

## CONCLUSIONS

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Ladies and Gentlemen,

Many thanks again to the organizers of and the contributors to this on-line international research seminar on the topic: “Ensuring the success of experiences of territorial autonomy: Devolution of judicial powers”. Allow me to highlight some important points made by the speakers in their description of cases of devolution of judicial powers to autonomous regions in the world and the comparison of such cases with the provisions of the Moroccan Initiative for the autonomy of the Sahara Region.

First, one common feature in the cases under discussion is the determining role of history and particularly the colonial heritage. As pointed out by Dr Joan-Josep Vallbé, devolution of judicial powers is a rare phenomenon, including in cases of advanced autonomy or even federalism. This explains why there is so little research on this transfer of power and why this gives so much importance to his composite indicator comparing judicial decentralization in Western Europe. This shows indeed that there can be large devolution of executive and legislative powers to autonomous regions coexisting with centralized judicial systems. This indicator, based on two frameworks, self-rule, and shared rule, includes objective and measurable criteria such as institutional autonomy, recruitment, design, economic autonomy, and last-instance capacity for self-rule, and representation in High Courts, executive control, and fiscal control for shared rule. According to most of these criteria, the Moroccan Initiative can be considered as one of the most advanced.

Second, as explained by Dr Laura Enonchong, the colonial heritage of Cameroon brought divisions based on languages (French and English) but mostly on the legal system (civil law v. Common Law). Despite recent attempts by the central government to recognize the specificity of the English-speaking North-Western and South-Western regions, no actual devolution of judicial powers took place. By comparison with the Moroccan Initiative, such a process did not include consultations or negotiations, and the judges of the autonomous regions do not enjoy a specific recruitment and training. In the case of Morocco, while the autonomy statute includes recognition of the local culture and language of the Sahara Region, there is no difference of legal systems, both being based on civil law.

Third, as explained by Professor Yvonne Tew, in the case of the autonomous regions of Malaysia, the judicial system became semi-autonomous with its own design, court system, judicial appointments, and legal profession, but it remained concurrent with the federal judicial power within its own territorial limits. As underlined by the academic, for both Malaysia and Morocco, legal and constitutional provisions are crucial, but their effectiveness depends on actual implementation and practice. In both cases, the courts of the autonomous regions operate under the supremacy of the country’s High Court. Finally, there needs to be safeguards against any intervention of the central government into the area of competency of the regional courts.

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Fourth, even in the case of a traditional federal state such as Canada, as described by Dr Jean-Louis Roy, the experience of devolution of judicial powers can be spread over time and require constant adaptation to new contexts. Paradoxically, in the case of Canada, even if the colonial power, the British Crown, retains some constitutional power, the devolution of judicial powers is now complete. In the case of Morocco, the sharing of executive, legislative, and judicial powers is taking place among Moroccan citizens and not between a former colony and its former colonial power. It is worth recalling that political factors can have constitutional effects, as was demonstrated in the case of Quebec, whose special autonomy is not only recognized in the constitutional framework, but also finds its expression in the composition of the Supreme Court. Like in the case of Cameroon, the aim is to find a proper balance between a unifying legal doctrine and the differences in systems based on civil law or Common Law in addition to the linguistic differences.

In conclusion, as noted by all the speakers, the judicial autonomy offered to the Sahara Region by the Moroccan Initiative is one the most advanced systems to allow the autonomous populations to *“run their affairs democratically, through legislative, executive and judicial bodies enjoying exclusive powers”* in the terms of the Initiative.