarily to give both sides what they want, but rather to get them talking. The hope is that, by the time Morocco and Polisario hammer out a comprehensive power-sharing agreement, nothing more than a confirmatory referendum will be necessary because a mutually acceptable negotiated solution has been obtained.

### **The Way Out**

There is no contradiction between the Security Council taking a strong stance in favor of both power-sharing and self-determination. Indeed, recent Security Council resolutions have said as much in their calls for a political solution that respects the right of Western Sahara to self-determination. But the Council needs to make this clearer to the parties. To Morocco, the Council needs to state firmly that its claim on Western Sahara will never be legitimated unless it first passes through a referendum. To Polisario, the Council needs to state clearly that it will never get its referendum unless it's willing to discuss power-sharing with Morocco. Substantive negotiations should be seen as the *means* to, not the result of, self-determination. This approach has the advantage of addressing the interests of Morocco, Polisario, and Algeria without prejudice or favor.

At the next Manhasset round, the UN envoy should secure an agreement between Morocco and Polisario to engage in substantive power-sharing negotiations that will result in a referendum on self-determination. This should be backed up by the April 2009 Security Council resolution reauthorizing MINURSO. The resolution should require the parties' agreement to previous resolutions of the council calling for "a mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara."

Until such an agreement is secured and put into writing with the parties' signatures, negotiations will remain in an interminable deadlock as they have for the past nine years. Without good-faith negotiations between Polisario and Morocco, there is no other way for the Security Council to create the necessary environment for a durable, self-implementing

peace. To move the Western Sahara peace process forward, the Security Council must endorse, and be willing to enforce, a new framework for negotiations based upon mutual respect for the positions of Polisario and Morocco.