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SPECIAL REPORT

1200 17th Street NW • Washington, DC 20036 • 202.457.1700 • fax 202.429.6063

Anna Theofilopoulou

The United Nations and Western Sahara

A Never-ending Affair

About the Report

The Institute's recently created Center for Mediation and Conflict Resolution has placed high priority on developing lessons learned from recent efforts to mediate international conflicts. The case of the United Nations' efforts to mediate an end to the seemingly intractable conflict in the Western Sahara is particularly instructive. Several mediators have been employed over the duration of this effort, with the most important being former U.S. Secretary of State James Baker from 1997 to 2004. His efforts as the UN's mediator are highlighted in this report. During this mediation Baker was the secretary-general's personal envoy on Western Sahara.

The author of this Special Report, Anna Theofilopoulou, was ideally placed within the UN system to both observe and participate in this mediation effort. She covered Western Sahara and the Maghreb region in the UN's Department of Political Affairs from 1994 to 2004. She assisted Baker in his role as secretary-general's personal envoy on Western Sahara.

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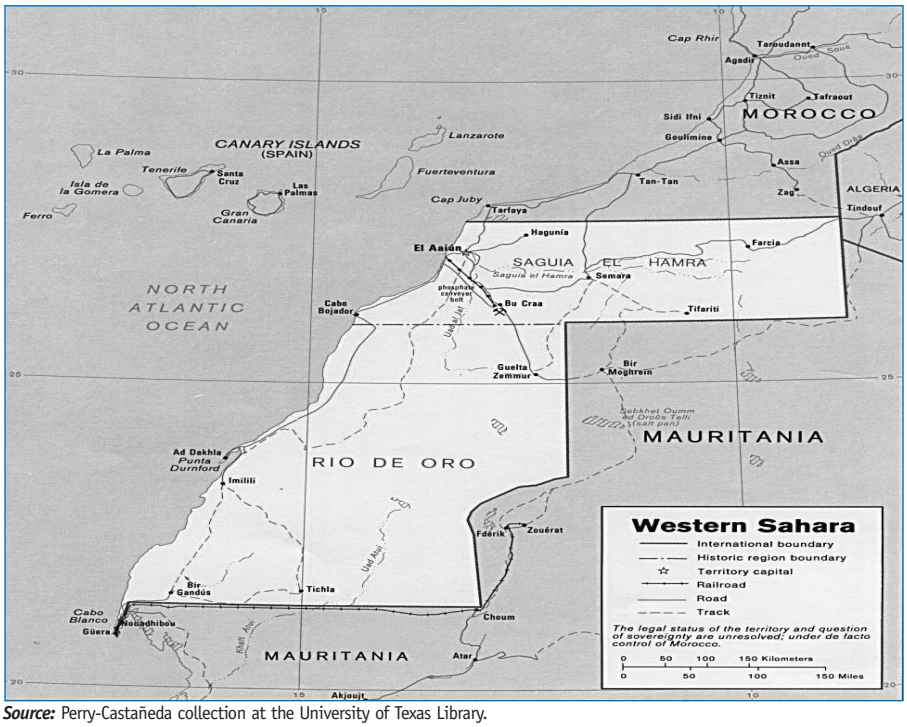

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Summary

- This study examines the efforts of the United Nations (UN) to resolve the dispute over Western Sahara from August 1988, when Secretary-general Pérez de Cuellar submitted the settlement proposals to the two parties—the Kingdom of Morocco and the Polisario—until June 2004, when James A. Baker III, the secretary-general's personal envoy on Western Sahara, resigned.

- The settlement proposals were to lead to the holding of a referendum on self-determination for the people of Western Sahara, offering a choice between integration with Morocco or independence. A crucial element in the implementation of the plan was the identification of voters for the referendum, which both sides considered the key to producing an outcome in their favor. The Polisario had a restricted view, expecting the 1974 Spanish census of the territory to be the framework for the identification, while Morocco took an expansive view by trying to include tens of thousands of applicants of Saharan origin now living in Morocco.
- Both parties found reasons to interrupt the identification process. Throughout the process, the UN tried to break the impasses created by the parties through technical solutions that addressed the problem at hand without addressing the underlying political problem, which was the determination by both sides to win the referendum.
- After six years of trying to move forward the identification process, Secretary-General Kofi Annan asked James Baker to become his personal envoy in order to steer the parties toward a political solution and away from the "winner-take-all" approach of the referendum. However, because both parties insisted that they wanted to proceed with the plan, Baker helped them negotiate the Houston Agreements, which allowed for the completion of the identification process.
- In September 2000, seeing that the referendum was not likely to work in its favor, Morocco offered to discuss a political solution aiming at autonomy under Moroccan sovereignty. The Polisario, which until the conclusion of the identification had been interested in meeting directly with Morocco, now believed that it could win the referendum and therefore said it would talk only about the settlement plan.
- After two more years of trying to get the parties to agree to a political solution, Baker informed the Security Council that a consensual approach would not work and requested that the Council ask the parties to choose one of four options, none of which would require the parties' consent, to resolve the conflict.
- The Security Council was unable to agree on any of the four options and asked Baker to prepare another political proposal that would include self-determination for the people of Western Sahara. Baker's final attempt was the Peace Plan for Self-Determination of the People of Western Sahara, which provided for a period of autonomy followed by a referendum on self-determination. Morocco rejected the plan and refused to accept a referendum in which the independence of Western Sahara would even appear as an option.
- The Security Council, while having expressed support for Baker's efforts in its resolutions, proved unwilling to ask the parties to make the difficult decisions required to solve the conflict. When Morocco rejected the peace plan, the Council, despite having unanimously supported it, did nothing. The study concludes that Western Sahara will remain on the UN agenda for many years to come and offers a number of lessons learned from this failed mediation effort.

Introduction

The UN's involvement in the Western Sahara issue started on December 16, 1965, when the General Assembly adopted its first resolution on what was then called Spanish Sahara, requesting Spain to "take all necessary measures" to decolonize the territory, while entering into negotiations on "problems relating to sovereignty." Between 1966 and 1973 the General Assembly adopted seven more resolutions on the territory, all of which reiterated the need to hold a referendum on self-determination. Thus, the UN stated in unambiguous terms from the start that the Western Sahara conflict could be resolved only through

an act of self-determination, in keeping with the Declaration on the Granting of Independence to Colonial Countries and Peoples. This position has been maintained by the organization up to the present day.

When Spain announced plans to hold a referendum in early 1975, King Hassan II of Morocco announced that Morocco could not accept a referendum that included the option of independence and proposed arbitration by the International Court of Justice (ICJ) to decide the precolonial legal status of the territory. The ICJ found no evidence "of any legal tie of territorial sovereignty" between Western Sahara and Morocco but "indication of a legal tie of allegiance between the [Moroccan] Sultan and some of the tribes of the territory." The ICJ concluded that these ties did not affect the decolonization of Western Sahara or the principle of self-determination. The day after the publication of the court's opinion, King Hassan called for the "Green March," in which 350,000 unarmed civilians crossed from Morocco into the territory to press Morocco's claim to it.

The UN Settlement Plan

Before the UN, the Organization of African Unity (OAU) had tried to resolve the Western Sahara dispute. The UN settlement proposals of 1988 were almost identical to those originally made by the OAU, laying down the broad guidelines for an internationally supervised cease-fire and a referendum offering the choice of independence or integration with Morocco. King Hassan's response to the OAU resolution was a rather ambiguous acceptance, promising to accept a controlled referendum whose modalities should do justice simultaneously to the objectives of the OAU and to Morocco's conviction regarding the legitimacy of its rights. Although the king's statement was viewed by some as a breakthrough in that he accepted the idea of a referendum, statements before and after the speech should have left no doubt that he had a restrictive interpretation of the referendum plan as a "confirmative" one for Morocco. Such statements by the Moroccan authorities regarding the "Moroccanity" of Western Sahara have continued over the years.

At the urging of Secretary-General Pérez de Cuellar, on July 20, 1985, King Hassan accepted a referendum for the self-determination of the inhabitants of Western Sahara, under UN auspices. In August 1988, the UN delivered to the parties the settlement proposals. The proposals were accepted "in principle," along with comments and observations by both Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y del Río de Oro (Polisario), representing the people of Western Sahara. As Pérez de Cuellar admitted in his memoirs, the two parties' comments were diametrically opposed to each other. For example, the Polisario wanted an enhanced role for the UN and the abrogation of all Moroccan laws in the territory during the transition period, while Morocco wanted to restrict the powers of the special representative during the transition period, especially his responsibility for the maintenance of public order.

Pérez de Cuellar and Issa Diallo, a close confidante, kept to themselves the parties' actual comments on the settlement proposals, while the task force created to draft the implementation plan was not privy to them. The plan, with its very tight and unrealistic timeline for all the tasks the UN would have to accomplish before the referendum, was therefore drafted by persons who did not have firsthand knowledge of the parties' negotiations with the secretary-general. Some have suggested that the two felt that it would be pointless to go back and convince the parties to change their positions. In addition, as Pérez de Cuellar admits in his memoirs, while discussing the settlement plan, he was trying to persuade King Hassan that autonomy would be preferable for Western Sahara. He had received an initial positive response from the king and the Algerian president, whom he had asked, at the king's direction, to approach the Polisario.

The UN Settlement Plan and MINURSO

The UN Settlement Plan went into effect in April 1991 when the Security Council approved the secretary-general's report proposing the organization of a referendum on self-determination for the people of Western Sahara to enable them to choose between independence or integration with Morocco. The plan called for the creation of the United Nations Mission for the Referendum in Western Sahara (MINURSO), consisting of civilian, military, and police components to carry out all tasks leading to the referendum.

Initially, the plan established a cease-fire to be followed by an exchange of prisoners of war, a reduction of Moroccan forces in the territory, and confinement of combatants of both sides to specific locations. Following the proclamation of an amnesty, Saharan political prisoners would be released. All laws and regulations that might impede the holding of a free and fair referendum would be suspended, as deemed necessary. Following the promulgation of a general and complete amnesty, refugees and others outside the territory who wished to return could do so, after the UN established their right to vote. A special representative would be appointed by the secretary-general and would have sole and exclusive authority over all matters related to the organization and holding of the referendum, including MINURSO.

To ensure that the necessary conditions existed for the holding of a free and fair referendum, the UN would monitor other aspects of the administration of the territory, especially the maintenance of law and order. The Settlement Plan stipulated that the full support of the Security Council, the cooperation of the parties, and that of the neighboring countries were essential for MINURSO to carry out its responsibilities effectively and with complete impartiality.

In addition to observing the cease-fire, MINURSO's main responsibility has been the identification of potential voters for the referendum, which was completed in

December 1999. MINURSO also has been directly involved in implementing confidence-building measures, including family visits between the Western Saharan population in the territory and the refugee camps in Algeria.

MINURSO's headquarters are in the Western Saharan city of Laayoune with a field office in Tindouf, in southern Algeria, where the refugee camps are located. MINURSO's current strength is 225 uniformed personnel, including 27 troops, 6 policemen, and 192 military observers, supported by some 118 international civilian personnel and 115 local civilian staff.

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Efforts to Implement the Settlement Plan

The period from early 1992 to the middle of 1996 was spent trying to start and move forward the identification of voters for the referendum. There was little or no effort to implement other elements of the plan because it was recognized that unless the differences of the parties over the identification process were resolved, none of the remaining tasks would be accomplished. The identification of potential voters for the referendum was finally launched on August 28, 1994. It was a thorough and painstaking process based on the 1993 compromise proposal of the secretary-general, which had not been wholeheartedly accepted by either party. Sheikhs, one from each side, played a key role in the process by testifying about the identity of members of their groups. Applicants were expected to prove that they qualified to register to vote by satisfying one of five criteria. Morocco found some of the provisions too restrictive in that Saharans who had fled the territory into Morocco during the Spanish colonial period and were not present during the 1974 Spanish census would have to prove that they were real Saharans in order to vote. For this, they would depend on the concurrence of the Polisario sheikh. The Polisario, on the other hand, considered the Spanish census the sole framework for the identification and the proposal too inclusive because two of the criteria would allow non-Saharans to be included on the voters list.

Because of the parties' mistrust of each other, and to some extent their mistrust of the UN Mission for the Referendum in Western Sahara (MINURSO), the procedures developed were based on complete reciprocity. Both parties found reasons to interrupt and slow down the process, the main one being the unavailability of sheikhs or party representatives for the identification. At the deadline for the receipt of applications, Morocco had submitted a total of 181,000 (100,000 from applicants living in Morocco) and the Polisario 39,000. Another 10,000 application forms had been collected by MINURSO in Mauritania. MINURSO was expected to identify 233,000 applicants. The Polisario resented what it saw as a Moroccan ploy to flood the identification process with Moroccans and feared that MINURSO would register the majority of them. It therefore found reasons not to bring its sheikhs on time (although at times there were legitimate logistical reasons), thereby delaying the process. It questioned the integrity and transparency of the identification process and managed to influence some Security Council members.

From the start it was clear that problems loomed regarding Polisario sheikhs for certain contested tribal groupings that had very few members in the territory at the time of the Spanish census, but that were highly represented in Morocco. Although both parties found ways to interrupt the process, during the period from 1992 to 1996, the Polisario was the more obstructionist of the two, stopping the identification often and openly questioning MINURSO's integrity. Morocco, on the other hand, hoping that the sheer number of its applicants would help it win the referendum, appeared keener to get on with the process during that period and even managed to seem cooperative, as long as it did not feel that its interests were being threatened. In order to deal with the interruptions and delays, MINURSO would come up with technical solutions to resolve the problem at hand and get the parties to resume their cooperation. Thus the identification continued in fits and starts until early January 1995.

In 1995, the Security Council got involved in the identification process and became polarized, with some members joining the Polisario in accusing MINURSO and the Secretariat of lacking transparency. Using information supplied to them by the Polisario, they even challenged the technical procedures devised by MINURSO to resolve the deadlocks created by the parties and started micromanaging the process. The United States in 1993 had created the Group of Friends of Western Sahara to facilitate MINURSO's efforts to implement the settlement plan. Until 1995, the group had managed to keep a more or less balanced approach due to its composition. While France and Spain were sympathetic to Morocco and the Polisario, respectively, the United Kingdom and the United States were more balanced and nuanced in their relations with both parties. After 1995, however,

when some unelected members were invited to join the group to make it more representative of the Council's composition, the dynamics within both the group and the Council changed, creating a further obstacle to a speedy resolution of the conflict.

In June 1995, after seeing the identification process stall, the Security Council sent a special mission to the region to assess the situation and help resolve some of the problems. The special mission came back confident that MINURSO was doing a credible job. Rather than helping, however, the mission had some inadvertent adverse consequences. It raised the stakes by reminding the parties that they had to make difficult decisions to advance the process. There followed a cessation of the identification process, primarily because of the Polisario's refusal to participate in the identification of the contested groupings. The Council lost its patience with the parties after the visit and in May 1996, for the first time, passed a resolution mentioning MINURSO's possible withdrawal.

From the start of the consultations on the settlement plan, the issue of direct talks between the two parties had been raised many times. The UN was in favor of the Polisario's wish, also supported by Algeria, to meet face to face with high-level Moroccan officials. The ostensible reason for this was to discuss "postreferendum arrangements" because the settlement plan was silent on what would happen after the vote. The unspoken but real hope of the UN, and of the Polisario at that time, was that the parties would come to an understanding on something between integration and independence before the referendum. However, whenever the issue of talks came up, the Polisario leaders publicly brought up the notion of independence, which elicited an automatic termination of the contacts by the Moroccans. Morocco maintained that there was no need to discuss the settlement plan's implementation because that was the UN's job. If the Polisario wished to discuss arrangements in the event of integration, Morocco would be willing to meet. This, however, did not stop the UN and others from trying to organize direct talks between the parties, hoping that such talks might open the way to a solution.

In his December 15, 1995, briefing to the Security Council, Secretary-General Boutros-Ghali admitted that although he had hoped that the identification would be completed, he had not expected the referendum to take place due to the irreconcilable positions of the two parties. He had hoped, however, that after completing the identification process, based on the figures, the parties would start direct negotiations. In his January 1996 report, while not openly advocating direct talks, the secretary-general expressed for the first time his availability to facilitate contacts between the parties, should they decide to establish a direct dialogue. The next resolution adopted by the Council included code language about direct talks. In the spring of 1996, the United States made a discreet effort to organize direct talks between the parties. This attempt failed because the Polisario would not agree to the precondition that there be no mention of independence. In his May 1996 report to the Security Council, the secretary-general proposed the suspension of the identification process, the withdrawal of police, and a reduction in MINURSO's military presence. The Council approved the proposals and reminded the parties that if significant progress was not achieved, it would consider other measures.

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In the summer of 1996, Acting Special Representative (ASRSG) Eric Jensen, capitalizing on both sides fear that unless some progress could be demonstrated MINURSO's mission would be further scaled down or terminated, convinced the two parties to meet directly. The first condition by Morocco was for absolute secrecy. The agenda would be open-ended and anything could be discussed except "independence" or "integration." There were two meetings, the first in Geneva to lay out the plans for the second, which was to be held in Rabat. The Polisario wanted the king or the crown prince and the ASRSG to attend. Morocco agreed to the meeting with the crown prince but not to the ASRSG's presence. A large Polisario delegation represented all points of view, including hardliners. On the Moroccan side were the crown prince and the interior minister. In the second meeting the Polisario brought up the question of independence. The Moroccan condition for a third meeting was that there would be no talk of independence. The Polisario wanted another location, a third party present, and no preconditions about the subject. In the

Western Sahara Conflict Timeline

December 1965: General Assembly adopts first resolution calling for Spain to decolonize Western Sahara.

October 1975: International Court of Justice finds no evidence of legal ties of territorial sovereignty between Western Sahara and Morocco.

November 1975: Green March of 350,000 Moroccans into Western Sahara.

August 1988: Secretary-General Pérez de Cuellar presents settlement proposals to Morocco and the Polisario.

April 1991: Security Council adopts resolution 690 creating MINURSO.

August 1994: Identification of voters for the referendum under the UN Settlement Plan starts.

March 1997: James A. Baker III is appointed as personal envoy of the secretary-general for Western Sahara.

September 1997: Houston Agreements are adopted, allowing resumption of identification and implementation of the settlement plan.

December 1999: Identification process concludes; 86,368 out of 198,469 applicants are found eligible to vote in the referendum; 79,000 appeal.

February 2000: Secretary-general recommends that his personal envoy explore with the parties an early, durable, and agreed resolution of the dispute. Security Council adopts resolution supporting proposal.

September 2000: Morocco makes its first offer to discuss with the Polisario a solution of the dispute outside the settlement plan.

June 2001: Baker's draft Framework Agreement, already presented to the parties, is submitted to the Security Council.

February 2002: Four options to resolve the dispute without the consent of the parties are presented to the Security Council.

July 2002: Security Council adopts resolution 1429 expressing readiness

end, there was no third meeting. The parties spent the remainder of 1996 with Morocco playing down the meetings and the Polisario trying to boost their importance. The Security Council extended MINURSO's mandate until May 1997 and everybody settled down to await the new secretary-general.

Enter James A. Baker III, Personal Envoy

As soon as Kofi Annan assumed his post, he reviewed all UN operations. Western Sahara was foremost among those qualifying for deep scrutiny due to the effort and resources that had gone into it for the past six years, with the cease-fire being the only tangible result. He asked for an assessment paper with policy options for his consideration. The paper, which was discussed in a policy meeting, presented the following four options: (a) retain the settlement plan and move ahead with its implementation, (b) put the plan aside and seek a "third solution," (c) seek a "third solution" while keeping the plan, (d) disengage until the time was "ripe." The meeting immediately focused on option b. The previous summer's attempts at direct talks had indicated that the parties were fairly shaken by the suspension of the identification and the reduction in MINURSO's military strength and might be amenable to a mediator who would steer them toward a political solution.

It was decided that a high-level U.S. envoy would be the most suitable mediator because the United States had not been advocating on behalf of either side and was therefore trusted by both. The name of former U.S. Secretary of State James A. Baker III was proposed by the secretary-general himself, who was familiar with Baker's negotiating skills, toughness, and integrity. However, since the secretary-general could not be seen to be moving away from the settlement plan, it was agreed that the envoy would first review whether the plan could be implemented in its current form. If not, he would examine whether adjustments acceptable to the parties would make it implementable. If this were not possible, he would explore whether there might be other ways to help the parties resolve their conflict. The Polisario welcomed Baker's appointment, promising cooperation and comparing his work on Western Sahara with that on Kuwait. Morocco's reaction was rather lukewarm, as Morocco was aware of Baker's reputation as a tough negotiator. The Algerian president called the choice wise.

Baker undertook his first mission to the region April 23–28, 1997, to consult with the parties and neighboring countries. All sides were steadfast in their insistence on staying with the settlement plan and working toward its implementation. On his return, Baker informed the secretary-general that he needed to meet with the parties and Algeria and Mauritania, as neighboring countries, to assess whether the two sides were ready to make the necessary compromises for a solution. This could be accomplished only through direct talks.

During his first encounter with the two sides, Baker and his team laid down the rules for the talks. In addition to the Secretariat, Baker was assisted by Chester A. Crocker, former assistant secretary of state for African affairs, and John R. Bolton, former assistant secretary of state for international organizations. It was agreed that the talks would be private, would not constitute an international conference, and would continue for as long as the personal envoy felt there was progress. Baker and his team would offer "bridging proposals" but would not have the power to impose a solution or veto an agreement. During the talks, no issue would be considered as finally agreed until all outstanding issues were agreed. Algeria and Mauritania could attend the talks as observers and would participate in talks on issues directly affecting them.

The most difficult and contentious issue was that of identification. The parties agreed that they would not sponsor or present for identification anyone from the contested tribal groupings, although they would not be obligated to actively prevent anyone from those groupings from presenting themselves. The second contentious issue was the confinement of the Polisario troops. The bridging proposal submitted to them, to which they agreed,

was that each would accept a certain number of Polisario troops to be confined in their territory. The issues of refugees, reduction of Moroccan troops, prisoners of war, and political prisoners were easier to deal with as both sides agreed to abide by the settlement plan. A final difficult issue was the code of conduct for the referendum campaign. In the end, compromises were made and the Houston Agreements were adopted. Nobody on the Baker team really believed that the UN would sail toward the implementation of the settlement plan. After the parties had locked themselves in, it was a question of who would back away from their commitments first. Nor was there any doubt in anyone's mind that Morocco would send applicants from the contested groupings by the busload when the time came.

The identification resumed on December 3, 1997. Although the process started vigorously, it became clear on the first days allotted to the identification of the contested groupings that the Identification Commission would have to deal with a substantial number of applicants from the tribes as the Moroccan authorities had every intention of facilitating their appearance before the Commission. There was strong evidence that the Moroccans were providing those applicants with transportation to reach identification centers. Morocco was clearly in violation of the spirit of the Houston Agreements although, according to the ASRSG, it would be impossible to ascertain whether these individuals had been sponsored by Morocco.

Baker and the Secretariat consulted about how best to deal with the identification of applicants residing in Morocco. Certain members of the Secretariat became very active on this issue and were consulting separately with Morocco even though they were relative newcomers to the topic and not familiar with the history of the parties' behavior and therefore how the situation was likely to end. Some even called the question of identifying people residing in Morocco a "logistical/practical issue of a purely technical nature," ignoring its political implications. This same staff believed it was "indispensable" for the UN to work out specific modalities and a clear timetable for the identification of the contested applicants, as well as for the appeals procedure, in order to avoid a breakdown of the identification. In the Secretariat there was a desire to complete the identification, but the fact that this would have been a good time to get the parties to compromise on a political solution because they were both uncertain and nervous about the outcome of the referendum was ignored.

The Moroccan authorities took a legalistic and preemptive approach, accusing MINURSO of prejudice and orchestrating a vicious press campaign against it. The UN could have called Morocco's bluff at that point and stopped the identification, but in the case of Western Sahara, taking a firm position with the parties rarely seemed to be an option either for the Secretariat or the Security Council. The reason given was that the Western Sahara operation was under Chapter VI of the UN Charter, which required consent by the parties. An internal analysis indicated that it would be highly unlikely that the identification of the approximately 65,000 Moroccan applicants from the contested groupings would yield more than a few thousand eligible voters. Both parties, who had received the partial results of the identification under the Houston Agreements, knew where they stood. The Polisario was cooperating knowing that it was risking nothing. Morocco, by insisting that MINURSO identify all 65,000, was blocking the process without appearing to do so. By searching for ways to identify those applicants, the UN was again proposing technical solutions to the problems posed by Morocco, which did not address the political gap between the parties.

In late summer of 1998, Baker, who had been following the UN-sponsored East Timor negotiations on expanded autonomy, made a secret trip to Morocco. He asked King Hassan whether he was still certain that the referendum under the settlement plan was the best way for Morocco to legitimize its presence in Western Sahara and suggested that it might be time to consider other options. The king listened and promised to think it over but in the end decided that he wanted to pursue the settlement plan. The UN gave the parties a "package" dealing with the identification of the contested groupings, the appeals process

to consider any proposal by the personal envoy that would provide for self-determination.

January 2003: Baker presents the Peace Plan for the Self-Determination of the People of Western Sahara to the parties.

July 2003: The Polisario informs the United Nations that it is accepting the peace plan.

July 2003: Security Council unanimously adopts resolution 1495 supporting the peace plan.

April 2004: Morocco rejects the peace plan.

April 2004: Security Council adopts resolution 1451 diluting its support of the peace plan.

June 2004: Baker resigns as personal envoy.

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(it was expected that Morocco would encourage all its ineligible applicants to appeal the decision), refugee repatriation, and the situation in the territory during the transitional period. The package was supposed to remain intact in order to press Morocco to see the mistake of continuing with the identification of thousands of applicants from the contested tribes and accept the inevitability of a political solution. Baker insisted that the UN had to stay firm and not allow Morocco to break the package and start negotiating it.

By that time the Polisario was feeling confident that things were going its way. It informed the UN that it accepted the package in its totality, while Morocco expressed concerns. The Moroccans sent a nonpaper, hoping to negotiate the package. Six months after the package had been delivered to the parties Morocco still had not accepted it. By sending a nonpaper for discussion, Morocco appeared to be responding to the UN while in fact dragging out the process. At the same time, it was testing to see how far it could push the UN to change the rules for the identification of the contested tribes and the appeals. The Polisario, meanwhile, was doing its best to weaken the refugee repatriation draft protocol that had been given to both parties. While the Polisario appeared to want to give more options to the refugees for their repatriation, it was using the relocation of refugees for political purposes and challenging the United Nations High Commissioner for Refugees' (UNHCR) independence. The Polisario was becoming more and more emboldened by the results of the identification process and by seeing how desperately Morocco wanted to change the rules. While it appeared that the Polisario was making concessions by agreeing to what the UN was proposing, in reality it was not giving anything away. It had managed to turn the tables on Morocco, and this continued to be the case from that time onward.

When the letters of acceptance of the identification and appeals protocols finally reached the UN in mid-May 1999, the Polisario accepted them, although it expressed concerns about MINURSO's ability to implement them without Morocco's interference. Morocco's acceptance was so conditional that it was not clear what exactly it was accepting. It was also evident from Morocco's reply that it intended to bring people to appeal by the thousands. The December 1999 report to the Security Council gave the first indication that the settlement plan was in trouble by assessing that "the prospect of holding the referendum within a reasonable period of time, instead of becoming closer, has become even more distant." This was supplemented by a paragraph in the Council's follow-up resolution stating that there was "little possibility of holding the referendum before 2002 or even beyond."

The February 2000 report informed the Security Council that at the conclusion of the identification process 198,469 people had appeared before the Identification Commission. Of those, 86,386 had been found eligible to vote, while some 79,000 of those who had not had appealed. Going further than the December report, it stated that the date for the referendum could not be set with certainty at that juncture. Referring to the appeals and other issues that had to be resolved before the referendum was held, the report admitted for the first time that proposing technical solutions to bridge the parties' differing interpretations of the settlement plan would only result in further difficulties that would require yet another round of protracted negotiations. Even if the referendum were to be held, there was no enforcement mechanism in the plan should the results not be accepted by one party. With this sobering assessment, the secretary-general asked his personal envoy to consult with the parties to explore ways to achieve an early, durable, and agreed resolution of their dispute.

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This period saw the repoliticization of the Security Council over Western Sahara. The Polisario's supporters tried to block any attempt to move away from the settlement plan toward a political solution. Other members, either because they did not fully understand the complexity of the situation or for their own reasons, followed suit, thus making the personal envoy's task of steering the parties toward a political solution even harder. Both parties were upset with the UN for different reasons. The Polisario, which by that time was convinced that it would win the referendum, accused the UN of wanting to abandon the

plan after trying for years to accommodate Morocco. Some Polisario representatives were saying openly that they were no longer interested in autonomy and wanted the personal envoy to implement the settlement plan. The Secretariat was informed that the Polisario had approached Spain, Belgium, and Italy asking them to be its "Australia" after the East Timor events. It received an unequivocal no from all three. Morocco meanwhile was publicly expressing "astonishment" at the poor identification results for the applicants from the contested groupings, where out of 51,220 people only 2,130 had been found eligible to vote. Morocco accused the Polisario of hindering the right of Saharans to vote and warned the UN that it expected to have all its rejected applicants heard by the Appeals Chamber.

Baker's visit to the region from April 8 to 11, 2000, did not yield anything new. He invited the parties to meet with him three times in 2000 under the same rules as in 1997. Nothing positive came from the first two meetings. Baker pointed out the differences in their positions regarding implementation of the settlement plan and invited them to come forward with concrete solutions to the plan's multiple problems. His assessment was that the parties' views and behavior were still widely divergent and had not moved any closer despite their professed desire and willingness to cooperate with the UN. He broached the idea of a political solution other than the settlement plan, reminding them that such a discussion would not prejudice their positions.

The breakthrough that everybody had been waiting for came at the third meeting in Berlin on September 28, 2000. After denouncing the way the settlement plan was being implemented, the head of the Moroccan delegation stated that Morocco was ready to initiate a sincere and frank dialogue to work out a lasting and definitive solution to the Western Sahara issue, which should take account of Morocco's sovereignty and territorial integrity, in accordance with democratic and decentralization principles. The Polisario rejected the proposal outright and said that it would only engage in a dialogue about implementation of the settlement plan. Pointing out that nobody was abandoning the plan, Baker invited Morocco to offer some devolution of governmental authority for discussion. At the same time, Morocco was warned that if it did not come up with such an offer soon, MINURSO would start preparing for the appeals process. By that time, Baker had determined that Morocco had no desire to proceed with the appeals, notwithstanding its statements to the contrary. He was using the prospect of proceeding with the appeals and by extension the implementation of the settlement plan to press Morocco.

The Political Solution

The Security Council was informed of Morocco's intention to offer devolution of authority in Western Sahara. When by April 2001 Morocco still had not given Baker a document that would sufficiently devolve power to the Saharans, he prepared the draft Framework Agreement (FA) on the Status of Western Sahara. The Moroccan king approved the document. Baker then traveled to Algiers and Tindouf to present the draft FA to Algerian and Polisario leaders. The Algerian leadership was noncommittal but promised to get back to him. The Polisario secretary-general was unwilling to discuss anything that did not include independence as an option and declined even to keep a copy of the draft FA.

The draft FA was meant to be negotiated by the parties to provide a five-year period of autonomy for Western Sahara. It offered exclusive competence over local governmental administration, territorial budget and taxation, law enforcement, internal security, social welfare, culture, education, commerce, transportation, agriculture, mining, fisheries and industry, environmental policy, housing and urban development, water and electricity, roads, and other basic infrastructure to the population of Western Sahara. The government of Morocco would have exclusive competence over foreign relations; national security and external defense; all matters relating to the production, sale, ownership, or use of weapons or explosives; and preservation of territorial integrity against seces-

sionist attempts. The flag, currency, customs, postal, and telecommunication systems of the kingdom would be the same for Western Sahara. The population of Western Sahara would exercise authority through an executive elected by those whose names were on the UN provisional voter list without giving effect to any appeals or other objections and through an assembly elected by voters who were either on the UNHCR repatriation list or continuous residents of the territory since October 31, 1998. The FA did not spell out the options for the final status of Western Sahara, but provided for a referendum on the status of the territory after five years. Baker thought that the Polisario candidate could win the election for executive and thus be in a position to run the broad range of functions over which the population of Western Sahara would have exclusive competence for a five-year period. It was hoped that this would appeal to the Polisario as affording it a chance to prove itself and perhaps be in a position to win the referendum.

Algeria sent a memorandum highly critical of the draft FA, complaining that (a) the document prepared the ground for eventual integration of the territory with Morocco; (b) it went against the principle of self-determination; and (c) Baker had not followed his mandate, which required him to work on implementing the settlement plan as well as a political solution. The Polisario sent three sets of official proposals to overcome obstacles preventing the implementation of the settlement plan, but which either (a) offered concessions that had conditions attached; (b) required Security Council action; or (c) were imprecise and required further clarification.

Baker briefed the Security Council on the draft FA. While admitting that the document was not perfect, he pointed out that it did not foreclose self-determination but provided for it after a period of self-government. He reminded the Council that its and his job was to find a fair, durable, and equitable solution to the problem. After having tried one approach (the settlement plan) unsuccessfully for ten years without abandoning it, it was time to try another that would provide for real autonomy and did not foreclose self-determination. The resolution adopted by the Council encouraged the parties to discuss the draft FA, negotiate any specific changes to it, and discuss any other proposals for a political solution to arrive at a mutually acceptable agreement.

Algeria, Mauritania, and the Polisario were invited to meet with Baker in the small town of Pinedale, Wyoming, from August 27 to 29, 2001. The Algerians reiterated general views without engaging in specifics but promised to send specific clarifications later. The Polisario also was reluctant to engage in specifics, despite Baker's efforts. The Polisario repeated that the draft FA would lead to integration of the territory with Morocco. It promised to get back to Baker with specific comments after consultation with its leadership. The Mauritanians promised to support any solution that would promote peace and stability in the region. The meeting did not accomplish what the UN was hoping for. There was room for optimism based on behind-the-scenes contacts and Algerian President Bouteflika's planned visit to the Baker Institute in Houston in the fall of 2001. However, Algeria's second commentary on the draft FA was even more negative than the first. The Polisario categorically rejected the draft FA. The difficulties ahead became more obvious after the visit of President Bouteflika to the Baker Institute, where he informed Baker that Algeria and the Polisario would be prepared to discuss a division of the territory. Subsequently, Baker visited Morocco to inform the government of the Algerian suggestion. He had two meetings with the king and his advisers. In the second meeting the king informed Baker that Morocco would not contemplate a division of the territory.

Since no early, durable, and mutually agreed resolution of the dispute could be reached by consensus, four choices were presented to the Council as ways of resolving the conflict.

Following those developments, a rather grim report was sent to the Security Council on the options available on Western Sahara. Since no early, durable, and mutually agreed resolution of the dispute could be reached by consensus, four choices were presented to the Council as ways of resolving the conflict. After a pessimistic but utterly realistic assessment of the UN's work to implement the settlement plan for more than ten years, the Security Council was asked to choose among four options: (1) implement the settlement plan without the parties' concurrence; (2) ask Baker to revise the draft FA taking into account the parties' concerns and submit that revision to the Council for presentation

to the parties on a nonnegotiable basis; (3) explore with the parties the possibility of dividing the territory; in the event that they were unwilling or unable to agree on such a division, ask Baker to make a proposal to the Security Council, which would present it to the parties on a nonnegotiable basis; (4) terminate MINURSO, recognizing that after more than eleven years and the expenditure of nearly half a billion dollars, the UN would not be able to resolve the dispute without requiring one or both parties to take steps that they had been unwilling to take.

The Security Council spent the first half of 2002 trying to decide how to handle the four options. The positions of the parties were as follows: Morocco did not like any option (because of the nonconsensual approach), but if pressed, it would accept option two (draft FA). The Polisario favored the first option (settlement plan) but could accept option three (division). It rejected option two. Algeria called option two "dead on arrival" and supported option three, calling it a compromise. There was no agreement about any option except the last one; nobody wanted to contemplate MINURSO's termination. In July 2002, the Security Council adopted resolution 1429, which invited Baker to pursue his efforts to find a political solution and expressed its readiness to consider any approach that would provide for self-determination. Baker worked with a constitutional expert and the Secretariat to prepare the document requested by the Council.

Baker prepared the "Peace Plan for Self-Determination for the People of Western Sahara." Although he harbored no illusions that either side would be entirely happy with the new document, he wanted to deliver a proposal "that no reasonable person would turn down." The main concern was to give each side a fair chance to win a referendum on self-determination after the self-governing period. While Morocco would be responsible for issues pertaining to the responsibilities of a state, the peace plan all but ensured that the Western Sahara Authority would have complete and exclusive responsibility for the day-to-day governing of the territory for four years. The peace plan was much more detailed than the draft FA. While the overall areas of responsibility remained the same, the new document differed from the previous one in several key areas. The most significant were that (a) the electoral body for the referendum for the final status of the territory would be composed of those on the UN provisional voter list and those on the UNHCR repatriation list, plus those who could prove continuous residence in the territory since December 30, 1999 and (b) the peace plan included the questions on the ballot for the final referendum. Baker visited the region in early January 2003 and presented the peace plan to the parties. Morocco received it coolly and promised to study it. Algeria had the most thoughtful and thorough response. President Bouteflika listened to Baker's presentation and asked several pertinent questions. The Algerians were clearly studying the document seriously, trying to keep an open mind about it, especially once they realized from press reports that Morocco was not happy with it. The Polisario treated the document with suspicion and kept referring to the settlement plan.

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The maneuvering by the parties and their supporters in the Security Council started soon after Baker delivered the peace plan to them. The Algerian response was the first to arrive. Algeria took an overall favorable stance toward the document. It identified the positive elements of the proposal and offered suggestions for additions or changes it said would clarify and facilitate implementation of the document. To strengthen its arguments, Algeria often used as an example the UN's inability to implement the settlement plan because of its ambiguities and the bad faith of one of the parties. Algeria's strategy seemed to be to involve the UN as much as possible in the implementation of the plan. This could have been because a strong UN presence would ensure Moroccan compliance with its obligations. However, it could also have been because Algeria felt that a high-profile and strong UN presence when the Polisario governed the territory would protect the Polisario in the event of a weak administrative performance. It is also possible that Algeria and the Polisario had agreed not to be the first to reject the plan outright but instead offer suggestions for amendments.

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The Moroccan response was characterized by a sense of entitlement and reluctance to compromise its belief that it had sovereignty rights over Western Sahara (referring to the "country's southern provinces") and the need for a political solution to depart "from the winner-take-all" mentality of the settlement plan. Morocco did not acknowledge its own responsibility for the UN's inability to implement the settlement plan. However, Morocco's real concern was that independence was one of the choices in the referendum. Morocco wanted Baker to reestablish the architecture of the Framework Agreement, which did not include the referendum options set out in the peace plan.

The Polisario tried once again to convince the UN to revert to the settlement plan by calling its response a "new proposal" aimed at reaching the same result faster, namely, self-determination for the people of Western Sahara. The Polisario did not hide its unhappiness with the peace plan, but it engaged in a dialogue with Baker, making comments, raising questions, and challenging parts of the document. Maybe the Polisario wanted to see what explanations Baker would provide to its questions and observations before it committed to anything; at the same time, it was waiting to see Morocco's response before positioning itself.

The peace plan and the parties' responses were submitted to the Security Council. When Baker met with members of the Council he warned them that although they did not like imposing solutions he was going to ask them to do just that. Having further meetings of the parties would not serve any purpose. The differences between them were too fundamental and a request to negotiate further would only mean another lengthy period of delay. Baker observed that if after fifteen years the Security Council did not express its desire in a positive and strong way, there would be no progress. He acknowledged that the peace plan was imperfect and adjustments could be made, such as the one he had made to address Morocco's concern by including a third ballot choice providing for continuation of the division of authority. He stressed, however, that the idea was to give the right of self-determination to the people of Western Sahara. The peace plan was giving each side a real opportunity to win the referendum.

The period from May to July 2003 was extremely busy in preparation for the resolution that would pronounce the Security Council's view of the peace plan. Morocco actively lobbied against the document, insisting that Baker should organize direct talks with all parties to discuss it. Morocco focused on two main problems with the plan: (a) including the option of independence and (b) Baker's refusal to negotiate the document before receiving assurance from the parties that they were accepting it. Morocco was also against the adjustment placing a third option on the ballot, that of continued autonomy, claiming that this would divide those who might have voted for integration. Morocco was emboldened by the belief that the Polisario had rejected the peace plan. However, the Polisario had been very careful not to give an official reply in its March letter. Algeria was watching Morocco closely and as the Secretariat was informed, asked the Polisario representatives to stop protesting against the plan while Algeria was reacting positively to it. As Morocco made more and more obvious its disdain for the peace plan, on July 6, 2003, the Polisario informed the secretary-general and Baker that it was accepting it. Morocco was stunned, as it had convinced itself that the Polisario had rejected the document.

The Security Council was again divided. France, Bulgaria, Cameroon, and Guinea (all supporting Morocco) talked openly about the need for the parties to negotiate. The United States, the United Kingdom, Germany, Spain, and Chile supported the peace plan and Baker's approach, while China, Syria, Mexico, Russia, Pakistan, and Angola were ambivalent. The United States was active during this period at the highest level and its efforts were coordinated to ensure support for the peace plan. The Council expressed its support for Baker's efforts in resolution 1495, which was adopted unanimously. An adjustment was made to bring one key member on board and as a result some ambiguous language was added, which would later prove detrimental, calling the plan "an optimum political solution on the basis of agreement between the two parties." However, since the resolution called upon the parties to work with the UN and with each other toward

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acceptance and implementation of the peace plan, the resolution was seen as asking the parties to accept and implement the plan.

After the adoption of the resolution, Morocco was given some time to reflect. In December 2003, Morocco presented a counterproposal to Baker, "the draft Autonomy Status." In Morocco's view, the document would "enable the Saharan population to manage its own affairs freely, democratically, and in full respect of the sovereignty of the Kingdom of Morocco, its territorial integrity, and its national unity." Certain elements of the Moroccan counterproposal constituted a dramatic reversal of the peace plan, a key one being that it did not include independence as an option for the final status of the territory, simply offering autonomy to the "Sahara Autonomous Region." Morocco did not allow for much of a UN role during the transitional period, other than a vague reference to support by UNHCR and the UN in keeping with their respective mandates. Most important, there was no mention of self-determination. The proposal assigned all security, public order, and criminal procedure functions to Morocco and forbade any secessionist attempts. Baker and some of his staff worked to get Morocco to modify its proposal to open the way for discussions with the other side. The Moroccan second attempt was no more successful than the first. As before, there was no option of independence in the referendum and Morocco was keeping all law enforcement functions. Aware that such a proposal could not serve as the basis for discussion with Algeria and the Polisario, Baker asked Morocco to try again, pointing out the areas where changes were needed. When Morocco responded for the final time to Baker, it did not attempt to meet any of his requirements. It sent a document that required the parties to agree to a negotiated solution based on "autonomy within the framework of Moroccan sovereignty."

The secretary-general's April 2004 report stated that Morocco did not accept essential elements of the peace plan. Given the history of the conflict and recent events, the secretary-general and Baker saw two options: either terminate MINURSO, recognizing that after more than thirteen years and expenditure of $600 million the UN was not going to resolve the Western Sahara conflict without requiring that one or both parties do something they would not voluntarily agree to do, or try to get the parties to work toward acceptance of the peace plan.

Resolution 1541, adopted by the Security Council on April 29, 2004, was a regression from resolution 1495. After the parties had rejected the settlement plan, the draft FA, and division of the territory, the Council had been informed in February 2002 that there could be no mutually acceptable political solution and had been asked to choose among four options, none of which would have required the consent of the parties. The Council had then asked Baker to craft another solution providing for self-determination. Baker had prepared the peace plan and had requested the Council to ask the parties to work with him toward its acceptance. Resolution 1495 had supported the plan and had asked the parties to work with Baker and each other toward its implementation. The April 2004 resolution reaffirmed the Council's support for the plan, but it also strongly supported a mutually acceptable political solution. This was a clear inconsistency and, in fact, the support for a mutually acceptable political solution was stronger. By that time there had been a change in the bilateral relations with and support of key member states for Morocco. Spain, an elected member of the Security Council at the time, had a new government that hoped to improve its relations with Morocco. There was renewed concern within the U.S. government about international terrorism, and Morocco's help was deemed essential. France was continuing its policy of strong support for Morocco. The end result was weakened support for the peace plan. Morocco and its supporters were aware of this change and did not hide their satisfaction.

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On June 1, 2004, Baker informed the secretary-general that he wished to resign from his duties as personal envoy, as he had done all he could to resolve the conflict. The Polisario reacted with sadness, recognizing that it was losing someone with the ability and credibility to work out an acceptable solution on its behalf. Morocco did not hide its satisfaction, the foreign minister calling the resignation "a triumph of Moroccan diplomacy."

Conclusions

By assuming responsibility for resolving the Western Sahara conflict, the UN interjected itself into what was clearly an impossible situation. Both parties were determined to win the referendum under the UN Settlement Plan and had a strategy for doing so: Morocco by expanding and inflating the electorate to include as many Moroccans of Saharan descent as possible, and the Polisario by trying to keep it within the parameters of the 1974 Spanish census. Neither party hid its intentions vis-à-vis the referendum, although Morocco was more blatant about it, talking about a "confirmative" (for Morocco) referendum. Based on this and reviewing the UN's more than fifteen years of effort to resolve the Western Sahara conflict, the following three questions arise: (1) Did the UN know what it was getting into by assuming responsibility for resolving this conflict through a referendum on self-determination? (2) Did it have the right strategy to achieve its aim? (3) If a political solution for autonomy was the intended, if unspoken, outcome of the process all along, did the UN follow the right strategy to bring it about?

To answer the first question one must start by looking at the OAU's efforts to resolve the conflict before Pérez de Cuellar submitted his August 1988 settlement proposals. Most elements of the UN Settlement Plan, especially the organization of the referendum, were almost identical to the 1981 OAU Nairobi resolution calling for the holding of a referendum on self-determination. King Hassan's acceptance of the OAU proposal and his subsequent statements could not have left any doubt that he had a very restricted interpretation of such a referendum. All along, the king and the Moroccan government had spoken of their intention to have a "confirmative" referendum over Western Sahara that would validate the "Moroccanity" of the territory. Given these statements, it was unrealistic of the UN to think that the Moroccan king would cooperate in the organization of a free and fair referendum on self-determination.

The rather sketchy information available on the consultations between Pérez de Cuellar and the parties and on the deliberations of the task force shows that from the start the secretary-general handled the parties' positions and comments on the settlement proposals with extreme secrecy. While such an approach is not unusual in high-level diplomacy and in fact strict confidentiality is necessary at times, in the case of Western Sahara it appears to have undermined the UN's own efforts to resolve the conflict. Extreme secrecy contributed to suspicion and mistrust by the Polisario and its supporters toward the Secretariat and MINURSO in their handling of the issue, especially when combined with Morocco's privileged position as a member state compared to the Polisario's status. Pérez de Cuellar acknowledged in his memoirs that glossing over the parties' differences over the settlement proposals might have been a mistake. The view of a staff member who participated in early task force meetings is that Pérez de Cuellar took such an approach precisely because he knew the parties' real positions and believed that the only way for the UN to resolve the conflict was not by discussing the differences but rather by holding the parties to their word that they had accepted his authority to resolve the conflict. Pérez de Cuellar was therefore aware of the tremendous difficulties in the task undertaken by the UN. Nevertheless, he pressed ahead without explaining the real difficulties or his own strategy even to those directly involved.

Pérez de Cuellar acknowledged in his memoirs that glossing over the parties' differences over the settlement proposals might have been a mistake.

Rather than developing and sticking to a strategy designed to tackle head-on the difficulties in dealing with this conflict, it appears that the UN allowed the parties to manipulate and derail the process to suit their own ends. From early on, as soon as the Security Council was informed that one or both parties had withheld their cooperation from MINURSO because events were not going their way, it would also hear about attempts by MINURSO or the Secretariat to find a compromise through a technical proposal or about some other positive development. MINURSO would submit bridging technical proposals to the parties to address their differing positions and then would set about discussing them. The Security Council, in its tendency to look for good news, when informed of such developments, would focus on the positive events and gloss over the difficulties. The

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propensity of MINURSO to submit "technical solutions" to bridge the differences became a pattern that the parties came to expect. The stipulation in the settlement plan that the parties' cooperation was necessary for MINURSO to carry out its tasks was turned on its head. The parties would withhold their cooperation with impunity whenever they thought that events were not going their way until MINURSO came up with a "technical solution," which they would then negotiate exhaustively. Considering that the result of the referendum would be a "winner-take-all" situation and that each party was determined that it would be the winner, it is easy to understand why the parties would withhold their cooperation and stop the process at the slightest opportunity.

It is more difficult to understand why the UN continued to pursue this approach even after it became clear that "technical solutions" would not resolve the political differences between the parties. There were several such solutions that, while serving to keep the process going a bit longer, did not address the political problems. As a result the final outcome moved further away. The concurrent oral testimony by two sheikhs, one from each side, created many problems for the UN because both parties manipulated this procedure to their benefit. Developed to facilitate the start of the identification process, this procedure was more responsible than anything else for interruptions and breakdowns in the identification process. The UN had the opportunity to observe patterns of behavior and differences in comportment between the sheikhs in a meeting that it organized in 1990. Nevertheless it continued acting as if the sheikhs were objective and nonpolitical and that after taking an oath on the Koran, they would necessarily be truthful. Either because it believed it had no other choice or because it believed in the myth of the "objective sheikh," the UN used this solution in the identification process in several permutations, with questionable results.

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Other technical solutions did not work because a strategic approach had not been worked out and coordinated. An example was the handling by MINURSO of the appearance of thousands of applicants from the contested tribes who turned up, supposedly without support from Morocco. There was little or no discussion about the likely effect of the identification/appeals protocol package on the efforts to move the parties toward a political solution or what the UN was trying to achieve with this solution. Baker expected the package to remain intact after it was given to the parties in order to press Morocco to see the mistake of continuing with the identification of thousands of applicants from the contested tribes, and to accept the inevitability of opting for a political solution. Others in the Secretariat, however, saw it as a way to continue the identification process so that the parties would not see the UN as abandoning its own settlement plan. Morocco was clearly in violation of both the letter and the spirit of the Houston Agreements when it facilitated the appearance of applicants from these tribes before the Identification Commission. MINURSO did not confront the Moroccan authorities on this on the grounds that it would be difficult to prove that each applicant was sponsored by Morocco, although it was common knowledge that Morocco had done just that. The UN bowed to Morocco's threats that it would walk out of the process unless these applicants were identified and allowed Morocco to negotiate the package. Determination to go on and complete the identification process took precedence over the fact that this might have been a good time to urge the parties to compromise on a political solution, since they were both still uncertain about the referendum's outcome.

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As it turned out, the package the UN gave to the parties supposedly on a "take-it-or-leave-it" basis had a totally different outcome than hoped for. More than anything, opening up the package solidified their already irreconcilable positions. The package proved detrimental to the search for a political solution in that it allowed the Polisario to appear cooperative and ready to accept yet another compromise. In reality the Polisario was risking nothing, as it had calculated that even if it allowed the identification of all the contested applicants on the Moroccan side, the referendum's outcome would not change since a very small percentage would be found eligible. As for Morocco, it was trying to delay the process without appearing to do so, hoping that by gaining time it might be

able to pack the voters list or that its problem would be solved by one of its friends on the Council. The UN continued the pattern of proposing technical solutions that could not under the circumstances bridge the political gap between the two sides.

Turning to the third aspect of the UN's handling of its efforts to steer the parties toward a political solution, Pérez de Cuellar admitted that his idea all along had been that autonomy would be the most realistic and preferable solution to the conflict. King Hassan originally appeared disposed to this suggestion and asked him to discuss it with the Algerian president, who also saw merit in the idea and promised to raise it with the Polisario. Later, however, the Moroccan king decided not to pursue it and accepted only the options of integration or independence for the referendum, while making it clear in public and in private that Morocco would not consider the second option even as a remote possibility.

It is not clear whether the Algerian president raised King Hassan's initial autonomy offer with the Polisario, nor is there any indication what the Polisario thought of it. Publicly, the Polisario has remained steadfast to the idea of a free and fair referendum on self-determination. Up to the time that Baker arranged the direct talks between the parties in 1997, the Polisario had insisted on having direct talks with Morocco to discuss "post-referendum arrangements." Was it because the Polisario saw the need to flesh out the idea of an autonomy solution? Or after agreeing to proceed toward the referendum under the settlement plan did the Polisario leadership feel too uncertain about the outcome and decide that direct talks with Morocco were necessary to reach an equitable solution? Or did the Polisario want to assert itself as an equal partner with Morocco in the settlement plan? From the start the Polisario had shown a strong desire to meet face to face with Morocco at the highest level. The UN encouraged such talks, hoping that they would move the final settlement of the dispute away from the "winner-take-all" outcome of the referendum. However, every time the topic of direct talks came up, Morocco declined to discuss independence as one of the possible outcomes or to talk to the Polisario as an equal.

The idea of autonomy for Western Sahara has been floating around the UN since the 1980s. Boutros-Ghali was the first senior UN official to admit publicly that he never really believed the referendum would take place; the strategy had been to keep the parties moving toward it, until they saw the inevitability of sitting down to discuss a political solution. Eric Jensen, first as chairman of the Identification Commission and later as ASRSG, managed to overcome incredible obstacles to begin and then maintain the identification process by presenting one technical solution after another, despite efforts by both sides to stall. In his book, *Western Sahara: Anatomy of a Stalemate*, however, Jensen admits that he understood early on that he was not supposed to be too successful in the identification task. This, however, begs the question: had the secretary-general given instructions to that effect? Had there been a policy decision to proceed this way? There is no indication that there had been a policy discussion on the Western Sahara strategy among the key players in the Secretariat and MINURSO. Only when Kofi Annan became secretary-general was there such a discussion and it was decided to bring in Baker.

Despite the tremendous difficulties from the start in reconciling the parties' positions, the prevailing attitude among those working on the issue was to keep going, overcoming one difficulty after another in the identification process, in the hope that eventually the parties would be forced into agreeing to a solution.

Despite the realization by the UN that pushing the parties toward the referendum would not resolve the conflict, for many years the UN did just that. Despite the tremendous difficulties from the start in reconciling the parties' positions, the prevailing attitude among those working on the issue was to keep going, overcoming one difficulty after another in the identification process, in the hope that eventually the parties would be forced into agreeing to a solution. However, when discussing MINURSO and the Secretariat's responsibility for the lack of progress in resolving the conflict, one cannot ignore the Security Council. Its micromanagement of the conflict and the partisan positions taken by some of its permanent and elected members contributed to the lack of progress in resolving the conflict and the eventual resignation of Baker. On several occasions, Council members acted as spokesmen for one or the other party. The result was that the Council often did not speak with one voice and diluted or clouded its resolutions for the sake of reaching consensus.

Nowhere is the Security Council's responsibility for the failure to resolve the conflict more obvious than in its handling of Baker's mandate. After a long impasse in the peace process, in March 1997 the Security Council was informed of Baker's assignment. Although it was not stated openly, it was clear to all, including the parties, that Baker was expected to work out a deal that would move the parties away from the "winner-take-all" solution of the settlement plan and toward a political solution. When Baker took up his functions, both parties insisted that they wanted him to help them implement the settlement plan. In the summer of 1997, he organized the first direct talks between them in which the UN was an active mediator, which resulted in the Houston Agreements. There was little doubt that one or both parties would not adhere to the agreements and that sooner or later progress toward implementation of the settlement plan would collapse. It was a question of "who would blink first" and the dynamics between the parties at that time that would determine how to proceed toward a political solution. Baker went along with the parties' assurances that they wanted to implement the settlement plan and tried to hold them to their word. He tried to move them away from their former habits of expecting the UN to submit technical proposals to resolve their differences on implementation, and in the direct talks during the summer of 2000 he asked them to submit their own proposals aimed at resolving those differences. The Security Council supported him by adopting its first resolution expecting the parties to find an "agreed resolution of their dispute." This language changed to "a mutually acceptable political solution" in later resolutions until the end of 2001.

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However, in February 2002 Baker and the secretary-general informed the Security Council that there could be no "mutually acceptable political solution" and asked the Council to choose among four options to resolve the conflict, none of which would require a consensual approach. The Council was unwilling to do that and instead asked Baker to prepare another plan that would provide for self-determination (the peace plan). After much agonizing, in July 2003, the Security Council supported the peace plan and called upon the parties to work with Baker and each other toward its implementation. The United States was instrumental in the adoption of this resolution by consensus, despite strong opposition by France. This strengthened Baker's hand in dealing with Morocco, which by then was openly resisting the peace plan. However, after Morocco's outright rejection in April 2004 of an offer to suggest changes to the peace plan that could serve as an opening toward a political solution, the Council failed to give its unequivocal support to the plan. Instead it adopted resolution 1541, the first operative paragraph of which supported the peace plan while the second "strongly" supported a mutually acceptable political solution. Did the resolution's sponsors see the inconsistency between paragraphs one and two? Did they realize the implications for Baker's mandate? France, Spain, and Morocco definitely did. More than likely so did the United States, which, while ostensibly supporting Baker, was also moving closer to Morocco because of the need to cooperate on counterterrorism. Many members hid behind the fact that both Morocco and Algeria (at that time an elected member of the Council) agreed on the language and refused to see that by this resolution the Council was diluting its support of Baker.

The peace plan presented a unique opportunity to resolve the Western Sahara conflict peacefully and permanently. It had neither winners nor losers and offered a solution through self-determination, a guiding and sacrosanct principle of the United Nations. By providing for four years of autonomy, the peace plan gave the Polisario an opportunity to govern the territory and a good chance to win the referendum. At the same time, it allowed Morocco to exercise the functions of a sovereign state over the territory, perhaps legitimizing its occupation—the only thing that Morocco needs from the international community—and gave it a chance in the referendum. Most significant, it provided for a balanced electorate in the referendum on self-determination by allowing those on the UN provisional voter list, those repatriated by UNHCR, and all residents of Western Sahara who can prove continuous residence since December 30, 1999, to vote in the referendum. Finally, unlike the settlement plan, the implementation of the peace plan did not

The peace plan presented a unique opportunity to resolve the Western Sahara conflict peacefully and permanently. It had neither winners nor losers and offered a solution through self-determination, a guiding and sacrosanct principle of the United Nations.

require the cooperation of the parties at every step. By requiring the signature of the parties up front, it allowed the UN to proceed with implementation without waiting for them to give the green light. It is hard to imagine any political solution providing for self-determination that Morocco would willingly accept when it rejected a plan that expanded the electorate for the referendum from that of the Spanish census of 1976 to include every bona fide resident of Western Sahara.

Western Sahara will remain on the UN agenda for many years to come. Already the situation has gone on for fifteen years and has cost over $600 million. Morocco's supporters inside and outside the Security Council must recognize that it is in Morocco's long-term interest to resolve the conflict and obtain international legitimacy rather than feed its hope that it will get what it wants by just talking of compromise without making real concessions. The Polisario, on the other hand, needs to be realistic and recognize that the international community's words in support of the principle of self-determination are quite different from its deeds. The former serve only to perpetuate the impasse, while the latter could help in resolving it.

Epilogue

After Baker's resignation, Alvaro de Soto, special representative for Western Sahara at the time, was asked to assume peacemaking duties. Following de Soto's appointment as United Nations envoy for the Middle East in August 2005, Ambassador Peter van Walsum was appointed as personal envoy. Throughout this period, the parties' positions have remained exactly as they were at the time of Baker's resignation. The Polisario, supported by Algeria, maintains that the peace plan remains on the table as the only option with the full support of the Security Council. Morocco continues talking about its offer of autonomy under Moroccan sovereignty, which it has yet to present. Both sides expect the personal envoy to work toward implementation of their position and have tended to vilify or praise him depending on how they interpret his position. The Security Council continues talking about a mutually acceptable political solution as it adopts resolutions with little political substance that read more like wish lists and have little relevance to the political realities of Western Sahara.

Lessons Learned

Until Secretary-general Kofi Annan assumed his duties, there is no evidence that a policy discussion about a strategy to resolve the Western Sahara conflict had been held in the Secretariat. The result was that members of the Secretariat and MINURSO had been working in a contradictory manner, often sending confusing messages to the Security Council and the parties as to what the UN was trying to achieve. **It is imperative that upon assuming responsibility for resolving a conflict, the Secretariat hold a policy discussion on goals and strategy.**

Upon agreeing to the settlement plan, Morocco made it clear through public statements that it expected a referendum that would confirm its "sovereignty" over Western Sahara. The Polisario, on the other hand, constantly invoked the principle of self-determination, which in the statements of its officials had become synonymous with independence. MINURSO, the Secretariat, and the Security Council ignored the parties' public statements and actions and proceeded with the notion of holding a referendum on self-determination that could only result in one of two diametrically opposed outcomes. **The UN should have listened to the parties' global statements and most important, paid attention to their actions. It should not have allowed oral, confidential concessions given to the negotiator to overcome a temporary obstacle guide strategy.**

While the Security Council was kept informed of difficulties in the identification, at the same time it was told of MINURSO's tireless efforts to resolve the parties' objections.

The Council would end up having a more optimistic picture of the situation than warranted, until further problems caused complete breakdowns. **While it is natural to wish to give the Security Council positive reports on developments in a peace process, the Secretariat should ensure that the Council is also aware that resolution of current problems cannot address future serious impediments. It should not gloss over them in the hope that something in the situation will change.**

The UN's preferred modus operandi to resolve the impasses created by the parties throughout the identification process was to present technical solutions. These solutions aimed to address the problem at hand (resume the identification) without addressing the underlying political problem, which was the determination by both sides to win the referendum. A political solution would have sought to resolve the differences between the parties concerning the final outcome of the dispute and would have asked each side to make compromises while providing the other side with a face-saving way out. **The UN should have taken into account that when presenting a technical solution to resolve a problem or break an impasse, the political implications should be well thought out. Otherwise a technical solution risks creating additional problems. Moreover, both the Secretariat and the Security Council should have been careful not to miss an opportunity to move toward a political solution by giving in to the temptation of the quicker results of a technical one.**

At the start of Baker's mandate, the Security Council appeared unanimously supportive of his efforts to help resolve the Western Sahara conflict. The first cracks in this support emerged when the Council was informed that the settlement plan no longer appeared likely to resolve the conflict, and the idea of finding a political solution, asking for compromises from both sides, was floated. The partisanship within the Council on behalf of one or the other party became more evident, and nowhere did it express itself more clearly than when it was asked to decide among the four options that would not require the consent of the parties. This the Council refused to do. The Council asked instead for another plan that would provide for self-determination, which it supported unanimously. However, when Morocco rejected the plan, the Security Council took no action and started talking again about searching for a consensual solution, despite the fact that it had been clearly told that this was not possible. **When faced with a strong and unified position by the Secretariat and the Security Council, parties to a dispute tend to cooperate and make compromises. The Secretariat and Security Council need to remain unified and consistent and avoid changing their position under pressure from one or the other party.**

Throughout the period that the Security Council has had Western Sahara in its agenda, many of its members have acted in a partisan manner on behalf of one or the other party. This was the case both during the identification process leading to the implementation of the settlement plan and even more so when the need for a political solution became evident. As mentioned above, Council members' bilateral relations with one side or the other took precedence both when the Council was asked to decide on one of the four nonconsensual options and when Morocco rejected the peace plan, which has resulted in a continuation of the impasse. **While it is understandable that in some situations members of the Security Council will act out of self-interest due to bilateral relations with one or the other party to a dispute, taking partisan positions on behalf of one party will serve only to perpetuate the conflict.**

Over the past fifteen years both the Security Council and the Secretariat have oscillated between implementation of the settlement plan with its two stark choices or finding a political solution asking for compromises from both sides. This has not only hindered the efforts of the mediator, it also sent conflicting signals to the parties as to what the UN was trying to achieve. **The Security Council and the Secretariat should have clear expectations as to the outcome of a dispute and should not send conflicting messages to the parties. The parties will only exploit such situations and play the Security Council and the Secretariat off against each other.**

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Throughout Baker's tenure, the Security Council expressed strong support and confidence in his ability to find an equitable solution to the conflict. However, when asked to make hard decisions and act on its professed support, especially with respect to the political solution, the Council did not act in a unified manner that would have sent a clear signal to both sides as to where it stood. Once it became clear through resolution 1541 that the Council was diluting its support for his efforts, Baker resigned**. The Security Council must support the efforts of a mediator without equivocation. It should not expect the mediator to achieve miracles when given vague and ill-defined mandates.**

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