

Daniela Dincao:

THE LAST COLONY OF AFRICA

ABSTRACT: *In 1974 Spanish Sahara was a colony ready to hold a referendum in order to let people's right to self-determination be expressed; in 1975 a United Nations Mission and an advisory opinion of International Court reaffirmed this right, but a war broke out. In 1991 the UN managed to establish the order and instituted the United Nations Mission for the Referendum in Western Sahara (in French: Mission des Nations Unies pour l'Organisation d'un Référendum au Sahara Occidental - MINURSO). A Settlement Plan which included the organization for a referendum leading to the independence of Western Sahara or its annexation to the Kingdom of Morocco was accepted by both the parties. Nowadays, with no referendum held the tension is growing. From the point of view of international law Morocco is an occupying power, with precise duties and no rights on the natural resources of the country that it is occupying, nevertheless Morocco acts as if the integration of Western Sahara with its own national territories was absolutely lawful. No state in the world has recognized Morocco's presence in Western Sahara as a licit fact, but many countries signed economic and commercial treaties with Rabat. These treaties involve the Sahrawis' natural resources, but not this people's interests which should be paramount.*

KEYWORDS: *Western Sahara, Sahrawi people, Polisario, MINURSO, Self-determination, Referendum in Western Sahara*

THE DECOLONIZATION AND THE WAR

The first Article of United Nations' Charter points out peace and security as the primary aims of the organization. To these ends, prevention and removal of threats to peace and respect for the principle of equal rights and self-determination of peoples are central questions¹. Therefore when Spain entered the organization in 1955, it had to declare its possessions outside its national territories. In accordance with the principles of the Charter and the ones of resolutions 1514 and 1541 of the General Assembly (1960), in 1963 Western Sahara was enlisted as a non-self-governing territory. In 1965 the General Assembly signed the first resolution in which:

“Urgently requests the Government of Spain, as the administering Power, to take immediately all necessary measures for the liberation of the Territories of Ifni and Spanish

¹ Charter of UN, CHAPTER I: PURPOSES AND PRINCIPLES, ART. 1: *“The Purposes of the United Nations are:*

- 1. To maintain international peace and security, and to that end: to take affective collective measures for the prevention and removal of threats to the peace [...]*
- 2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace...”.*

Sahara from colonial domination and, to this end, to enter into negotiations on the problems relating to sovereignty presented by these two Territories."²

The question of Ifni was solved in 1968, while Spanish Sahara had to wait until 1974 when a census was concluded in order to hold a referendum decided for the first semester of 1975. The referendum was postponed because of Morocco and Mauritania's assertions. The two neighbouring countries in fact declared to have ancient linkages with these territories and so a right on them. With Resolution 3292 the General Assembly requested the International Court of Justice to give an advisory opinion on the following questions:

I. "Was Western Sahara (Río de Oro and Sakiet El Hamra) at the time of colonization by Spain a territory belonging to no one (*terra nullius*)?"

If the answer to the first question is in negative,

II. "What were the legal ties between this territory and the Kingdom of Morocco and the Mauritanian entity?"³

On 16th October 1975 the Court affirmed:

I. "The information furnished to the Court shows (a) that at the time of colonization Western Sahara was inhabited by peoples which, if nomadic, were socially and politically organized in tribes and under chiefs competent to represent them; (b) that Spain did not proceed upon the basis that it was establishing its sovereignty over *terrae nullius*: thus in his Order of 26 December 1884 the King of Spain proclaimed that he was taking the Rio de Oro under his protection on the basis agreements entered into with the chiefs of local tribes.

The Court therefore gives a negative answer to Question I."

II. "[...] the Court finds that neither the internal nor the international acts relied upon by Morocco indicate the existence at the relevant period of either the existence or the international recognition of legal ties of territorial sovereignty between Western Sahara and the Moroccan State. [...] They do, however, provide indications that a legal tie of allegiance existed at the relevant period between the Sultan and some, but only some, of the nomadic peoples of the territory, through Tekna caids of the Noun region, and they show that the Sultan displayed, and was recognized by other States to possess, some authority or influence with respect to those tribes [...] The Mauritanian entity therefore did not have the character of a personality or corporate entity distinct from the several emirates or tribes which comprised it. The Court concludes that at the time of' colonization by Spain there did not exist between the territory of Western Sahara and the Mauritanian entity any tie of sovereignty, or of allegiance of tribes, or of simple inclusion in the same legal entity"⁴.

Nevertheless, on the same date Hassan II, the king of Morocco, announced the holding of a peace march on Western Sahara's territories and on 6th November what is known as the Green March was held.⁵ Thousands of civil people (about 300,000) escorted by thousands of soldiers passed the borders. Immediately the Security Council intervened in the question and issued Resolution 380 in which "*deplores the holding of the march [and] calls upon Morocco*

² "General Assembly Resolution: A/RES/2072 (1965)". <http://www.un.org/en/sections/documents/general-assembly-resolutions/index.html>, Accessed on 24 Apr 2017.

³ "General Assembly Resolution: A/RES/3292 (1974)". <http://www.un.org/en/sections/documents/general-assembly-resolutions/index.html>, Accessed on 24 Apr 2017.

⁴ "Western Sahara: Advisory Opinion of 16 October 1975". International Court of Justice. <http://www.icj-cij.org/docket/files/61/6197.pdf>, Accessed on 24 Apr 2017.

⁵ Besenyő, J. "The Occupation of Western Sahara by Morocco and Mauritania". *Tradecraft Review*, 2010, Special Issue, 76–94. http://knbsz.gov.hu/hu/letoltes/szsz/2010_1_spec.pdf, Accessed on 24 Apr 2017.

immediately to withdraw from the Territory of Western Sahara all the participants in the march”⁶ so after three days, on 9th November the March was withdrawn. It can be considered as a serious breach of the obligations under peremptory norms of the international law as all the members of UN “shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations”⁷ (Art. 2 par.4 UN Charter).

According to General Assembly Resolution 3314, signed on 14th December, 1974 an aggression is:

*“The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof”*⁸.

Western Sahara was not a State, it was a colony under Spain’s administration, but this does not change the fact that the Green March, and above all, the following events constituted a violation of international law, in fact resolution 1514 (1960) affirmed:

*“All armed action or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence, and the integrity of their national territory shall be respected.”*⁹

On 14th of November 1975 the duties and the rights of the Spanish government were ceded to Morocco and Mauritania by Spain itself signing the Treaty of Madrid. However, this treaty is not legal. States are allowed to cede territories on which they possess sovereignty but Spain, as an administering power, did not possess this right. Moreover, in accordance with the UN Charter, an administering power can decide to renounce its rights and duties on a non-self-governing territory, but in this case only the Organization of the United Nations “shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements”¹⁰ (art. 75) giving the rights and duty of an Administering Power to another subject of the international law. Anyhow, this move does not affect the sovereignty of a territory which continues belonging to a people. Anyhow, the Treaty proposed itself to respect people’s right to self-determination but it proposed to do it by consulting Jemaa, (an assembly imposed by Francisco Franco’s government to Western Sahara in order to represent Sahrawi people). This Assembly could not express the people’s will because it had never been elected, and it was not free from external influence (being created by Spain), moreover, how could it have been a democratic organism, if it was created by a dictator of a colonial power? So it could not decide to emerge as a sovereign independent State, or to associate or integrate with another one freely, without outside interference through a democratic process as issued in Resolution 1541 (1960).¹¹ Moreover, the real Jemaa had never been consulted: it

⁶ “Security Council Resolution: S/RES/380 (1975)”. <http://www.un.org/en/sc/documents/resolutions/>, Accessed on 24 Apr 2017.

⁷ Charter of UN, CHAPTER I: PURPOSES AND PRINCIPLES, ART. 2

⁸ “General Assembly Resolution: A/RES/3314 (1974)”. <http://www.un.org/en/sections/documents/general-assembly-resolutions/index.html>, Accessed on 24 Apr 2017.

⁹ “General Assembly Resolution: A/RES/1514 (1960)”. <http://www.un.org/en/sections/documents/general-assembly-resolutions/index.html>, Accessed on 24 Apr 2017.

¹⁰ Charter of UN, CHAPTER XII: INTERNATIONAL TRUSTEESHIP SYSTEM, ART. 75

¹¹ “General Assembly Resolution: A/RES/1541 (1960)”. <http://www.un.org/en/sections/documents/general-assembly-resolutions/index.html>, Accessed on 24 Apr 2017.

was dissolved by its members in person and Polisario, (The Popular Front for the Liberation of Saguia el-Hamra and Río de Oro).

The Polisario Front was a nationalist organization born under Spanish domination in 1973, it was very popular among Sahrawis, and since 1976 it has been the only representative of Sahrawi people, recognized by the international community too. During the war that broke out after the Moroccan and Mauritanian invasion, the Polisario Front organized the escape of the civil population and led the SPLA (Sahrawi People's Liberation Army or Elps in Spanish, *Ejército de Liberación Popular Saharaui*), against the better equipped armies of Mauritania and (especially) of Morocco. The two neighbouring countries' armies had good and modern equipment which included for example Boeing Vertol Ch-47, Northrop F-5, Mirage F1 and napalm bombs¹², while SPLA counted on arms as howitzers and Surface-to-Air-Missiles. Despite this the knowledge of the territory and the *ghazi* (an attack technique similar to *guerrilla warfare* which consists of focused and accurate little raids against precise targets) SPLA was able to weaken the Moroccan army and to defeat Mauritania, the weakest enemy afflicted also by internal conflicts. Mauritania withdrew in 1979 while the war between Morocco and Polisario continued. Only in 1991 the UN managed to establish order and instituted MINURSO, the United Nations Mission for the Referendum in Western Sahara. A Settlement Plan which includes the conditions of the cease-fire (which began on 6th September 1991) and the organization for a referendum leading to the independence of Western Sahara or its annexation with the Kingdom of Morocco was accepted by both of the parties.

Nowadays, with no referendum held, the tension is growing. Sahrawi people still live divided between occupied territories under Morocco's authority and freed territories under SADR (Sahrawi Arab Democratic Republic), instituted by Polisario on 26th February 1976. These liberated territories are actually inhabited by only 20,000 – 30,000 nomads, the rest of the population have lived in refugees camps in the desert of Hamada, in Algeria for 40 years. Polisario transferred the fleeing population here because of the war and the continuous attacks hold by Morocco even against civil people, civil camps and civil hospitals. By now Sahrawis are still living here because of various problems, first of all: mines, hidden in these territories from the years of the war and whose map was never released by Morocco.

WHY MOROCCAN PRESENCE IN WESTERN SAHARA IS AN OCCUPATION

On the 5th of March 2016, Ban Ki-Moon was the first Secretary General who visited Sahrawi people in the refugee camp since 1998, and Bir Lehlou, in the liberated territories. In an official speech he affirmed:

“What really moved and, even, saddened me was the anger. Many people expressed their anger - people who for more than forty years have lived in the harshest conditions and who feel their plight and their cause have been forgotten by the world. Understandably, they are angry. I have assured the representatives of youth that the United Nations will do much more. First of all, to resume face-to-face dialogue and, at the same time, provide support to all refugees and people here. The humanitarian conditions are very dire and we have to work to provide education for young people and we have to provide food, water, sanitation

¹² Baccalini, V. *Un popolo canta lulei. La guerra di liberazione del Sahara Occidentale* (People sing “lulei”. The liberation war of Western Sahara). Milan: Ottaviano, 1980. 95–113.

and livelihood [support] to all these people. So [the] United Nations will do much more with the international community”¹³.

During his journey Ban Ki Moon used the term “occupation” to describe the presence of Moroccan government and soldiers and people in Western Sahara territories. This assertion provoked the fury of Rabat, which reacted with expelling part of the civilian staffers of MINURSO. Secretary General’s official Spokesman, Stephane Dujarric, referring to the Secretary General’s use of this term, told al-Jazeera: “His use of the word was not planned, nor was it deliberate. It was a spontaneous, personal reaction. We regret the misunderstandings and consequences that this personal expression of solicitude provoked”.

But actually the presence of Morocco is an occupation, not only according to the definition of this term in itself:

“Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised” (art.42 Hague Convention of 1907)¹⁴

but also because so had been recognized by the General Assembly since 1979 when this term was used for the first time in Resolution 34/37 in which the General Assembly:

*“Deeply deplores the aggravation of the situation resulting from the continued occupation of Western Sahara by Morocco”*¹⁵.

WHAT DOES THE OCCUPATION ENTAIL

The rights and duties of Occupying Powers can be found in the Geneva Conventions, ratified by Morocco in 1956. For example, the Fourth Geneva Convention establishes that an Occupying Power has the duty of ensuring the food and medical supplies of the population permitting also the free passage of impartial humanitarian organizations such as the International Committee of the Red Cross, for the provision of consignments of foodstuffs, medical supplies and clothing¹⁶.

Moreover, the resolution on *Economic and other activities which affect the interests of the peoples of the Non-Self-Governing Territories*,¹⁷ (reaffirming peoples’ right to self-determination as well as their right to enjoyment of their natural resources and their right to dispose of those resources) states that any economic or other activity that has a negative impact on the interests of the peoples of the Non-Self-Governing Territories and on the exercise of their right to self-determination is contrary to the purposes and principles of the Charter of the United Nations. To this end the resolution affirms the value of foreign economic investment undertaken in collaboration with the people of the Non-Self-Governing Territories

¹³ “Ban Ki-Moon’s speeches: Remarks at Ministry of Foreign Affairs_ Secretary-General Ban Ki-Moon, Algiers (Algeria), 06 March 2011”. UN News Centre. <http://www.un.org/apps/news/infocus/speeches/statments>, Accessed on 24 Apr 2017.

¹⁴ Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907, from the International Committee of the Red Cross. <https://www.icrc.org/ihl/INTRO/195>, Accessed on 24 Apr 2017.

¹⁵ “General Assembly Resolution: A/RES/34/37 (1979)”. <http://www.un.org/en/sections/documents/general-assembly-resolutions/index.html>, Accessed on 24 Apr 2017.

¹⁶ “Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949”. <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/INTRO/380>, Accessed on 24 Apr 2017.

¹⁷ “General Assembly Resolution: A/RES/52/72 (1997)”. <http://www.un.org/en/sections/documents/general-assembly-resolutions/index.html>, Accessed on 24 Apr 2017.

but invites also all Governments and organizations to take all possible measures to ensure the permanent sovereignty of these peoples over their natural resources, considering that:

*“the damaging exploitation and plundering of the marine and other natural resources of the Non-Self-Governing Territories, in violation of the relevant resolutions of the United Nations, is a threat to the integrity and prosperity of those Territories”*¹⁸.

NATURAL RESOURCES OF WESTERN SAHARA

Western Sahara is a region rich in natural resources: first of all phosphate mines (discovered in 1960s) and fish products, in fact the coastal waters of Western Sahara are among the richest in the world. Moreover, Western Sahara can boast mineral resources as iron, vanadium, uranium, natural gas and oil. Also sand is an important resource imported by islands like the nearby Canary Islands. Nevertheless the exploitation of these resources should be impossible until the resolution of the question on Western Sahara both because of Polisario and other organization's objection¹⁹, and because of some obligations imposed by international law (as explained below). Instead phosphate mines and fish products are profusely used by Morocco, which also signs various treaties with different foreign Countries and organizations.

In 2002 Hans Corell, Under-Secretary General for Legal Affairs reminds in his Letter to the President of the Security Council:

“In the resolutions adopted under the item “Activities of foreign economic and other interests which impede the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in territories under Colonial Domination”, the General Assembly reiterated that “the exploitation and plundering of the marine and other natural resources of colonial and Non-Self-Governing Territories by foreign economic interests, in violation of the relevant resolutions of the United Nations, is a threat to the integrity and prosperity of these Territories” and that “any administering Power that deprives the colonial people of Non-Self-Governing Territories of the exercise of their legitimate rights over their natural resources... violates the solemn obligations it has assumed under the Charter of the United Nations” (GA res. 48/46 of 10 December 1992 and 49/40 of 9 December 1994) [...] The principle of “permanent sovereignty over natural resources” as the right of peoples and nations to use and dispose of the natural resources in their territories in the interest of their national development and well-being, was established in General Assembly resolution 1803 (XVII) of 14 December 1962. It has since been reaffirmed in the 1966 International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights, as well as in subsequent General Assembly resolutions, most notably, resolution 3201 (S-VI) of 1 May 1974, “Declaration on the Establishment of a New International Economic Order”, and Resolution 3281 (XXIX) containing the Charter of Economic Rights and Duties of States. While the legal nature of the core principle of “permanent sovereignty over natural resources”, as a corollary to the principle of territorial sovereignty or the right of self-determination, is indisputably part of customary international law, its exact legal scope and implications are still debatable. In the present context, the question is whether the principle of “permanent sovereignty” prohibits any activities related to natural resources undertaken by an administering Power (cf. para. 8 above) in a Non-Self-Governing Territory, or only

¹⁸ “General Assembly Resolution: A/RES/52/72 (1997)”.

¹⁹ Besenyó J. “Economy of Western Sahara”. *Tradecraft Review*, 7/Special Issue. 2011. 115–125.

those which are undertaken in disregard of the needs, interests and benefits of the people of that territory"²⁰.

About this last question it may be interesting to remind of the concerns expressed by the Committee on Development of European Union which has strict relations with Morocco under the aegis of the Union for the Mediterranean organization. In the opinion of 2011 on the draft Council decision on the conclusion of a Protocol between the European Union and the Kingdom of Morocco setting out the fishing opportunities and financial compensation provided for in the Fisheries Partnership Agreement between the European Community and the Kingdom of Morocco the Committee affirms that despite the EU's investments Moroccan fishing industry has been prevented from generating added value and that only 170 jobs for Moroccan nationals have been created, moreover:

"The state of the fish stocks is alarming. All stocks are fully- or overexploited except the sardine stock off Western Sahara [...] A significant source of controversy concerns the inclusion of fishing in the waters off Western Sahara. Under international law, Western Sahara currently has the status on a Non-Self-Governing Territory[...] Morocco is the de facto administrator but has never been accepted as the official administering power by the UN. According to the 2002 opinion by the UN Legal Counsel Hans Corell, any exploration or exploitation activities in Western Sahara can only proceed if they are to the benefit of, and according to, the wishes of the people of Western Sahara. [...] After many requests from the Commission about benefits to the "local population", Morocco responded on 13 December 2010 with a PowerPoint document on the outcome of some investment programmes divided into 4 different regions - the "South" includes the Western Sahara as well as other territory. The document does not show whether the people of Western Sahara have benefitted socio-economically from the agreement. Although the document claims that jobs are created in all areas, it is highly likely that the agreement mainly benefits Moroccan settlers, transferred into occupied territory in violation of Article 49 of the IV Geneva Convention of 1949. Regrettably, the document does not support any EU conclusion on benefits for either the local population or for the Sahrawi people.

The document fails entirely to address the second prerequisite, whether the agreement has been concluded in accordance of the wishes of the people of Western Sahara"²¹.

This document is just one of the many examples of the official documents which reiterate the illicit occupation of Western Sahara and prove the perpetuation of illicit actions of natural resources' exploitation against the Sahrawis' will and benefit in violation of the international law. Despite these assertions no relevant actions have taken place; an exception could be possibly considered the recent nullification (December 10, 2016) of the deal between the EU and Morocco, covering trade in agricultural and fishery products by the European Court of Justice because of the illicit inclusion of Western Sahara products. Nevertheless, soon after

²⁰ Corell, H. "Letter dated 29 January 2002 from the Under-Secretary-General for Legal Affairs, the Legal Counsel, addressed to the President of the Security Council". <http://www.arso.org/Olaeng.pdf>, Accessed on 24 Apr 2017.

²¹ "European Union Committee on Development opinion of 2011 on the draft Council decision on the conclusion of a Protocol between the European Union and the Kingdom of Morocco setting out the fishing opportunities and financial compensation provided for in the Fisheries Partnership Agreement between the European Community and the Kingdom of Morocco". <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2011-0394&language=HR#title3>, Accessed on 24 Apr 2017.

the sentence the Council of EU appealed to the Court of Justice and Morocco suspended its cooperation with the EU for several months so that no conclusions about it can be drawn yet.

WHY A REFERENDUM

The need of holding a referendum in Western Sahara was expressed by the UN dozen of times (A/RES/2229, A/RES/2354, A/RES/2428, A/RES/2591, A/RES/2711, A/RES/2983, A/RES/3162, A/RES/3292...) and it was established by the cease-fire agreement of 90s :

“23. In conformity with OAU resolution AHG/Res.104 (XIX) and General Assembly resolutions 1514 (XV) and 40/50, a referendum will be organized in Western Sahara to enable people to decide their own future freely and democratically”²².

Nevertheless, not only MINURSO was able to conclude a census only in 2005, but since then no referendum was held. Moreover, in 2002 Morocco had appealed every voter rejected by the Identification Commission and in 2004 it had rejected the Baker Plan II refusing the option of independence in a future referendum. Nevertheless, nowadays a referendum is still the only proper juridical institution by which people can express their will and their right to self-determination democratically and freely.

HOW AN INDEPENDENT STATE COULD RISE AFTER 40 YEARS

More than forty years passed from the beginning of the war and 16 years have passed since its end, nevertheless, the possibility for Sahrawi people to have themselves recognized under an independent State is not impossible. This State exists and it is SADR, a State of law, representative, with a sovereignty; a state which has international relations with about 70 States acting as SADR and with all the states of the world through Polisario representatives. A state with a territory, in fact even not considering the territories under occupation, SADR has under its jurisdiction about 50 000 km². SADR has a good administration structure based on committees and assemblies, a health and an education system which lack only of means and instruments, but which do not lack of qualified staff. Moreover, if a referendum is held and if people chose the option of an independent state, SADR would have access to rich natural resources as phosphates, fish, sand... (that have been exploited by Morocco for years) which could provide a base for a flourishing economic system.

RECENT EVENTS

After the UN Secretary General's visit to the Polisario Front in 2016, Morocco expelled 84 international civilian staffers of the MINURSO, so as the Secretary General explains in its latest report:

“Only 28 international civilian staff members remain in Laayoune, while 25 are performing limited functions from Las Palmas. On 21 March, MINURSO redeployed all three of its liaison officers from Dakhla to the Awsard team site at the request of Morocco”²³.

²² “Secretary General Report: S/21360”. <http://www.un.org/en/peacekeeping/missions/minurso/background.shtml>, Accessed on 24 Apr 2017.

²³ “Secretary General Report: S/2016/355”. http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2016_355.pdf, Accessed on 24 Apr 2017.

On 28th April 2016 the Security Council adopted the Resolution 2285, it decided to “extend the mandate of MINURSO until 30 April 2017” and “Regretting that MINURSO’s ability to fully carry out its mandate has been affected as the majority of its civilian component, including political personnel, cannot perform their duties within MINURSO’s area of operations”²⁴

the Security Council:

“Reaffirms the need for full respect of the military agreements reached with MINURSO with regard to the ceasefire and calls on the parties to adhere fully to those agreements”²⁵.

Despite this in August 2016, because of the Moroccan attempt to build a road to the Mauritania border in the Southern part of Western Sahara, both the Polisario Front and Moroccan forces committed violations of the ceasefire agreement. After Secretary-General António Guterres’ interventions, in February 2017 the forces of both parties were withdrawn. Nevertheless, the tensions are still in the air: in March Secretary-General’s Personal Envoy to Western Sahara Christopher Ross offered his resignation and he was declared *persona non grata* by the Kingdom of Morocco. Even the re-accession of Morocco to the African Union²⁶ on 31st January does not seem to have enhanced any particular improvements in the question of Western Sahara.

Concerning the Human rights, about which for example an Amnesty International’s inquiry published in 2015 (*Shadow of impunity. Torture in Morocco and Western Sahara*) reported 173 cases of alleged torture and other ill-treatment which had taken place between 2010 and 2014 in 17 locations across Morocco and Western Sahara, in its last Resolution²⁷ the Security Council just stresses:

“the importance of improving the human rights situation in Western Sahara and the Tindouf camps, and encouraging the parties to work with the international community to develop and implement independent and credible measures to ensure full respect for human rights, bearing in mind their relevant obligations under international law”²⁸.

The need for an impartial human rights monitor is particularly urgent not only because of impunity for past abuses and violations in the area but especially because of the recent breaches of the ceasefire in the past year and the growing political tensions.

However, MINURSO is still the only UN’s mission with no task concerning Human rights.

CONCLUSIONS

Western Sahara, the last colony in Africa, is the largest and the most populated Non-Self-Governing Territory in the world. The question of Western Sahara appears clear from the point of view of the international law, but the concrete facts make the situation so complicated that nowadays Sahrawis’ struggle for self-determination appears hopeless. Morocco’s presence in these territories has been lasting for more than 40 years, Rabat has solid relations

²⁴ “Security Council Resolution: S/RES/2285 (2016)”. <http://www.un.org/en/sc/documents/resolutions/>, Accessed on 24 Apr 2017.

²⁵ “Security Council Resolution: S/RES/2285 (2016)”. <http://www.un.org/en/sc/documents/resolutions/>, Accessed on 24 Apr 2017.

²⁶ Morocco had left the African Union in 1984 when it was joined by SADR.

²⁷ “Security Council Resolution: S/RES/2285 (2016)”. <http://www.un.org/en/sc/documents/resolutions/>, Accessed on 24 Apr 2017.

²⁸ *Ibid.*

to powerful countries, it has an important political and economic status in the region, and Western Sahara's territories contribute to this status. Moreover, it is absolutely necessary to keep in mind that the war in Western Sahara played a central role in building the Moroccan national unity and in legitimizing the winning forces of the revolution which had brought Morocco to independence in 1956. Considering this fact, any new peace plan should not only allow the holding of a referendum in the region, which includes the possibility of the establishment of two independence states, (as it was issued in the Settlement Plan of the 90s), but it should also take into consideration a political and economic transitional period for both states (in case the independence option won).

Nowadays the tension and the anger are growing and the risk of a new war is tangible. If a war broke out, the Sahrawi people would probably lose it. But if a war broke out, the international community would lose it too, showing its inability to respect and make respected the constituent principles of the United Nations and of the international law. The question of Western Sahara is a question about people. It does not concern just phosphate mining and fishing resources. The question of Western Sahara concerns men, women and children, divided families and their rights as human beings. A fair referendum has to be held not in order to give the territories of Western Sahara to Morocco or to SADR but in order to respect the people's rights and will. People have the right to decide about their own future. Because of this, any plans which do not take into consideration a referendum would be dubiously acceptable. It is important in this question, as in any others which concern human beings, not to choose the easiest way, but the way of justice, and justice calls for peoples' right to self-determination.

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