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WESTERN SAHARA'S ROAD TO THE INDEPENDENCE: IS SELF-DETERMINATION POSSIBLE?

THE CASE OF POLISARIO FRONT IN SAHRAWI ARAB DEMOCRATIC REPUBLIC

Milan Gubka – Brecht Van de Velde*

Abstract

This paper deals with the current situation in Western Sahara, particularly with the possibilities of this Territory to become an internationally accepted sovereign and independent country. Already more than three decades the Sahrawi's are battling for an independent republic in the Western Sahara. In the beginning, the enemy was Spain as a colonial power and subsequently Morocco and Mauritania were the adversaries. Today, after the withdrawal of Spain and Mauritania, Morocco is the only occupier that is daily confronted with the POLISARIO guerilla striders. Yet, the echoes and shadows of the fight reach neither Europe nor the United States. The aim of this paper is to analyze the position of Western Sahara facing the possibilities of independence, mainly through the actions of POLISARIO, its status in international law and influence of external powers to the peaceful settlements of the conflict.

Key words: Western Sahara, Morocco, POLISARIO, democratization, decolonization

Introduction

Since 1975 the question of independence of the Western Sahara or its affiliation to Morocco as a non-independent province is one of the determining questions to the stability of this Sahara region. Western Sahara, which is located in North-West Africa, has three frontiers; with Morocco in the North, with Algeria in the Northeast and with Mauretania in the South. Immediately after the end of the Spanish colonialism in 1976 Morocco and Mauretania occupied

* Mgr. Milan Gubka is a Ph.D. student at the Department of Security Studies, Faculty of Political Sciences and International Relations, Matej Bel University, Slovakia, e-mail: milan.gubka@umb.sk.

Brecht Van de Velde, M.A. graduate in Master Global Governance and International Diplomacy at the Faculty of Political and Social Sciences, Ghent University, Belgium, e-mail: brechtvandevelde@ugent.be.

Western Sahara. Since then exists a liberation movement named the POLISARIO, created by the Western Sahara population. Whereas the occupation of Western Sahara by Mauretania came to an end in the year 1979 due to the effective Guerilla-operations, or better said resistance of the POLISARIO, the conflict on the Western Sahara's independence and frontier dispute with Morocco has been continuing ever since. The case of Western Sahara represents an important conflict in the Sahara area. The reason is that not only POLISARIO is opposing Morocco, but included are also the allies of both states. Morocco's allies are mostly France and the USA, while the POLISARIO gets support from Algeria and Libya. This support reflects the tensions between Morocco and Algeria on one hand and Morocco and Libya on the other hand, and the growing international interest of external powers in the geopolitics of the region. This conflict is in the scope of study of international law experts, as it represents a topic with various grave questions of international law. Especially two attitudes are taken into account, and that is the law on non-self-governing territories and the international law governing the occupation.

In this context we could ask various questions in trying to understand the possible current situation in Western Sahara, but the most important one, and the one representing the chief focus of this paper is: *Which problems Western Sahara has to face on its way to self-determination?* With this one appears the question on the obstacles to the self-governance and problems related with its international law status. Examined would be as well the contribution of POLISARIO on the building of sovereignty. To be able to answer these questions, the paper is divided into various parts addressing these challenges and presenting the overview situation in the territory. For that, we will first give an overview of the historical development, to give a background and to see the development of the situation to its current state. The next part is dedicated to the POLISARIO front: how it constituted, which goals, actions and options it has. The last part deals with the questions of Western Sahara's international legal status, the international relations and roles of different actors in it and in the end with an outlook on the problems in recent developments.

Development of Western Sahara

Before the colonization of the current Western Sahara, Morocco's king ruled the area. The rule ended with the collective occupation of the territory of Morocco and Western Sahara by France and Spain in 1884. They did not only

gain the area, but also governed the territory. France assumed the main part of Morocco, while Spain got Western Sahara and a small protectorate in the Moroccan North-Coast. (Miske, 1978)

Whereas both countries yield upon approval by the Sultan, Spain was the only ruler in the Western Sahara region. Nevertheless, the occupation by Spain was confined to a military presence in the main cities, the building of economic structure and relations to the leaders of the tribes. Initially in 1934 the occupation was terminated, as Spain waited for France to stabilize the entire area of Sahara to create the concrete frontiers of the Western Sahara.

From 1957 until the end of the colony in the year 1975, Spain more and more advanced the participation rights of the Western Saharan population and changed the status from a protectorate to a province. The reasons are various: First of all, the population was discontent and wanted an own, independent order. As they began to revolt Spain had to change the colonial politics in the country. Subsequently, because of eight resolutions of the United Nations which asked for more rights for the Sahrawi's, as the officially recognized population of Western Sahara is called, and for a referendum. In addition, Spain wanted to capitalize the new found phosphate raw materials and had to industrialize the Western Sahara first. To achieve this goal, it had to establish the policy of giving more participation and autonomy rights to the provinces in the year 1966. One year later, Spain admitted the population of Western Sahara to constitute a national assembly. But it had only the right to give advice about budget-questions and had no voice in essential questions. (Barbier, 1982)

Emergence of POLISARIO and SADR

Following the reconciliation between Algeria and Morocco in 1970 concerning the region of Tindouf and the de facto recognition of Mauritania by Morocco in 1969, the three involved countries declared to form a front against Spain in order to liberate the Sahara from its colonizer. On 14 September 1970 the tripartite was established. However, Morocco and Mauritania could not hide their aspirations for Sahara.

Meanwhile, the inhabitants of the colony gained political consciousness and marked the emergence of Sahrawi-nationalism. A first clandestine movement, the Harakat Tahrir, was established in December 1967. However, after the violent suppression of a demonstration against the Spanish colonizer in Zemla on 17 June 1970, the movement was shattered and splintered. The

nationalistic discourse was taken over by the POLISARIO Front. This new movement was composed of young Sahrawi's studying at the University of Rabat on the one hand and Zemla veterans on the other hand. (Omar, 2008)

In May 1973 the POLISARIO, "*Popular Front for the Liberation of Saguia el-Hamra and Río de Oro*", was established in Mauritania, which struggled an armed combat against the Spanish colonizer. The POLISARIO declared to fight for complete independence as a non-aligned Arabic republic. In short, the POLISARIO is a guerilla army which had the goal to wage an armed struggle against the Spanish colonizer for the liberation of the Western Sahara. The movement had the aim to create an own state for the nomadic natives of the area, the Sahrawi.

A first "victory" for the POLISARIO occurred on 16 October 1975, when the International Court of Justice (ICJ) answered negatively on the Moroccan question whether the Western Sahara was a terra nullius. Thus the declaration of the ICJ was in favor of the self-determination of the Sahrawi. However, the ICJ recognized that there were bonds of trust and juridical bonds between certain clans of the Western Sahara and Morocco. Subsequently the Court came to the conclusion that the Western Sahara needed to be decolonized, where the self-determination of the locals was paramount. The POLISARIO considered the judgment as a victory, because it seemed to pave the way for an independent state for the Sahrawi.

This ambiguous advice was interpreted by Moroccan King **Hassan II** in his own advantage. The Court had confirmed the Moroccan claim that there were historical links between the sultan and the Western Sahara, and in the eyes of **Hassan II** these links justified a claim on the area. On 6 November 1975 the king organized a "*Green March*", where 350.000 Moroccans were sent to the borderland. That same month, the Spanish colonizer collapsed under pressure of the intensifying situation and calls for independence. Spain didn't want to risk a war. On 14 November 1975, the Declaration of Principles on Western Sahara was concluded in Madrid between Spain, Morocco and Mauritania. This so called Madrid Agreement meant that two thirds of the Western Sahara was taken under Moroccan authority. The rest of the territory came under Mauritanian governance. The signing of the agreement de facto meant the transfer of the colony to Morocco and Mauritania. As a consequence, an exodus of refugees occurred. The refugee population in 2005 was estimated at 150,000 people, dispersed between four camps near Tindouf, Algeria. (Mundy, 2005) As compensation, Spain received a preferential treatment considering the

exploitation of the waters in front of the Moroccan shore. On 26 February 1976 Spain declared to the UN Secretary General **Kurt Waldheim** that from that day on Spain withdraws its responsibility for the area. (Mundy, 2005)

Furthermore, the withdrawal of Spain paved the way for a new conflict. In 1976, neighbors Mauritania and Morocco divided the region among themselves. The POLISARIO was forced to relocate and found its new base in Algeria, from whom it received military aid. Supported by Algeria, the POLISARIO created a political front. In the night of 27 on 28 February 1976 the Sahrawi Arabic Democratic Republic (SADR) was proclaimed by the POLISARIO¹. Meanwhile, the Spanish administration had left the Western Sahara, so the POLISARIO wanted to avoid a juridical void after the withdrawal of the last Spaniards.

The following incorporation of the Western Sahara by Morocco and Mauritania ignited a struggle with POLISARIO. The struggle against the guerilla movement had great negative economic and social consequences for Mauritania. In the late seventies, Mauritania had to deal with economic and political problems and the country was at the edge of financial breakdown and under the threat of a civil war. Eventually, after a year of failed negotiations between Mauritanian leaders and the POLISARIO, on 5 August 1979, both parties reached a breakthrough with the signing of a peace agreement. Mauritania withdrew from the Western Sahara, which led to the unilateral annexation of the region by Morocco.

Morocco took over the southern part of the region from Mauritania and continued the struggle against POLISARIO. The movement was supported by Algeria, which looked at the expansionism of **Hassan II** with suspicion. The guerrilla of POLISARIO at the end of the seventies soon seemed to be successful because of the military support from Algeria and Libya. Also, the troops were used to the extreme weather conditions in the desert area and they

¹ Today, the Saharan Arab Democratic Republic is a republic recognized by 49 states that controls a small area of the Western Sahara. The SADR claims the whole Western Sahara, which has a surface of 266.000 square kilometers, and whose biggest part is occupied by Morocco. The SADR owns a small area in the east of the Western Sahara, the so-called free zone, parted from the rest by the Moroccan wall. The SADR claims Laâyoune, (El Aaiún) as its capital, but this city is in Moroccan hands. The seat of SADR is in Tindouf, Algeria. Here there are a lot of refugee camps for people from the Western Sahara. The board of the liberated area also has its office in Bir Lehlou, a town in the north east of the Western Sahara, which is de facto the capital of the republic. The twelfth congress of the POLISARIO in December 2007 was kept in Tifariti, also on the Saharan surface. The government of the SADR wholly consists out of members of the Front POLISARIO, which is being military and diplomatically supported by Algeria.

were more familiar with the area than the Moroccan army.

However, there was a positive side at this stage of the struggle for independence. Morocco was now the only state that claimed the Western Sahara, which allowed the POLISARIO to focus on just one enemy. The first organized military action of the POLISARIO occurred in the 1980's when the POLISARIO tried to prevent the takeover, but despite the new strategies and guerilla techniques, it failed. That was no surprise, taking the military capacity of the Moroccan army into account. However, the guerilla attacks of the POLISARIO succeeded to keep endangering the Moroccan army in the south of Morocco.

Although the annexation of the Western Sahara was not recognized under international law, and POLISARIO knew both military and political success, Morocco didn't have the intention to succumb to pressure. The reaction of Morocco was concretized by the construction of a defensive wall in May 1981 constructed to keep the combatants out of the desert region controlled by Morocco, called "*the Moroccan Wall*", as it is named in official UN documentation. The defensive wall cuts the Western Sahara from the north to the south. The area to the west of the heavily mined and manned sand wall came under Moroccan authority. The rest of the SADR is since then under control of the POLISARIO. The POLISARIO declared to aim for complete independence as a non-aligned Arabic republic. As stated before, the movement wanted to create an own state for the nomadic natives of the area, the Sahrawi.

The military section was the most important section of the liberation movement. The POLISARIO kept on attacking Moroccan and Mauritanian soldiers with guerilla attacks. The actions of these guerillas were aiming at three targets. The first one was the phosphate mine of Bou Craa and the transport ways that took the phosphate to the port of El Aaiun. The POLISARIO wanted to keep the economic resources of the Western Sahara and prevent the Moroccans to benefit from it. Secondly, the POLISARIO attacked the iron ore mine of Zouerate and the train rail to Nouadhibou, the economical heart of Mauritania. Thirdly, the attacks on the Mauritanian capital Nouakchott were important from the psychological point of view, as it could hit the enemy in its own country. (Cordier, 1986)

However, other than a military wing, the POLISARIO also possessed a political wing, supported by Algeria. Taken into account the strength of the Moroccan army in comparison to the moderate capacity of the POLISARIO, a

solution had to be found outside the military spectrum. When the POLISARIO seemed to get dragged into a war in 1980, as a consequence of the Moroccan wall strategy, it emphasized the political battle. In order to reach the recognition of the SADR the solution had to be found around the negotiation table.

Morocco eventually succeeded in obtaining the prevalence in the battle. POLISARIO did not only lose physical terrain, but also saw its international support crumbling. The leftist climate of the seventies made way for that of the eighties and nineties, where support to communist movements became less popular. The support of the Arab League and the Organization of African Unity (OAU) disappeared. Libya as well ended its support for the POLISARIO and improved its relations with Morocco. Furthermore, Algeria didn't seem to give priority to the conflict with neighbor Morocco. Because of the internal problems the land had to cope with during the nineties, the Sahara issue lost importance with the Algerian rulers. Algeria continued its diplomatic relations with the POLISARIO Front, but reduced its military aid in the nineties. Furthermore, the POLISARIO had to deal with defections and internal struggles in its refugee camps. Although the POLISARIO had to deal with these huge problems, its legitimacy regarding the Sahrawi people and in the global political world remained unabated (Mundy, 2005).

Likewise, the republic saw the number of countries that recognized it falling from 81 to 41. Consequently Morocco not only succeeded in obtaining dominance in armed combat, but also the political area. As a consequence a lot of POLISARIO members fled to the Morocco side, especially after King **Hassan II** had promised to grant them amnesty. In the meantime Morocco had free hands to fully integrate the Western Sahara into the kingdom. The vast military and economic investments for Moroccans were established to form the region into a Moroccan province. (Pazzanita, 1996)

The war between POLISARIO and Morocco finally ended in 1991 after both parties had signed an agreement to cease-fire. What is interesting is that POLISARIO has never disintegrated into factions and was never forced to use the force to maintain cohesion. If some criticism appears then it is more about the tactics of the leadership than POLISARIO itself.

In sum it is possible to say that the role of POLISARIO front in the process of building an independent state is principal. The Front represents the only body that is actively trying to promote Western Sahara self-governance. From its foundation in 1973 the Front has represented the Sahrawi population and its right for being able to govern its own country. The actions of POLISARIO have

changed significantly from its beginnings, from more radical and military, to nowadays more democratic stances. The reason for this is not hard to be found, as they realize the importance of international support for their case, and by any massive military actions they could lose the fragile support of international community. POLISARIO front passed a long way for having its current position and for sure would think twice before doing anything that could threaten it. In the further part of the paper the authors analyze the actions of POLISARIO in the endeavors for democratic referendum on the territory within the scope of possible cooperation with Morocco under UN mandate.

International law and Western Sahara

This section focuses on the Western Sahara from a more legal perspective, addresses some legal issues connected with the existence of Western Sahara and its future position under the international public law. Western Sahara possesses a very special status compared to other countries. It is the last non-self-governing territory on the African continent. This situation had being developed after the end of colonialism, when Spain withdrew its colonial influence. The only difference is that Western Sahara has not been allowed yet to vote on its final status. In search of a reason for this, we do not have to dig deep. It is the place of one of Africa's longest conflicts, where the territorial interests of Morocco clash against the nationalist independence movement POLISARIO.

However, the legal status of Western Sahara is indisputable. It is a non-self-governing territory awaiting decolonization through the referendum on self-determination. (Charter of the United Nations, Chapter XI) This right is the fundamental one for this kind of territories as it is stated in international law. Western Sahara among this international law question faces one other, and it is the aggressive expansion of territory of one state to the detriment of another. Since Morocco invaded Western Sahara in 1975 it occupies three fourths of the territory, and there is no state that has recognized Moroccan sovereignty over this territory.

Therefore, under the international law two different approaches to the legal status of Western Sahara can be individuated. First, international law is regulating Non-Self Government territories and process of decolonization. The second approach is more complex, comprising laws governing the use of force in international relations and laws governing occupation and war itself including

International Humanitarian Law.

In this context the UN Security Council Resolution 380 emerges, calling for immediate withdrawal of the Green March, which is to be understood as an intervention. Morocco ignored the Resolution and by that they violated the most fundamental principle of the use of force in international relations². Furthermore, it is only the UN Security Council that can justify the intervention, and such a decision was not taken in this case. Neither the action of the Moroccan government was taken in self-defense, though the Moroccan invasion of Western Sahara was against international law, and is guilty of aggression.

Here opens the question if the UN did its utmost to address this kind of violation of international law. The Resolution 380 came under the Chapter VI of the Charter that deals with "Pacific Settlements of Disputes" and not under Chapter VII "Threats to the Peace, Breaches of the Peace and Acts of Aggression". To look for the reason of this we should see the composition of UN Security Council, where two major allies of Morocco are permanent members, USA and France, which influences the level of interest that is posed on the problem of Western Sahara. The motivations of these states are analyzed further in the paper.

The other kind of law that has to be taken into account is the 1899 and 1907 Hague Regulations and 1949 Geneva Conventions that are applicable during war or occupation. Occupation occurs when a hostile foreign force is able to exert control over a territory, regardless of whether the invasion was justified or not. Morocco's control over a section of the territory is indisputable.

However, the actions of Morocco show its interest to slowly integrate Western Sahara on social, economic and political level into the rest of the country through the administration of the Territory as a proper part of Morocco. Moreover, one of the most visible attempts to change the character of the Western Sahara is by the continuous demographic change of ethnic composition, from indigenous Sahrawis to Arabs and Berbers of Moroccan origin. (Zaki, 2010) Under IHL, occupying powers are explicitly forbidden from transferring their own population into the occupied territory, as Article 49 of Fourth Geneva Convention says: *"The Occupying Power shall not deport or*

² It is clear in Article II of UN Charter. *"All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered."* and *"All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."*

transfer parts of its own civilian population into the territory it occupies". (Geneva Convention..., 1949)

Regarding the international law violations it is necessary to emphasize that during the war for Western Sahara (1975-1991), Moroccan forces committed war crimes, particularly by bombing civilian settlements of internally displaced Sahrawis in 1975-1976. Moreover, several hundred Sahrawi civilians that were imprisoned by Morocco between 1970 and 1990 were reported missing. (Santha et al., 2010)

These examples underline the fact, that even though Western Sahara is considered to be a non-self-governing territory by the international law and that Morocco is clearly understood as an occupying force, the international community is neglecting the situation of Sahrawi population and their right to self-determination. Western Sahara is not accepted as an independent state, but the Sahrawi people are understood to be the population of the Territory with their right to decide on the future status. As an outcome of the stand of international community, it is somehow contradictory to see its clear interest to resolve this critical situation in a peaceful manner by motivating the disputed parties to find a common stance. And even less after the clear violation of international law when the international community does not act to stop it.

Question of referendum and the role of UNO

One of the biggest, if not the biggest issue while speaking about Western Sahara independence is the question of a referendum on self-determination. Since the signing of cease fire between Morocco and Western Sahara various models have been presented of the referendum with the UN as a major player trying to solve this problem to reach independence or annexation.

Already in 1991 **MINURSO** – United Nations Mission for the Referendum in Western Sahara – was established, to control the cease fire between Morocco and POLISARIO. From 1991 onwards, the UN Security Council became firmly seized by the Western Sahara question and sought its resolution through the organization of a "free and fair referendum" on self-determination, to which both parties had agreed. In 1991 Morocco and Western Sahara agreed on the "*Settlement Plan*" that would lead either to independence or integration to Morocco. The referendum scheduled for early 1992 was postponed, and a series of UN-sponsored talks between the Moroccan government and the POLISARIO Front were conducted. In 1997 the "*Houston Agreement*" was

presented. In 2000 followed by “*Baker Plan I*”, which proposed autonomy to Western Sahara and which was refused by POLISARIO. However, all initiatives to resolve the problems in the area failed. In January 2003, **James Baker** conducted another mission to the region. He submitted to Morocco and the POLISARIO, as well as to Algeria and Mauritania, a new proposal. It was a mere reiteration of the “third way”, with slight modifications. However, his plan would guarantee that Morocco, due to the overwhelming presence of Moroccan settlers and their eligibility to vote, would win the referendum. By the end of 2003, **Baker’s** efforts had produced minimal results, primarily because both of the schemes put forward contained provisions for final status independence-or-integration referendum following a brief period of autonomy of four to five years. The difference between the referendum in **Baker’s** two proposals and the one that the UN abandoned in early 2000 is that **Baker** would allow Moroccan settlers in the Western Sahara, not just indigenous Western Saharans, to vote on the final status of the Western Sahara. (Zoubir, 2003) On 18 June 2007, a series of talks between representatives of Morocco and the POLISARIO were organized by the Dutchman **Peter van Walsum**, the UN secretary general’s personal envoy for Western Sahara. These UN-sponsored talks between the POLISARIO front and Morocco took place amid warnings by the POLISARIO front of a return to armed hostilities. These gatherings were the first direct negotiations between the two parties in almost ten years. The talks were a direct result of the UN Security Council Resolution 1754 of 30 April 2007 that limited itself to reiterating calls upon the parties to enter into negotiations without preconditions in good faith with a view to achieving a just, lasting and mutually acceptable political solution, which would provide for the self-determination of the people of Western Sahara. The parties discussed a form of autonomy for Western Sahara, under Moroccan sovereignty. Until today, the date for the second series of talks has not been fixed yet. Neither did these talks create a more favorable environment for the referendum to take place.

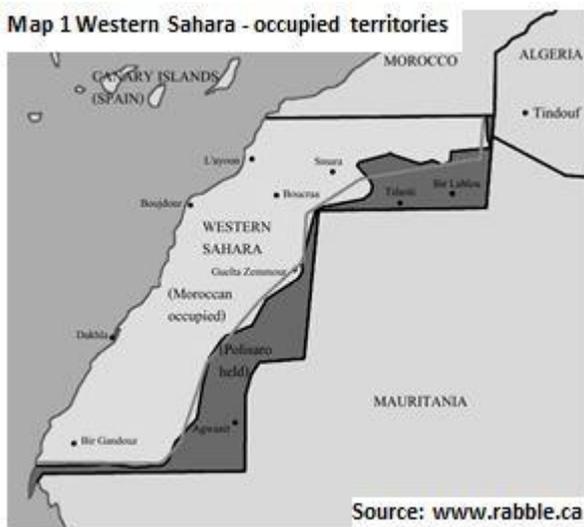
Despite the fact that the talks on a referendum were supposed to mitigate the tense situation in the region by trying to find a mutual agreement, it were these tasks and all UN guided plans, since the Settlement Plan in 1991, that on the contrary turned into battles between the protagonists over the modalities of the elusive referendum. In the light of unsuccessful negotiations about the referendum in the last twenty years, POLISARIO representatives started to warn, that the use of force could only lead to the achievement of self-determination. However, it is improbable, that they would be really willing to

restart an armed conflict, taking into account the military capabilities of Morocco, and the possible negative outcome influencing the international community towards Western Sahara. On the other side Moroccan representatives proclaimed that any path, including a referendum that might lead to independence, will continue to be viewed as an attack on Morocco's "territorial integrity" incurring the risk of criminal penalties. (Alaoui, 2010)

But what is considered to be the main problem in the negotiations about the referendum that makes it every time impossible by the parties to accept? One of the biggest disputes concerning the possible elections is the vote eligibility. This revealed the profound disagreement between the conflict parties. Morocco on one side wanted all the Sahrawi population, as a population of Western Sahara, to vote, while the SADR desired to exclude the vast number of so called foreigners, to limit the franchise. Moroccan government supported the idea of giving the vote to every citizen of Western Sahara. In this respect, Morocco initiated a large settlement policy to strengthen the Moroccan presence on the Western Sahara territory. Voter identification appeared as a big problem as the members of the same tribes were relocated in various areas of the territory, and with the insufficient communication possibilities it is considered to be hard to get all the eligible voters from each tribe together. This problem persists since 2000. The main difference is that Morocco argues that first it is necessary to clearly set who is eligible to vote; POLISARIO sees the referendum on independence as the only option, without necessarily solving the problem of voting eligibility. This could be seen as well as Morocco's play for time, as they continue in the "moroccization" of Western Sahara by mixing the population, so that in the case of referendum there will be enough voters to vote against independence.

The problem of electorate and vote eligibility appears as the biggest concern to both disputing sides. Both of them want to assure that in the case of eventual referendum the electorate would consist of a sufficient number of voters to pass the result in favor of one of them. It is understood that the referendum is the only way to solve this conflict. Theoretically it is possible that one of the states would withdraw its interests, and giving up its hopes for the territory acquisition, but this is highly improbable. Taking into consideration the open military conflict there is only one of them that can lose. Morocco would not start the conflict, because it is more or less satisfied with the current status quo and its control over the vast part of the Western Sahara territory, and would have nothing to gain by attacking SADR. On the other hand, POLISARIO could

gain control over the territory it claims, but the probability of winning and further support of the international community at the same time is unlikely. The other option to solve the situation is international intervention, under the Chapter VII of UN Charter, taking into consideration the occupation by Morocco and other violations of international law. This option is in the current international condition the least probable of all. For this action approval is necessary, or at least an absent vote of the permanent members of UN Security council, and particularly of France and USA. These two are on the other hand considered to be important allies and supporters of Morocco. The international context of Western Sahara conflict is analyzed in the next part of the presented paper.



International relations dimension of Western Sahara

The international dimension of Western Saharan conflict can be seen on two levels. First is the regional level of the conflict, and so the relationship between Morocco, Mauritania, Algeria, Libya and Spain, as former colonizer. The second one is the global level of the conflict, where are visible interests of mainly two players, USA and France. We take into account as well the actions of international bodies like UN and the European Union as well as those of bodies on a more regional level such as the Organization of African Union.

The occupation Western Sahara by **Morocco** considered to be primarily motivated by the huge natural wealth that this region possessed. It has some of the world's biggest reserves of phosphate, making an important contribution to Morocco's economy, together with the revenues generated by the fishing industry. The economical factor is very important for Morocco, as it has to maintain its army in the region, consisting of some 100 thousand soldiers. However, if we imagine the possibility of withdrawal of these soldiers from the region, Morocco would have to deal with a problem of their replacing as they would not be needed anymore. And speaking about such numbers, it would not be an easy nor cheap task to do. And most importantly, the withdrawal of the army would mean losing the possibility and ambition to become a regional leader.

On the regional level the positions of every external actor that interfered in the Western Sahara territory largely evolved since 1975. **Mauritania** for example since 1975 after trying to play a role as a regional power between Morocco and Algeria signed the peace agreement with Western Sahara and withdrew its forces in 1979. Since then Mauritania declared neutrality in the conflict between Western Sahara and Morocco. **Libya** supported Western Sahara, financially and militarily, mostly based on the opposition against Morocco. In April 2011 information of mercenaries appeared as for example POLISARIO members should have been paid to come to Libya and fight for the government.

Algeria actively supported the POLISARIO front and never openly claimed the Saharan territory. We have to take into consideration the tense relationship between Algeria and Morocco, closed borders, economic and political closeness. Outcome of this situation is the search of a possibility to have a partner with strategic geopolitical position, in this case Western Sahara, with its access to the natural resources of Western Sahara and easy access to the Atlantic Ocean. With an independent Western Sahara as a partner, Algeria would be able to improve its position. Algeria on the other hand sees Morocco as a very powerful state with lots of international help and projects, that poses the possible risk in the future to its own interests. Simplified, it tries to balance the rising power of Morocco in the region.

Since **Spain's** withdrawal from Western Sahara it attempts to follow more or less neutral policy toward this territory, although its action could be seen otherwise, as the example of the Fishing Agreement shows. Spain has accepted historical responsibility for ensuring that a fair process of self-

determination for the Sahrawi people takes place, officially supporting the UN initiatives to hold the referendum. However, the immediate impact of the Western Sahara self-determination on the Spanish domestic policy may not be directly visible by the conflict states, but the Spanish government recognizes that the possibility of independent Sahrawi state, with the help of Madrid, could create an important precedence of the right to self-determination on its own territory. Most notably speaking about Basques and Catalans that may legitimize their calls for independence based on this precedence. (Masiki, 2011)

From the African point of view, the Organization of African Union (**OAU**) was active in trying to find a solution to the Western Sahara conflict, by promoting the cease fire and referendum in 1981. Furthermore it recognized SADR as an independent body and as a member of OAU. As a reaction to that, Morocco withdrew its membership in the organization in 1984. On the other hand, the autonomy of Western Sahara could be seen by various African countries facing their own border disputes as a very dangerous precedence of gaining independence.

Moroccan interest towards **EU**, and vice versa, also has had an impact on the recent adoption of a more moderate approach to the Western Sahara question. The EU policy toward this question is though presented only in the call for finding a solution between the conflicting parties and to mutually agree on the referendum. This stance shows the weak interest of EU countries in solving this situation, as no further and more intense moves are made for the referendum to take place. (Abdelaziz, 2011) However, it could be precisely the EU with its Neighborhood Policy and the status of Morocco as a partner in the future that could considerably influence the Moroccan government to change its policy toward Western Sahara³. The EU's involvement in the Western Sahara conflict, compared with its role in other UN-supervised disputes in the Mediterranean, has been very moderate. EU has been generally taking neutral position from the beginning of the conflict and from 1988 has started to support UN initiatives in a passive manner.

Neither Euro-Mediterranean Partnership (EMP) nor the European Neighborhood Policy (ENP) has been conspicuously significant for the Western Sahara conflict. No Special Envoys, no border assistance missions, nor any

³ Morocco applied for EU membership in 1987, but was rejected as a non-European country. Indeed, in October 2008 Morocco was granted "advanced status", to reflect its domestic reform achievements, which seem to have elevated it above its peers in the EU's esteem.

other confidence-building measures have ever been put forward by the EU in the case of the Western Sahara conflict. (Gillespie, 2010)

However, except of the UN, the **European Parliament** is the only body that deals with the situation in Western Sahara. Moreover, it is the only European institution that criticizes the Morocco's administration of the territory of Western Sahara and openly supports the right of the Sahrawi people to self-determination.

Contrary to the pro-Western Sahara attitude among European states appears the prolonging of the EU-Morocco fishing pact in February 2011. The fishing pact that allows the fishing at the coast of occupied Western Sahara. However, according to the UN, no activity regarding natural resources could take place on the occupied territory of Western Sahara, if the Sahrawi population does not agree. But so far nothing like this happened, which only shows another example of overriding international law under the control of European Commission and notably Spain. (EU Commission..., 2011) However in the newest report the benefit of this treaty for EU was not that high as anticipated. Moreover the evaluation report emphasizes the negative effect on the region's fish stocks, which were exploited by local fishermen. On December 14, the European parliament ended the Morocco-EU fishing treaty, mostly due to the fishing in the territory of Western Sahara. However, the new treaty is going to be negotiated with Morocco, without mentioning the issue of Western Sahara.

There are various infringements of international law considering the coastal waters and their exploitation, as shows the example from the end of January 2012, when Lafayette – the biggest fishing vessel in the world with the capacity of 14 thousand tons – appeared in the Sahrawi waters. (Monster fishing...2012) While speaking about exploiting Sahrawi fish resources, it is as well interesting to mention the exploitation of the landscape. This is managed by Morocco through its agricultural projects that take place on the territory of Western Sahara. Furthermore, the crucial point of this action is the fact, that European Parliament in February 2012 approved the agricultural agreement with Morocco, allowing for further liberalization of Moroccan agricultural product, like tomatoes, cucumber, garlic, etc. This agreement somehow overlooked the fact that numerous farms, where these products are raised, are situated on the

territory of Western Sahara⁴. This agreement means a possible considerable income in the revenues for Morocco⁵, but means at the same time the violation of international law for Western Sahara. (European Parliament approves...2012) These are just a few examples of the EU politics toward this region, showing the uselessness of its official policy in Western Sahara as at the same time it is deliberately overlooking this problem, and overlooking the independent Sahrawi republic and making the impression of giving political legitimacy to the occupation.

The abstention of the Sahrawi conflict resolution points out two essential observations. It is the opposing positions of Morocco and POLISARIO on one side, and geopolitics on the other. The latter undoubtedly reinforces the former, as the Moroccan position is sustained by external players. The conflict resolution is being given in charge of the UN, but the crucial point of the resolution is in the hands of France and USA. Even though they do not approve the sovereignty of Morocco on the territory of Western Sahara, they influence the efficiency of UN's actions. UN's resolutions are understood to be very favorable to Morocco's administration as they stress the need for self-determination of Sahrawi population, but in reality only keep the status quo. And why is that? Every member of the UN SC has the right of VETO.

USA and **France** are considered to be generous arms suppliers to Morocco, and historically its important ally during the cold war. Morocco was providing a strategic position for the access to the Mediterranean. POLISARIO represented an unfavorable option for the US interests. Furthermore, Morocco plays an important role in the fight against the Islamic fundamentalism, as it represents the conservative Islam, and so with this nature it promotes geopolitical stability in North Africa.

For France the Western Sahara represents an integral part of Morocco and they never openly accepted the Sahrawi state, which they consider to be under the strong influence of Algeria. France traditionally has been consistently more supportive of Morocco, going as far as regularly providing Morocco with arms during the conflict (1975-1991), and even taking reactive military action against the POLISARIO army in 1977-78. (Zoubir, 2010)

⁴ Workers at these farms are not Sahrawis but Moroccans, and work and live at the farms through Morocco's government projects. Moreover, the number of population working at the farms, mostly at Dakhla region, is expected to triple by 2020.

⁵ The production of these agricultural products is estimated to have grown explicitly between 2002-2003 and 2008-2009 when the vegetable production rose by 2800%.

Furthermore, the existence of an independent Western Sahara state is seen as a considerable factor of destabilization for Morocco and the whole region, where France has its interests in the sphere of politics, economy, military and culture. About 70% of all foreign direct investments in Morocco come from France, which makes it the most important business partner and the main investor in Morocco. (Zoubir, 2010)

The **USA** has been supporting the position of Morocco, considered to be a reliable ally in the Arab world. A priori, the USA does not oppose the execution of self-determination law, but in the case of Western Sahara we have to see the geopolitical conditions that influence the US attitude. However, there were times, when USA was not against the creation of an independent Sahrawi state, like at the end of the 1980's. In 2003, USA was supporting the Baker Plan II by which SADR would benefit from autonomy for five years before the referendum on self-determination. At the time, USA promised Algeria and POLISARIO that if they would have accepted the plan, they would have imposed the question to the Security Council. However, it was Morocco that refused. This was in the time of the War in Iraq, and France threatened to use its veto power, which forced the USA to back down. (Theofilopoulou, 2007)

Neither the policy of **B. Obama** could be seen as favorable to the self-determination of the Western Sahara population. In 2009, **H. Clinton** assured that the US policy towards Western Sahara would be the continuation of the Bush administration, and she stressed the need to continue the negotiations without preconditions. That means that the US would not accent more the subject of negotiations between Morocco and POLISARIO.

However, the settlement of the conflict would be positive for the policy of the US in Maghreb. They do not want to choose a side, as it could negatively affect its possible future presence in the region. Morocco is a strategic partner in the fight against terrorism, and alongside with Algeria it represents a main ally in this fight under the lead of US. And as US-Algeria relations could get worse after supporting the side of Morocco in the conflict, US tries to find the diplomatic, neutral way and to keep the status quo as long as possible, because it is favorable to its interests.

Western Sahara's international dimension is interestingly divided into the above mentioned two groups of actors, regional and more global ones, which create a complicated net of mutual relations. This situation has its outcome in the weak chance of Western Sahara to maneuver between its constituent elements. It is possible to speak about a stalemate situation, as for most of the

players, or better said for the more powerful ones, the possibility of changing the status quo in the region could possibly lead to the complete change of atmosphere in the Northwest African region, or furthermore in the whole Arab world. International (non)interest in the Western Sahara is therefore mostly seen political and secondly, and probably not even secondly, economic, as there is no notable linkage between the status of Western Sahara and the economic status and its resources.

Conclusion

Nowadays, Western Sahara undoubtedly represents a territory that has to face many challenges. It is the last non-self-determined territory on the African continent, with two thirds of the land under the control of another state, facing the neglect of international community and awaiting the international law to be taken into account. After thirty six years from withdrawal of the Spain as a colonial power from the territory of Western Sahara, it was not granted the possibility to hold the referendum on self-determination under the safeguard of the UN Charter.

This problematic situation arises not from the Western Sahara itself, but from the interests of neighboring states, notably Morocco, and its actions in history and present. Immediately after the withdrawal of Spain from the Western Sahara Morocco (and for a short period of time Mauritania as well) invaded and occupied the territory, which is now divided into two parts, the Moroccan part and the part proclaimed as SADR governed by the POLISARIO Front. It was historically POLISARIO Front that represented the opposition to Morocco and asked for the execution of international law measures to ensure the self-determination of Sahrawi population. Subsequently, the Front has become recognized as a representative body of the Sahrawi people on the territory of Western Sahara. It is clear that POLISARIO has played an important role in the process of development of Western Sahara to its present state, by attracting attention of international community to the lingering conflict.

Despite all its efforts, Western Sahara remains an occupied territory, and moreover the territory where the international law is continuously violated. Not only by occupation itself, but as well through the actions of Moroccan government in following the policy of displacing its own population for the purposes of decreasing the percentage of the Sahrawi population in disputed area. This is done for that in case of possible future referendum on the self-

determination of Western Sahara, Moroccan population would over vote the Sahrawi and the territory would be integrated into one state. Another disputed legal question is the exploitation of shores of Western Sahara for fishing, as it is used by the Fishing agreement between EU and Morocco. This agreement has been even prolonged in 2011 and completely undermined the legal necessity of the Sahrawi people to agree on using its natural resources.

One of the main official problems is the unwillingness of both disputed states to agree on the referendum, or better said not on referendum itself, but on the vote eligibility. The problem who would be allowed to vote is on the scene ever since the first attempts to organize the referendum. Even after various attempts and plans and propositions, mostly from the UN, neither one of the sides was willing to accept the conditions of vote eligibility. Neither the creation of United Nations mission for the Referendum in Western Sahara helped to solve the problem.

In this account there are no doubts, that the referendum is the only possible way to settle the dispute. All other means of gaining independence for Western Sahara are very improbable, as for example the withdrawal of the interests of one state, or military action of POLISARIO to gain independence. More probable would be the shift of the UN resolutions from under the Chapter VI of the Charter to Chapter VII of the Charter, which would impose the solution of the conflict and not only suggestions. However, for this option there would be needed the change of the international relation climate less in favor of Morocco.

Speaking of international relations, we see two different levels of actors. The first one, comprising more regional players as for example Algeria, Libya or the Organization of African Union, and as well Spain as a former colonizer with historical ties to the region, and the second, more global level, where the UN, the EU and especially two players, France and USA, are to be reckoned with. It is especially these latter two that have considerable influence on the development of the Sahrawi people's self-determination process. They are both permanent members of UN Security Council which give them the possibility to bend the norms and laws, to persuade their allies to take neutral stance and to be able to get maximum from the status quo as long as possible.

So after analyzing the current stance of Western Sahara in the domestic and international sphere, and after answering the questions on the problems it has to face on its way to self-determination, we could get back to the question in the title, and so whether the self-determination of Western Sahara is possible. The answer could seem simple. The probability of self-determination is

considered to be quite high, as the major part of international community officially follows the policy of UN and support the Sahrawi population. However, the question shouldn't be *if* but *when*. Based on the facts, the soon change of the Western Sahara status cannot be anticipated. In this process it is the Morocco and its relations with external powers that influence the overall climate of this issue. As long as Morocco will be considered to be strategically important partner, states would not risk losing this ally, as pragmatically it is geopolitically much more important subject in the region than the Western Sahara is. And unless Morocco through its policy rips apart from France and USA, or unless some other regional power becomes strategically more important, the possibilities of Western Sahara in gaining independence are considerably limited. Moreover, neither one of these scenarios is thought to become reality in the years to come, so the run for the independence of Western Sahara is probably going to be very long and complicated before reaching the finish line.

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