



The Frozen Conflict in Western Sahara and the Forgotten Question of Sahrawi

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Abstract

Western Sahara's "frozen conflict" is one of the major and forgotten issues that, so far, the international community could not settle. This article aims to shed light on the historical events and the political responsibilities that led to a protracted stalemate over the Sahrawi question. The paper retraces the historical roots of the claims over the disputed territory by the Polisario Front, as the representative of the Sahrawi people, over the disputed territory, and analyzes their foundations under the light of international law.

Keywords: self-determination, independence, statehood, colonialism, international law, Western Sahara.

1. Background

One of the last non-self-governing territories (NSG),¹ the last in Africa, Western Sahara² was left to its fate in 1976, when Spain, its former colonial power, ceased its temporary administration of the territory claimed by Morocco and terminated its presence.³ Morocco and Mauritania claimed the territory and deployed troops to gain control. Since then, none of the numerous UN resolutions and plans to settle the long dispute over the Western Sahara was implemented,⁴ and the territory remains under the international laws of military occupation.⁵

Founded in 1973, to achieve independence from Spain, as the successor of the Movement for the Liberation of the Sahara (Spanish: *Movimiento para la Liberación del Sahara*), the Polisario Front (officially: *El*

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Published Online: May 18, 2024.

ISSN (Print): 2520-7024; ISSN (Online): 2520-7032.

<https://reviewhumanrights.com>



Frente Popular de Liberación de Saguia el Hamra y Río de Oro) is the national liberation movement that fights to achieve the self-determination and independence of the Saharawi people and their territory.⁶ The Polisario Front was recognized on May 12, 1975 by the United Nations (UN) visiting mission as the only dominant political force in the territory, indirectly recognizing it as the only representative of the Saharawi people.⁷

With the Madrid Accords (formally the *Declaration of Principles on Western Sahara*) signed on November 14, 1975, Spain, Morocco, and Mauritania agreed on six principles that would end the Spanish presence in the territory and set up a temporary administration pending a referendum.⁸ Under this agreement, the powers and responsibilities of Spain, as the administering power of the territory, were transferred to a temporary tripartite administration composed by the Djemaa (leading body of Saharawi tribes, composed of elders and elected leaders), Morocco and Mauritania. Less than a week later, on November 19, just one day before Francisco Franco died,⁹ the acting Spanish Head of State, Prince Juan Carlos de Borbon, enacted a law on the decolonization of Sahara.¹⁰ Recalling the principles enshrined in the UN Charter, the law authorized the government to carry out acts and adopt measures necessary to carry out the decolonization of the non-autonomous territory.

The Saharawi Arab Democratic Republic (Spanish: *República Árabe Saharaui Democrática* or RASD)¹¹ was established on February 27, 1976,¹² in the aftermath of the Spanish withdrawal,¹³ under the leadership of the Polisario Front,¹⁴ in a format that mirrors the Palestinian model. Since the Palestine National Council (PNC) proclaimed the State of Palestine in 1988,¹⁵ the chairman of the Palestinian National Authority (PNA), Mahmoud Abbas, also known by the teknonymy Abu Mazen, served continuously as head of state and chairman of Executive Committee of the Palestine Liberation Organization (PLO), the nationalist coalition that is internationally recognized as the official representative of the Palestinian people. Abbas is also the Chairman of Fatah, the dominating faction within the PLO – in this position, he also controls the National Security Forces.¹⁶

On other aspects, the Sahrawi Republic¹⁷ has similarities with one-party regimes, with the Sahrawi People's Liberation Army or SPLA (Spanish: *Ejército de Liberación Popular Saharaui*, also known as ELPS or ELP) which was founded as the armed wing of the Polisario Front, and after the foundation of the Republic became its army.¹⁸ There is no distinction between the state, the party, and the army, that is the de facto party's army like a handful of similar contemporary regimes (e.g., the People's Republic of China, the Democratic People's Republic of Korea, the Socialist Republic of Vietnam, the Lao People's Democratic Republic, the Republic of Cuba, the Republic of the Union of Myanmar and the State of Eritrea).

On August 10, 1979, Mauritania agreed with the Frente Polisario, as representative of the Sahrawi people, to withdraw its troops from the former Spanish colony,¹⁹ consistently with the Charter of the Organization of the African Unity (OAU)²⁰ and the UN Charter regarding the right to self-determination.²¹ The day after, Morocco took over the Mauritanian sector of Western Sahara. The UN General Assembly (UNGA or GA) reacted by adopting resolution 34/37 that recognizes the Polisario Front as the legitimate representative of the Saharawi people while considering Morocco an occupying power.²² There are similarities with the question on Palestine that will be discussed below.

UN resolution 34/37 reaffirmed “the inalienable right of the people of Western Sahara to self-determination and independence, by the Charter of the United Nations, the Charter of the Organization for African Unity and the objectives of the UN General Assembly resolution 1514, and the legitimacy of their struggle to secure the enjoyment of that right”. It also welcomed the Algiers Agreement between Mauritania and the Polisario Front as an “important contribution in the process of achieving peace”, while “deeply deplores the aggravation of the situation resulting from the continued occupation of Western Sahara by Morocco and the extension of that occupation to the territory recently evacuated by Mauritania”, calling the authorities of Rabat to “join the peace process and to terminate the occupation of the territory of Western Sahara”.

After a ceasefire came into effect on September 6, 1991,²³ the UN deployed a mission (United Nations Mission for the Referendum in Western Sahara or MINURSO)²⁴ tasked to monitor the ceasefire and organize a referendum in which the people of Western Sahara would choose between independence and integration with Morocco.²⁵ The consultation, scheduled for January 1992, was never held due to a dispute over who can vote.²⁶ Since 1998, the UN Security Council (SC or UNSC) has extended yearly the mission²⁷ without taking any other relevant initiative; the question has come to a stalemate. Morocco continues to reject any claim of independence of the Sahrawi Arab Democratic Republic (SADR), but it's ready to grant the territory an autonomy status.²⁸

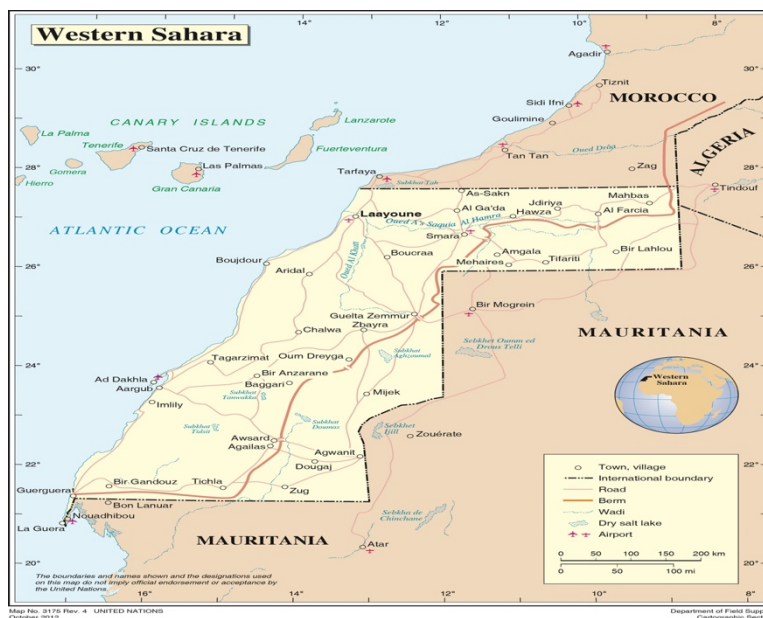
The situation continued until December 2020, when U.S. President Donald Trump recognized the sovereignty of Morocco over the former Spanish colony.²⁹ The unilateral U.S. recognition of Morocco's contested claim legalizes the annexation of Western Sahara by the government of Rabat, in manifest violation of international law and UN resolutions. Since Morocco invaded and occupied the territory on October 31, 1975,³⁰ successive U.S. administrations have refused to recognize Rabat's assertion of historical rights to the former Spanish colony.

During his presidential term, Trump has regrettably abandoned international law's core principles on the right to self-determination, independence, and sovereignty. The U.S. president started to undermine the principles of international law in December 2017 when he officially recognized Jerusalem as the capital of Israel.³¹ In March 2019, Trump further recognized Israel's sovereignty over the Golan Heights,³² in violation of SC resolutions 252, 267, 271, 298, 465, 476 and 478 – only Costa Rica recognizes Israel's annexation of East Jerusalem, and those countries who maintained embassies in Israel did not move them to Jerusalem.³³ U.S. Secretary of State, Mike Pompeo, claimed that President Trump simply recognized the reality on the ground,³⁴ thus legitimizing the re-colonization of Western Sahara.

On July 19, 2023, following the December 22, 2020 *Joint Declaration among the Kingdom of Morocco, the State of Israel, and the United States of*

*America*³⁵ in the framework of the Abraham Accords,³⁶ Israel recognized Morocco's sovereignty over Western Sahara, joining the United States as the only countries to acknowledge the kingdom's annexation of the disputed north African territory.³⁷ As part of the agreement, the United States agreed to recognize Morocco's annexation of Western Sahara while urging the parties to "negotiate a mutually acceptable solution" using Morocco's autonomy plan as the only framework. The annexation of the former Spanish colony to Morocco was the high price paid in exchange for normalizing relations between Jerusalem and Rabat.

The recognition of the Moroccan claims over the Western Sahara and the occupation of the territory by force legitimizes "might over right" and deprives the Sahrawis of their right to self-determination by leaving the SADR without real sovereignty. The annexation of occupied territory to the Kingdom of Morocco legalizes the annexation of the former Spanish colony in manifest violation of international law, UN resolutions, ruling by supranational tribunals, international consensus, and previously signed agreements. The annexation of Western Sahara – and the Golan Heights – is a double standard against other disputed annexations (e.g., the Russian annexation of Crimea in 2014).



2. Self-Determination and Nation-State Building in Africa

Self-determination is the legal right of people to decide their destiny without external compulsion and is a core principle of international law, arising from customary international law, but also recognized as a general principle of law, and enshrined in several international treaties.³⁸

Self-determination is part of the process of state formation (or “nation building”), a complex phenomenon, influenced by various contributing factors (geopolitical, economic, social, cultural, ethnic, and religious).³⁹ While some commentators use interchangeably “nation building” to describe this process, the term “nation” conventionally refers to the population itself, as united by identity history, culture, and language—a definition that fits to the formation of the Sahrawis’ state. Indeed, national discourse is used by political leaders to build a national-state identity by putting together ethnic, religious, and national communities.⁴⁰

It is commonly agreed that the modern state system originates in 1648 from the Treaty of Westphalia, which established the concept of state sovereignty.⁴¹ The right of self-determination was recognized as a cornerstone principle of international law in the context of decolonization during the 1960s. Indeed, most late-forming states emerged during the decolonization period that followed World War II and the aftermath of the dissolution of the Soviet Union in 1991.⁴² Since then, the legitimatization of the principle of national self-determination has led to an increase in the number of conflicts within states.⁴³

Max Weber’s classic definition of state: “is a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory”.⁴⁴ Samuels distinguishes between the state as a non-tangible entity that regulates the actions of its citizens in a defined territory and the nation as a group of people who share a commonality, whether a similar language or ethnic identity.⁴⁵

African peoples are often nomadic and do not reside permanently within the territory of a state (“stateless people”).⁴⁶ A stateless nation is an ethnic group or nation-people with a common origin, history, language, culture, customs, or religion—that does not possess its own sovereign

state⁴⁷—and has the right to self-determination, to establish an independent nation with its own government.⁴⁸ Mozambique's first president, Samora Machel, summed up this problem with the iconic statement: “For the nation to live, the tribe must die”.⁴⁹ The sentence effectively summarizes the problem of nation-state building in Africa, a continent in which Western powers had forced populations within borders drawn in the Berlin Conference (1884-1885), where the colonial powers set up zones of influence or protection in the continent carving out artificial boundaries—it's enough to get a look at the map of the Maghreb region of North Africa, to understand how territories were shaped by European powers in Berlin.

Samuels argues that, because of such partition, African nations are not united in artificial states but split and divided into different countries designed by colonialists.⁵⁰ Herbst concludes that contemporary African states lack effectiveness and legitimacy precisely due to the differences in state-building experience compared to Europe.⁵¹ Although African states gained independence, the long-term effects of colonial exploitation of their lands and people remain.⁵²

3. Considerations on Western Sahara Under International Law

During World War I, self-determination of national minorities was listed by U.S. President Woodrow Wilson in his Fourteen Points—a statement of principles for a postwar peace settlement.⁵³ President Wilson did not speak literally of self-determination—a term of reference that will arise in the aftermath of World War II—but recognized the right of “free nations” to their “independent determination of her own political development and national policy” and “autonomous development”.

Indeed, the principle of self-determination became a milestone of *jus cogens* during World War II and is proclaimed in the *Atlantic Charter* of August 14, 1941,⁵⁴ restated in the *Declaration by United Nations* signed on January 1, 1942,⁵⁵ in the *Moscow Declaration on General Security* of October 30, 1943,⁵⁶ and is ultimately incorporated into the *UN Charter*, and as a result of the practice under chapters XI to XIII of the same Charter.⁵⁷

The UN Charter affirms the inalienable right to self-determination and independence of peoples against all forms of alien domination and

foreign occupation, upholding the legitimacy of the struggle of national liberation movements. These concepts are enshrined in the *Declaration on the Granting of Independence to Colonial Countries and Peoples* of 1960, which stresses the inalienable right of all peoples to self-determination and to have complete freedom, the exercise of their sovereignty, and the integrity of their national territory.⁵⁸ Accordingly, Western Sahara is considered a non-self-governed territory⁵⁹ out of 17 listed by the UN: 10 administered by the UK, 3 by the US, 2 by France, 1 New Zealand.⁶⁰ The 2000 *United Nations Millennium Declaration* strengthens “the right to self-determination of peoples which remain under colonial domination and foreign occupation”.⁶¹

Non-self-governing peoples (colonized and/or indigenous) can be considered the entire population of an occupied territorial unit, even under foreign military occupation,⁶² being self-evident (from ethnicity, language, history, etc.).⁶³ Under such definition, people have the right to establish an independent state to determine their politics.⁶⁴

In his advisory opinion of July 22, 2010, in the case of the unilateral declaration of independence of Kosovo, Judge Cañado Trindade of the International Court of Justice (ICJ), the principal judicial organ of the UN competent on general disputes between countries,⁶⁵ set the criteria for the definition of people having the right of self-determination: traditions and culture, ethnicity, historical ties and heritage, language, religion, sense of identity or kinship, the will to constitute a people.⁶⁶ Justice Cañado Trindade added that “these are all factual, not legal, elements” because there is no terminological precision regarding what constitutes a “people” in international law.

The right of peoples to self-determination and independence is a cardinal principle in modern international law enshrined in the UN Charter and many other instruments and documents like the Vienna Declaration.⁶⁷ However, to be considered lawful, the claims of independentists should be supported by a cultural and historical background related to ethnic, racial, or religious issues and should aim to establish a state entity with new and different characteristics from the existing one.

According to the *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States*, adopted by the UN General Assembly on October 24, 1970,⁶⁸ “the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations” embraces the right of all peoples “freely to determine, without external interference, their political status and to pursue their economic, social and cultural development”, as well as the duty of every State “to respect this right by the provisions of the Charter”. The Declaration further adds that “the establishment of a sovereign and independent State, the free association or integration with an independent State, or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination”, thus stressing, as the critical issue, the methods of reaching the decision and not the result.

On February 22, 1982, the Sahrawi Arab Democratic Republic joined the OAU⁶⁹ and later become a member of its successor organization, the African Union,⁷⁰ which considers Western Sahara “Africa’s last colony, which has been under Morocco’s occupation since 1975”.⁷¹ The AU reiterates the “call for the decolonization, liberation and independence of Africa’s last remaining colony”.⁷² The right of self-determination of the Sahrawi people was remarkably recalled by the heads of state and government of the African Union adopted in the summit held in Addis Ababa, on May 26, 2013.⁷³

While the declaration of independence is a political and unilateral act by nature, the recognition of sovereignty is a discretionary choice that relies on assessments of foreign policy and international relations.⁷⁴ Two different theories have been developed about statehood. The “declarative” theory enshrined in the *Montevideo Convention*⁷⁵ provides that to claim sovereignty an entity should have: a defined territory; a permanent population; a government and a capacity to enter relations with other states.⁷⁶ The “constitutive” theory simply contemplates that a state is a body of international law if it is recognized as such by another state that is already a member of the international community.⁷⁷

Having a limited recognition does not imply that the government does not have sovereignty over the territory that controls. Partially recognized states, like Kosovo, exist also in Europe.⁷⁸ We are not talking about entities with a very limited recognition – e.g., Abkhazia, South Ossetia, Transnistria⁷⁹ – or “puppet states”;⁸⁰ the SADR enjoys a wide recognition by 84 nations, including AU members (55-countries, excluding Morocco).⁸¹ Regrettably, no EU member has recognized the independence and sovereignty of the Sahrawi Republic,⁸² despite its statehood was indirectly recognized by some non-binding rulings of international courts. In similar cases, namely Palestine, the EU has supported the claims of independency and sovereignty.⁸³ Just to say, at present day, the State of Palestine is recognized by 139 of the 193 UN member states, 9 of which are also EU nations - in contrast Israel is recognized by 165 UN member states, and Kosovo by 104 out of 193, including 22 out of 27 EU countries.

Still, over the last 40 years, the EU⁸⁴ has reiterated their support for “a just, lasting and mutually acceptable political solution” for the self-determination of the people of Western Sahara consistently with the principles of international law and as provided for in UN resolutions. Despite being listed among the administering powers of non-self-governing territories like Western Sahara, the UK has a long-standing position on the former Spanish colony in support of UN resolutions and including self-determination.⁸⁵

4. Legal Status of Western Sahara in International Courts

In its Advisory Opinion of October 16, 1975, over two questions presented by the UN General Assembly under resolution 3292,⁸⁶ the ICJ ruled that there is no convincing historical evidence that Western Sahara belonged to anyone but the indigenous Sahrawi inhabitants. The ‘World Court’ concluded that there is no evidence “of any tie of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco or the Mauritanian entity”, and thus “has no found legal ties of such a nature as might affect the application of resolution 1514 (XV) in the decolonization of Western Sahara and, in particular, of the principle of self-determination

through the free and genuine expression of the will of the peoples of the Territory".⁸⁷

In the judgment of December 10, 2015, the European Court of Justice (ECJ)⁸⁸ upheld the action brought by Frente Polisario and partially annulled the Liberalization Agreement in agricultural and fishery products as it does not apply to Western Sahara.⁸⁹ Following the appeal brought by the Council of the European Union, the ECJ sitting in plenary session, as a Grand Chamber, concluded that the Liberalization Agreement does not apply to the territory of Western Sahara.⁹⁰ In his opinion delivered on September 13, 2016, the Advocate General of the Court of Justice of the European Union (CJEU), Melchior Wathelet, considered that Western Sahara is not part of Moroccan territory and, therefore, neither the EU-Morocco Association Agreement, nor the Liberalization Agreement are applicable to it.⁹¹ The Advocate General recalled UNGA resolution 1514 (XV) and emphasized that the EU and its Member States have never recognized that Western Sahara is part of Morocco, or that the latter has sovereignty over that territory.

In a second judgment of February 27, 2018,⁹² the European Union's top court ruled that the Association Agreement is applicable only to the territory of Morocco and not to Western Sahara, and that neither the Fisheries Agreement nor the Protocol thereto are applicable to the waters adjacent to the territory of Western Sahara. Finally, on September 29, 2021, the General Court of the European Union annulled the Council decisions⁹³ concerning, first, the agreement between the European Union and Morocco amending the tariff preferences granted by the European Union to products of Moroccan origin and, second, the Sustainable Fisheries Partnership Agreement.⁹⁴ The Council appealed against the judgment of the General Court, and so far, the appeal is still pending.⁹⁵

Simon Sven⁹⁶ concludes that "To sum up the legal status: Western Sahara is not a part of Morocco and Morocco has no legal title or claim to the territory. Since the annexation is illegal, it is null and void, and Morocco is therefore, legally speaking, an occupying power. Morocco has an obligation to respect the right of the people of Western Sahara according to

the law of occupation and to end its illegal annexation and occupation of Western Sahara”.

5. The Spanish Turnaround

In March 2022, in a letter addressed to the King of Morocco, Mohamed VI, days ahead his visit to Rabat, the Spanish president of the Council of Ministers, Pedro Sánchez, came out of the blue with by recognizing Rabat’s territoriality over Western Sahara.⁹⁷ In a non-law proposition (Spanish: *Proposición no de Ley*)⁹⁸ approved the following April 7, the Congress of Deputies (Spanish: *Congreso de los Diputados*), the lower house of the Spanish Parliament, censured the executive’s turnaround over the destination of the former colony, and stressed the right of self-determination of the Saharawis, calling on the government to seek a just, realistic, viable, lasting and political solution acceptable by both parties, in accordance to international law.⁹⁹

In a resolution introduced in Congress the same day, regarding the letter sent by the PM to the Moroccan king, the Spanish deputies urged the government “to demonstrate disconformity with the radical and historical change in the posture of the Spanish government over the political conflict in Western Sahara”.¹⁰⁰ The lawmakers find that the turnaround of the Prime Minister (PM) boosts “the Moroccan aspirations and ambitions to gain sovereignty of the Western Sahara and the destiny of the Sahrawi people” and call on the executive to seek a political solution fair, realistic, viable, durable and acceptable for all parties involved in the conflict, and to keep on supporting Western Sahara and the referendum scheduled by the UN, in accordance with the international law.

Finally, on 14 July 2022, the Congress upheld the turnaround of the government by rejecting by 252 votes out of 333 the draft text asking the executive to review its stance on the Moroccan Sahara issue.¹⁰¹ Following this endorsement, and despite previously parliamentary resolutions, the Spanish PM reiterated his support to the Moroccan autonomy plan about Western Sahara during his official visit to Rabat in February 2024.¹⁰²

Although Spain, with the letter addressed to the UN Secretary General on February 26, 1976, unilaterally communicated the termination

of its presence and administration over Western Sahara, according to the UN and international law Madrid remains *de iure* the administering power of the former colony and bears the responsibility for the self-determination of the territory, as recognized by UNGA resolution A/RES/2072(XX) and resolution 3458/A of December 10, 1975, which reaffirms the responsibility of Spain as such.¹⁰³

Indeed, in a letter dated January 29, 2002, addressed to the President of the Security Council, the Under-Secretary-General for Legal Affairs, Mr. Hans Corell, states that “The Madrid Agreement did not transfer sovereignty over the Territory, nor did it confer upon any of the signatories the status of an Administering Power, a status which Spain alone could not have unilaterally transferred. The transfer of administrative authority over the Territory to Morocco and Mauritania in 1975 did not affect the international status of Western Sahara as a Non-Self-Governing Territory”.¹⁰⁴

The Spanish turnaround over the former colony is even more surprising considering that in July 2014, the incumbent Minister of the Interior, Fernando Grande-Marlaska Gómez, in his capacity of President of the Criminal Chamber of the *Audiencia Nacional*, a national court with jurisdiction over all of the Spanish territory,¹⁰⁵ stated that: “Spain continues to be the administrative power of the territory, and as such, until the period of decolonization ends, there are obligations recognized in articles 73 and 74 of the Charter of the United Nations”.¹⁰⁶ Since 2018, judge Grande-Marlaska serves as minister of the Interior in the PSOE-led executive of Pedro Sánchez,¹⁰⁷ which rejects any responsibility over the territory and does not recognize the SADR. It is therefore clear that international law is sacrificed for the benefit of political and economic interests.

A Belgian investigation opened in July 2022, revealed that several members of the European Parliament (MEPs) have allegedly received bribes from Moroccan authorities to influence the decision-making processes and to secure a more favorable view of the occupation of Western Sahara by Rabat.¹⁰⁸ On September 6, 2022, Dennis Karapiperis, the chief executive officer (CEO) of the Greek company Archirodon, lobbied the

Spanish MEPs to vote against amendments that “challenge the territorial integrity of Morocco”, openly defending the Moroccan position on occupied Western Sahara.¹⁰⁹ Karapiperis warned the Spanish MEPs about the impact, over his company, and, in general, over Spanish companies, if the European Parliament would have passed a resolution supporting the self-determination and independence of the territory. The timing of the “Moroccogate” is consistent with the turnaround of the Spanish government and its Parliamentary majority over the Sahrawi issue. It is likely that pro-Moroccan lobbying was somewhat successful, thus pushing the Spanish executive to support Rabat's illegal annexation of the former colony.

Nations which deal with separatists or independentists within their territory, have a tendency to deny recognition of sovereignty.¹¹⁰ Indeed, the government of Madrid has always rejected the claims of independence of Palestine, and is also considered to be the strongest opponents to Kosovo's statehood within the EU.¹¹¹ In August 2022, Spanish PM Pedro Sánchez reaffirmed the non-recognition of Kosovo, stating that the declaration of independence of Pristina violated international law.¹¹² The non-recognition of Kosovo is linked to the executive's opposition to the Basque and Catalan independence claims.

Answering on behalf of the European Commission (EC) to a question over the letter that of Spanish PM Pedro Sánchez to King Mohamed VI of Morocco,¹¹³ the High Representative/Vice-President Josep Borrell stated that “[the] EU position on Western Sahara — which reflects the existing common view among EU Member States — is to fully support the UN-led efforts for a political process in view of reaching a just, lasting and mutually acceptable political solution to the question of Western Sahara, in accordance with the UN Security Council resolutions, and in particular resolution 2602 (2021).¹¹⁴ He concluded that “[the] EU considers that all issues concerning the question of Western Sahara and its status should be addressed, in conformity with international law”.¹¹⁵ Must be noted that, while SC resolution 2602 reaffirms the self-determination of the

Sahrawis,¹¹⁶ this crucial step is not explicitly mentioned, or is intentionally omitted, by Borrell.¹¹⁷

Finally, addressing Congress on Morocco in April 2024, Sánchez declared that Spain would officially recognize unilaterally Palestinian statehood by next July “in Europe’s geopolitical interests”, even if the EU doesn’t do it.¹¹⁸ The announcement comes after last November Sánchez had reached a controversial agreement with the left-wing Sumar alliance, as well as a series of pro-Catalan independence parties to secure the parliamentary support to his government. Catalan separatist party *Esquerra Republicana de Catalunya* (Republican Left of Catalonia) in the regional government (*Generalitat*) and *Catalunya en Comú* (Catalonia in Common), a left-wing pro-Catalan but not pro-independence party, asked Sánchez to explain readiness to recognize the Palestinian state.¹¹⁹ Iñigo Errejón, spokesperson of the leftist coalition Sumar in the Congress of Deputies, criticized the double standard of Sánchez: “what is valid for Palestine is also valid for Sahara”.¹²⁰

The EU contravenes its own established practice and applies a double standard in addressing the Palestinian and the Western Sahara question.¹²¹ The weaknesses of the EU foreign policy are also a result of each country having to defend its interests and preserve them bilaterally. Thus, its overall foreign policy appears scattered if not atomized by the different influences pursued by its member states.¹²²

Conclusion

One of the last vestiges of the colonial imperialist era, Western Sahara is a challenge to international law and one of the most striking unresolved political issues of the last 50 years. Regardless the Sahrawi Republic enjoys the recognition by 84 nations, including the almost unanimity of African countries, the rulings of international courts, and the resolutions of the United Nations; the legitimate aspirations of self-determination and independence of the Polisario Front are frustrated by the lack of support from the European Union and the latest recognition of Morocco’s claims over the disputed territory by the United States, Israel, and Spain.

Behind economic and political interests and motivations, it is remarkable that the United States and Spain, an EU member state, have abandoned the core principles of international law, namely the pillars of the international community which govern the relationships among states, and sacrificed the legitimate aspirations of the Saharawi people for self-determination. More remarkable is the lack of concrete support from the European Union, despite statements on respecting international law and fundamental human rights. The EU and member states lack a coherent policy on Western Sahara. Varying and contradictory positions are driven by economic and political interests rather than by the cornerstone principles of international law.

The case of Western Sahara, or the Sahrawi Republic, and its people is far from being close to a (positive and happy) conclusion. It is evidence of the prevalence of force and interests over law and contributes to fueling conflicts and confusion within the international community, putting global security and governance at risk.

Suggested Readings

For a discussion on Western Sahara, see, e.g.: Bhutani, Surendra, "Conflict on Western Sahara". *Strategic Analysis* 2, no. 7 (1978): 251-256. doi: 10.1080/09700167809421474; Hodges, Tony, *Western Sahara: Roots of a Desert War*. Westport, CT: Lawrence Hill & Company, 1983; Bárbulo, Tomás, *La historia prohibida del Sáhara Español*. *Imago mundi*, vol. 21. Barcelona: Destino, 2002; *Bulletin de l'Association des Amis de la République Arabe*, no. 60 (Feb.-Mar. 1982): *La République arabe sahraouie démocratique devient le 51e État Membre de l'O.U.A.*; Pazzanita, Anthony G. and Tony Hodges, *Historical Dictionary of Western Sahara*. *Historical Dictionaries of Africa*, vol. 96. 3rd ed. Lanham, MD: Scarecrow Press, 2006; Barral, Roberto Blanco, Filipe Briones, Ahmed Bujari, et al., *Sahara Occidental: Cuarenta años construyendo Resistencia*. Zaragoza: Pregunta Ediciones, 2016. For a complete list of books in Spanish (1884-2022), see: <https://www.usc.es/es/institutos/ceso/Biblioteca-digital-libros-es.html>.

Acknowledgement

This study was carried out within the LEDI Project and received funding from the European Union NextGenerationEU-National Recovery and Resilience Plan (NRRP)–Mission 4 Component 2, Investment No. 1.2–CUP No. H73C22001290001. This manuscript reflects only the authors’ views and opinions, neither the European Union nor the European Commission can be considered responsible for them.

End Notes

1. United Nations. “Non-Self-Governing Territories”. UN. Last updated August 4, 2023. <https://www.un.org/dppa/decolonization/en/nsgt>. See also: General Assembly. *Report of the Secretary-General on Third International Decade for the Eradication of Colonialism, A/75/220* (July 22, 2020).
2. Notwithstanding there are no official data about the Sahrawi living in territory controlled by Morocco, nor about the Sahrawi diaspora, the UN Statistics Division of the Department of Economic and Social Affairs estimates a population of 612.000 individuals in a 266.000km² land area (data from Undata. Last updated: May 10, 2022. <http://data.un.org>).
3. As of today, Western Sahara is the only NSG territory that is under the direct responsibility of the UN since no state has been identified as administering power of it.
4. For key UN documents for Western Sahara, see: Security Council Report (SCR). “UN Documents for Western Sahara”. SCR. <https://www.securitycouncilreport.org/un-documents/western-sahara>.
5. Simon, Sven. “Western Sahara”. In *Self-Determination and Secession in International Law*, edited by Walter, Christian, Antje von Ungern-Sternberg, and Kavus Abushov, 262. Oxford University Press, 2014. doi: <https://doi.org/10.1093/acprof:oso/9780198702375.003.0013>.
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116. UNSC, Res. 2602 (2021).
117. Josep Borrell Fontelles is a Spanish politician and a member of the Spanish Socialist Workers' Party (PSOE), the same party of Pedro Sánchez. Borrell served as Minister of Foreign Affairs, European Union, and Cooperation in the Government of Spain from 2018 to 2019, under the presidency of Sánchez.
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