Revisiting Morocco and Sustainable Peace in Western Sahara
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Abstract
The need for the recognition and respect for self-determination of peoples who have come together based on either ethnic, religious or some socio-cultural identities spurred the United Nations General Assembly into issuing and adopting the Declaration on the Granting of Independence to Colonial Countries and Peoples in 1960. This policy referred to as ‘Declaration of Decolonization’, though enacted to take immediate effect since 1960, has not been accorded deserved recognition by Morocco which in 1975 ignored the protocol and through a movement tagged, ‘Green March’ moved into Sahrawi Arab Democratic Republic and occupied the northern two-thirds of the republic by settling over 350000 Moroccan civilians in the territory. In spite of the POLISARIO FRONT’s armed and diplomatic interventions and the OAU and UN joint enforcement bids, Morocco remains impervious to all entreaties for the decolonization of its Saharan neighbour. Apart from the political oppression weighted on SADR by Morocco, the SADR continues to be repressed economically by the country. With a scenario as painted above, can the effectiveness of the United Nations Charter be justified? Can SADR experience genuine and sustainable peace being perpetually sledge-hammered by Morocco? Does the recent re-enrolment of Morocco in the African Union guarantee its recognition and acceptance of the independence of the Sahrawi Arab Republic? These are the thrusts of this paper as it peruses extant literature and contemporary developments to suggest critical strategies for sustainable peace in Western Sahara.

Introduction
When the United Nations (UN) at its General assembly drew a resolution in respect of Non-Self-Governing territories in the world particularly in Africa, it had the freedom of people and peoples who were still under colonial rule in mind. The declaration tagged, ’the Declaration on the Granting of Independence to Colonial Countries and Peoples’ and often referred to as ‘Declaration for Decolonization’ was unequivocal about its intention to respect the wish and inalienable right of peoples for self-determination and independence.

The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights…. All peoples have the right to self-determination…. [Peoples shall] exercise peacefully and freely their right to complete independence and the integrity of their national territory shall be respected…. Immediate steps shall be taken…to transfer all powers to the

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peoples…without any conditions or reservations, in accordance with their freely expressed will and desire…. Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations. All States shall observe faithfully and strictly the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the present Declaration on the basis of equality, non-interference in the internal affairs of all States, and respect for the sovereign rights of all peoples and their territorial integrity. General Assembly

However, the quest for the self-determination and independence of the Sahrawi people of Western Sahara has been stalled over the years due to Morocco’s illegal firm grip on the latches of control over the territory. This resolve by Morocco has had serious implications for peace in the territory and till date, it appears the AU and the UN have not designed an effective measure to address the issue of independence of the Sahrawi people.

The Conflict Issues

The most essential conflict issue in the Morocco/ Western Saharan relation is the nonrecognition of the independence of the Sahrawi Arab Republic (SADR) and the continued occupation of the SADR territories by Morocco. The situation got exacerbated in 1994 when the AU recognised the SADR as an independent nation and a member of the union. Morocco withdrew its membership of the Organisation of the African Unity (OAU) now known as African Union (AU) and became the only African nation that was not a member. However, In January 2017, Morocco was readmitted into the AU. This shall be discussed further in the course of the paper.

Morocco has dominated the economy of the Western Sahara for long without visible impact on the socio-infrastructure development of Sahrawi. Fisheries and phosphate generate high income for Morocco but none of these accrue to Sahrawi either socially or financially. Zunes and Mundi (2013:158) have this to say:

Nationalist Sahrawis believe firmly that Morocco has taken far more from Western Sahara than it has given. They assert that fisheries and phosphates provide the Moroccan government with billions in revenue every year, monies that are not necessarily reinvested into the territory.

This act on the part of Morocco violates article 73 of the United Nations charter as observed by Corell (2012):

Article 73 of the United Nations Charter lays down the fundamental principles applicable to Non-Self-Governing Territories. Members of the United Nations who assumed responsibilities for the administration of these territories have whereby recognized the principle that the interest of the inhabitants of these territories are paramount, and have accepted as a sacred trust the obligation to promote to the utmost the well-being of the inhabitants of these territories. Under Article 73 (e) of the Charter, they are required to transmit regularly to the Secretary-General for information purposes statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories under their administration.

Endemic corruption is visible in Western Sahara and according to Sahrawi nationalists; this is chiefly perpetrated by the military officers deployed in the territory by the government of Morocco. Apart from this, the thriving micro-level trades are dominated by Moroccans. These trading activities are mostly motivated by personal gains rather than being obligated by national development as the profit of such enterprises end up being carted away to Morocco for larger investments and social development to the detriment of Western Sahara where the huge profits are made.

The ‘Moroccanisation’ of Western Sahara is another issue highlighted by activists. Sahrawi’s education is patterned along Moroccan model. The traditional sedentary culture of the Moroccans Arabs and Berbers are quite perceptible in Sahrawi while the local nomadic culture of the traditional Sahrawi is somewhat relegated to the
background. The Hassaniyah Arabic and French languages which are the official languages was imposed on Western Sahara. Politically, the issue of Sahrawi nationality is not allowed as a subject of discourse even by civil society organizations. Those officially recognized by the government of Morocco are strictly forbidden to address political issues and indeed, must accept that Western Sahara is part of Morocco. A discourse on the independence of the Western Sahara is illegal and attracts due sanctions. For example, a Moroccan activist, Abraham Serfarty was jailed based on his support for the self-determination of the Sahrawi (Zunes & Mundi: 160).

**The POLISARIO Front**

This group sprang up in 1973 as an insurgent group pressuring the colonial Spanish administration to respect the UN’s Declaration of Decolonization. The group is an outgrowth of the Saharan Liberation Movement (MLS) which was founded in 1968 with the aim of achieving equal rights for Sahrawi people under the Spanish administration. It was a non-violent movement initially but eventually changed its strategy to armed struggle when it was obvious that Spain was planning to assimilate Western Sahara (Berke, 1997). The group, POLISARIO comprised mainly of indigenous inhabitants of Western Sahara. It is a politico-military organization with a strong bent to ending the Moroccan domination of Western Sahara. According to Corell (2002):

*On 14 November 1975, a Declaration of Principles on Western Sahara was concluded in Madrid between Spain, Morocco and Mauritania (the Madrid Agreement), whereby the powers and responsibilities of Spain, as the administering Power of the territory, were transferred to a temporary tripartite administration. 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 Non-Self-Governing Territory.*

According to an account by Miller (2012), Morocco had claimed the right over Western Sahara since it was a Spanish colony. After the United Nations (UN) General Assembly adopted the Declaration Granting Independence to Colonial Countries and Peoples, Spain attempted to hold a referendum, on self-determination in 1974. Before this was possible, Morocco and Mauritania persuaded the UN General Assembly to solicit the International Court of Justice (ICJ) for an advisory opinion on their respective claims over the territory. The ICJ held that any legal ties that Morocco or Mauritania had two tribes in Western Sahara did not establish territorial sovereignty over the land. To the ICJ, no tribal or political attachment to Western Sahara was strong enough to affect its decolonization.

After the withdrawal of Spain in 1975, Sahrawi Arab Democratic Republic declared its independence and a wave of recognition for the new African country swept through Africa and some other countries in the world. In spite of this however, in 1976, Morocco and Mauritania partitioned Sahrawi with Morocco occupying the northern part about three quarters of the territory, and Mauritania the southern hemisphere of the country representing the remaining one-quarter, unleashing terror on the indigenes of Sahrawi. At this point, the POLISARIO Front sought refuge in Algeria where it enjoyed military support from the government of Algeria (Encyclopaedia Britannica). In 1979,
Mauritania withdrew from the territory but Morocco further entrenched its domination covering the area where Mauritania formerly occupied. According to the records of the Encyclopaedia Britannica, the POLISARIO guerrilla numbering over 15000 armed troops constantly attacked Moroccan outposts and defenses in Western Sahara. This insurgency forced Morocco to erect a berm spanning 1240 miles (2000km) long by 1987 (Encyclopaedia Britannica).

The centre of the POLISARIO became weakened due to some internal conflicts that led to defections from the organization. Therefore, in the 1990s, the group was not able to record high level achievements even while it still received military aid from Algeria. However, in 1991, the group enacted a more democratic constitution for the SADR. It also accepted a UN peace plan for Western Sahara which provided for a referendum of self-determination. Owning to dispute over eligibility of voters, the Kaduna Journal of Sociology (KJS) Vol. 5 No. 5 July, 2017 79 referendum earlier scheduled for 1992 was postponed and a series of talks were organised by the UN between Morocco and the POLISARIO.

Owing to the unsuccessful attempt by the UN to determine the parameters of the referendum, it suggested that alternatives to it be considered.

The UN, Morocco and Peace Initiatives in Western Sahara

As already established somewhere in this discourse, the UN enacted the Declaration for Decolonisation in 1960 a move which set Spain on course for retreat which came to be actualised in 1975. The declaration was explicit on the subject of self-determination and the need to respect the wish of peoples who aspire to self-governance. According to Berke (1997):

The OAU recommended a referendum to determine the future of the disputed territory, and resolved to determine voter eligibility. The problem was how to implement this plan, since the Saharawi population was largely nomadic and there were few written records of citizenship from the Spanish period. In 1985, the UN endorsed the OAU's plan for a referendum and Secretary General Perez de Cuellar declared that UN forces must first survey the Sahrawi population for voter eligibility. In June 1990, de Cuellar laid out a detailed plan for the UN presence in Western Sahara, that included the cessation of hostilities between Morocco and the POLISARIO; troop withdrawals; the deployment of a UN peacekeeping force named the United Nations Mission for the Referendum in Western Sahara (MINURSO); the establishment of an Identification Commission to identify eligible voters; and a referendum to be held 24 months after the start of the implementation of the plan. The UN Security Council unanimously approved this recommendation.

The efforts of the UN recorded by Berke above depict its forthrightness in the pursuit of genuine independence of the Sahrawi people. The present state of the conflict in Western Sahara however questions the effectiveness of the instrument of operation i.e. The International Law and the readiness of the subjects of international law in this case, the member states to comply with the organ’s statutes. The deadline of the 1995 referendum failed because the two parties i.e. Western Sahara and Morocco could not reach agreement on the eligibility of voters. While Sahrawi held that Sahrawi indigenes counted in the 1974 census conducted by Spain were the eligible voters, Morocco insisted that Sahrawi people resident in Morocco should be part of the referendum and indeed made this good by transporting several Moroccans of Sahrawi origin to settle in the northern part of Western Sahara. This inevitably produced a stalemate over the
The Austrian Theory on International Law

The Austrian theory on international law believes that ‘law should relate to commands issuing from determinate sovereign (legislative) authority’. Thus if rules concerned do not emanate from a sovereign authority, which must be politically superior, as if there is no sovereign authority, then the rules cannot be said to be rules but rules of moral or ethical validity only.

A critical look at the structure of the international law reveals that it has no visible authority with legislative power or with any determinate power over the states. Little wonder therefore Austin concludes that the International Law is nothing but ‘positive international morality’ only analogous to the rules binding a cub or society or ‘opinions or sentiments current among nations generally.

Corroborating Austin’s view above, Cassese (2003) while comparing International Law to municipal law holds that “municipal law systems are highly developed”. In addition to the substantive rules, which enjoin citizens to behave in a certain way, sophisticated organisational rules have evolved. Special machinery exists concerned with ‘life’ of the legal order”. Pushing the subject further, Barash & Webel (2002) opine that the major problem with international law is that individual states insist on a kind of latitude that they would never allow their own citizens. From the notion expressed above, it can be deduced that the inability of the UN to exert its authority and effect sanctions against erring member-nations derives from its non-sovereign status. To Sornarajah (1997), ‘the success of any legal system depends on the extent to which it is able to curtail the abuse of power’.

The International Law has been under constant rebuff and denigration by King Hassan of Morocco since the Moroccan occupation of the Western Sahara in 1976. For example, the sheer administrative responsibility assumed by Morocco over Western Sahara is an aberration of the international law. At the withdrawal of Spain from the territory in 1974, no such honour was conferred on either Mauritania or Morocco and neither was Morocco saddled with such responsibility at the withdrawal of Mauritania from the southern territory of Western Sahara in 1985. The total take-over of the territory by Morocco is to say the least illegal. In the words of Corell (2002): 

On 26 February 1976, Spain informed the Secretary-General that as of that it had terminated its presence in Western Sahara and relinquished its responsibilities over the Territory, thus leaving it in fact under the administration of both Morocco and Mauritania in their respective controlled areas. following the withdrawal of Mauritania from the Territory in 1979, upon the conclusion of the Mauritanio-Sahraoui agreement of 19 August 1979 (S/13504, Annex I), Morocco has administrated the territory of Western Sahara alone. Morocco however, is not listed as the administering Power of the territory in the United Nations list of Non-Self-Governing Territories, and has, therefore, not transmitted information on the territory in accordance with Articles 73 (e) of the United Nations Charter.

The status of the Western Sahara as a Non-Self-Governing territory confers on it a measure of independence which Morocco is constantly violating in political, economic and socio-cultural spheres – a situation which was avoided by Spain. It is recorded in
paragraph eighteen (18) of a letter dated 29 January 2002 from the Under-Secretary – General for Legal Affairs the Legal Counsel, addressed to the President of the Security Council that:

In the recent practice of States, cases of resource exploitation in Non-Self-Governing Territories have, for obvious reasons, been few and far apart. In 1975, the United Nations Visiting Mission to Spanish Sahara reported that at the time of the visit, four companies held prospecting concessions in off-shore Spanish Sahara. In discussing the exploitation of phosphate deposits in the region of Bu Craa with Spanish officials, the Mission was told that the revenues expected to accrue would be used for the benefit of the Territory, that Spain recognized the sovereignty of the Saharan population over the Territory's natural resources and that, apart from the return of its investment, Spain laid no claim to benefit from the proceeds (A/10023/Rev.1, p. 52)

Economic Underpinnings of the UN’s Failure in Effecting Peace in the Territory

The economic interest of the world powers has constituted immensely to the failure of the UN to actualize the self-determination of the Sahrawi people. Considering the fact that EU, US and Russia have economic ties with Morocco even over Sahrawi’s natural resources has weakened their declaration of their support for Western Saharan independence. A look at the following scenarios would give a clearer picture of the situation: Although the USSR then denied complicity in the Western Saharan conflict, it cannot extricate itself from its economic ties with Morocco. It is on record that Morocco was its largest trading partner in 1978 when Leonid Brezhnev agreed to provide Morocco with over $2 billion for phosphate development at a new mine, and $300 million for the fishing industry (Berke: 1997). Also on record is the fact that the POLISARIO was the only major liberation movement in Africa that received no direct assistance from the Soviets. Indeed the duplicity of the USSR was evident in its declaration for the self-determination of Sahrawis when it sought the support of Algeria for intervention during the Angolan civil war. According to Berke (1997), ‘the Soviet bloc walked both sides of the line, as it managed to vote for every resolution in the UN General Assembly advocating Sahrawi self-determination without repudiating Moroccan claims to the territory’.

The U.S. also pursued a policy of neutrality so as not to offend Morocco or Algeria, its closest political ally and economic partner in North Africa. Between 1975 and Kaduna Journal of Sociology (KJS) Vol. 5 No. 5 July, 2017

1988, the U.S. supplied Morocco with about $1 billion in arms and $1.3 billion in security and economic assistance programs. In October 2001, a contract was concluded for oil-reconnaissance and evaluation activities in areas off-shore Western Sahara, between the Moroccan "Office National de Recherches et d'Exploitations Pétrolières" (ONAREP) and the United States oil-company Kerr Mc-Gee du Maroc Ltd (Corell, 2002). It was to run for 12 months. The U.S. also viewed King Hassan as a source of stability in the region. This alliance between Hassan and the U.S. Administration was strengthened after the fall of the Shah in 1979. Although the U.S. claimed to be neutral, military aid continued to flow to Morocco. In 1978, Jimmy Carter reduced arms sales to $10 million, with the stipulation that the weapons could not be used in the Western Sahara. Yet when Rabat threatened to seek Soviet weapons as a replacement, the U.S. increased arms sales to over $200 million, with the provision that Morocco stick with the negotiating process. Ronald Reagan, afraid of the Soviet threat and instability in Iran, dropped the provision and increased arms sales once again. From 1986 to 1993, the U.S.
supplied $300 million in arms, meeting 30 per cent of Morocco's military needs. Algeria was not pleased with the level of U.S. military assistance to Morocco, but did not complain so long as American economic involvement in Algeria continued. American firms have been involved in Algeria construction projects worth over $6 billion. In 1979, the U.S. was the number one buyer of Algerian exports, and by 1992, was fourth in terms of Algeria's imports. The U.S. has maintained a close relationship with King Hassan, yet remains wary of becoming involved in Algeria's internal politics.

**France** supported the POLISARIO, but had a good trading relationship with Algeria and gave military and economic aid to Morocco. Office National de Recherches et d'Exploitations Pétrolières" (ONAREP) and the French oil company TotalFinaElf E&P Maroc concluded for an initial period of 12 months, a contract, containing standard options for the relinquishment of the rights under the contract or its continuation, including an option for future oil contracts in the respective areas or parts thereof in October 2001 (Corell, 2002).

Miller (2012) speaks of a bilateral agreement between the **European Union** and Morocco to allow EU members to fish off the coast of Western Sahara. Morocco and the EU in December 2013 finalized a four-year agreement allowing European vessels to fish off the coast of Morocco, including disputed waters off the coast of Western Sahara (EconomyWatch.com).

It is obvious therefore, that economic self-interest of these world powers has contributed largely to the UN’s inability to clamp down on Morocco and deliver independence to the people of Sahrawi. To Sornarajah (1997):  
*It would appear that when an hegemonic power uses its multinational corporations as a weapon of foreign policy interests, it could be effectively met through the united opposition of other states. This countervailing power will usually be effective in checking the extraterritorial thrust that is made in the assertion of national interests. But, the existence of countervailing power presupposes that there is unity in the other states which seek to exercise such collective power. In the absence of the unity, the hegemonic power will prevail in the exercise of extraterritorial jurisdiction.*

It is apparent that the multinational corporations currently in Western Sahara are not ready to declare sanctions against Morocco over its occupation of the territory based on economic reasons and this is one major factor impeding the effectiveness of the UN’s efforts at settling the self-determination bid of the Sahrawi people. It should be noted that the multinational corporations in question belong to the superpowers and opinion moulding members of United Nations Organisation. It can be surmised therefore that, ‘where power dominates, the law becomes a process for justification of power and fictions are used to justify and preserve what has been achieved through the exercise of power’ (Brownlie, (1996:50-54).

**Morocco’s Re-Admission to the AU**
After a prolonged season of lobbying, Morocco was readmitted into the AU as its 55th member. This move sparked the curiosity of many observers of the political en passé between Morocco and Sahrawi Arab Republic and their different political standings in the union. The motive behind this re-enrolment is still shrouded in mystery as the SADR which was the main reason for the pull-out of Morocco from the Union is still a bonafide member of the AU. The question is, ‘Is Morocco’ re-enrolment in the AU a step towards its recognition and acceptance of SADR as an independent nation? This is pertinent as in
March, 2016, Morocco threatened to pull its soldiers out of UN global peacekeeping missions in Western Sahara, after UN Secretary-General Ban Ki-moon uses the term "occupation" when referring to the territory (http://www.bbc.com/news/world-africa-38795676).

While SADR sees the readmission of Morocco as an opportunity for the AU to intensify its influence on Morocco and effect its de-occupation of the SADR territory, some, however observe a strategic move to continue exploring its interests in mining, construction, medical, insurance and banking sectors on the continent. Corroborating this, Hicks (2017) affirms that Morocco is hoping that through its firms offering investment and business opportunities across the continent, it will be able to count on receiving back political support. Whatever the conjectures, the fact remains that Morocco’s readmission, from all diplomatic views, neither holds any visible calculations nor arrangement for its recognition of the SADR. Also apparent is the fact that the AU has made no diplomatic pronouncement linking Morocco’s readmission to the situation in the SADR. Therefore, the Morocco/SADR relations retain the status quo.

Is Peace Feasible in Western Sahara?

It is a generally held view that the United Nations is encumbered by many factors which impede its effective realizations of its set objectives. Yet as in the sphere of international law, habit, conscience, morality, affection and tolerance account much for obedience, it is pertinent that member-nations appeal to these super-powers to consider sanctions against Morocco. Their collective action against Morocco might force its grip open over the control of Western Sahara.

Morocco need be ‘forced’ to recognize that modern states are not formed based on past historical or tribal connections but rather on the collective will of certain group or groups of people to come together as a nation. Morocco’s claim to some Almoravid empire connection belongs to history as evident in the Sahrawi people’s quest for independence.

Morocco need borrow a leaf from Mauritanian’s experience in which it relinquished its hold on two tribes in the southern part of Western Sahara. Diplomatic efforts of conciliation, negotiation and mediation should continue underground to soften the taut relationship between the POLSARIO and Morocco. Other African leaders and eminent personalities in the continent should explore the potency of Alternative Dispute Resolution Mechanisms in handling the Moroccan/SADR en passé. The scuttled OAU (AU) initiated referendum should be revisited with stronger and more practical strategies for its implementation. Modifications can be made to accommodate the interests of the parties to the extent that what is won, for example by SADR is not utterly lost by Morocco. This would engender a sense of cooperation that could bring a long lasting peace in the region.

The AU should exploit the membership of Morocco in pressing for the resolution of the conflict. It is taken that Morocco’s decision to return to the Union is an unstated indication that it has in principle recognized the independence of the SADR, therefore AU can move from that point to demand for the withdrawal of Morocco from the SADR occupied territories.

These suggestions should hopefully produce a truce and hope for sustainable peace wrought by the total independence of the Western Sahara.

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