

INTRODUCTION

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Since 11 April 2007, when Morocco presented the Secretary General of the United Nations with its autonomy plan for the Sahara region as a means to resolve of the current dispute, around a dozen academic conferences have been organized in order to compare the experiences of territorial autonomy conducted in many regions with the Moroccan Initiative of Autonomy. Today's conference aims to provide an overall synthesis and drawn lessons not only for Morocco and the Sahara, but for all the countries in which this form of governance can bring about a solution to existing conflicts. Countries divided along ethnic, cultural or religious lines here come to mind, such as Ukraine, Mali, Iraq, the Democratic Republic of the Congo, Afghanistan, Myanmar, Libya, Syria or Yemen, which are suffering as a result of fratricidal civil wars, but also countries currently at peace where regions still ambition to declare secession (such as Catalonia, Scotland, Flanders, the Serbian Republic of Bosnia-Herzegovina, Casamance in Senegal, or Sri Lanka's Tamil Provinces).

The previous seminars organized on the various aspects of territorial autonomy covered the following issues:

1) **On 6 October 2009** in Geneva, the theme was "**Can autonomy fulfill the right to self-determination?**". Results were presented during a seminar organized at the Palais des Nations on 21 September 2010. On this occasion participants studied, among others, the examples of Northern Ireland, Iraqi Kurdistan, Vojvodina in Serbia and New Caledonia. They came to the following conclusions:

- In most cases, **autonomy provides for self-determination** and is compatible with the sovereignty of a central State, as confirmed in Spain, Northern Ireland, Aceh in Indonesia, Adjara in Georgia, or Vojvodina.
- In other cases, autonomy can only provide for self-determination if the parties are willing to **compromise in order to find a solution to the conflict together** while reducing uncertainty about the future.
- In order to achieve autonomy, **identity discourse**, the symbolism of elites, the possible role of mediators and the nature of negotiations have to be taken into account.
- It is important to be fully aware of the **underlying factors that explain secessionist movements**. If it is a matter of prestige and affirmation of identity, these can be accommodated through an autonomy statute.
- As for the **relations between the central power and autonomous authorities**, they are affected by major economic considerations (joint or autonomous development, the sharing of resources, etc.) as well as legal ones (international standards, minority rights).
- Regarding **institutional and constitutional guarantees**, among good practices we can mention proportional representation in a constituent assembly (such as in South Africa or Nepal).

Three series of recommendations were made:

- Make **national unity attractive** in order to avoid separation and armed conflict;
- To that effect, economic and social "**dividends of peace**" must be generated;

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- Finally, the importance of **dialogue, compromise and innovation** must be acknowledged (including based on the experience of other regions), with a view to building a common future through consensus-based forms of governance.

2) On **22 March 2012** in Geneva, the theme was “**Governance in autonomy statutes: institutions and mechanisms**”. This seminar allowed participants to compare the cases of Aceh in Indonesia, Catalonia, Greenland, New Caledonia and Puerto Rico. The main conclusions drawn were as follows:

- The implementation of an autonomy statute can stem from **historical reasons and ancient treaties** (Greenland); it can be a solution to an **internal conflict in a State**, in other words between certain populations of the State and public authorities (New Caledonia), or it can be a solution to an **international conflict** that does not only affect the local population but also other States (Sahara), requiring the UN to come into play. The problem can affect a peripheral region (New Caledonia, Puerto Rico, Greenland) or a region located at the heart of a metropolitan State (Catalonia). The autonomy statute can be region-specific (New Caledonia, Aceh) or common to all of the State’s territories (Spain). The statute of autonomy can be the culmination of a process or a step in a process, it can be seen as something transitory or permanent (Sahara).
- A number of common principles must be respected but can also be adapted: **the very principle of democracy** (adapted in New Caledonia in order to stabilize the electorate); **the integration of the autonomy statute in the Constitution** (the national constituent power, the people or its representatives, holds decision-making powers); **the protection of fundamental rights** (which must remain a national prerogative, these rights being afforded to all citizens, including those within autonomous entities); **the recognition of political autonomy** (the granting of legislative power to the autonomous entity, possibly even of judicial competences as in the case of the Sahara).
- **Control over the distribution of competences** between the State and the autonomous regions must be ensured by a Constitutional Court or a national Supreme Court (Spain, Puerto Rico).
- **The powers granted to the autonomous entity** can be devolved progressively (New Caledonia).
- **Control over natural resources is important** (in Aceh, the sharing of these resources led to new conflicts, while the Moroccan project is granting the populations of the Sahara considerable control over their resources).

3) On **4 June 2012** in Geneva, the theme was “**The management of natural resources in autonomy statutes**”. Participants took another look at the cases of New Caledonia, Aceh and Greenland, but also at those of Iraqi Kurdistan and Quebec. The following conclusions were drawn:

- The **management of natural resources** can rest on power sharing between the central State and autonomous entities (in New Caledonia the aim is to make sure the local population benefits from the proceeds of the exploitation of these resources). In the case of the Sahara, the management of natural resources can be a means of moving forward in the management of the conflict.
- **Power sharing** should be enshrined in a Constitution the drafting of which should involve all parties.
- From an economic point of view, to begin with the central government should **allocate the budgets needed** to ensure the development of the region and the services sector, including education, which should be its primary concern.

- These solutions only make sense if **mutual trust** is built between the central government and the population, the parties or the organizations that represent the region. The issue over the Sahara, just like any similar issue, can only be solved through negotiation and direct talks between the concerned parties. Full-fledged autonomy, were it to be accepted by the parties, could be a good opportunity to launch negotiations.
- The autonomy statute for the Sahara region covers the following points of comparison (especially with Canada): the acknowledgement of the **importance of natural resources** as a source of revenue and development and as strategic long term potential; the will to reconcile the **needs of the local populations in terms of autonomous development and the preservation of the sovereign powers of the central State**; the need to increase the resources allocated to the autonomous region, possibly through **additional tax revenues based on the principle of "national solidarity"**; the negotiation by the central government of the widest possible responsibilities in the management of natural resources by the autonomous populations and their institutions.
- A **well negotiated autonomy** is the best answer and the ideal framework to consolidate peace, unity and development (as in the case of Greenland). The future of the autonomous region depends on its economic and cultural development that is needed to make the most of available resources, in a sustainable fashion, in the framework of a peaceful process.
- The recommendations drawn from the example of Aceh include: **the need to clearly establish what is shared** and how; making sure that **negotiations are flexible enough** in order to leave open, if needs be, the question of ownership of resources and deal with revenue-sharing at a later date; produce **information on the wealth drawn from natural resources** in order to level disparities and manage expectations; the negotiations on revenue-sharing can **change the relationship between the parties** and encourage to overcome animosity between the groups; reaching a good agreement on revenue-sharing does not guarantee **post-conflict economic recovery**.

4) On **21 March 2013** in Geneva, the theme was: "**Representation and legitimacy in autonomy negotiations**". The cases of Central Europe, Aceh and New Caledonia were studied. The main conclusions drawn were:

- With regards to **democratic representation and legitimacy**, the Moroccan Initiative of Autonomy is headed in the right direction. It indeed builds on the territorial nature of the claim for self-determination and not on a definition established along ethnic or politico-ideological lines.
- The autonomy proposal offers a means to overcome the major issue that is common to many conflicts revolving around self-determination, i.e. "**who is the people?**"
- Negotiations around self-determination require "**common sense**" and a successful mindset: the parties must come to realize that it is in their best interest to negotiate rather than to keep opposing each other.
- Finally, it is necessary to "**rethink self-determination**": the wide variety of forms of States and possible content for autonomies call for innovation.

5) On **1 July 2013** in Geneva, the theme was: "**Autonomy Statutes and Regionalization: solidarity and equalization between regions**". The examples of Spain, France, member countries of the Council of Europe and Canada were studied. The conclusions drawn were as follows:

- With regards to fiscal matters, autonomous regions should enjoy **sufficient and fully transparent authority**, subject to democratic control and whose impact should be

reassessed on a regular basis depending on the evolution of economic conditions within the region as well as in the central State.

- The interpretation and implementation of the **concept of equalization** must be revised, especially now that economic and financial crisis are reducing the redistributive capacity of the central State or of the European Union: equalization must be as much a factor regulating and harmonizing local systems as a tool to redirect financial circuits and restructure local finances.
- Equalization must fit into the scheme of **financial autonomy**, the autonomous region having responsibility and authority. It must go from financial dependence to acquiring the ability to improve its own socioeconomic development, which requires **good governance**.
- The promotion of **regional democracy and local autonomy** can enhance States' stability (such as in the case of the Council of Europe), by defining the rights and obligations of local and regional entities based on the principles of subsidiary, territorial cohesion and solidarity.
- Even if **equalization** is written in the Constitution (as in Canada), its implementation can be adjusted to reflect changing economic conditions (for instance when the price of local natural resources goes down and the region must benefit from national solidarity). Transfers from the central State towards the autonomous region(s) must provide all citizens with comparable levels of public health, education and social well-being.

6) On **25 March 2014** in Geneva the theme was "**What development model for autonomous regions?**". Participants compared the cases of the Azores and Madeira, Iraqi Kurdistan, Muslim Mindanao in the Philippines and Wallonia. The lessons drawn were as follows:

- To be effective, the development model must break away from the counterproductive practices of the past, such as through **devolution of decision-making powers** and the promotion of citizen participation and the rule of law, by substituting rentier economy with growth generated by local companies.
- To avoid the autonomous region becoming dependent, **transfers of assistance to vulnerable populations** must be conditional and beneficiaries must be made accountable. The aim is also to foster local capacity building through education and professional training.
- As evidenced by Morocco's action in the Sahara, the model must also provide for the protection of **cultural heritage and the environment** as well as for the promotion of gender parity.
- The experience of Azores and Madeira in Portugal has shown that autonomy can both stem from strong regional identity and from a national identity that is just as strong. Decentralized development does not exclude **central State investments** and makes it possible for autonomous regions to make a contribution to the national development plan. The national Constitution states that the social and economic development of these regions is among the key objectives of their autonomy.
- The long term sustainable development of autonomous regions such as Iraqi Kurdistan depends on a number of factors: clearly delineated and accepted **territorial boundaries**, equitable distribution of **natural resources**, powers granted to **security forces**, the capacities of the **regional administration**, and **mutual trust between** regional and central authorities.
- As shown by the example of Muslim Mindanao in the Philippines, it is important for the future of the autonomous region that the founding agreement contains specific provisions on the **distribution of competences**, transitional mechanisms, resource

sharing, as well as permanent negotiation and dialogue mechanisms to harmonize development processes.

- Finally, as in the case of Wallonia in Belgium, the key to the success in economic development is in the **political institutions** that ensure the democratic legitimacy of regional authorities and grant them the power to manage the sectors of the economy under jurisdiction of the region and to be accountable to their citizens.

7) On **30 June 2014** in New York the theme was “**The Regional Commissions of National Human Rights Councils in Autonomous Regions: Good Practices and Challenges**”. The examples of Quebec, Italy, Mexico, Muslim Mindanao in the Philippines, and Zanzibar were studied. Participants came to the following conclusions:

- Whenever autonomy statutes were established, they were the product of historical influences, a colonial legacy (Philippines, Tanzania) or of structures that predated the central State (as in the case of Italy).
- Whatever the structures, the mission of national and regional human rights Commissions remains the same: **protecting and promoting the whole gamut of human rights** (civil, political, as well as economic, social and cultural rights, in keeping with international standards) through public information and training of relevant staff.
- Likewise, in most autonomous regions, regional commissions are just as **independent from the regional authorities** as national commissions are from national authorities. They control governments and hear citizens’ complaints. To ensure their independence, the members of these commissions can be appointed by the Parliament (Mexico, Quebec), by a group of eminent personalities (Tanzania) or through a decree preceded by broad consultations based on strict qualifications and non-renewable mandates (Morocco).
- The functioning of the Commissions varies depending on national and regional traditions but their aim is to be **as representative as possible** by imposing certain participatory requirements (gender equality, youth, persons with disabilities, and various social-professional categories).
- The most important thing is the possibility offered by the relationship between the national and the regional level, to ensure the **broadest possible consultation with civil society** and its members, especially if the autonomous region represents a State minority or is home to one or several minorities.

8) On **1 June 2015** in New York the theme was “**Civil society and non-governmental organizations in autonomous regions: role and responsibilities**”. Participants compared the experiences of autonomy in North-Eastern India, the Atlantic coast of Nicaragua, Vojvodina and Andalusia.

- Despite historical differences, these experiences and the situation in the Sahara **have one thing in common**, that is a shared commitment at the central and regional levels to ensure balance of power in order to keep the populations of the autonomous region within the national community and allow for direct management by these populations of the widest possible share of their own affairs, including the respect for their specific rights.
- Even if the statute or the institutional, legislative and regulatory framework theoretically seem suitable to ensure balance as mentioned above, it is their **actual implementation that matters the most**, which is often affected by internal political developments at the national or regional level. This makes it all the more important to ensure that civil society, through its organizations, is vigilant and to control this process that requires constant improvement.

- Even if devolution of central power to the autonomous region can take various shapes and forms (federal structure as in India, unitary State as in Nicaragua, in Serbia, in Spain or in Morocco), **it can lead to tensions and challenges**, which in turn lead to varying degrees of cooperation or competition between the national and the regional levels. It is therefore crucial for the national Constitution to guarantee the autonomy statute and to make it complicated to challenge it, as would be the case in the Sahara region.
- In most cases, **civil society organizations or NGOs in the autonomous region seem to be the “keepers” of the autonomy** they fought for (as in Nicaragua). Conflicts of interests can appear when the leaders of these NGOs become official members of state institutions in the region. Their independence must therefore be guaranteed, as provided for in the Moroccan Initiative of Autonomy.
- As for **the roles civil society organizations are called upon to play** in the implementation of regional autonomy statutes, they fall into three categories: *conflict management and resolution*-related activities; *human rights and democratic freedoms* protection and promotion work; *community services* in the various fields of economic, social and cultural life.
- Finally, in most cases an **international dimension** comes into play: to ensure respect for *human rights and democratic freedoms* through international mechanisms; *assistance to regional NGOs* and their capacity building by international NGOs or foreign countries; the role of regional NGOs in *transnational cooperation*, in particular with similar ethnic groups in neighboring States.

9) On 2 May 2016 in New York, the theme was “**External Relations of Autonomous Regions and Transboundary Cooperation**”. This seminar looked into the cases of Quebec, “twin” island states of the Caribbean and various European countries. Participants came to the following conclusions:

- An **autonomous region can function effectively**, including in its external relations, whatever the constitutional system (federal, Commonwealth, or centralized unitary State as in the case of Morocco).
- Two **types of reasons** can justify an autonomy statute, including from the point of view of external relations: linguistic, religious, ethnic or geographical reasons; historical or colonial reasons.
- The **international powers granted to the autonomous region can be wide in scope** (Quebec) or more limited (Caribbean) or even fall within a wider movement of decentralization (Europe). The Moroccan Autonomy Initiative for the Sahara region is far-reaching: the central State will have to hold consultations with the region on the international issues that have a direct bearing on its prerogatives and the region will have a say in the international agreements that affect its interests.
- The areas in which autonomous regions and neighboring countries or regions can **cooperate** can also be subject to the above-mentioned criteria (linguistic, related to the colonial legacy) or depend on their economic, commercial, tourism or cultural interests.
- The development of the external relations of autonomous regions is a reflection of **globalization** characterized by the growing role played by non-state entities and civil society in the partnerships with State governments.
- Any process of autonomy demands continuous interaction, consultation, negotiation, as well as consensus building between the region and the central State based on clear power sharing rules, especially with regards to resources and revenue sharing.

10) On 3 July 2017 in New York, the theme was “**Regionalization and Territorial Autonomy: differences, particularities, complementarities**”. This seminar looked into the experiences of South-East Asia, Western Europe and Canada.

- In most cases, autonomy turned out to be an effective and sustainable **means of solving disputes** or disagreements between different, often antagonistic groups, or between the central government and minorities who aspire to manage their own affairs and to protect a strong identity.
- The success of a system of territorial autonomy or regionalization hinges on the **machinery established to share power** and natural resources. Whatever the institution established through negotiation, they have in common the fact that their autonomous component(s) accept(s) and respect(s) State sovereignty (whether it be a unitary or federal State), often based on the principle of subsidiarity.
- Even in widely decentralized developed countries such as Canada, disputes between autonomous provinces or between them and the federal government continue to occur. A central government may be tempted to reconsider the powers granted to autonomous regions, especially when the central government is in the hands of a dominant ethnic or religious group as in South-East Asia. This is why **dialogue, consultation and negotiation** are crucial to the success of autonomy statutes, not only for the initial establishment of the statute but **throughout the implementation of self-government agreements**. In this respect, the Moroccan Autonomy Initiative for the Sahara region is now a “package” that includes the 2007 plan for the negotiation of an autonomy statute, advanced regionalization, constitutional reform, and the “new development model”. Taken together, these elements fulfill the above-mentioned criteria needed to ensure the success and sustainability of the scheme.