

Western Sahara Legal Case: The International Law Narrative of Unresolved Conflict

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Abstract

The legally and internationally labeled Spanish Sahara is the oldest colonized territory in Africa. Colonized by Spain in 1884, Western Sahara has been an unchallengeable statutory case file in the UN tasks of the dispute between various actors at different times. Following trilateral negotiations, Spain ceded control of this territory to Morocco and Mauritania under the Madrid Agreement of 1976. The Polisario fully refused this treaty and with the help of Algeria waged an armed group to struggle specifically against Morocco. After fifteen years of an intense military fight, the United Nations (UN) brokered a ceasefire in 1991 that terminated the war and established a new phase of a long and pointless peace process. After outlining the history of the Western Sahara conflict, this paper analyzes the question of legality case starting from the settlement plan process through the Baker plans to the 2007 proposals by both parties, and finally clarifies the reasons and motives behind the deadlock in the Western Sahara. Therefore, the United Nations has been fastened in the middle of a perplexed conflict that several parties are directly or indirectly involved in. The key reason for the failure of this statutory question was the lack of management and supervision of serious diplomatic negotiations.

Keywords: *Western Sahara, Morocco, Legal Case, ICJ, Polisario Front, OAU, Self-Determination*

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Background to the Study

Formerly a Spanish colony known as Spanish Sahara, the area is characterized by an historical and on-going territorial conflict between the Kingdom of Morocco and the Sahrawi rebel movement Polisario (the Frente Popular de Liberación de Saguía el Hamra y Río de Oro), which is backed by Algeria. A dispute marked by colonization, decolonization, invasion, and an intermittent political stalemate has given rise to “one of the longest, most intractable conflicts in Africa”

In 1884, Spain, a latecomer to the colonial scramble for Africa, occupied Western Sahara. Local tribes refused to accept this territorial claim, instead choosing to engage in a 50-year fight against the colonial power for control of the land. After Morocco won independence of its northern territory in 1956, Spain maintained control over the coastal region of the country known as West-ern Sahara. June and July 1956 marked the start of the Morocco Liberation Army's (MLA) actions and two major Saharan tribes, Tekna and Reguibat, against Spanish rule to have Western Sahara reintegrated into Morocco.

A Brief on Western Shara Legal Case

Western Sahara's settlement has been undermined by the conflicting interests of involved actors at the expense of the Moroccan Saharawi people, this opens up larger discussions on the integrity of international law and reveals a weakness in the ability of international organizations especially the United Nations (UN) to ensure the significant right of the states which is sovereignty. The conflict in Western Sahara commenced in 1975 after the Spanish withdrew as a colonial power, allowing the Kingdom of Morocco to legalize the region of Western Sahara territory. Morocco's possession was challenged by the Polisario Front (SADR) group that had been created to fight for independence from Spain. Originally, the Polisario (SADR) began effective guerrilla warfare against the Moroccan forces, with extraneous support from Algeria.

The United Nations (UN) was involved in and brokered a ceasefire in 1991 that prevented the war between Morocco and the Polisario Front (SADR) and began a new adventure of diplomatic scenes and ineffective peace settlement resolutions to the Western Sahara dispute. The United Nations has indeed been so keen on promoting its resolutions of peace and stability in the conflict of Western Sahara, even if that meant peaceful instability and the stop of decisive diplomatic talks. In response to all the United Nations (UN) resolutions to solve this issue, the UN was trapped on the edge of a puzzling conflict that required regional states' efforts to end this protracted territorial issue. All these circumstances explore the reasons that caused the United Nations (UN) failure of the peace settlement in terms of international law doctrine. Due to this complicated Western Sahara's status, this peace agreement brought about an end to active confrontation, but in the end, it did not resolve the dispute. Voting on the referendum was frequently delayed, and diplomatic discussions still existed, making the Western Sahara conflict remain neglected and generally unresolved for decades.

Conclusion

The Western Sahara case from the international law approach refers to the on-going dispute over the sovereignty of the Western Sahara region, a territory situated in Northwest Africa.

This issue involves examining the legal aspects and principles of international law that apply to the regional conflict. The case has been brought by various international actors, including the International Court of Justice (ICJ) and the African Union. The ICJ issued an advisory opinion in 1975 stating that there were legal relations of allegiance between the Sahrawi people of Western Sahara and the Kingdom of Morocco, but it did not determine the sovereignty of the territory due to the involvement of the Algerian government to undermine Moroccan foreign policy in Northern Africa.

Based on this statutory case, the UN has been engaging in facilitating negotiations among the conflictual parties, including Morocco, the SADR, and the neighboring country Algeria. Thus, the UN has established the United Nations Mission for the Referendum in Western Sahara (MINURSO) to monitor the ceasefire between Morocco and the Polisario Front. Despite numerous attempts to resolve, the Western Sahara dispute remains unresolved. Understandably, the failure of the Security Council to resolve Western Sahara dispute is characterized by the following: the UN member states' failure to agree to a peaceful resolution of the conflict from the outset and to hold the Polisario Front (SADR) along with Algeria solely responsible for maintaining the status quo by impeding any resolution outcome from Morocco and thus cutting off the political negotiations. This means in practice more refugees suffering in Tindouf camps as well as human violations. These two parties, the Polisario and Algeria weakened the efficiency of the Security Council and made it part of the crisis and not an important part of the peaceful settlement.

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