

***Round Table on Presentation of the conclusions of  
the International Seminar of Dakhla***

***On***

***Democracy and the Human Rights dimension in the  
Moroccan Initiative for Negotiating an Autonomy  
Statute for the Sahara Region***

Geneva, March 17<sup>th</sup>, 2011

## **Preliminary observations:**

*By Mustapha IZNASSNI, Member of the National Human Rights Council*

Allow me first and foremost to thank you for taking part in this Round Table on Democracy and Human Rights in the Moroccan Initiative for Negotiating an Autonomy Statute for the Sahara Region.

I would also like to thank Professor Juan Martos Quesada, Director of the Arab and Islamic Studies Department at the Complutense University of Madrid and Professor Javier Tajadura Tejada, Constitutional Law Professor at the University of Bilbao, Spain, for accepting our invitation to lead this Round Table.

As you know, on April 11<sup>th</sup> 2007, Morocco presented the United Nations with an Initiative for Negotiating an Autonomy Statute for the Sahara Region within the framework of the Kingdom of Morocco.

Since April 2007, the Initiative has been described as serious and credible by the United Nations, on the basis of the inclusive and participatory process that led to its drafting and above all of the content and scope of the competences granted to the Sahara Region. This Initiative has given new impetus to the political negotiations organized under the aegis of the United Nations and that had been in an impasse for several years.

This Initiative attracted considerable international support for its relevance as a win-win solution framework to end the impasse and move towards a political settlement of this dispute.

This Initiative also sparked much academic debate on its various legal and political features.

It is in this context that an international seminar was held in Geneva in October 2009 to look into the compatibility between autonomy and the right to self-determination.

The International Seminar held in Dakhla on February 21<sup>st</sup> and 22<sup>nd</sup>, 2011, brought together various experts and professors from Africa, South America, North America, Europe and the Arab world to discuss the concepts of democracy and human rights in the Moroccan Autonomy Initiative for the Sahara Region.

Two panels were organized in the framework of this seminar. The first one related to the enjoyment of human rights in the framework of territorial autonomy and the guarantees thereof.

On the first day of the seminar, the following presentations were made:

1. Regional autonomy as a lever for promoting human right. This intervention addressed the issue of national particularities and cultural specificities, the principles of solidarity, cooperation, non-discrimination and equal human rights.
2. Economic, social and cultural rights in the Moroccan Autonomy Initiative for the Sahara Region. It looked at the degree of compatibility between the Moroccan Autonomy Initiative and international human rights standards as recognized in the International Bill of Human Rights. It reviewed each relevant provision of the Moroccan autonomy model for the Sahara and concluded that the Initiative was generous with respect to the competences granted and safeguards provided for the promotion and protection of those rights.

3. Human rights in the Moroccan Autonomy Initiative for the Sahara Region. This presentation gave a detailed overview of human rights-related issues as covered in the 1966 international covenants. It analyzed the provisions of the Moroccan autonomy initiative as a framework for the promotion of these rights, in the light of the competences vested in the bodies of the region, as well as from the viewpoint of the human rights of Sahrawi citizens.

4. The Moroccan Initiative for Negotiating an Autonomy Statute for the Sahara: A Genuinely Democratic Project Respectful of Human Rights? The author of this presentation tried to ascertain the authenticity of the Moroccan proposal in the area of human rights. Much of the presentation focused on the compatibility of the Moroccan project with the right to self-determination. It acknowledged that the Moroccan project brings a clear and positive solution in this respect by mainstreaming this right in a process of reconciliation, of enhanced regionalisation and of consolidation of the rule of law.

5. Contribution of the Moroccan Autonomy Initiative to Morocco's Regionalisation Plan. This presentation focused on the legal and political aspects of the Moroccan autonomy initiative and the Moroccan regionalisation project. The author concluded that though parallel those two processes are mutually reinforcing and serve the same purpose, i.e. that of overcoming the functional difficulties that could stem from asymmetric autonomy granted only to the Sahara Region.

The second panel dealt with democracy in the Moroccan Autonomy Initiative for the Sahara Region.

The presentations made addressed:

6. Autonomy and Democracy: A Comparative Look at Morocco and Northern Ireland. It focused on a comparison of the Sahara and Northern Ireland disputes, while highlighting the specificity of the Moroccan model. Both processes nevertheless fulfil the right to self-determination, both in form and substance.

7. Reforming Morocco's Constitution to guarantee the autonomy project for the Sahara Region. The author dealt with the importance of political autonomy and the necessary safeguards to ensure irreversibility of the process. He compared the provisions contained in the Moroccan Initiative with other existing models of autonomy. He dealt with the referendum on the autonomy initiative and with the reform of the Constitution as the starting point of a new social pact that fully integrates the Sahrawis into the Moroccan nation.

8. The Moroccan Initiative in the Context of Decentralized Democracy. This presentation assessed the relevance of the Moroccan offer in the light of the model of federal States while underscoring that the asymmetry between the Sahara region and the other regions of Morocco could cause tensions and practical difficulties that could threaten its sustainability.

9. History, Society and Autonomy Plan for the Sahara. This presentation dealt with the historical and social dimension of Moroccan Sahara and first and foremost with the relevance of the Moroccan initiative for the strengthening of democratic bonds between the Central Government and the Sahara Region, based on the principle of active solidarity between all the regions of Morocco.

The debate sparked off by this seminar allowed participants to offer academic responses to the issue of the conformity of the Moroccan Autonomy Initiative with international democracy and human rights standards.

Allow me here to welcome the depth and wealth of the academic discussions that characterized this international seminar.

The diversity of participating professors and experts, their different academic and geopolitical backgrounds, as well as the various angles of approach adopted, allowed for a perfect scientific discussion.

The conclusions of the seminar that will be presented to you by our two professors highlighted the scope of competences vested in the region as well as the legal and institutional powers conferred, which allow the region to manage its own local affairs and promote the human rights of its inhabitants.

The Moroccan Initiative was analyzed in the light of the other models of autonomy prevailing in democratic countries upon which the Initiative is based.

The discussion focused on the validity of the Moroccan Autonomy Initiative in the light of the national, regional and international contexts.

From a national point of view, the participants in the seminar underscored that the Moroccan Initiative is not isolated from Morocco's overall political context. It is not an island of democracy in the national political arena.

The Sahara issue was born of a human rights deficit in the Morocco of the 70's. The founding fathers of the Polisario initially fought within Moroccan universities, in the framework of a left-wing Moroccan movement, for complete territorial integrity, through the liberation of the Sahara and the democratization of Morocco's political life.

The strengthening of democracy and the rule of law in Morocco, through the implementation of a Statute of Autonomy for the Sahara in the framework of global and far-reaching reforms, is fully in line with these democratic claims and preserves the national unity of the Kingdom. It ensures recognition and promotion of the socio-cultural specificities of the Sahara, as well as the full participation of its populations in the democratic management of local affairs.

Autonomy is a democratic act par excellence. It cannot progress or succeed in a context of political closure, when there is only one political party or when one-track thinking prevails.

The Moroccan proposal is part and parcel of a process of global and in-depth democratic reforms gradually but irreversibly launched in the 90's in order to strengthen the rule of law and regionalization throughout the national territory.

With the creation of administrative regions and enhanced regionalization, the Moroccan autonomy initiative is indeed a qualitative leap in Morocco's decentralization process.

Regional autonomy is a form of territorial management and organization of the region's affairs, based on democracy and solidarity between the Region and the central government in the interest of the general good. In the Moroccan context, the strength, credibility and relevance of the autonomy initiative lay in the scope and irreversibility of the momentum of the in-depth and global democratic reforms launched by the Kingdom at the national level.

From a regional point of view, the Sahara issue has often been thought of as a legacy of the Cold War and of its implications in the Maghreb region.

The Moroccan Initiative aims at ending the tensions inside the Maghreb region, at nurturing trust and reconciliation in the region. It is the appropriate democratic and consensual solution to once and for all settle this conflict that is a spanner in the works of the integration of the Maghreb region, that is poisoning intra-Maghreb relations and is above all exposing the region to the rampant threats of terrorism, instability and insecurity.

The Moroccan autonomy proposal is unique and bold in view of the centralized nature of African, Middle-Eastern and North African constitutional systems. It is a legal, constitutional and political “challenge” for the region in terms of democratic redistribution of power between the centre and the regions. Morocco is the only country in the Arab Maghreb Union that opted for a specific regional organization.

It above all offers sustainable and inclusive democratic responses to the problems or conflicts, open or latent, in the region, to the conflict between the preservation of state sovereignty and the necessary guarantee of the democratic expression of local specificities, based on a culture of power sharing and devolution.

The Moroccan proposal is a compromise political solution based on the forward-looking principle of reconciliation. It rests on a twin objective: preserving Morocco’s sovereignty over the Sahara and giving the inhabitants of the Sahara region the ways and means to manage local affairs through democratically elected bodies.

The Moroccan proposal is not cast in stone. It is not a unilateral, “take it or leave it” proposal. It is open to negotiation under the aegis of the United Nations. The other parties to the conflict are called upon to enrich its content and to detail its provisions.

From an international point of view, this proposal stems from Morocco’s willingness to constructively, seriously and responsibly contribute to the efforts of the international community to find a final and consensual solution to this regional dispute. Morocco is the only country that responded positively to the calls of the Security Council.

By calling it “serious and credible”, the Security Council gave a positive assessment of this Initiative, which lends it the international legitimacy of the United Nations.

The opinion expressed by the Security Council settles the question of the legality of the Moroccan initiative and of its compliance with the principle of self-determination. It enshrines negotiations as a framework for the settlement of this dispute and autonomy as a way of fulfilling the principle of self-determination in a consensual manner.

The Security Council deemed the Moroccan proposal “serious and credible” on three levels:

1. With respect to the current impasse and status quo that are an economic, security and humanitarian burden for the countries of the region. The Moroccan Initiative is the key to end this impasse in a consensual manner and in keeping with the resolutions of the Security Council as well as with relevant international law principles.

2. With respect to the level of autonomy granted by previous UN plans, in this case Plan Baker I of 2001 and Plan Baker II of 2003. The Moroccan Initiative builds on these Plans and goes beyond them in terms of the powers vested in the Sahara Region.

3. With respect to international autonomy standards. The Moroccan Initiative fully satisfies international standards and international practice in the field of regional autonomy.

Allow me to underline that with regards to human rights, the autonomy proposed by Morocco represents a framework and a lever for the protection and promotion of human rights in the Sahara.

Article 3 of the autonomy project for the Sahara region enshrines the promotion and protection of human rights in the Constitution and states that the Initiative “is part of the endeavors made to build a modern, democratic society, based on the rule of law, collective and individual freedoms, and economic and social development”.

Article 25 of the autonomy project adds that “The Region’s populations shall enjoy all the guarantees afforded by the Moroccan Constitution in the area of human rights as they are universally recognized”.

Article 4 underlines that “Through this initiative, the Kingdom of Morocco guarantees to all Sahrawis, inside as well as outside the territory, that they will hold a privileged position and play a leading role in the bodies and institutions of the region, without discrimination or exclusion”.

Article 30 of the Initiative enshrines the human rights of repatriated persons by stating that “The Kingdom of Morocco shall take all the necessary steps to ensure full integration, into the nation’s fabric, of persons to be repatriated. This will be done in a manner which preserves their dignity and guarantees their security and the protection of their property”.

In the same vein and in order to further strengthen the legal safeguards to ensure respect for the dignity and human rights of the populations concerned, article 31 provides that “the Kingdom of Morocco shall, in particular, declare a blanket amnesty, precluding any legal proceedings, arrest, detention, imprisonment or intimidation of any kind, based on facts covered by this amnesty”. Article 8 of the project further specifies that “the autonomy statute shall be submitted to the populations concerned for a referendum, in keeping with the principle of self-determination and with the provisions of the UN Charter”.

In modern usage, self-determination involves the establishment of an institutional order allowing the populations of the region to freely express themselves in all areas, it involves respect for universally recognized human rights, full citizenship and equality of opportunity to contribute to the economic, social and cultural development of the Region.

Article 18 of the autonomy initiative provides that “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”.

These are very concrete and specific features that attest to the level of commitment of the Moroccan autonomy initiative towards the promotion and protection of civil and political rights in the Sahara Region. Obviously, these features offer a serious framework in keeping with relevant international standards.