

AUTONOMY NEGOTIATIONS FOR NEW CALEDONIA: ANY LESSONS TO BE DRAWN FOR THE AUTONOMY OF THE SAHARA REGION?

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Following the implementation of six different statuses⁷³ imposed by France to its overseas territory of New Caledonia in the Pacific, the negotiating process launched between different parties with a view to granting self-government to this territory led to the signing of the Matignon Agreement on 26 June 1988 and then to the Oudinot Agreement⁷⁴ on 20 August 1988, followed by the Noumea Accord⁷⁵ on 16 December 1998.

This process is the result of the political will of the parties to end a conflict that had resulted in acts of violence that went close to a civil war. The most significant event was the hostage-taking, in Ouvea in April-May 1988, of French gendarmes by pro-independence activists and the intervention of French soldiers, that led to the death of 25 people (six soldiers and 19 activists⁷⁶). The initiative was taken by the French Government led by socialist Michel Rocard who, as soon as he was appointed by President François Mitterrand, who had just been re-elected, invited to Paris the two main representatives of the two Caledonian communities in conflict for a mediation.

It may today be interesting to compare this process with the one put forward by Morocco to end the conflict over what the United Nations call "Western Sahara" and that involves granting autonomy to what Morocco sees as the Sahara region in the framework of its national sovereignty and territorial integrity⁷⁷.

In both cases, it is important to look into the modalities of the negotiation – past negotiations in the case of New Caledonia, on-going and future negotiations in the case of the Sahara – and particularly into the representativeness of participants in the negotiation. Representativeness entails to a great extent ownership of the result of the negotiation by the parties and, beyond, acceptance of the agreement by the populations concerned, which is key to its implementation and sustainability.

I – Autonomy negotiations for New Caledonia

The process that was launched in 1988 was divided into two stages: one that led to the Matignon-Oudinot Agreements and another that led to the Noumea Accord ten years later, pursuant to the first arrangement. The adoption of these agreements also paved the way for referendums held to endorse constitutional and legislative amendments provided for in the agreements. Beyond these two founding agreements, the implementation and operationalization of the institutions they provided for led to what could be characterized as a permanent negotiation between the main parties concerned. To this day, the final status of the territory that should be determined by referendum is still the subject of intense discussions between the parties.

⁷³ G. Agniel, "L'expérience statutaire de la Nouvelle-Calédonie, ou de l'étude du yoyo au service de l'évolution institutionnelle d'un territoire d'outre-mer" in J. Y. Faberon (dir.), *L'Avenir institutionnel de la Nouvelle-Calédonie*, N.E.D. No. 5053-54, 1997, p. 41s.

⁷⁴ The full text of the Matignon-Oudinot Agreements is available at: <http://www.pacii.org/oldpits/french/traites/1988/3.html>

⁷⁵ The full text of the Noumea Accord is available at: http://www.province-nord.nc/documents/lois/Accord_Noumea.pdf

⁷⁶ A. Chrisnacht, "Les Accords de Matignon vingt ans après – L'Accord de Nouméa dix ans plus tard", *Négociations*, 2008/2, p. 90.

⁷⁷ Letter dated 11 April 2007 from the Permanent Representative of Morocco to the United Nations addressed to the President of the Security Council. Document S/2007/206.

The main issue looked at in this article is that of the representativeness and legitimacy of participants in negotiations as well as the means to ensure the widest possible representation of the populations concerned by the approval of the institutional agreements or arrangements and by the autonomous institutions.

a) The Matignon-Oudinot Agreements (1988):

Three parties were involved in the negotiations that led to the 1988 agreement: the French State, as the legal holder of sovereignty over the territory (even if its colonial acquisition⁷⁸ was challenged at least by the pro-independence movement), representatives of the local populations (mostly of European origin) in favour of keeping the territory under French sovereignty (the "loyalists") and the pro-independence movement (mostly of indigenous Kanak origin⁷⁹).

- **the French State:** while the head of the delegation was indeed Prime Minister Michel Rocard, most of the mediation was actually led by Prefect Christian Blanc, a high official known for his socialist past, former chief of staff of Michel Rocard (1978-1980) and then Secretary General of New Caledonia's Office of the High Commissioner (1984-1985). He was sent there in May 1988 as Chief of the "Mission of Dialogue" mandated by the Government to find an end to the conflict. In view of the traditional importance of religions in the territories of the Pacific, this mission was meant to be ecumenical. It was indeed made up of Catholic personalities (Bishop Paul Guibertau), Protestant personalities (Vicar Jacques Stewart) and Freemason personalities (Roger Leray) as well as high officials who knew the region well, i.e. Pierre Steinmetz and Jean-Claude Périer.⁸⁰ To begin with, this mission of dialogue managed to convince the parties that the only solution was to negotiate. It then led the leaders of each camp to meet in Paris on 15 June 1988, in the presence of the Primer Minister, for the first time in five years.

- **the "loyalists":** the delegation of those in favour of maintaining New Caledonia within the French Republic was led by MP Jacques Lafleur, President of the Rassemblement pour la Calédonie dans la République (RPCR⁸¹), affiliated to Jacques Chirac's party, the Rassemblement pour la République (RPR). It also included Maurice Nenou (an anti-independence Kanak), Senator Dick Ukeiwé (also Melanesian and loyalist), Jean Léques (Caledonian-born⁸² and Mayor of Noumea), Henri Wetta (a Melanesian son of a pro-autonomy leader and brother-in-law of Jean-Marie Tjibaou, Head of the pro-independence movement), Pierre Frogier (elected representative of Tahitian origin) and Pierre Brétégner (a territorial public official). Most of these representatives enjoyed the legitimacy conferred by their election to a national or territorial institution. However, their delegation did not include all components of politically highly divided or even atomized right-wing parties (particularly centrist supporters of former President Giscard d'Estaing⁸³).

- **the pro-independence movement:** the delegation of the pro-independence movement was led by Jean-Marie Tjibaou, a former Kanak catholic priest, founder in 1984 of the

⁷⁸ Under pressure from catholic and protestant missionaries, New Caledonia was proclaimed a French colony in Balade on 24 September 1853 by Rear Admiral Auguste Febvrier-Despointes.

⁷⁹ The Kanak, a Neo-Caledonian indigenous population, belong to the Melanesian ethnic group. The word "Kanak" is now a strong identity symbol and, in an effort to reject France's colonial influence, is considered invariable in French though this rule was never officially endorsed by the Agency for the Development of Kanak Culture (ADCK).

⁸⁰ A. Leca and B. Gille, *Histoire des institutions de l'Océanie française: Polynésie, Nouvelle-Calédonie, Wallis and Futuna*, L'Harmattan, 2009, p. 186.

⁸¹ In 1978 the RPCR was the successor to the Rassemblement pour la Calédonie created in 1977 following the electoral victory of the Union calédonienne (UC), a party until then pro-autonomy that had spoken out in favour of independence.

⁸² The descendants of French colons born in New Caledonia are known by the name of "Caldoches" that has a pejorative connotation.

⁸³ "Jacques Chirac et la Calédonie", *Les Nouvelles Calédoniennes*, 7 May 2002.

Front de libération nationale kanak socialiste (FLNKS⁸⁴), assisted by Yeiwéné Yeiwéné (former leader of the former pro-autonomy party Union calédonienne – UC -), Caroline Machoro (sister of former UC Secretary General Élie Machoro, killed by law enforcement authorities in 1985), Edmond Nékiriaï (co-founder in 1974 of the extreme left party Union progressiste multiraciale – UPM) and Nidoish Naisseline (co-founder in 1976 of the Parti de libération kanak – Palika – and then in 1981 of Libération kanak socialiste – LKS – that supported an "identity" approach⁸⁵).

One may thus conclude that almost all political groups, ethnic origins, religious affiliations, trade unions, social or cultural groups, were represented in the negotiation that led to the Matignon Agreements. The only question may be whether non-European and non-Kanak populations that are also part of New Caledonia's population (Polynesians, Ni-Vanuatu, Indonesians, Vietnamese, Kabyles, etc.⁸⁶) felt they were adequately represented by this delegation. In any case, the result of the negotiation, the Matignon-Oudinot Agreements, was the subject of a consultation not only of all of New Caledonia's population, but also of mainland France. In essence, the agreements provided for the following: restoring direct administrative authority of the French State over the territory for a one year period; a national referendum in the following autumn on the new institutions to be established; the release of Kanak prisoners; the creation of three provinces: South, North and Islands; the organisation of a ballot on self-determination in New Caledonia within the next 10 years (1998)⁸⁷.

During the referendum of November 6th 1988, nearly 80% of voters from the mainland approved the new status, but less than 37% of registered voters turned out at the polls. In New Caledonia, the "yes" won with nearly 57% and abstentions got over 37% of votes⁸⁸. In the South (mostly European population), over 60% of voters voted "no"; in the West (mostly Kanak population), 41,85%; in the East 87% of voters voted "yes" and on the islands nearly 85%⁸⁹. As can be seen, whereas the referendum legitimized the result of the negotiation, it nowhere near bridged the divide between the two main Caledonian communities.

b) The Nouméa Accord (1998):

Shortly after the establishment of the institutions provided for in the 1988 agreement, two signatories, Jean-Marie Tjibaou and Yeiwéné Yeiwéné, his right arm in the FLNKS, were murdered on 4 May 1989 during the commemoration of the Ouvéa tragedy by a Kanak who accused them of betraying the pro-independence cause. This major act of violence in the New Caledonia conflict created a trauma that both united the Kanak population and brought loyalist leader Jacques Laffleur to cooperate in the implementation of the agreements. Indeed, though the European population refused the autonomy status, the leader of the RPCR did not lose his legitimacy as a partner of the FLNKS. When in 1991, as the deadline provided for in the Matignon-Oudinot Agreement was

⁸⁴ The FLNKS was a successor to the Front indépendantiste (FI) created in 1979, and integrated the Union calédonienne (UC), the Parti de libération kanak (PLK) of Paul Néaoutyine and Élie Poigoune, the Front uni de libération kanak (FULK) of Yann Célené Uregei, the Union progressiste mélanésienne (UPM) of André Gopoea, the Groupement des femmes kanak et exploitées en lutte (GFKEL), the Union syndicale des travailleurs kanaks et des exploités (USTKE) of Louis Kotra Uregei and the Parti socialiste calédonien (renamed Parti socialiste de Kanaky) of Jacques Violette.

⁸⁵ "Rétrospectives", *Journal kanak* (<http://journal.kanak.over-blog.com/pages/Retrospectives-2314052.html> - Accessed 7 March 2013).

⁸⁶ In derogation to the rules that apply in France, in New Caledonia censuses allow make it possible to identify the ethnic origin of populations. See: "Populations en 2009", National Institute of Statistics and Economic Studies (INSEE): <http://www.insee.nc/population/population.html>.

⁸⁷ "Les Accords de Matignon du 26 juin 1988", Laval University of Quebec (http://www.tfq.ulaval.ca/axl/pacifique/ncal-Matignon_1988.htm - Accessed 15 March 2013).

⁸⁸ Source: Constitutional Council, MJP Online library, University of Perpignan <http://2www.mjp.univ-perp.fr/France/ref1988.htm> - Accessed 15 March 2013).

⁸⁹ A. du Caillou, "Accords de Matignon et accords de Nouméa" (<http://www.membres.multimania.fr/asterjames/accords.html> - Accessed 15 March 2013).

getting closer to organize the self-determination ballot, Jacques Laffleur believed that the territory could relapse into violence, whatever the result, he suggested to the FLNKS to postpone this deadline through a "consensual solution"⁹⁰. Once again, the negotiation was preferred to confrontation, even a peaceful one in the ballot box.

The confrontation between FLNKS and RPCR's institutional projects really started at the end of 1995. The FLNKS advocated for an independent state as early as 1998 whereas the RPCR was in favour of "emancipation while being part of France". In 1996, the FLNKS caused the sine die suspension of negotiations by imposing mining preconditions. Three components of the movement indeed said they were willing to negotiate provided they would be guaranteed access to nickel deposits. Nickel is the territory's main resource and is exploited in the South. They wanted to build a metallurgical plant in the North to ensure economic re-balancing. In 1997, a mission of assessment mandated by Lionel Jospin, cohabitation Prime Minister of President Jacques Chirac, advocated an exchange of mining sites. After nearly two years of negotiations, the Bercy Agreements were signed on 1 February 1998 between the Eramet Group and the SMSP.

The FLNKS agreed to resume political negotiations. They were thus launched on 24 February 1998 by the Prime Minister and the Secretary of State for Overseas Territories, Jean-Jack Queyranne, to assess the Matignon agreements, adopt a schedule and a working method. The FLNKS wanted to establish a new partnership with France as an associated State, a concept that the RPCR rejected. But the delegations both wished to reach an agreement by May 4th, 1998, inauguration date of the Jean-Marie-Tjibaou Cultural Centre in Noumea. The Noumea Agreement concluded on 21 April 1998 was solemnly signed on 5 May 1998 by all partners, during the visit of the Prime Minister⁹¹. The signatories to the Noumea agreement represented the same parties as those to the Matignon-Oudinot Agreements but some delegates had changed compared to the 1988 negotiations. Signatories were:

- on behalf of the **French state**: Lionel Jospin, Prime Minister. The negotiations were carried out on his behalf by his advisor on interior affairs Alain Christnacht (former Secretary General for New Caledonia who knew the various parties to the New Caledonian conflict well); and Jean-Jack Queyranne, Secretary of State for Overseas Territories with the Interior Minister, the negotiations having been carried out on his behalf by Thierry Lafaste, his Chief of staff (who would later be appointed High-Commissioner in New Caledonia to oversee the implementation of the agreement);
- on behalf of the **Rassemblement pour la Calédonie dans la République (RPCR)**: Jacques Laffleur (President of the RPCR, President of the Assembly of the Southern Province and a member of the French National Assembly); Pierre Frogier (member of the French National Assembly, First Vice-President of the Assembly of the Southern Province and Mayor of Mont-Dore); Simon Loueckote (a Kanak senator for New Caledonia, elected member of the Assembly of the Loyalty Islands Province and of Congress, municipal counsellor for Ouvea); Harold Martin (President of the Congress of the Territory, elected member of the Assembly for the Southern Province and Mayor of Païta); Jean Lèques (Mayor of Noumea, elected member of the Assembly for the Southern Province and of Congress); and Bernard Deladrière (chief of staff of the Speaker of the Assembly of the Southern Province, Jacques Laffleur);
- on behalf of the **Front de libération nationale kanak et socialiste (FLNKS)**: Rock Wamytan (President of the FLNKS, member of the Union calédonienne – UC –, leader of the Saint-Louis tribe and of the Pont-des-Français district, elected member of the

⁹⁰ A. Leca and B. Gille, *Histoire des institutions de l'Océanie française: Polynésie, Nouvelle-Calédonie, Wallis and Futuna*, op. cit. p. 188.

⁹¹ Senate, Report on behalf of the Committee on Constitutional law, legislation, universal suffrage, rules and general administration, on the bill (...) regarding New Caledonia, 28 January 1999 (<http://www.senat.fr/rap/198-1801/198-18010.html> - Accessed 15 March 2013).

Assembly of the Southern Province and of Congress); Paul Néaoutyine (leader of the Parti de libération kanake – Palika – and of the Union nationale pour l'indépendance – UNI –, elected member of the Assembly of the Northern Province and of Congress, Mayor of Poindimié); Charles Pidjot (member of the UC, nephew of former MP Rock Pidjot); and Victor Tutugoro (spokesperson for the Union progressiste mélanésienne – UPM).

Here again most components of the territory's political and trade union movements were represented during the negotiations, as well as local elected officials or customary leaders. For the Caledonian parties their legitimacy was backed up by their elective mandates (some held several of them) and, for state representatives, by a good knowledge of the territory and of their interlocutors who trusted them.

Under the Constitutional Law of 20 July 1998, this new agreement was to be put to the population of New Caledonia for approval (and not to mainland France, the parties having considered that this new status was only a development of the one approved by national referendum in 1988). During the campaign on the future consultation, most moderate parties, starting with the signatories of the agreement, called for a vote in favour. Among the opponents to the project were mostly internal opponents to the signatories such as the two main moderate anti-independence groups opposed to the RPCR (the UNCT that feared the hegemony of the RPCR, and the DECA of Mayor Koumac Robert Frouin that stressed differing interpretations between the RPCR and the FLNKS), as well as extreme right parties (National Front and Mouvement pour la France) or extreme left parties (Union syndicale des travailleurs kanaks et des exploités – USTKE – that wanted immediate independence). The representativeness of the signatories of the agreement is thus far from being unanimously approved but, here again, it has to be acknowledged that they draw legitimacy from the polls. The results of the consultation of 8 November 1998 are quite telling: with an abstention rate of only 25.77%, 71.86% of voters of the territory voted yes.⁹²

The territory's current status (of a duration that ranges between 15 and 20 years) stems from the Noumea Accord. The result of the negotiation was indeed turned into an Organic Law (promulgated on 19 March 1999). This law provides for a transitional territorial and institutional organization (associated with the creation of a New Caledonian citizenship), pending the self-determination poll(s) for New Caledonia meant to be organized between 2014 and 2018. It regulates the way identity symbols are defined and the transfer of certain powers from France to New Caledonia in many areas except foreign policy (while providing for a certain degree of shared competences), defence, public order, justice and the currency (sovereign powers); it provides for tools for economic and social rebalancing and organizes the future consultation on self-determination⁹³.

The definition of the electorate (mainly for consultations on self-determination) had already been raised during the negotiation of the Matignon-Oudinot Agreements. The pro-independence movement indeed wanted to "freeze" electoral lists from the date of the 1988 agreement in order to avoid an influx of Europeans before the vote skewing the results and tilting the balance in favour of keeping New Caledonia within the French Republic. Under the Noumea Accord, included in the Organic Law of 19 March 1999, three different electoral lists were established:

- one for European, national and municipal elections, which includes all French citizens registered on New Caledonia's common law electoral lists;

⁹² Source: Scrutiny Committee, Decision of 9 November 1998 proclaiming the results of the consultation of the populations of New Caledonia on Sunday 8 November 1998, *Official Journal* of November 10, 1998 (<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000574796&dateTexte=> Accessed March 15, 2013).

⁹³ "Le statut de la Nouvelle-Calédonie", *croixdusud.info* (http://www.croixdusud.info/popu/statut_nc.php - Accessed March 15, 2013).

- one for the consultations on self-determination to be held between 2014 and 2018, which includes the people that took part in the consultation of 8 November 1998, hence established on the island for at least 10 years or who can provide proof of 20 years residence in New Caledonia;
- and one for elections to Congress and provincial assemblies, which includes the people mentioned above as well as people domiciled in New Caledonia for at least 10 years on the date of the election and individuals that have reached the age of majority after 31 October 1998 and who either can provide proof of 10 years residence in New Caledonia in 1998, or whose parent voted in the 1998 consultation⁹⁴.

This complex system, which is the result of prolonged discussions between the parties, is meant to ensure the results of current and future elections at all levels of New Caledonia's institutional framework can never be artificially influenced by uncontrolled demographic growth, while making it possible to consult all populations concerned.

In total, combined with state powers devolved to territorial institutions, the economic and political rebalancing of powers between the different communities and the progressive implementation of instruments for the autonomous management of the territory, this system helps to fully implement the Preamble of the Noumea Accord: *"It is now necessary to start making provisions for a citizenship of New Caledonia, enabling the original people to form a human community, asserting its common destiny, with the other men and women living there."*⁹⁵

The international community noted with satisfaction the evolution of New Caledonia's status towards wide autonomy and respect for the opinion of all the sections of New Caledonia's population. Therefore, each year since 1999 the General Assembly of the United Nations has been adopting a resolution noting *"the importance of the positive measures being pursued in New Caledonia by the French authorities, in cooperation with all sectors of the population"*. The latest resolution however also notes *"the concerns expressed by a group of indigenous people in New Caledonia regarding their underrepresentation in the governmental and social structures of the Territory"*⁹⁶. More progress thus remains to be made to further extend the representation of all sectors of New Caledonia's society in the territory's institutional and social life.

II. Comparison with the Moroccan Autonomy Initiative for the Sahara Region

The Initiative presented to the Security Council of the United Nations in April 2007⁹⁷ contains various provisions aimed at ensuring the widest possible representation of the populations concerned, mainly those of the Sahara region, at all stages of the autonomy process "in the framework of the Kingdom's sovereignty and national unity", proposed as a final solution to the dispute over the Sahara. The text of the Initiative provides in particular that:

- Article 4: *"the Kingdom of Morocco guarantees to all Sahrawis, inside as well as outside the territory, that they will fully hold their due position and play a leading role in the bodies and institutions of the region, without discrimination or exclusion."*

⁹⁴ High Commissioner in New Caledonia, "Le corps électoral calédonien" <http://www.nouvelle-caledonie.gouv.fr/site/Vos-demarches/Elections/Le-corps-electoral-caledonien/Le-corps-electoral-caledonien> - Accessed 15 March 2013).

⁹⁵ Agreement on New Caledonia signed in Noumea on 5 May 1998, *Official Journal of the French Republic*, 27 May 1998 (<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000555817> - Accessed 15 March 2013).

⁹⁶ United Nations, General Assembly, resolution A/RES/67/130 dated 14 January 2013 (http://www.un.org/french/documents/view_doc.asp?symbol=A/RES/67/130 - Accessed 16 March 2013).

⁹⁷ Letter dated 11 April 2007 from the Permanent Representative of Morocco to the United Nations addressed to the President of the Security Council, Document 2007/206 (http://www.europarl.europa.eu/meetdocs/2009_2014/documents/dmag/dv/dmag20101130_06-/dmag20101130_06-fr.pdf - Accessed 15 March 2013).

- Article 5: *"the Sahara populations will themselves run their affairs democratically, through legislative, executive and judicial bodies enjoying exclusive powers. They will have the financial resources needed for the region's development in all fields, and will take an active part in the Kingdom's economic, social and cultural life."*
- Article 7: *"The Moroccan initiative, which is made in an open spirit, aims to set the stage for dialogue and a negotiation process that will lead to a mutually acceptable political solution."*
- Article 8: *"the autonomy statute, reach through negotiations, shall be submitted to the populations concerned for a referendum, in keeping with the principle of self-determination and the provisions of the United Nations Charter."*
- Article 18: *"The populations of the Sahara autonomous Region shall be represented in Parliament and in the other national institutions. They shall take part in all national elections."*
- Article 19: *"The Parliament of the Sahara autonomous Region shall be made up of members elected by the various Sahrawi tribes, and members elected through direct universal suffrage, by the Region's population. There shall be adequate representation of women in the Parliament of the Sahara autonomous Region."*
- Article 26: *"An Economic and Social Council shall be set up in the Sahara autonomous Region. It shall comprise representatives from economic, social, professional and community groups, as well as highly qualified figures."*
- Article 27: *"The Region's autonomy Statute shall be the subject of negotiations and shall be submitted to the populations concerned in a free referendum. This referendum will constitute a free exercise, by these populations, of their right to self-determination, as per the provisions of international legality, the Charter of the United Nations and the resolutions of the General Assembly and the Security Council."*
- Article 32: *"Once the parties have agreed on the proposed autonomy, a Transitional Council, composed of their representatives, shall assist with repatriation, disarmament, demobilization and reintegration of armed elements who are outside the territory, as well as with any other action aimed at securing the approval and implementation of the present Statute, including elections."*

As can be seen, Morocco's concern is to ensure that the autonomy process which should provide the Sahara region with extended autonomy in the framework of Moroccan sovereignty takes into account at all stages the needs of the whole of the Saharan population in all its diversity and while respecting its basic rights. According to the King of Morocco, Mohamed VI, the Moroccan Initiative "gives all the populations of the region considerable latitude in the management of their local affairs, while respecting their cultural specificities"⁹⁸. His Majesty the King set this initiative against the background of a regionalisation project that "creates a stimulating atmosphere fuelled by promising societal dynamics that foster the emergence of new elites, especially among women and young people, in the framework of a system of open democratic alternating political power."⁹⁹

In order to foster the integration of all populations concerned by the autonomy of the Sahara, Morocco created the Royal Advisory Council for Saharan Affairs (CORCAS) in 2006. Among the tasks entrusted to it, the Council can "put forward any project likely to ensure the human, economic and social development of the Southern provinces in coordination with all national or local, public or private institutions and suggest actions aimed at preserving and promoting the cultural, linguistic

⁹⁸ "S.M. le Roi réaffirme la volonté du Maroc de faire avancer le processus de règlement définitif de la question du Sahara", *Le Matin*, 7 November 2012 (<http://www.lematin.ma/journal/Dans-un-discours-adresse-a-la-nation--a-l-occasion-du-37e-anniversaire-de-la-Marche-Verte- S-M--le-Roi-reaffirme-la-volonte-du-Maroc-de-faire-avancer-le-processus-de-reglement-definitif-de-la-question-du-Sahara/173742.html> – Accessed 16 March 2013).

⁹⁹ *Ibid.*

and artistic heritage (Hassani) of the Southern provinces¹⁰⁰." It is responsible for "putting forward specific actions to guarantee the young population a future of hope and prosperity and ensure the improvement of the situation of women and their integration in all areas"¹⁰¹

Regarding its composition, the Council has 141 members "chosen among parliamentarians, presidents of regional councils, presidents of provincial assemblies and presidents of professional chambers of the Southern Provinces during the exercise of their mandate" as well as "the members elected by their respective tribes to the previous council, tribal Chioukh, members of civil society associations and youth organizations in the Southern Provinces, representatives of Moroccan nationals from the Southern Provinces living abroad and those confined in Tindouf, representatives of socio-economic operators and bodies and individuals recognized for their skills and probity"¹⁰²." This new entity aims at implementing the King's vision "of democracy aimed at anchoring the participation of populations in the dynamic of development and management of their affairs at regional and local level and the will of His Majesty to integrate all stakeholders of the Southern Provinces into the Council to give it balanced and credible representativeness"¹⁰³."

The creation of the CORCAS allowed the Moroccan authorities to involve the Sahrawi populations in the drafting of the Autonomy Initiative: their representatives were thus consulted upstream of the process and influenced the drafting of the document. Moreover, as members of the Moroccan delegation to the negotiations that have been taking place since 2007 under the aegis of the United Nations, these representatives took part in all sessions, were directly able to express their view point and defend their interests in front of the other parties to the dispute.

Besides, as provided for by Article 27 of the Initiative, not only will the future statute be subject to negotiations between all the representatives of Sahrawi populations, but it will also be submitted to the populations concerned for a referendum during which they will have to adopt or approve the region's statute. As we know, for years now the search for a political solution under the aegis of the United Nations has been bogged down on the issue of the definition of the electorate called upon to give its verdict on the Statute of the Sahara in the framework of self-determination. Morocco is striving to make sure all the populations concerned can express themselves during this referendum, including former refugees of the Tindouf camp in Algeria.

Several elements in the Moroccan Initiative are thus clearly comparable to the autonomy process implemented for New Caledonia:

- During the **negotiation** of the future statute, the parties strive to ensure widest possible representativeness and legitimacy of their delegation, reflecting all the political, social, ethnic, religious or cultural components of the populations concerned;
- In the result of the negotiation, i.e. in the **provisions of the autonomy statute**, the parties strive, through institutional mechanisms, to ensure representation of all sectors of the population being granted autonomy. These may be democratic electoral systems that guarantee the presence in the institutions of the main political parties or movements (proportional representation being best suited in a diverse society despite the risks of governmental instability it can entail). Additionally, these mechanisms may also include more traditional representation systems such as the appointment of tribal or customary leaders reflecting existing social structures. They must also largely favour the representation of women and the young generations.

¹⁰⁰ "Lecture dans le Dahir portant création du Conseil Royal Consultatif des Affaires Sahariennes", CORCAS (<http://www.corcas.com/Default.aspx?tabid=914> - Accessed 16 March 2013).

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Ibid.

Once an agreement is concluded on the new statute, it will be submitted to the electorate in a consultation either of the whole nation (particularly if the National Constitution needs to be revised) or of the local populations alone, or even a combination of both. The definition of the electorate may be a bone of contention and should thus be settled between the parties to the negotiation: a balance will have to be struck between the widest possible representativeness of the populations concerned and the need to ensure that the electorate will not be artificially modified to influence the outcome of the vote.

On the other side, the differences between the Moroccan Initiative and the status of New Caledonia are clear:

- the statute offered by the Moroccan State for the Sahara region is meant to be **final** in the framework of Morocco's sovereignty whereas New Caledonia's current autonomy status is considered provisional: it provides for the possibility of an evolution towards full sovereignty provided the majority of the populations concerned should so decide. That is the only way the agreements could be concluded and peace could be established.
- Morocco was itself a protectorate for 44 years and decided to integrate its Initiative in a process of assertion of its sovereignty over a territory that was colonized from 1884 to 1975. As for New Caledonia, together with its former colonial power, it integrated its autonomy in a process of complete decolonization. Though the weight of history remains considerable in both cases, negotiated autonomy statutes are a good way to transcend it.
- In the negotiation of the autonomy statute for the Sahara Region, Morocco has to reckon with the other **parties** to the dispute: mainly the Polisario (whose representativeness is being challenged including in Tindouf camps¹⁰⁴) and Algeria (Mauritania decided to adopt a policy of neutrality in favour of a "consensual solution"¹⁰⁵). In the case of New Caledonia the negotiations are only held between the French State and the populations of the territory. Neighbouring states are not party to the process even if they support it, by developing among others regional collaboration within the limits of the status and they are in favour of an evolution of the status towards full-fledged sovereignty.

III – Conclusions

As already outlined, territorial autonomy negotiations and the statutes they produce must guarantee the widest possible representation of the populations concerned. Rejection of the first referendum of 1988 on the Matignon-Oudinot Agreements in the mainly loyalist part of New Caledonia showed that involving all the components of New Caledonia's society in the negotiations was not enough. It takes time to continue the dialogue and convince all parties to the dispute that the "consensual solution" is the best for all and does not favour one group over another. Dialogue has an educational value and should remain the basis of a democratic system that may be paralyzed by the "tyranny of the majority".

The Moroccan Autonomy Initiative for the Sahara carries not only the essential seeds of a final and peaceful solution to an international dispute, but also the potential of regional integration that could ensure the development of all populations concerned, in keeping with their interests and diversity. If it were to be accepted, it would pave the way for the unity of action Maghreb countries so desperately need to meet the challenges of today's world, particularly after the "Arab Spring".

¹⁰⁴ L. Aïda Ammour, "À qui profite le gel du conflit du Sahara occidental?" Research Paper No. 30, NATO Defence College, Rome, November 2006 (<http://www.ndc.nato.int/research/series.php?icod=1> - Accessed 16 March 2013).

¹⁰⁵ M. Aouad, "La Mauritanie face au conflit du Sahara marocain", *Sahara du Maroc* (<http://saharadumaroc.net/spage.asp?rub=2&Txt=110&parent=&parent1=1> - Accessed 16 March 2013).