

## THE LIMITS OF OFFICIAL AUTONOMY IN LATIN AMERICA: INSTITUTIONS, IMPLEMENTATION AND ANTI/POST-STATISM

MIGUEL GONZÁLEZ<sup>50</sup>

### Introduction

This paper is intended to look into the way the debate on indigenous peoples' autonomies has been unfolding in Latin America, and describe the notions of self-determination and autonomy, focusing on how the indigenous peoples of the region define and promote the exercise of their rights to autonomy (Almeida, Arrobo & Ojeda 2005; Burguete Cal et Mayor 1998; Díaz-Polanco 1995; Grey Postero & Zamosc eds. 2005; CONAIE-ECUARUNARI-CDDH 1990). Dealing with both these issues within 20 minutes is quite ambitious. I shall therefore rather focus on three elements that I believe are key to understanding autonomies, in Central America as well as in Latin America more generally (Díaz-Polanco, 1997).

To begin with, we shall try to identify the *institutional expressions* of autonomy through the various processes of constitutional reform and democratic change that have been taking place in the region for over 20 years in connection with the recognition of indigenous peoples' rights (González 1997; Roldán Ortega 2000; Stavenhagen 2000). Second of all, we shall look into the results of the effective *exercise* of these types of government, self-determination and autonomy, from the point of view of their *relationship* with the State (*external* autonomy), as well as within indigenous societies (*internal* autonomy) (Anaya 1996; Assies, van der Har & Hoekema, eds. 2000; Assies 1999). Finally, we will have to admit that we academics haven't paid closer attention to the autonomies that develop *outside*, on the *margins*, or in blatant *defiance* of national States and their institutions (Hale 2011). It looks as if this third dimension is taking on an epistemological anti/post-statism and anti-colonial turn, *decentralizing the role of the state in relation to the conception of the possibilities offered by autonomy* (Esteva, 2015: 138).

Regarding the first element, some very important features are now drawing the attention of those observing autonomies: once the right to autonomy is acknowledged in internal or international law, what political/institutional form can the autonomy take? Communitarian, municipal, regional, departmental or provincial? Cultural or territorial, or a combination of both? What are the consequences of such reordering of the legal and structural order of the state? (Hannum 1990; Hannum & Lillich 1980). In 2010, drawing inspiration from the work of Díaz-Polanco, I suggested that autonomy could be envisaged as an "official political regime (i.e. legal) of territorial autonomy under which the state recognizes collective and individual rights to indigenous peoples (and other ethnic and cultural groups, to peoples of African descent for instance) so that they can exercise their right to self-determination" (González, 2010).<sup>51</sup>

It is important to note that in Latin America, autonomy is now taking on various institutional shapes and forms depending on the local realities and context, based on the demands of the peoples, following

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<sup>50</sup> York University. For any communication: [migon@yorku.ca](mailto:migon@yorku.ca)

<sup>51</sup> While adopting this definition, Aylwin notes that "this definition of autonomy is in keeping with international human rights law guidelines, especially article 4 of the United Nations Declaration on the Rights of Indigenous Peoples, which recognizes the right of indigenous peoples to autonomy or self-government in matters relating to their internal and local affairs as an expression of self-determination, as well as article 18 that provides for the right of these peoples to maintain and develop their own indigenous decision-making institutions" (Aylwin 2004: 41).

Hoekema's definition (1996) is frequently used and is a descriptive one. It refers to internal political autonomy as the capacity guaranteed by the constitution and granted to a social entity or a territory to govern itself in the framework of state sovereignty (Assies, 2014: 234). This definition seems rather general and does not specifically apply to indigenous peoples.



negotiations with states and indigenous societies' internal processes.<sup>52</sup> By way of example, in Central America, Nicaragua initially opted for a decentralized and multi-ethnic regional/territorial type of autonomy enshrined in the 1987 Constitution (Frühling, González & Buvollen 2007). As for Panama, it has maintained an autonomy arrangement tantamount to a regional and territorial multi-community indigenous autonomy.<sup>53</sup> However, regions are independent of each other, each having its own government and authorities, as well as its individual laws. This system of regions was launched in the the 1970's and abundant literature exists on their history and current challenges. As for Costa Rica, it hasn't yet started studying the draft law presented to Congress by indigenous organizations, which provides for a certain type of autonomous indigenous communities and regional integration arrangements. In El Salvador, no autonomy has been requested, whereas in Honduras and Guatemala many such proposals have been made, both at community and regional level, and many hybrid institutional arrangements that provide for some kind of remodeling of the state in keeping with the principles of plurinationality, interculturality and multiculturalism.

The general picture is that, unlike with some European experiences within which non-territorial cultural autonomies were established for minority ethnic communities (Safran, 1999), in Latin America autonomy takes place in a spatio-temporal framework which confers rights to peoples and their authorities *as* ethno-cultural communities residing on given autonomous territories, the result of territorial/jurisdictional reshuffling, of the transition to indigenous autonomy at municipal level or the creation of a (fourth) regional level of governance on an autonomous territory, such as in Bolivia and, to a lesser extent, in Ecuador. In other words, political, social, cultural and economic rights are exercised over given territories and inside them for certain subjects of law. At the same time, the exercise of these rights is limited and problematic outside these territories (Anaya & Grossman, 2002; Assies, 2005).

It therefore seems to me that is more instructive to list the interesting features of *officially* recognized autonomies, those that I will call *official* autonomies. This raises the following question: how do the liberal institutions of the dominant state model fit in with indigenous forms of government in the framework of autonomy arrangements? In this respect, we must ask ourselves how the two groups of institutions fit together in the framework of autonomy?<sup>54</sup>

Interesting lessons can be drawn here. In Nicaragua, after 25 years of existence, governments and regional councils, multiethnic legislative and implementing entities at regional level ("higher authority") are the *antithesis* of indigenous communal autonomy and that of African descent. One problem has been that of over-representation of metis (non-indigenous) people in the councils, as well as the lack of free prior informed consent of indigenous communities in decision-making processes. The counselors who represent the communities also lose a direct connection with their own communal authorities and their decision-making processes. To a certain extent, this seems to be an issue in the indigenous regions of Panama where the executive power exercises gravitational power over local congresses, undermining indigenous authority and their internal decision-making bodies (Aylwin, 2014: 43).<sup>55</sup> In Bolivia, results appear to have been mixed, giving rise to hybrid models based on

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<sup>52</sup> Aylwin organizes recognized rights into two categories: the rights to participate in the state and the rights that stem from their self-determination. The latter refer to the right to autonomy in internal and local affairs, in the development of their own institutions, normative and indigenous justice systems, and to the right to free prior informed consent. (Aylwin, 2014: 23).

<sup>53</sup> « five autonomous territories spread over 75.517 square kilometers, which, together with others that are not recognized, represent 23% of the territory of the country » (Aylwin, 2014: 42).

<sup>54</sup> Assies identifies two major types of reorganization of the state in connection with autonomies: A possible distinction may be drawn between the agreements based on indirect or direct consociationalism. In the first case, administrative reorganization offers indigenous peoples greater influence in local affairs, whereas in the second, the indigenous people is recognized as such and collective rights and covered. (Assies, 2014: 154). In practice, some autonomy arrangements are a combination of these two basic types.

<sup>55</sup> Research confirms this observation. Aylwin, building on Castillo and Ospina, states that the problems that weaken the capacity of indigenous peoples to exercise political autonomy through the regional model are not uncommon. Amongst the biggest are governmental strategies focused on regional intervention through

balance and collaboration, and which deserve a more systemic and comparative study to see how these tensions are evolving. By way of example, the study of the first five Bolivian autonomy statutes carried out by Tockman and al. reveals “a strong pragmatic willingness to operate within the limits of a legal framework which remains fundamentally liberal and municipal, as well as to work with the institutions and on the basis of the liberal principles often thought to be rejected by indigenous peoples” (2015: 38). As for Acuña, he paints an institutional picture that is particularly skewed against original and farmers’ indigenous autonomies due to the scope and interpretation of the autonomy between the state and the peoples, “which leads to unilateral, coerced and tense government action which means that the very concept of autonomy is stripped of its original and existential world vision” (Acuña, s/f handwritten).

In Nicaragua, the adoption of the Law on territorial demarcation (Law 445) made it possible to partially correct the so-called problem of “excess governance” (Hale, 2011) through the establishment of collective land ownership. That law created the institutional conditions conducive to the strengthening of communal territorial autonomies (a bit like “autonomies within autonomy”). Notwithstanding the above, major challenges remain due to the weight of municipal, regional and national institutions in decision-making processes.

In Colombia, indigenous autonomy is exercised through the *resguardos*, autonomous local entities of Colombian origin empowered to administer collective land ownership. The 1991 Constitution gave *resguardos* and municipal councils safeguards such as for collective ownership, in that their land is inalienable. Municipal councils have been equipped with economic competences and can set up associations. They are therefore “public law entities of a specific nature, with legal personality, their own assets and they are autonomous from an administrative point of view » (Aylwin, 2014: 43). With regards to their characteristics, *resguardos* and municipal councils are territorial autonomies, in so far as they are “legal and socio-political institutions of a specific nature, composed of an indigenous community or group which, based on a communal property title, owns its territory and is led by an organization adapted to traditional indigenous law or to its cultural customs and traditions » (article 2, decree 2011 de 1998).

In Ecuador, territorial autonomies have been incorporated into the national political order through a 2008 constitutional reform. The political constitution provides for the establishment of indigenous and Afro-Ecuadorian territorial constituencies, which “exercise the powers of the corresponding autonomous territorial government, and are ruled by the principles of interculturality, plurinationality and the respect of collective rights.” Likewise, the procedures which make it possible to create indigenous and Afro-Ecuadorian territorial constituencies are enshrined in a secondary legislation: “The law provides for the standards that apply to the establishment, the functioning and the powers of said constituencies.” This provision resulted in the adoption of executive decree 96 of 2009 which, in practice, became a bureaucratic hurdle that prevented the effective exercise of autonomy and indigenous self-determination. According to Ortiz-T. “Institutional weakness and the lack of political willpower on the part of state entities (from the highest level to techno-bureaucratic middle levels of public service) result in delays, unfounded goals and intentions, as well unfulfilled commitments.” This also means major differences between the state and indigenous peoples in terms of interpenetration between the ancestral territory and the state’s administrative and political jurisdictions. Despite these challenges, the innovative experiences in the creation of indigenous and Afro-Ecuadorian territorial jurisdictions in the Amazon region reflect a “pioneering strategy to advocate for ancestral territorial rights, which also provides for preventive measures meant to avoid potential conflicts” in relation with state and non-indigenous actors (Oriz-T s/f 43).

Bolivia, Ecuador, Colombia and Nicaragua are all paradigmatic cases given the progressive tenets of the formal acknowledgement of autonomy rights and of indigenous self-determination in Latin America. Nevertheless, in each of these countries, secondary laws and administrative standards

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politically competent entities with regards to traditional posts (Ospina, 2011), as well as the creation by political parties of internal divisions between the figure of the president of autonomous congresses (as the case may be) and that of other caciques (Castillo, 2007). (Aylwin, 2014: 44).

delineating constitutional rights prevented the full realization of autonomy. If major differences exist between all of these countries, the common denominator has been the preservation of legal and administrative prerogatives by the state, which have a negative impact on the exercise of the collective rights to autonomy. As for the meaning of autonomy for the parties, this is another area in which differences exist. Acuña notes that in Bolivia “indigenous people see in it the symbol of their ethnic emancipation, the return of their ancestral autonomy and [...] their political participation. For the government, it is a mere political, administrative and territorial concession to those who had until then been excluded from the system; in order to enhance its effectiveness at state level and guarantee its internal (plurinationality) and external (implementation of international treaties) legitimacy » (Acuña, s/f, handwritten 13).

The *exercise* or the implementation of autonomy is the second dimension that I decided to look into, especially with regards to Nicaragua and, to a certain extent, other autonomies in the region. Two questions arise here, a normative one and an empirical one. From a normative point of view, trying to assess the *exercise* of autonomies means being limited to what autonomous institutions managed to create *on the basis of the* prerogatives and the functions granted to them by the law, in other words, the exercise turns out to be merely formal and focused on institutions. From an empirical point of view, the idea is to look into the actual development of the exercise of autonomy based on its internal dynamics, taking into account changing realities as well as the social and political environment of the societies in which autonomous institutions operate. In my research I mentioned Andres Hoekema’s innovative proposal (1996), later elaborated by Assies (2005: 198), which offers a typology to compare autonomies on the basis of their *formal* characteristics (the political/legal and normative framework), their relative or effective exercise (the way power is allocated between the autonomous institutions and vis-a-vis the state, normative aspect) and based on *empowerment* (« being autonomous », the exercise of autonomy, empirical aspect).

**Table 1** A comparison of Latin America’s autonomy arrangements

	<b>Panama</b>	<b>Colombia</b>	<b>Ecuador</b>	<b>Nicaragua</b>
<b>De jure level of autonomy</b>	Regional	Local, ETI not implemented	Local, status of territorial circumscriptions unclear	Regional
<b>Type of autonomy</b>	Direct consociation	Direct consociation	Direct consociation	Direct consociation
<b>De facto control of territory</b>	High	Declining	Moderate	Low, but perhaps increasing moderately
<b>Institutional representation</b>	High, through established party system	Formally high, electoral district and own parties at national and municipal level	Not formal, but in practice, through own political parties and representation in government agencies	Low, through established parties but also through regional “popular lists”
<b>Fiscal autonomy</b>	Somewhat	Formally recognized but declining	Municipal level, “alternative” government	Low
<b>Respect</b>	Moderate	Declining on the part of the state	Moderate	Low, largely depending on paltry allocations



	<b>Panama</b>	<b>Colombia</b>	<b>Ecuador</b>	<b>Nicaragua</b>
<b>Empowerment</b>	Reasonable, probably increasing	Tenuous in a context of violence	Increasing	Low and disputed

During my doctoral research on Nicaragua's autonomy arrangement, I took a second look at this typology through the prism of empowerment. I reproduce below the illustration to see how it complements Assies' proposal.

**Table 2** Autonomy as empowerment

	<i>a. Levels of analysis</i>	
<b>Formal</b> Politico/legal	<b>Effective</b> Distribution of real decision-making power based on the competencies granted to the autonomous entity.	<b>Empowerment/Outcomes</b> Degree of self-determination and self-government.
	<i>b. Analyzing criteria</i>	
<b>Legal provisions on autonomy</b>	Degree of implementation.	Does autonomy serve the best interest of the community and its members? Who or whom have been empowered as a result of autonomy?
	<i>c. Dimensions of autonomy as empowerment (or areas of analytical interest)</i>	
<b>Autonomy's enabling legislation</b>	<ul style="list-style-type: none"> <li>- Degrees of political representation and participation in autonomous bodies;</li> <li>- Regional governments' institutional capacity;</li> <li>- Effect of state's policies toward autonomous entities;</li> <li>- <i>De facto</i> self-governing regulations.</li> </ul>	<ul style="list-style-type: none"> <li>- Have indigenous and/or multiethnic rights been respected and promoted as a result of autonomous decision-making?</li> <li>- Has indigenous self-government been effectively exercised?</li> <li>- Have women been empowered?</li> </ul>

In order to try and explain both the normative and the empirical dimensions, it is worth noting that when it comes to the exercise of autonomy, and more particularly so in the case of Nicaragua, many challenges remain. First of all, the limited capacity of regional councils to exercise autonomy rights. This situation is on the one hand due to the fact that national governments are not very cooperative, and on the other, to recurrent political polarization within those very councils, that long prevented the consensus needed to move forward on issues of common interest. Although the law gives Regional Councils wide attributions in administrative matters such as natural resources, health services, education and transport, as well as for the administration of justice, the progress made in each of these areas are far from being impressive. The state still regularly influence the decisions made in relation to the administration of public services as well as on the drafting and implementation of public policies in the autonomous regions.

At the present time, within the framework of the second mandate of the ruling party (FSLN), political control has been increasing not only in the councils and governments, but also in municipalities (in the

regions and at national level), in addition to the centralization of governance functions. It is no accident if it is precisely within community territorial governments that these tensions and contradictions are strongest. I would go as far as to suggest that it may be within indigenous territorial governments defined and established over the past ten years, that the empowerment of indigenous peoples and peoples of African descent finds its clearest expression. Not only did the law give them access to legal instruments, consolidating their control over collective property, but it also allowed them to create their own types of authority over the territories given to them. The exercise of autonomy at this level nevertheless remains just as complex due to the illegal occupation by non-indigenous peasant farmers and the little attention granted to the issue by regional and national authorities. In a nutshell, Nicaragua has a strong political and legal framework in connection with the autonomy arrangement, but in practice, it is of limited effectiveness and the level of empowerment of autonomous subjects of rights is moreover low.

Finally, I wish to discuss self-determination and autonomy from a third angle: that of *external* processes of autonomy, established *in opposition* or *in clear challenge* to national states. Barring some important exceptions, I for one believe that the review of autonomies established from the “top-down”, “imposed from the outside”, “without authorization”, in opposition or in clear challenge to States is biased. I must confess that overall, my work is no exception to the rule. We looked at autonomy in the framework of official autonomy and the forms it takes under the lens of states’ recognition. We also studied these processes from the viewpoint of social and political sciences which give precedence to the understanding of political institutions and social regulation processes deriving from it. We must admit that this raises major issues when it comes to analyzing autonomies as evolving and dynamic processes (how are they understood, obtained, defended and promoted by indigenous peoples and organizations?) as well as when it comes to admitting that all autonomies may not take a political form approved by states.

Allow me to explain myself. In my view, in Latin America the demand for autonomy comes in different shapes and forms depending on the circumstances. They obey historical or more contemporary demands - based on a series of social, legal and political phenomena in the region or at global level - and a number of these processes meant to give substance to autonomy (as an expression of self-determination) have taken the path of existing institutions, in other words within the limits, according to the principles and realities established by the states, with all that it implies. I believe that several countries attest to that, such as Nicaragua, Colombia, Panama, Ecuador and Bolivia.

The debate on autonomy has taught us that bringing autonomy to life can lead states to redefine and bring about the most diverse forms of political life, nationality, citizenship, and state institutional order, including in the field of power sharing. All these possibilities make it a creative process interesting to analyze for academics, especially political sciences practitioners. They are a valuable opportunity for indigenous political organizations. However, and this is important, not all autonomies, considered as a form of self-determination, opt for official recognition. In Nicaragua, we can mention the example of the communitarian nation of Moskitia, which promotes a community of autonomous nations outside and in open opposition to the State of Nicaragua. These are communities and peoples, indigenous organizations, which, for various reasons, decide to move *in parallel, in opposition to* and often *challenging* the states’ official recognition models and those of their institutions.

It is important to understand why it is so. In this respect, several hypotheses may be considered. It seems to me that in different settings, recognition has reached certain limits since states committed to respect and promote the fundamental rights of indigenous peoples. But in practice, as indicated by various observers, serious implementation gaps remain. In other cases, organizations came to the conclusion that the current political configuration of states is not conducive to the realization of their aspirations as peoples.

These loopholes are not merely a passive feature but often fuel old and new forms of violence, enforced displacements, as well as many violations of the rights of indigenous peoples. The relations with extractive industries and the lack of free prior informed consent of indigenous peoples regarding these

forms of development clearly attest to this. In different settings, despite progressive normative frameworks, it hasn't been possible to deter the violation of peoples' rights. Though not a rule, this has become apparent in different contexts.

On the basis of the example of Nicaragua, I have spoken of the *fatigue of official autonomy* as a way of exercising the right to indigenous self-determination, some kind of fading of the initial optimism generated by regional autonomy, to give rise to new discussions and better understand the challenges related to autonomies, which stem from constitutional reforms and recognition. It therefore seems necessary not only to make sure the limits of official autonomy are better understood and to openly confront the optimism generated by the paradigm of multicultural recognition - by way of example, certain countries refer to the reforms of statutes and the legal order - but also to consider other processes, the so-called "other autonomies" which, in the face of states' resistance or their inability to meet the commitments in the field of recognition, define their own trajectories and strategies, other parameters and ontological horizons to organize power, its sovereignties and the relationship with the states, all this within the framework of a process of self-determination. This is interesting because this would allow us to consider indigenous self-determination not as an end in itself, but as a moving process allowing peoples, their organizations and communities, to fully exercise their fundamental rights, opening up new horizons for autonomy and self-determination.

### **Autonomy for the Sahara Region**

In Latin America, autonomy arrangements haven't always arisen from political solutions to armed conflicts. Truth is, they have been the exception rather than the rule. Notwithstanding the above, in all cases, territorial autonomies stemmed from extended national political dialogues on the overall direction societies have been taking, in order to acknowledge the right of original indigenous peoples and of peoples of African descent to exist as distinct societies (Kymlicka, 2002). In other words, since they first appeared, autonomies have been considered as a *constructive agreement* aimed at establishing new relations between the state and indigenous people (Rothchild & Hartley, 1999; Vargas Hernández, 2019; Wolff & Weller, 2005). This is a lesson worth keeping in mind in the search for an autonomy-based solution for the Sahara Region.

Since 2007, Morocco has been internationally committed to launching negotiations aimed at granting an autonomy statute to the Sahara Region. To this day, Morocco has taken important measures to this effect through the holding of international meetings on the subject, covering various aspects of autonomy, such as governance and self-determination, human rights, development models, territories, advanced decentralization and political representation. In the framework of this paper, I only hope to bring a modest contribution to this endeavor through the teachings drawn from Latin-American experiences of indigenous and multiethnic territorial autonomy.

I would therefore like to focus on three lessons which could be taken into account while negotiating the autonomy statute for the Sahara Region. These three lessons are thus as follows. The first one has to do with the moral and ethical basis of autonomy - which make it possible to establish new relations between the majority society and socio-culturally differentiated peoples; the second has to do with the challenges inherent in the exercise of the right to self-determination and self-governance; and finally, the third one has to do with the intrinsic and changing demographics that should be taken into account in designing the autonomy.

*Moral and ethical justifications of autonomy.* When the very first experiences of indigenous autonomy appeared in Latin America, the political elite either openly rejected it, or proceeded with moderate caution (Stavenhagen, 2000). They argued that the existence of autonomous jurisdictions under political and administrative units distinct from municipalities, a form of governance born of the creation of Latin American states upon becoming independent in the 19th century, would undermine the sacrosanct principle of sovereignty and unity of the state. In Latin America, autonomy has shown that it is a political arrangement seen as a *constructive agreement* that does not threaten "national unity" (Van Cott, 2000). It rests on moral, ethical and political foundations, and offers a state and peoples that are different from a social and cultural point of view, the opportunity to *coexist* and overcome historical relations characterized by *domination and subordination* (Roldán Ortega, 2000). The future autonomy



statute for the Sahara Region should consider establishing new relations based on higher moral and ethical standards to ensure social coexistence within an inclusive state and society.

*Exercising the right to self-determination.* The Latin American experiences of autonomy have shown that it is a promising mechanism for indigenous people who can thus exercise their right to self-determination. However, these experiences also showed that this right can only be efficiently exercised if the constitution offers safeguards that are respected at the highest level of the judiciary. In Latin America, states frequently and officially commit to respect the right to autonomy while unilaterally reserving the right to set the conditions under which this right is recognized. By way of example, one can mention the uneven interpretation by states of the right to free prior informed consent, thus often violating constitutionally recognized indigenous people's rights. In other words, while autonomy can help settle a conflict through a political agreement, the autonomy arrangement is naturally "a house with open doors" whose inhabitants become aware of the adjustments required to best realize their rights.

To do so, the state has to be willing to start new negotiations and to totally rethink, with the subjects of rights, the powers granted to the autonomous regions. Autonomy is therefore in many respects, an experimental model before it becomes a final governance model.

The future autonomy statute for the Sahara Region will need to provide for specific mechanisms at the highest level of the judiciary and the political system, the safeguards needed to make sure the fundamental rights of the population of the Sahara are not eroded by the unilateral decisions of the state - or other state entities - which may run counter to the spirit of the *founding agreement* that underpins the autonomy arrangement (Weller & Wolff eds. 2005; Turner, 2005). To do so, one solution could be to establish autonomous higher courts specifically mandated to settle disputes arising around questions of law between the state and the autonomous region.

*Potentially changing demographics and the design of autonomy.* Critics of autonomy arrangements have cautioned against the possible threats to the viability of the autonomy arrangement due to the mobility of peoples and the changes in the composition of the peoples as subjects of rights on a given territory (Lapidot, 1997). The experiences in Latin America have confirmed the importance and relevance of this element. Independent territories are not frozen in time or space. Quite the contrary, they are subject to constant bio-demographic changes. The indigenous peoples of Latin America live on continuous or discontinuous rural territories as well as in urban areas and medium-sized cities where they can constitute a majority or a minority of the population vis-a-vis other non-indigenous groups. In principle, territorial autonomy cannot guarantee the exercise of collective rights outside these autonomous spaces, which can turn them into exception and exclusion areas. On the other hand, states haven't done enough to control illegal immigration towards autonomous territories, which in certain cases has changed the demographic make-up of autonomous regions, people becoming a minority in an area where they previously were a majority, such as in Nicaragua. In these cases, autonomy is no longer a founding agreement for the rights can only be partially exercised and in a precarious way too. There is also the risk that the ethnic and racial conflict resumes around control over natural resources, the territory and social and political means of participation. The future autonomy statute for the Sahara Region will need to carefully look into whether the inherent rights to autonomy are recognized over the territory or the region (political and administrative autonomy) or for those culturally distinct peoples and subjects residing on these territories. Otherwise, the autonomy model could be a combination of the two groups of rights (territorial and functional autonomy) so that mobility and changing demographics do not affect the enjoyment of inherent rights of autonomy outside the territory or the autonomous region(s).

## **Conclusions**

In the framework of this paper, I first and foremost want to underscore the need to revisit the *autonomy paradigm* that emerged in Latin America at the time of recognition and multiculturalism as a way of realizing the autonomy rights of indigenous peoples. This paradigm emerged in the public discourse of indigenous organizations and movements, in domestic and international law, in order to open up new political and social spaces through which the various types of autonomies materialized, with varying

degrees of success, and varying levels of powers (at community level, at the level of *resguardos* or regions, municipalities or provinces). However, this paradigm is currently being carefully scrutinized by autonomous peoples and their organizations, as well as by the very elite that had to accept the demands for autonomy in a context of evolving power relations, armed conflicts, crises of democratic legitimacy and growing role of indigenous social movements.

I suggested that in our day and age the different types of *official* autonomies in various countries are being assessed and tested. Moreover, the initial optimism about the implementation of autonomy as an expression of self-determination guided by the state and recognition policies, has been somewhat dampened.

This is a positive development. It compels us, from the viewpoint of social and political sciences, to reconsider the interpretation models through which we assess the effects of conflicts and the negotiations between social actors and the state; the tensions and adjustments that stem from autonomy; the interruptions and continuity in the exercise of state power and the consequences they can have on the possibilities of autonomy. It forces us to study other interpretation frameworks, those that involve the decentralization of the role of the states and highlight peoples' visions.

For indigenous organizations, this means reconsidering the relationship with states and imagining the variants of autonomy in which states would lose their veto right, allowing them to steer the expression of the demand for autonomy, publicize their actual action through bureaucratic hurdles and determine their scope. I believe that the intellectual and political conditions exist to hold this discussion, all the more since concrete autonomy experiences have been publicized throughout the continent, as well as with the growing interest of various players for their effects, modalities and above all related challenges.

In view of the above, I suggest the future statute for the Sahara Region put forward by Morocco takes into account some salient features of Latin America's experiences. I have focused on three specific features: the moral and ethical basis for autonomy; the challenges of exercising the right to self-determination and self-government; and demographics that change the design of autonomy. The Initiative of the Kingdom of Morocco will also have to take into account the international legal framework for the fundamental rights of indigenous peoples, now considered customary standards key to exercising the right to self-determination and autonomy. Convention 169 of the ILO and the United Nations Declaration on the Rights of Indigenous Peoples in particular, seem to contain important parameters on autonomy and self-government through which one could determine the scope of the autonomy initiative for the Sahara Region.

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