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Introduction

Peacekeeping Operations in Situations of Conflict: The Case of MINURSO

Marco Balboni

Introduction

Peacekeeping operations have sometimes been framed “as an alternative to the collective security that the United Nations was designated to provide but could not” (Durch 1993a, 151). While underlying the connection between such operations and the United Nations (UN) collective security system, this statement seems to hide the fact that, to be successful, even such alternatives need a collective security system and its main director—the Security Council—to perform effectively their duties under the UN Charter. If taken with this elucidation in mind, that statement applies particularly well to one of the thorniest UN peacekeeping operations: the Mission for the Referendum in Western Sahara (MINURSO).¹

The MINURSO was set up in 1991 and renewed ever since to carry out two main tasks: the monitoring of the ceasefire between the Saharawi National Liberation Movement (*Frente Popular para la Liberacion de Saguia el-Halma y de Rio de Oro*—POLISARIO) and Morocco and the organization of the referendum that would allow people of Western Sahara (WS) to decide between independence and integration with Morocco. It represents the most concrete effort of the UN involvement in the northern Africa. To recall briefly why a UN mission was deemed necessary in WS, it could be remembered that, following the endorsement of the UN General Assembly in 1965 and Spain’s consent to the proposed UN solution for the decolonization of WS in 1974, Sahrawi people were meant to exercise their self-determination through a referendum under UN auspices (Correale 2017; Ruiz Miguel and Blanco Souto *infra*). Opposed by Morocco, which aimed to establish its sovereignty over territories seen as part of the “Greater Morocco,” the referendum was not carried out at that time. Instead, after the so-called “Green March,” a situation of occupation by Morocco began. Leaving aside Mauritania, which declared its neutrality regarding WS by signing a peace treaty in 1979 with POLISARIO, a conflict between this liberation movement and Morocco broke up. In this context, the involvement of the UN certainly underwent to a significant transformation: from “simply” endorsing the quest for self-determination with the General Assembly, it became a mediator of the

conflict owing to the efforts of the UN Secretary-General Pérez de Cuéllar. In 1988 the Security Council, whose primary responsibility is the maintenance of international peace and security (Article 24 of the UN Charter), initiated the long process of gestation of a peacekeeping mission in WS (Security Council, resolution no. 621/1988).

As this book tries to show, the complexity of the context in which this mission was born and operates, in comparison to other situations where the UN has been or is still involved, has deeply influenced the implementation of its mandate. It explains also why the mission has not been able to prevent the events leading to the ceasefire's 2020 violations with the resurgence of a low-intensity conflict (Mundy *infra*; Besenyő 2021) and the reason why MINURSO will be probably maintained given the lack of alternatives on which the parties would agree and their consent would meet international community's geopolitical interests (Lagdaf & Zoubir *infra*). In order to shed light on such a complex scenario, this book follows three main threads of investigation: the political and historical factors influencing MINURSO's efficiency, including the different interpretation of the mission's role by the parties; the role of the UN, especially the Security Council, and main powers in facilitating or hampering, including at operational level, the mission's mandate; and the potential role of MINURSO, as well as its ambivalence, in moving from a traditional UN peacekeeping mission to a more modern operation with due attention to human rights-related aspects. These threads reflect a wider trend in the international debate on this specific UN mission. In fact, other than addressing MINURSO's core mandate—namely, the organization of a referendum in WS, studies and discussion increasingly focus their attention on other (current and potential) peacekeeping and human rights aspects of this UN mission. The significance of this book rests in a balanced approach between maintaining a strong focus on the MINURSO's key task and identifying the lessons that can be drawn from this mission for the involvement of the UN, and its main bodies, in WS as well as for peacekeeping operations more broadly.

This introduction is structured as follows. By referring to the UN framework for peacekeeping operations, the section “Peacekeeping Operations and Western Sahara” analyzes the MINURSO mandate in an attempt to identify, as a ground for all subsequent contributions, the potential pitfalls from its gestation process. By anticipating the above three threads emerging in this book, the section “Peacekeeping Operations and Western Sahara” makes clear both the ambivalent role of MINURSO and of all actors involved as well as the potential for a meaningful change of the stagnant state of affairs. The section “Looking Ahead” aims to verify what alternatives are available to overcome the situation on the ground and the expected challenges to such moves. Some proposals are advanced: the renewal of the MINURSO mandate is considered along a greater involvement of regional organizations with the establishment of a new peace operation as well as change in the involvement of the UN itself. The section “Concluding Remarks: Any Key Lesson

from the MINURSO Experience?” concludes with the identification of some lessons to be learned from the MINURSO experience and which this book overall emphasizes. These may be beneficial not only in the case of further renewals of MINURSO or of the (unlikely) deployment of a new mission in WS, but also for the UN peacekeeping system more generally.

Peacekeeping Operations and Western Sahara

The lack of conceptual definitions, limits, and conditions for peacekeeping operations in the UN Charter has not prevented the universal organization *par excellence* to deploy military forces around the globe since almost 70 years now. To use the Security Council’s words, peacekeeping missions have become “the most effective tools available to the United Nations in the promotion and maintenance of international peace and security” (Security Council, resolution no. 2378/2017).²

Yet, the aims and the scope of these operations can be significantly different. As Ruiz Miguel and Blanco Souto show in this book, MINURSO appears a mission unique in its kind. The reason lies not only on the historical circumstances leading to its creation, which reflected the power and international dynamics at the end of the Cold war. Its mandate seems to have been also shaped around the international community’s needs for stability in the North African region, rather than being based on a strong agreement between Morocco and POLISARIO and on the implementation of relevant principles of international law, including self-determination. That is why this book pays specific attention to the role of States like China, France, Russia, and the United States, whose approaches seem to range from total disinterest to political bias toward a specific party of the conflict. The 2020 position adopted by former US President Donald Trump, who proclaimed that the United States recognizes the sovereignty of Morocco over WS,³ is the starkest example of such ambiguous attitudes.

In order to set the path for the contributions that follow in this book, this section introduces these aspects by looking at the UN framework for peacekeeping operations of which MINURSO is a part and assesses, in turn, how the genesis of MINURSO has clearly caused the enduring pitfalls which the circumstances around the 2020 ceasefire’s violations have also showed.

The Peacekeeping in the UN Framework

Peacekeepers, meant primarily as military forces to be involved in internal or international crises, have served in several operations since the creation of the UN (Koops, MacQueen, Tardy and Williams, 2017). If we exclude the unarmed military observers sent for different reasons to Greece in 1947, to Palestine in 1948, or to Kashmir in 1949, the first operation—UNEF I—to use armed units was deployed exceptionally by the UN General Assembly to the Sinai in 1956 in the context of the Suez crisis.

As they are usually described (Ronzitti 2017, 70; Focarelli 2019, 627), operations such as the UNEF I are mainly aimed to monitor cease-fires after a conflict and/or to prevent further violence, especially in civil war situations⁴ (Durch 1993b; Briscoe 2003, 94). These missions are mostly typical of the Cold War era for being involved in scenarios where the two main powers could not intervene directly. They have been deployed under certain conditions, which primarily are the consent of the State(s) where they concretely operate and an agreement between the UN and its Member States on the military units to be used case-by-case. While these operations' activities are inspired by the firm respect of neutrality in relation to the parties involved in the conflict, the use of force is limited to individual self-defense, that is, to protect the safety of the mission. Especially after the end of the Cold War, other peacekeeping operations have been deployed to grant internal security in unstable or failed States,⁵ as well as to support the transition toward democratic regimes where necessary, for instance, by performing state-building tasks.⁶ In some cases, the UN intervention has gone so far to assume the responsibility of the direct administration of the involved State or region, by exercising judicial, legislative, and executive powers, such as in the case of East Timor (UNTAET—Security Council, resolution no. 1246/1999) or Kosovo (UNMIK—Security Council, resolution no. 1244/1999). To put it briefly, the UN missions have increasingly seen their role changing from prevention and peacekeeping activities to peacebuilding and development, leading to what also the authors of this book refer to as “multidimensional” operations. These increasingly complex missions try to integrate the deployment of troops and police with civilian peacekeepers to address a wide range of tasks set by the Security Council, as demonstrated by the mandates of the 13 peacekeeping operations currently in place.⁷

The first successful attempt at engaging in multidimensional peacekeeping is often identified in the United Nations Transition Assistance Group (UNTAG—Security Council, resolution no. 435/1978) in Namibia, a territory to which, like WS, self-determination applied (Howard 2002, 99; 2007, 52). The mission's primary aim was essentially a political rather than a military one, taking into account that its activities included the monitoring of the local police and of the elections for a constitutional assembly after decades of civil war. As such, UNTAG differed from all previous UN peacekeeping operations and, as we will see, could set the ground for other successful missions in similar contexts when a number of factors are in place, including MINURSO.

In light of the increased complexity of the UN interventions on the ground and the different disciplinary background of the analyses contained in this book, it is also worth recalling briefly the long discussion on the legitimacy of peacekeeping operations from the UN Charter perspective. It has been suggested that peacekeeping missions can be based on various legal grounds and may involve, besides the Security Council, also the General Assembly. In this respect, different UN Charter provisions have been recalled: Chapter

VI (pacific settlement of disputes), especially when peacekeeping missions consisted of observing missions; Chapter VII in general or Article 42 more specifically (actions including the use of force to be taken by the Security Council where necessary); or a combination of both Chapters in the case of mixed operations. The formation of a particular norm of general international law that has integrated the UN Charter, and on which the establishment of these operations might be based, has also emerged as an explanation (Focarelli 2019, 629). Yet, our preference goes to the consent of the parties as the real foundation of peacekeeping operations, as the following analysis on MINURSO seems to largely confirm. Interestingly, for the alternatives to MINURSO that we will explore below, these possible interpretations do not exclude a greater role of the General Assembly (Henderson 2018, 171), especially where self-determination is at play.

The strict connection with Chapter VII is nonetheless visible also in the discussions animating the adoption of the last important resolutions on peacekeeping by the Security Council. For example, through resolution no. 2382 in 2017, the Council decided to include, on a case-by-case basis, policing as an integral part of the mandates and decision-making structures of UN peacekeeping operations. On that occasion, the representatives of Russia and China stressed that, in this area of activity, the UN and its Member States shall observe the Charter, especially the prohibition of the use of force, and being impartial (Balboni and Danisi 2020). Very importantly, with the same resolution, the Security Council emphasized that such operations should be given “clear, credible, achievable, appropriately resourced mandates,” whereas a lasting peace cannot “be achieved nor sustained by military and technical engagements alone, but through political solutions,” which should always guide the design and deployment of UN peacekeeping operations.⁸ This new guidance joins the efforts already made to improve the command and the conduct of peacekeepers, especially by ensuring their responsibility in the case of serious episodes of violence and/or abuse, also through a gender-sensitive approach.⁹

In light of this commitment toward peacekeeping missions that are more accountable, cost-effective, compliant with international law, especially human rights law and humanitarian law, the (lack of) achievements of MINURSO and its own mandate raise a number of issues to which we now turn.

The MINURSO Mandate

The mission in WS was planned during a particular international historical moment, which included the last phase of the Cold War and the outbreak of the first Gulf War, with the political attention and the financial resources of the international community focused on other areas and issues. It was also planned on the condition that the parties involved could reach a political durable solution. Yet, despite the efforts of the Secretary-General to facilitate direct talks between Morocco and POLISARIO since 1985, with Morocco

refusing to recognize POLISARIO's status as belligerent and legitimate representative of Sahrawi people, the two sides met only in 1988. In the same year, they accepted *in principle* an initial UN—vague—plan, backed by the Security Council,¹⁰ for a supervised cease-fire and referendum in WS (Jensen 2011). Oddly enough, no binding agreement between Morocco and POLISARIO, at least pointing out key international obligations, was signed at that stage. Even more worryingly, during the subsequent phase leading to the establishment of MINURSO, an increased gap between the planning of the mission and the political negotiations emerged, also by reasons of UN internal institutional arrangements (Durch 1993a, 158). In this respect, for example, it is peculiar that the UN mission initiated its deployment in 1991 before all relevant political compromises between the interested parties had been reached or that the Special Representative of the Secretary-General, to be head of MINURSO, was not involved in the mediation efforts at that time.

Considering the complexity of the operation and the real willingness of the parties involved to support the mission's tasks by adopting the preliminary essential steps, it is no surprise that the mandate for MINURSO required almost 3 years to be drafted and agreed. Along the "Settlement Plan" for a peaceful resolution of the conflict, the outcome of its negotiation is striking as the original mission timetable shows.¹¹ In particular, it included a transition period, which was to begin with the coming into effect of the cease-fire (called "D-Day") and would have ended at "the proclamation of the results of the referendum," with MINURSO assuming to remain in the area "some weeks" thereafter to discharge its responsibilities. Being given to the UN the "sole and exclusive" responsibility for the organization and conduct of a referendum (Security Council, April 19, 1991, doc. S/22464, para. 9), MINURSO's main task was to help the Special Representative of the Secretary-General in the related preparation. To this end, according to the plan, the Secretary-General was called to appoint as soon as possible an Identification Commission with the task of updating "the 1974 census" to prepare the list of voters and of arranging for appeals of people eventually excluded. Other activities, sometimes broadly framed, included the monitoring of the cease-fire, the reduction of Moroccan military presence in WS, the confinement of each party's troops to designated locations and of the release of political detainees, and the exchange of prisoners of war (Kozera and Popławski, *infra*), as well as granting security during the return of refugees to WS, which was to be implemented by the UNHCR. Interestingly, the timetable was based on the idea that the referendum had to be carried out about 36 weeks after the UN General Assembly's approval of the MINURSO's budget. What went wrong then?

Leaving comprehensive answers to this question to the range of perspectives adopted in this book, a clear pattern emerges in all authors' contributions: the two main parties—Morocco and POLISARIO—have a different view of the MINURSO's primary aims, being the maintenance of the *status quo* a key element of the Morocco's position while being the referendum for Sahrawi

people. These opposite views explain, on one hand, the range of actions adopted so far by both parties but might even explain, on the other hand, why the international debate on MINURSO has also been focused on expanding the mission's mandate, for instance, as far as human rights monitoring is concerned. Certainly, attempts to jeopardize MINURSO's capacity are not new. A major blow to the implementation of the plan was determined by Morocco's interference with the revision of the 1974 census and the resurgence of the hostility between the parties. This led the Secretary-General to implement as soon as possible the cease-fire-related aspects of the Settlement Plan, while delaying the referendum preparatory activities. Hence, although MINURSO was effectively deployed in WS, since the very beginning peacekeepers were placed in a condition of "wait and see." To be fair, as this book shows, even without considering the identification process, Morocco also obstructed MINURSO's initial monitoring tasks by limiting the freedom of movement of peacekeepers and by continuing the laying of minefields when the cease-fire was already in force (Security Council, February 19, 1992, doc. S/23662).

Many authors of this book share the view raised in the literature and beyond that other concurring factors explain the MINURSO's failure to carry out all the above tasks (Solà-Martín 2006; Khakee 2014). These include, at least, the limited resources given to the mission despite its complex mandate and the biased approach of some Security Council's members to the situation of WS (Koops, MacQueen, Tardy and Williams 2017). One of the threads of this book identified above is exactly the role of main powers in influencing the operability of MINURSO via the Security Council. The "special" relationships of the United States and, most importantly, of France with Morocco, boosted by the need to promote their own interests in the northern Africa and the Middle East, have been widely reported (Solà-Martín 2006, 373). These countries could not but be influential in determining the success of the mission. As Huddleston and Zarate emphasize in relation to the US in this book, this country has been characterized by a "push-pull dynamic" between proactive diplomacy and conservative positions in favor of Morocco, lately culminated in the Trump's proclamation already recalled above. In turn, Fabian interestingly frames France's position in the general attempt to cope with its great power ambitions by influencing political processes through international organizations. In both cases, the analyses of these countries' approach to UN resolutions and diplomatic affairs in the overall region show well the limited influence of international law-based considerations. For example, in their role of members of the Security Council, they could have better accommodated requests to influence the list of voters to the referendum or could have reacted against the moving of thousands of supposed Sahrawi people in the occupied territories in violation of the agreed Settlement Plan (Security Council, December 19, 1991, doc. S/23299, para. 11).

The role of other—usually non-interventionist countries, like China and Russia—cannot be overlooked. Shedding light on its involvement in the

MINURSO operation on the ground, Nikonov in this book emphasizes the fact that the initial disinterest in the mission by the Soviet Union is now backed by the Russian inertia in the hope of a political settlement between the parties. Looking at China, Horvath equally stresses the lack of a clear position on the WS conflict, but raises the attention on the Chinese attitude to maintain a role in MINURSO and in UN peacekeeping missions to emerge as a “responsible global power.” Yet, if other interests in the region will emerge in light of its general African policy, a more active role of China could be expected in the near future. This may not however be a good development because, as Horvath will show, China seems inspired by a pragmatic approach, which has not prevented it to trade with Morocco in the exploitation on WS’s resources with serious implications under international law.

In short, although MINURSO could have the potential to be a successful peacekeeping operation at the time of its establishment, it seems to have been “built on sand” (Durch 1993a, 151) and, for the reasons explored in this book, its evolution was not able to fill such initial pitfalls with negative implications in terms of local support. In fact, a peacekeeping force works when local support is undisputed, when it is perceived as impartial and is backed by a workable political settlement of the dispute and by great powers.¹² The MINURSO saga shows, instead, the continuous struggle within the Security Council itself between the need to ensure “prompt and effective” action by the UN and the obligation to perform its duties “in accordance with the Purposes and Principles of the United Nations” (Article 24 of the UN Charter), which also include the development of friendly relations among nations based on self-determination (Article 1 of the UN Charter). To be fair, the current composition is not the only problem, given that each Member State has and pursues its own interests. The situation in WS and with MINURSO also depends on the role that the UN Charter establishes for the Security Council itself. In fact, as a political body that “was envisaged [...] to enforce the peace, not as a body to enforce law” (Henderson 2018, 87), the Security Council is not tasked to ensure the respect of international law as such. On the contrary, it enjoys a wide discretion in carrying out its primary responsibility—that is, the maintenance of international peace and security—even in terms of interests to be pursued in a given situation or through its missions, like in the case of MINURSO. Yet, even from this perspective, the Council has hardly met such a responsibility with its veiled inaction toward WS through the dogmatic periodic renewal of MINURSO.

In summary, serious doubts exist that the essential requirements on which the UN peacekeeping missions usually rely on are still met in the WS context. As contributions in this book strongly point out, a change in the UN approach toward MINURSO appears increasingly appropriate, at least in terms of operational resources. In light of the proposals that will follow, the next section investigates some key alternatives and opens the path to further investigation in this field.

Looking Ahead

Despite MINURSO being established 30 years ago, the core measures included in its mandate are far from being implemented. The UN mission in WS has shown some success in overseeing the cease-fire, although violence is on the rise again.¹³ Yet, when we come to the main task of this peacekeeping operation, data suggest that there is no certainty on when referendum on WS's future will ever/effectively take place.

Today, as 30 years ago, Morocco and POLISARIO are far from reaching a compromise on objective criteria for identifying legitimate voters in a referendum or, even, accepting the provisional list of voters issued in 1999 by the Identification Commission as a basis to relaunch the identification process. If already in 1999 the then UN Secretary-General Kofi Annan was pessimistic about the full implementation of the MINURSO's mandate while emphasizing the lack of resources allocated to this end (Security Council, December 6, 1999, doc. S/1999/1219), one of the latest available reports of the current Secretary-General Antonio Guterres confirms that impression (Security Council, October 2, 2019, doc. S/2019/787, e.g. para. 2). Besides denunciations of human rights abuses suffered by Saharawi people or their supporters, the 2019 report shows the development in the field by mentioning also the content of King Mohammed VI of Morocco's speech celebrating the 20th anniversary of his ascension to the throne. On that occasion, the Moroccan King stressed that a settlement could only be achieved "through full Moroccan sovereignty and within the framework of the autonomy initiative" (ibid, para. 13). The report makes clear that "Moroccan investments" continue in WS. It also mentions that, in Morocco's view, "such investments directly benefit the people of [WS] and are implemented in consultation with them" (ibid, para. 16), whereas POLISARIO claims that they are a serious breach of basic principles of international law as emerged in the literature (Balboni and Laschi 2017; Danisi 2021) and in the Court of Justice of the European Union (CJEU)'s jurisprudence.¹⁴ Yet, from an international law perspective, the report never refers to WS as the "occupied territory" and, at UN level, no reactions of any kind have followed to sanction this economic exploitation. While acknowledging "a notable decline in compliance" with part of the military agreement by both parties (Security Council, September 23, 2020, doc. S/2020/938, para. 2), the 2020 Report confirms these trends without containing any indications on progress made on the MINURSO's "R" task and signals, owing also to Covid-19 measures adopted by Morocco, even the reduction of MINURSO's cease-fire observation activities ("but still of adequate level," ibid, para. 4, 19 ff.). What seems even more striking is the lack of qualification as unlawful, at least in terms of duty of nonrecognition of an unlawful occupation, of the initiative of some African States giving rise to "Consulates General" in occupied WS.

These critical developments raise an avoided question both by the Secretary General and the Security Council: what real future for MINURSO?

Unless—as it seems today—MINURSO serves only to guarantee that the situation remains unchanged for a lack of agreement within main powers on what can be really done to implement self-determination of the Sahrawi people while Morocco consolidates its unlawful occupation with the expressed recognition of other States, this state of affairs requires to rethink the involvement of the UN in WS. In light of the contributions that follow in this book, a two-fold proposal can be advanced here.

Renewals: A Change in the Mandate or Operational Improvement?

In 2018 MINURSO was renewed for periods shorter than a year to emphasize the need for a political solution for WS (Security Council, resolution no. 2440/2018). Despite such a move, no significant progress has followed from talks between the parties in Geneva in 2019. The UN pressure to find a political solution may be also justified by the perceived lack of local support, owing in turn to perceived lack of neutrality. In fact, even when it may be said that MINURSO has had some success, for example, in relation to gender mainstreaming following Security Council resolution 1325 as Bellosso will show in this book, the lack of meaningful relationship with civil society and people to be protected has somehow disempowered the mission on the ground. Episodes like the damage to the Sahrawi archaeological heritage by MINURSO staff, which Quesada and Brooks will explore in this book as a key moment of the operation for failing to comply with the obligation to preserve cultural heritage and for the lack of involvement of UNESCO, set additional gaps in this difficult relationship.

One alternative for changing this situation, which is supported by many authors of this book, is a more proactive approach by the UN by amending the current MINURSO's mandate. There is enough evidence, as we have shown so far, suggesting that the agreement between the parties on which MINURSO's mandate was built hardly exists today, especially as far as the organization of the referendum and the acceptance of its results are concerned. In contrast to the approach adopted in the Namibia case and the related successful peacekeeping operation, Morocco has never been referred to, at the UN, as an occupying power of a former colonial territory subject to self-determination. No UN reactions followed continuous violations of the Settlement Plan or of self-determination by Morocco.¹⁵

Among the options for a substantial change in MINURSO's mandate, one that has consistently gained attention relates to the addition of a specific competence aimed to allow the monitoring of the respect of human rights in WS (Balboni 2011; Khakee 2014).¹⁶ In fact, MINURSO is inspired by a rigid neutrality. While demanding the monitoring of violations of the cease-fire and military aspects of the plan, the MINURSO mandate does not provide room for addressing allegations of human rights violations by the Moroccan police and paramilitary agents (Security Council, October 2, 2019, doc. S/2019/787, para. 10). As Shelley will show in this book, the relevant attempts

made at UN in this respect have always failed. So, POLISARIO's call for an independent monitoring of human rights in WS has remained equally unaddressed, although the Secretary-General himself dedicates increasing attention to human rights situation in his latest reports on WS.

Given the current *impasse*, these proposals cannot be seen as distracting moves from MINURSO's core mandate being, instead, new ways to enhance its overall potential. For example, a human rights monitoring competence would strengthen the MINURSO mandate in terms of neutrality, in the sense that the well-being of Sahrawi people would again be at the center of the debate and fully in line with the implementation of their self-determination. At the same time, such a mandate change would be consistent with the Security Council's approach for credible and achievable peacekeeping operations as emerged in the 2017 resolution recalled above, which in turn might also call for strengthening the policing dimension of MINURSO with State-building tasks in WS (see Besenyő and Pintér *infra*).

Yet, there is little interest in the Security Council and no political agreement between all the parties to take such a meaningful path for the time being. Whether or not this change will ever be made to the mission's mandate, in the event of further renewals it is of outmost importance to work first on the operational level of MINURSO. As Kozera and Poplawski, Naili, Atanasiu and Besenyő will investigate here, MINURSO's capacity to fulfill its tasks has been seriously undermined by the lack of human, military, and financial resources since the very beginning. Despite the original plan and the scale of the mission with multiple tasks, including a referendum, today MINURSO counts only 195 units of military personnel "against an authorized strength of 245" (including contingent troops, experts on mission and staff officers) plus civilian staff.¹⁷ Given also the extent of the territory under supervision, no improvements of any kind would occur without taking seriously this aspect into central consideration. Perhaps, in comparison to other solutions related to a mandate change such as adding a human rights monitoring task, this operational improvement might find an easier path at the UN, especially if the General Assembly will support it to the extent that its allowed powers (e.g., under Article 14 of the UN Charter). As a result, while MINURSO would be maintained as POLISARIO itself requires to avoid any negative implications for the planned referendum, the UN would show a genuine commitment to work for a durable solution for WS.

A New Mission? The Potential Role of Regional Organizations

A more radical solution might be nonetheless envisaged, especially if a change in the mission's mandate or operational aspects would prove ineffective to organize the expected referendum for the self-determination of the Sahrawi people.

In this case, a greater involvement of regional organizations might perhaps be a guarantee of a more neutral approach to, and of the ultimate aim of, a

military–civilian operation in WS. As the Security Council always recognizes, “cooperation with regional and sub-regional organizations in matters relating to the maintenance of peace and security, and consistent with Chapter VIII of the Charter of the United Nations, can improve collective security” (e.g., Security Council, resolution no. 2382/2017). Recent experiences of operations in cooperation with the African Union (AU, that is the former Organisation of African Unity – OAU) and, perhaps, with the European Union (EU) may serve as important points of reference for designing a new “multidimensional” peacekeeping mission in WS.

As far as the AU is concerned, the original plan of the UN Secretary-General already called for its strong involvement in the preparation and conduct of the referendum (Security Council, April 19, 1991, doc. S/22464). The AU has been indeed sized of the WS case since the very beginning and, already in 1983, it called for a referendum to be sponsored jointly to the UN (Durch 1993a, 156). On the one hand, the UN is strengthening the cooperation with the African Union Commission for peace and security in the African continent. A Joint United Nations–African Union Framework for Enhanced Partnership in Peace and Security, which recognizes their interdependence in promoting peace resolutions and preventing conflicts, was signed in 2017. In the last resolutions on peacekeeping, the UN seems increasingly available to fund and strengthen the AU’s capacity to undertake peace support operations in the continent, in accordance with Chapter VIII of the UN Charter. By also drawing from the experience of the current African Union-UN Hybrid Operation in Darfur, started in 2007, this enhanced partnership could be tested with a joint mission in WS. On the other hand, both parties directly concerned are now members of the AU, as well as other African States already involved in MINURSO (see Vogel *infra*). After having left the OAU in opposition to the recognition of the SADR as a full member of the organization, Morocco re-accessed the AU in 2017.¹⁸ As a matter of principle, like any other peacekeeping operation, such a joint mission would need the consent of both parties involved in the conflict. However, it should be noted that the accession to AU is not in itself a guarantee that Morocco will be available to consent to an AU–UN operation in WS, given its diplomatic efforts to exclude the AU from a greater role in the solution of the conflict.¹⁹

As a diplomatic move to get Moroccan support for a new mission, it might be worth exploring also the involvement of the EU in such a joint operation. The EU has a long-standing relationship with Morocco, which has even led to revise trade agreements covering explicitly WS and which in 2021 the General Court of the EU has annulled for being concluded without the consent of WS’s people as the law of the treaties, especially on the effects of treaties on third parties, would have instead required.²⁰ At the same time, the EU and the UN are strengthening their cooperation in the area of peace and security. This is evident in policy documents, such as the 2016 EU Global Strategy, as well as in joint EU–UN commitments, like the 2003 and 2007 Joint Statements on cooperation in crisis management. Despite this partnership is far from being

institutionalized and is shaped on a case-by-case basis (Hamonik 2018), the EU is increasingly committed to act as a responsive actor in global crises and ready to reinforce the strategic partnership on peace operations in the period 2019–2021.²¹ Certainly this is not an easy option to be realized in light of EU’s interests and own institutional limits in this area, but something to seriously take into account.

Perhaps, such a proposed alternative development can be stimulated by a more active role of the General Assembly via its Fourth Committee, which for the time being seems to support unconditionally the Security Council’s actions.²² However, apart from the potential lack of political agreement within the UN, the strongest opposition for a new mission in the field may probably arrive from the parties themselves. On one hand, Morocco usually reiterates the importance of maintaining MINURSO and of reaching a solution “under the exclusive aegis of the United Nations” (Security Council, October 2, 2019, doc. S/2019/787, paras. 16 and 20). On the other hand, for POLISARIO and Sahrawi people, MINURSO is the greatest guarantee that a referendum will be carried out as a matter of principle. A change of the UN mission or a new mission involving regional powers will be always opposed if these developments do not ensure sound and clear that a referendum on the independence of WS will be part of the long-term durable solution to the conflict. As the same General Assembly’s Committee usually states, despite “all” available options for self-determination are valid in principle, no one can be implemented without the freely expressed will of people concerned. Although it cannot be excluded that such a mission would even work along MINURSO, to win the resistance of both parties involved in the conflict, perhaps even the UN itself is not really interested in a new mission on the ground. As the Secretary-General stated himself in his 2020 report, “the Mission is a vital early warning mechanism” and “provides visible and enduring testimony to the commitment of the United Nations and the international community towards” WS (Security Council, September 23, 2020, doc. S/2020/938, para. 88). As such, despite its failures and potential lack of future progress, putting MINURSO to an end would be seen more like a heresy than a concrete improvement for a “just” and “lasting” solution to conflict.

Concluding Remarks: Any Key Lesson from the MINURSO Experience?

One of the first scholars analyzing the UN peacekeeping operation in WS found that “MINURSO is an example of what can go wrong with a peacekeeping operation when the basic prerequisites for success are lacking” (Durch 1993a, 169). While this book confirms that analysis after 30 years, it finds that the lesson has not been learned yet. Despite the prerequisites for MINURSO’s success have not materialized so far, the UN does not seem to facilitate a change in the *status quo* by renewing indefinitely its mandate. Whether or not there is a political preference for this *status quo*, as Lagadaf and Zoubir will

argue, a return to the original peace plan is needed. Referendum is indeed key in this process.

As the UN Secretary-General reminded the Security Council in the early phases of MINURSO, the parties recognized that the UN is the “sole and exclusive” entity responsible for the organization and conduct of the referendum (Security Council, April 19, 1991, doc. S/22464, para. 9). While this “exclusiveness” does not prevent a cooperation with other organizations, like the AU, such a UN responsibility shall be exercised irrespective of the parties’ positions to the conflict. The interests of the UN Security Council’s permanent members in, among others, promoting and maintaining the stability of the region need to be reconciled with this responsibility and obligations deriving from the principle of self-determination as applied to WS by the General Assembly. It is true that MINURSO was based on an agreement—in principle—between the parties that a solution to the conflict could be reached. Yet, no party is prepared to lose or, more simply, to reach a durable compromise in the near future. Hence, a strong alternative move at UN level—including within the General Assembly—seems increasingly required. In other words, the UN cannot risk its reputation by hiding the reasons for its failure, while MINURSO cannot simply serve as a stabilization force with no additional attempts to organize a referendum through which Sahrawi people may enjoy self-determination, if such a stabilization is exploited by Morocco to strengthen its occupation like the recent—not hidden—plans to build new sea and land infrastructures in occupied WS clearly show.

Overall, a comprehensive strategy for MINURSO cannot but take into account the three main threads that this book explores: the political and historical factors influencing MINURSO’s efficiency, the role of the UN and main powers in facilitating the mission’s mandate, and the ambivalence of MINURSO on human rights and strict observance of international law.

In light of the increasing pragmatic approach of the UN and Security Council to peacekeeping, we suggest that such a strong move can take, as a minimum, two different shapes. It can lead either to a renewed mission, because of a modified and achievable mandate with a significant increase of operational resources, or to an entire new operation in strict cooperation with regional organizations in matters relating to the maintenance of peace and security, in line with Chapter VIII of the UN Charter. In light of operations already in place, the cooperation with the AU, and even the EU if feasible, through the establishment of a new joint mission may perhaps ensure greater local support and can contribute to erase the perception of partiality around MINURSO’s activities. Yet, political agreement and, especially, the support of POLISARIO itself for alternative solutions cannot be taken as granted.

In all cases, the UN needs to learn from MINURSO and ensure, at least, that any future operation is based on a binding, detailed, agreement between the parties of the conflict and that the implementation of the

self-determination of WS through a referendum cannot depend solely on the success of a peacekeeping mission. As this book overall suggests, a political agreement between Morocco and POLISARIO can be pressured and facilitated only by a strong collective reaction of the international community. This international pressure should be based on the clear recognition of who is the occupying power in WS and that any breach of self-determination leads to the adoption of collective appropriate measures. MINURSO, or any alternative mission, can certainly be improved along the suggestions that will follow here, but it is not, and could not be, the end of the WS' story or of the referendum itself.

Notes

- 1 The MINURSO was set up by the Security Council's resolution no. 690/1991. All information on the mission is available at <http://minurso.unmissions.org>
- 2 The same resolution recalls that all decisions of UN bodies involved in peacekeeping may now find guidance in "the Secretary-General's report entitled "The Future of United Nations Peace Operations: Implementation of the Recommendations of the High Level Independent Panel on Peace Operations" (A/70/357-S/2015/682) and in the recommendations of the "Report of the High-level Independent Panel on Peace Operations" (A/70/95-S/2015/446)".
- 3 White House Proclamation 10126, 4 December 2020.
- 4 For example, these include the case of the UN mission in Belgian Congo in 1960 (Security Council resolution no. 143/1960), which has been described also as the "UN Vietnam."
- 5 For example, UN Operation in Somalia I and II (UNOSOM I and II) started, respectively, in 1992 and 1993.
- 6 For instance, the stabilization and protection of civilians, the supporting national political dialogue and reconciliation, the rebuilding of the security sector, and the promotion and protection of human rights. See, in this respect, the mandate of the UN Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), which was established by the Security Council resolution no. 2100/2013.
- 7 To consult all operations in place as for 2020, see https://peacekeeping.un.org/sites/default/files/unpeacekeeping-operationlist_3_1_0.pdf
- 8 The resolution and the proceedings of the discussion are available at www.un.org/press/en/2017/sc13056.doc.htm
- 9 See, for example, Security Council's resolution nos. 2272/2016 and 2436/2018, as well as General Assembly's resolution no. 72/312.
- 10 Security Council resolution no. 621/1988. A chronology of the relevant events is available at <https://minurso.unmissions.org/chronology-events>
- 11 The timetable cannot be reproduced here, but see Security Council, 19 April 1991, doc. S/22464, para. 52 (available at https://minurso.unmissions.org/sites/default/files/unsg_report_19_april_1991.pdf) and Security Council's resolution no. 690/1991.
- 12 See the four essential conditions set out in Security Council, 19 April 1991, doc. S/22464, para. 55, where—along the support of the Security Council and neighboring countries, the cooperation of Morocco and POLISARIO and the availability of appropriate financial resources—there is no mention of impartiality.

- 13 See www.nytimes.com/2020/11/14/world/middleeast/western-sahara-morocco-polisario.html
- 14 CJEU (Grand Chamber), Judgment of 21 December 2016, *Council v Front Polisario*, C-104/16 P; General Court, Judgments of 29 September 2021, *Front Polisario v Council*, Joined Cases T-344/19 and T-356/19 and Case T-279/19. On the significance of this case law and the EU's approach to Western Sahara more broadly, see Balboni and Laschi (2017) and Danisi (2021).
- 15 All Secretaries-General's reports on WS are available at <https://minurso.unmissions.org/secretary-general-reports>
- 16 See the outcome of Universal Periodic Review on Morocco, adopted by the Human Rights Council on 19 September 2012, which contained a recommendation on the establishment of a permanent human rights component in MINURSO (available, along all relevant UN-related documents, also in the HRSaharawi project's website: www.hrsaharawi.org)
- 17 Data referred to September 2020, as reported by in Security Council, 23 September 2020, doc. S/2020/938, para. 16.
- 18 However, while Morocco accepted the conditions of admission, such as "the recognition of the intangibility of national borders inherited from colonialism", there are doubts that the situation will evolve in line with relevant international law rules. See, for instance, A. Abderrahmane, *Morocco's Admission to the AU: A Pyrrhus Victory for Rabat*, in *Open Democracy*, 6 February 2017.
- 19 See, for instance, Security Council, 2 October 2019, doc. S/2019/787.
- 20 For instance, General Court, Judgment of 29 September 2021, *Front Polisario v Council*, Case T-279/19, para. 391.
- 21 See the UN–EU Joint Statement of 25 September 2018, at <https://peacekeeping.un.org/en/reinforcing-un-eu-strategic-partnership-peace-operations-and-crisis-management-priorities-2019-2021>
- 22 See the results of the last session of the Special Political and Decolonization Committee (Fourth Committee) and the draft resolution on the Question of Western Sahara, 28 October 2020, A/C.4/75/L.3, p. 1.

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