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Western Sahara: The Failure of “Negotiations without Preconditions”

Summary

- The ongoing effort to use negotiations without preconditions to resolve the conflict between Morocco and the Polisario Front over Western Sahara has not produced results. The April 6, 2010 report of the United Nations secretary-general to the U.N. Security Council admits that there has been no movement on the core substantive issues.
- The informal talks between the government of Morocco and the Polisario Front organized by Christopher Ross, current personal envoy to the U.N. secretary-general, from February 10–11, 2010, resulted at an impasse.
- Neither Morocco nor the Polisario Front is prepared to accept the other’s proposal as the sole basis for future negotiations. Barring pressure from their Western allies, nothing in their relations, in the region or international environment is likely to occur to change this in the foreseeable future.

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Introduction

The conflict over Western Sahara between the Kingdom of Morocco and the Polisario Front, which represents the people of Western Sahara, has been on the agenda of the United Nations Security Council for close to 19 years, since June 1991, when the council took up the issue and established MINURSO, the U.N. mission in Western Sahara. Throughout this period, the U.N. cannot show any real progress towards resolution of the conflict, other than occasional outbursts of optimism that eventually have come to naught.

Peacemaking efforts towards a political solution, undertaken in order to move the parties away from the winner takes all solution envisaged by the referendum on self-determination under the U.N. Settlement Plan, have been at an impasse since June 2004. James A. Baker, III, the first United Nations personal envoy of the secretary-general, charged with such a task, resigned from his position at that time after he served in that role for seven years, stating that he had done all he could to resolve the conflict. He pointed out that only the parties themselves could exercise the political will necessary to reach an agreed-upon solution, as the U.N. would not solve the problem without requiring the parties to do something they would not voluntarily agree to do. The most recent informal talks between the parties organized by Christopher Ross, current personal envoy, on February 10 and 11, 2010 resulted at an impasse as did all previous talks organized by the U.N. since the Security Council adopted Resolution 1754 on April 30 2007, asking the parties to negotiate without preconditions.

This Peace Brief outlines why the mediation process remains stalled. Specifically, it discusses why the U.N. plan of negotiations without preconditions is not working. The parties remain entrenched in their positions, and key regional and international actors are not pressuring Polisario or Morocco to make compromises that would move the negotiations forward. The conflict has gone on for so long, without the bloodshed and other devastating effects of most international conflicts, that the international community has become comfortable with the status quo, often using the lack of violence as measure of success for the U.N. This also seems to suit both parties and Algeria, a key supporter for Polisario.

Setting the Stage for "Negotiations without Preconditions"

In early April 2007, Morocco and Polisario submitted two different and irreconcilable peace plans. On April 10, 2007 Polisario submitted a proposal for a solution through the Baker Plan and offered guarantees to Morocco, in the event of independence; the next day, Morocco submitted a proposal granting autonomy to its "southern provinces," as it refers to Western Sahara, within the framework of the Kingdom's sovereignty, national unity and territorial integrity. Morocco had promised to submit such plan after it rejected the Baker Peace Plan in April 2004.

The Security Council responded to these two proposals on April 30 with Resolution 1754, which asked the parties to negotiate without preconditions, under U.N. auspices, 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. Resolution 1754 was adopted three years after the council weakened its support of mediation efforts by Baker, which had prompted his resignation in June 2004.

Resolution 1754, approved on April 30, 2007, came about after Personal Envoy Peter van Walsum, appointed in August 2005, came to the conclusion that proposing another peace plan would be pointless given the parties' entrenched positions. In January 2006, he suggested two prospects to the Security Council: either continuation of the stalemate, with all the dangers that it entailed, or start negotiations between the parties without preconditions. Negotiating without preconditions would not require Polisario to recognize Morocco's sovereignty over the territory in order to discuss autonomy, nor leave room for a demand by Polisario for a referendum with independence as one of the options. In responding to van Walsum's suggestions, the council seemed to favor Morocco's proposal. At the prompting of the U.S., Resolution 1754 singled out the Moroccan proposal as "serious and credible," while "taking note" of the Polisario proposal.¹

From the beginning, Resolution 1754 raised questions about whether the council's request could really result in any progress. Firstly, the resolution does not elaborate on the meaning of "negotiations without preconditions"; or, the council's expectations of what should be negotiated. As a result, each party interpreted it differently and proceeded to advocate and retain its own position during the sessions. Secondly, the call to work towards a mutually acceptable political solution, which implies a compromise satisfying both parties, is contradictory to the concept of self-determination through choice by the people. Moreover, the call for self-determination overlooks Morocco's claim of "sovereignty" in its offer of autonomy, which Polisario does not accept. Finally, Morocco felt its proposal was more widely accepted since the resolution had welcomed it as "serious and credible." For Polisario, all that matters is that both proposals are on the table and therefore both ought to be discussed.

Neither the Security Council, nor the individual states within and outside the council took into account that both sides adhered to the same positions as they had had when Baker resigned. Morocco does not accept any solution that would include a referendum with independence as an

option; for Polisario, an act of self-determination must include such an option. Neither the council nor individual countries with influence over Morocco or Polisario are willing to pressure them to make some concessions and find a solution.

The "Negotiations" and Subsequent Events

As directed by Resolution 1754, the parties began negotiation without preconditions. The parties held four rounds of negotiations: June and August of 2007 and January and March of 2008. None of these resulted in modifications of either party's position. Communiqués issued by Personal Envoy van Walsum, in agreement with the parties, stated that during the talks the parties continued to express strong differences on the fundamental questions at stake, while at the same time reiterating their commitment to continue meeting.

In his briefing to the Security Council in April 2008, the personal envoy informed the council that having both parties' irreconcilable proposals on the table hindered negotiations. It did not encourage either side to compromise. Therefore, he suggested that both proposals be taken off the table and further negotiations be based on the fact that the Security Council would not make Morocco accept a referendum with independence as an option and that the U.N. would not recognize Moroccan sovereignty over the Territory. Furthermore, the personal envoy asked for clearer guidance from the council, warning that if the council could not make a choice, the parties would not be able to either.

Resolutions 1813 and 1871 ignored the key points of van Walsum's briefing and repeated the request of 1754 for "negotiations without preconditions."² Subsequently, van Walsum became *persona non grata* for Polisario and Algeria, with both accusing him of bias towards Morocco and its proposal. In August 2008 van Walsum's contract, as the secretary-general's personal envoy, was not renewed. Christopher Ross was named personal envoy on January 7, 2009.

Ross visited the region twice before announcing that the parties had accepted his proposal for an informal meeting prior to a fifth round, which he hoped "would 'make an important contribution to the search for a resolution to the conflict.'"³ The first informal meeting under Ross took place in Austria on August 10-11, 2009. At its closing, the personal envoy, in agreement with the parties, issued a statement that the discussions had taken place in an atmosphere of serious engagement, frankness and mutual respect and that the parties reiterated their commitment to continue their negotiations as soon as possible at a date and place fixed by him in consultation with them. A few days later, each side went public pointing to the other side's inflexibility and insisting on its position, while stressing that its preferred solution was the only reasonable one that could fairly resolve the conflict. An identical statement was issued by Ross at the end of the second informal meeting adding that the proposals of both parties were again presented and discussed but at the end neither party had accepted the other's proposal as the sole basis of future negotiations. The two sides nevertheless said they would continue their negotiations as soon as possible.

The Haidar Affair and the Regionalization Committee

A further complication to the conflict in late 2009 was the expulsion to the Canary Islands and subsequent hunger strike by Saharan human rights activist Animatou Haidar. Upon Haidar's arrival to the Laayoune airport, Moroccan authorities confiscated her Moroccan passport because she indicated in her entry form that her nationality was "Saharawi," rather than Moroccan.

For more than one month, even as various organizations outside the U.N. appealed to Morocco, made public statements calling for Haider's release, and drew attention to her deteriorating health,

the Moroccan authorities did not relent. The situation was resolved when the U.S., France and other European countries convinced Morocco to accept her back on humanitarian grounds.

On January 3, 2010 King Mohammed VI announced the establishment of an Advisory Committee on Regionalization. One of its key objectives would be to see that Morocco's recovered "southern provinces" were among the first to benefit from the regionalization system.

Performance by Key Players

The Security Council continues pressing for self-determination and a mutually acceptable political solution in its resolutions, but ignores that there is no common ground between the parties on these issues. All resolutions adopted by the U.N. General Assembly on Western Sahara provide for a referendum with the option of independence. But, Morocco views Western Sahara as part of it, while Polisario rejects this. Thus, linking self-determination with independence, while no action is taken to make it happen, has only contributed to the irresolution of the conflict.

External allies to Morocco or Polisario have not helped to end the conflict. France and the U.S. have been strong supporters of Morocco. Indeed, in April 2004, the U.S. weakened its support of the Baker Plan after Morocco rejected it and joined France and Spain in supporting a solution based on Morocco's future autonomy proposal. Morocco's cooperation on counterterrorism was a key factor influencing the U.S. to depart from its previously more neutral approach. Polisario, on the other hand, enjoys support from Algeria, South Africa, Cuba, Venezuela, some European parliaments, some members of the U.S. Congress, and several other countries.

Spain has moved closer to Morocco. However, Spain's support is tempered by the widespread public support that Polisario enjoys in Spain and Algeria's protests of Spain's position. China and Russia have been inconsistent in their positions due to contradictions in their own internal politics: China will not take a position that could raise questions about Tibet, while Russia is caught between its refusal to recognize Kosovo's independence on the one hand and its recognition of Abkazia and South Ossetia on the other.

In an interesting juxtaposition to Russia, the U.S., France and several members of the European Union have recognized Kosovo's independence but refuse to accept the same option for Western Sahara—despite their "lip service" to the cause of self-determination. In fact favoring Morocco's offer of self-determination and ignoring Morocco's open provocation to the Security Council when referring to its "sovereignty and territorial integrity" when referring to Western Sahara, demonstrates quite clearly that for these key actors bilateral interests have priority over efforts to seek a fair and long-term solution to the conflict.

The appointment of another U.S. national as personal envoy and the change in the U.S. administration raised Polisario's hopes that the U.S. might abandon its pro-Moroccan policy of the Bush administration. Meanwhile, Morocco feared that a new U.S. administration might be tempted to change a policy that hitherto had brought only scant results towards resolution. As such, Morocco elevated its rhetoric regarding its uniqueness in safeguarding U.S. counterterrorism efforts in North Africa and intensified, with successful results, its lobbying of members of the U.S. Congress. Still, the U.S. cannot afford to ignore Algeria's importance in the hydrocarbon business or counterterrorism cooperation, especially since the creation of U.S. African Command. This necessitates that the U.S. tread carefully between Algeria and Morocco, its two North African allies.

ABOUT THIS BRIEF

This Peace Brief provides an analysis of why the United Nations strategy of urging the parties to negotiate without preconditions has stalled efforts to resolve the conflict over Western Sahara, Morocco and the Polisario Front. Anna Theofilopoulou, a former U.N. official and a member of James Baker's negotiating team, has covered the conflict from 1994 to 2006. This Peace Brief has been sponsored by Dorina Bekoe, senior research associate in the Center for Conflict Analysis and Prevention at the U.S. Institute of Peace. It is part of a series of papers on the developments in Western Sahara.



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Conclusions and Recommendations

The question arises whether real progress towards peace requires constant nudging by others or whether parties will move ahead when their own self-interest propels them to do so. An axiom of negotiations—that the mediator cannot want a solution more than the parties themselves—appears to be ignored in the case of Western Sahara. Since 1991 the parties have been supported and nudged by the U.N. with little to show by way of progress. Only the parties could exercise the political will necessary to agree on a solution if the U.N. is not willing to ask them to do something that they would not voluntarily agree to do. Resolution 1754 is not asking them to do anything of the kind, with predictable results.

Negotiations without preconditions will not resolve the Western Sahara conflict. The U.N. should recognize that further rounds of meetings, formal or informal, where the parties talk past each other while fixed in their positions, are futile.

The Security Council and the mediator need to set goals which the parties should be pressed to consider seriously even if they do not meet their total aims. The parties should be asked to undertake compromises that they are not willing to make and the Security Council should be asked to support such requests. In order to help resolve the conflict, the council should abandon the "negotiations without preconditions" formula and demand concrete steps towards a definite solution.

The Haidar incident is indicative of the bad faith and lack of trust between the parties and demonstrated further the absence of good will and desire for cooperation from both sides. The new push by Morocco towards regionalization and its stated key objective aimed at Western Sahara appear to boycott U.N. peacemaking efforts. However, the manner in which the Haidar affair was resolved shows that pressure by strong allies stressing the advantage of compromise can bring results. As Vice President Joseph Biden said recently when referring to Israel, only a friend can deliver the hardest truth.

In this spirit, key countries and supporters of Morocco and Polisario should pressure them to make meaningful compromises in resolving the Western Sahara conflict—something that could be a key card in Ross's hands if he is willing to use it.

Endnotes

1. S/RES/1754(2007)
2. S/RES/1813(2008), S/RES/1871(2009)
3. "Western Sahara: U.N. Envoy Wraps Up Regional Visit." U.N. News Center, July 1, 2009. (<http://www0.un.org/apps/news/story.asp?NewsID=31334>).