

Can Autonomy Fulfil the Right to Self-Determination?

Marc Finaud
6 October 2009

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This conference report provides a summary of the discussions that took place during an international research seminar. The opinions and views expressed in this document do not necessarily reflect the position of the Geneva Centre for Security Policy (GCSP) or its members.

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The discussions were held under the Chatham House rule.

Introduction

The Geneva Centre for Security Policy (GCSP) held an international research seminar on 6 October 2009 on the topic: “Can Autonomy Fulfil the Right to Self-determination?”

In an exclusive setting, high-level independent academic experts and practitioners from Europe, the United States, and Asia discussed the concept of autonomy, as opposed to full-fledged independence, as a possible means of fulfilling the right of peoples to self-determination, as enshrined in the Charter of the United Nations.

Autonomy is generally defined as the “free choice of one’s own acts or states without external compulsion” and the “determination by the people of a territorial unit of their own future political status.”¹ It is usually considered as a synonym for self-government, and has been implemented in a variety of historical or current cases, with or without the perspective of independence in the long term. However, with the end of decolonisation, the methods of devolution of power that were prevalent during that period may now seem obsolete. Today, the principle of self-determination can be given broader application based on

¹ Merriam-Webster Online Dictionary <http://www.merriam-webster.com/dictionary/self-determination>.

inter-relationships between national and cultural identity, democracy, human rights and self-government: “Self-determination does not have to mean irredentism, secession and the violent renegotiation of territorial frontiers.”² More importantly, “secession, border revision, federation, regional or functional autonomy, cultural pluralism; there are many possibilities and no reason to think that the choice of one of these in this or that case makes a similar choice necessary in all the other cases.”³

Such cases were studied and compared by the participants at this research seminar, in particular with regard to: the method of achieving autonomy (negotiations, referendum, etc.); relations between the local and the central government, especially in terms of power-sharing and distribution of revenues from natural resources; institutional and constitutional guarantees of autonomy; the extent of the protection of human rights, including cultural and minority rights; possible options for the evolution of the status of autonomy. Experts shared experience and knowledge, referring to numerous examples in recent history.

The GCSP acknowledges with thanks the support for this seminar received from the Swiss Federal Department of Foreign Affairs and other sponsors.

Note-taker: Mr Sunjay Chandiramani

2 Griffiths, Martin. “Self-determination, International Society and World Order”, *Macquarie University Law Journal*, 1, 2003. <http://www.austlii.edu.au/au/journals/MqLJ/2003/3.html>.

3 Walzer, Michael. “The New Tribalism” in Roland Beiner (ed), *Theorizing Nationalism* (1999) 215.

Conference Proceedings

The Road to Autonomy : Negotiations, Referendum, Constitution...

1.1. To illustrate the various aspects of the processes that may lead to autonomy, one speaker evoked the Moroccan proposal for the autonomy of Western Sahara, presented to the United Nations Security Council in April 2007.⁴ He first considered that self-determination as such was not a positive right sanctioned by a law enforcement system legitimised by judicial authorities. In this respect, the Moroccan proposal was viewed as a good expression of the necessary transcendence of “the tensions between territorial sovereignty and national self-determination in contemporary international relations” mentioned in the writings of scholar Martin Griffiths.⁵ This approach seemed in line with commonly accepted international standards. It took into account the fact that more and more people were aware of the results of failed processes of self-determination. The conflict in Georgia in August 2008

4 The full text of the Moroccan initiative and the letter addressed to the Secretary-General of the United Nations is available at: <http://www.maec.gov.ma/Initiative/En/Default.htm>.

5 Griffiths, Martin. “Self-determination, International Society and World Order”, Op. Cit. p. 1.

showed the potentially dangerous consequences of such failures. The proposed autonomous status for Western Sahara was the result of the crisis that arose over the notion of territorial sovereignty, both in the North and in the South. Questions were raised as to the meaning of a “people”, its means of self-expression and government. A new paradigm was appearing to replace the traditional nation-state affected by globalisation, and in response to the incapacity of failing states to fulfil their obligations, to crises and fragmentation: self-determination was no longer a synonym of independence. Democratic governance was given priority over self-determination. According to the speaker, the Moroccan proposal was the result of a more democratic Moroccan national policy process, and appeared relevant for the management of the conflict over Western Sahara. It was based on a sense of compromise, in line with global governance and democratisation policies and fit into the international framework. It was inspired by former US State Secretary James Baker’s framework for negotiation and had been put forward in good faith, in keeping with UN Security Council resolutions. Its roots dated back to the 1984 address by King Hassan II who proposed the regional integration and reform of Moroccan sovereignty, with the monarchy as guarantor of the protection of human rights, this society and political structures later pursued by King Mohammed VI. In this sense, Morocco could be seen as a precursor of the modernisation of the North African region. Based on respect for Moroccan regionalisation process through greater democracy was in line with the European experience and US aspirations.

The case of Western Sahara was then compared with that of Northern Ireland. The latter had enjoyed extensive autonomy from 1922 onwards, but this allowed the Protestant majority to ignore the rights of the Catholic minority in most of the organisation and functioning of society, which led to the 1969 riots and conflict thereafter. Here autonomy had failed because it did not provide a framework for control and guar-

antee of the rights of minorities. The same had occurred in Bosnia. In the case of Western Sahara, the extent of autonomy proposed by Morocco appeared quite large: it did not favour the implementation of pure majority rule. However, the control of the judiciary, and relations between the local and national judicial systems, needed to be more clearly defined. Moreover, the proposal contained plans for the development and self-management of the Western Sahara people. This would require a massive effort, comparable to that of Germany after its reunification. The entire Maghreb region was to be involved, but it was not clear who would lead this task, although Morocco was expected to take on most of the burden. If Western Sahara were to become independent, the current recession would make international assistance even less likely. At the African and Maghreb levels, the Moroccan proposal had been met with moderate scepticism. The Saharawi Democratic Republic (SADR) was recognised as an independent country by 32 states, was a full member of the African Union (AU), and provided troops to the African Standby Force. This explains why Morocco was the only African state not to be a member of the AU. However the support of a number of states to SADR had been revoked over past years. The EU was favourable to the Moroccan initiative, and could try to integrate into the structure of the Union for the Mediterranean. In the US, there was a debate between the supporters of Western Sahara people's right to self-determination through the organisation of a referendum, and the global approach proposed by Morocco which offered an innovative way of settling disputes. There was a growing awareness of the risks involved if this dispute were not resolved, namely destabilisation of the region by fundamentalism and terrorism. This could explain the gradual evolution of the UN Security Council towards support of the Moroccan initiative.

1.2. Another speaker analysed the applicability of autonomy as a solution to international conflict, keeping in mind current practice, in partic-

ular in the case of Kosovo. He disagreed with the previous speaker on the normative aspect of self-determination, recalling that this concept was first applied to colonial situations. For instance, the UN General Assembly Resolution “Resolution 1514 (XV) of 14 Dec. 1960 recognised the right” the right of colonies to secede and form their own states. The UN Covenant on Economic, Social, and Cultural Rights recognised the right to self-determination to “all peoples”. Today, this right to self-determination is considered broader in scope, although the definition of “peoples” has become more restricted. The right to secession had been limited by authors such as Georges Abi-Saab to extreme situations such as massive human rights violations amounting to genocide.⁶

In any case, independence was not considered to be the only way of fulfilling the right to self-determination. There were many other ways of implementing that right, including autonomy. In the post-Cold War period, tensions rose between those wishing to preserve territorial integrity and those in favour of self-determination. Power-sharing was deemed impossible in cases where one entity considered national independence as the only way of expressing its self-determination. This attitude could be explained by the extent of grievances arising from past violations of minority rights and historical identity. Referendums could become major obstacles to power-sharing arrangements and self-determination: they may serve to legitimise unpopular agreements; they were affected by the definition of the electorate, as could be seen in Western Sahara or Nagorno Karabakh. In the South Caucasus, in real terms, self-determination conflicted with territorial integrity because the Soviet Union had created autonomous regions while preventing ethnic homogeneity. Therefore, each state born from the collapse of the Soviet Union contained national minorities.

6 See Abi-Saab, Georges. “Conclusions”, in *Secession - International Law Perspectives*, Kohen, Marcelo (ed), Cambridge University Press, 2006.

This speaker mentioned a few cases of autonomy which he considered successful: the Åland islands, South Tyrol/Alto Adige, Adjara (in Georgia). He attributed such success to the maturity of the institutions and society in those regions, which had refrained from resorting to violence. Indeed, a successful autonomy required functioning institutions; hence, in the case of a failing state such as Somalia, autonomy could not be granted. In the post-Soviet system, especially in the South Caucasus and Moldova, the macro level (global geo-strategic context) dominated, and great-power rivalry undermined micro developments in the region (relations between the state and a minority). The recognition of Kosovo, Abkhazia and South Ossetia complicated matters, although Kosovo could be considered a *sui generis* case.

1.3. It was noted in the discussion that the Moroccan proposal on Western Sahara included an amendment to the Moroccan Constitution which would guarantee the stability of the status of Western Sahara in the long term, as well as consultation of the entire Moroccan population to give autonomy popular and sovereign legitimacy and legal irreversibility: only a new referendum would be able to change the first autonomy referendum. Moreover, the intention was to integrate all components of the Saharawi population into the representative system, in both tribal and generational terms. One participant wondered whether the strength of Moroccan institutions and the consolidation of multi-party democratisation would bring durability and sustainability to the project of autonomy. Another thought that the role attributed to women in the autonomous institutions was important in this respect but needed to be clarified.

1.4. According to another participant, scholarly views differed as to the legal nature of self-determination: for some, it was a political principle dating from the 1960s and the decolonisation period; for others

it was part of *jus cogens*. The fact was that self-determination was not a universal concept and was indeed unknown on some continents: the principle of *uti possidetis* was applied in Latin America, and the Organization of African Unity (OAU) adopted the principle of intangibility of borders in 1963.

1.5. Reverting to the case of Adjara, one participant underlined that the population of that region was Muslim but considered itself Georgian; societal differences, for instance in matters of taxation, could be settled without resorting to violence. On the contrary, the conflict in South Ossetia contained an ethnic element, and was an elite-led conflict that might have been resolved had Russia not interfered. President Saakashvili's government had updated power-sharing models but which nevertheless still fell short of needs, especially since no real healing of some of the war wounds had yet occurred. Another participant proposed that whereas a functioning relationship and common interests existed between Azerbaijan and Georgia, the Armenian-Georgian relationship was not healthy: the Armenian Government's attitude was considered to be a destabilising factor for the situation in Georgia, with some strong encouragement coming from Moscow. Abkhazia was a 'kin-state' problem. Russia had conferred passports to Russian-speaking Abkhaz people, even though such conferral was in contradiction with Russian law, which forbids dual citizenship.

1.6. Regarding Northern Ireland, one speaker considered that the 1998 agreement resembled more of a self-determination solution, including referendums, a democratic process, and power-sharing. However, with the police reform in abeyance, the problem of co-existence between the two communities unsolved, and the root causes of the separation not addressed, this context contradicted the basic idea of self-determination. Northern Ireland's society was "disorderly" and few people were satis-

fied. According to another participant, Northern Irish society was functioning on the basis of the best power-sharing arrangement possible in the circumstances.

1.7. As in the case of Kosovo, one participant wondered whether the expected Advisory Opinion of the International Court of Justice would put the norm of self-determination into a different light. The initial Serbian offer of “more than autonomy, less than independence” had been ignored but should be reconsidered. Kosovo had declared its independence not under President Milosevic but after the democratic forces had been in power in Serbia for eight years. Both the US and the EU declared Kosovo a *sui generis* case, but this was not a sufficient argument for recognition of independence and it created a precedent invoked by Russia in the case of South Ossetia and Abkhazia. Still, some European countries refused to recognise Kosovo because of the potential implications for their own territorial integrity (Spain, Slovakia).

Power-Sharing and Institutional Arrangements

2.1. It was proposed that each case of self-determination was unique, and conditioned by its historical and political context. When examining at cases of autonomy, several questions arise: what kind of autonomy? How extensive should it be? Where does it start and stop? Would it develop into something more? Was sovereignty in opposition to the creation of a new identity? Who was demanding autonomy? What were the real intentions behind the demand? A common denominator in all cases was the search for a way to negotiate self-determination by autonomy without dismantling the existing state, i.e. slipping into sovereignty. The solutions found differed greatly. For instance, in the case of Sudan, initially the Sudan People’s Liberation Movement/Army (SPLMA) demanded independence of the South but accepted a transition period

of six years. The central Sudanese Government refused to discuss independence but agreed to consolidate the federal state and render unity attractive during the six year interim period. After the interim period, the populations would be consulted, including on the option of separation. The federal model required consolidation but enough space within it was to be created to satisfy the Southern Sudanese. The SPLMA was divided: some believed in the 'New Sudan' advocated by John Garang and others retained the extreme position of independence. The federal structure was rendered more representative with the creation of a second chamber in Parliament, giving voice to federal units and a federal-level coalition of all parties to govern the country. The main points of negotiation concerned the ownership of oil fields in the South and revenue sharing. The system introduced was not power-sharing per se but forced all stakeholders to abide by it in order to survive, including those in favour of independence. Both the North and the South seized an historic opportunity, yet the option of separation had not totally disappeared. In case the South became independent, the attitude of neighbouring states would have to be taken into account (for instance, Egypt was concerned about the flow of the Nile from Sudan).

2.2. In the case of Aceh in Indonesia, the leadership of the pro-independence movement (GAM, Free-Aceh Movement) was decimated by the 2004 tsunami, and the forces remaining accepted to negotiate with Jakarta. The new democratic government refused to negotiate independence, but agreed to large extensive autonomy for Aceh. A first outcome of the negotiation was a Memorandum of Understanding (MoU) stipulating the prerequisites for power transfer to the autonomous government and powers to be retained by the central government, including on issues of taxation, social structures, etc. Although cultural autonomy was total, the implementation of the MoU by Jakarta was criticised by GAM; it lacked clarity and was subject to interpretation; economic deci-

sions were still highly concentrated within the central government; and the Indonesian constitution had still not been amended accordingly. GAM dropped its claim to independence and settled for “mini-self-determination”, but would require more than the present form of autonomy.

2.3. In summary, many institutional forms of autonomy were possible, but the key issue was how to satisfy the demands of the minority seeking autonomy in a manner preventing claims to sovereignty. The risk was to fall into a perpetual negotiation process: even in cases where a state of autonomy was acknowledged in a constitution, the status could not be expected never to change. For instance, with 17 autonomous regions, Spain had been mired in perpetual negotiations with the Catalans and Basques for twenty years, for any advance in the autonomy of one region could set a precedent for the others.

2.4. It was noted that the two examples chosen, Sudan and Aceh, were regions with high resource intensity and endowments exploited by the central government. In the case of South Africa, although experts such as Arend Lijphart had proposed various elegant models of power-sharing,⁷ the parties to the negotiations adopted completely different formulations. This implied that the process of negotiations had a stronger practical bearing on the outcome than did theoretical models. The process-outcome linkage depended on the identity of the negotiators, their capabilities, support of neighbours or the international community (Special Representatives of the UN Secretary-General). On power-sharing, several points could be made :

- A promising process emerged in conflicts where no side could defeat the other (“mutually hurting stalemate”), and when the parties felt some urgency to settle (the counter-example being Cyprus);

⁷ See : Lijphart, Arend. *Power-Sharing in South Africa*. Berkeley : Institute of International Studies, University of California, 1985.

- Regarding the outcome, there had been some 70 autonomy agreements since 1945, but there was no single model. The outcomes could never be predicted, and depended very much on the incentives for the parties, including the protection of their vital interests;
- The question remained whether autonomy represented a middle ground between territorial integrity and independence. Territorial autonomy was different from corporate autonomy or respect for the rights of national minorities. As shown by author Donald Rothchild,⁸ in cases of territorial autonomy, division of power between the state and the autonomous region did not necessarily solve the problem of inter-group relations but only rearranged the distribution of majorities and minorities. In corporate autonomy, the issue of the rights of a group as such often remained unsolved;
- Where autonomy was a form of federalism, there were differences between symmetric federalism (where all states are considered equal, as in the US) and asymmetric federalism (when one is conferred greater autonomy, like Quebec);
- Power-sharing arrangements could potentially lead to government paralysis (Lebanon) or crises (Bosnia);
- The standard power-sharing model (Bosnia under the Dayton Agreement) was based on consensus, coalitions, and proportionality (in electoral terms, but also in terms of revenue and military distribution, as in Burundi). This was called a “consociational” model: the central government could not legislate on matters affecting the vital interest of minorities without their agreement;⁹
- Following a civil war, the coexistence of parties may appear impossible, with partition as the only moral and viable solution;

8 “see: Lake, David A. and Rothchild, Donald, “Containing Fear: The Origins and Management of Ethnic Conflict”, *International Security* 21(2), 1996, pp.41-75.”

9 See: Lijphart, Arend (1977). *Democracy in Plural Societies: A Comparative Exploration*. New Haven, CT: Yale University Press.

- To avoid separation, integration and incentives were necessary for the members of opposing communities to work together (identity versus multiculturalism). The issue at stake was not only appropriate representation but also integration in the armed forces, education, housing, and so on. Effective integration meant integration in all state institutions and involved economic redistribution, particularly in areas formerly neglected;
- Perpetual negotiation might be a solution where no other opportunity for dialogue existed, potentially offering a bargaining framework for the future resolution of disputes;
- The more inclusive the process, the better. Spoilers usually emerged when negotiations were nearing conclusion. Complete consensus was most often not achievable; as in the case of South Africa and Northern Ireland, the solution was “sufficient consensus”;
- Third-party mediators often played a useful role in providing guarantees, but mostly offered a sense of confidence and sufficient engagement towards success (in the case of the United Nations Mission in Sudan -UNMIS-, this engagement was insufficient);
- Referendums went more wrong than right, and were often accompanied by violence and resulted in narrow majorities.

This led to a reformulation of the question submitted to this seminar: “Under which conditions could autonomy be an acceptable solution to the parties?”

2.5. The discussion raised the issue of the influence of personalities (such as John Garang) on autonomy processes. For one participant, in most cases, processes were influenced more by group visions or ideology rather than by individuals. However, when groups were homogeneous, which was frequent, personalities and leadership could play a decisive role. When attempting to reach consensus, the parties needed to know with whom they were dealing. According to another view, leadership

did matter: success was more likely when senior leaders agreed on common principles in discreet negotiations and then let experts work out the details. As to whether consociational solutions proposed as interim measures did not become an end-result, the same opinion held that institutions tended to be self-reinforcing, as in the case of Bosnia. It was desirable to introduce power-sharing as no more than a stepping stone towards national unity (as in the case of South Africa in 1994-1996). However, this rarely happened since power-sharing structures tended to remain in place. In Lebanon, the consociational model had failed because it had ignored a large minority, the Shi'a. Such a model often entrenched people in their positions and reinforced differences, and although useful in cases when no other agreement had been reached, it was difficult to withdraw from without resorting to conflict again. One way of dealing with this issue was to include sunset and/or sunrise clauses into the agreements: for instance, in the case of the Burundian army, a temporary over-representation of the Tutsis was agreed upon to ensure that the army would not attack members of that group. As to whether autonomy in Aceh could serve as a model of fulfilment of self-determination and conflict resolution, it was asked how success could be measured. In the case of Northern Ireland, the main objective had been to stop the violence, and this goal had been reached. In the case of Aceh, violence had also ended but negotiations and demands continued, so the perception of success was all the more limited that deeper reform was needed (in particular in the role of the national army in the local economy). The issue of capacity-building and state-building in an autonomous region was raised in answer to a question about Egypt's concerns relating to Sudan: this constituted a real dilemma for the international community for while critical to success (in particular towards strengthening local security) at the same time it brought the region closer to independence. Third-party mediators or facilitators were considered useful, particularly in the case of water-sharing arrangements. It was also recalled that, in most peace negotiations, the main

parties were aided by a second circle of advisors or experts who were kept informed and able to give feedback. Members of the administrative establishment often had a different mindset than did their political class, and were to be taken into account in the processes.

Economic Aspects of Autonomy: Revenue Sharing, Exploitation of Natural Resources

3.1. The case of Iraqi Kurdistan and its relationship with the Iraqi Government were addressed. The main issues involved included: the sensitivity caused, on both sides, by the presence of natural resources (oil and gas, but also water); the possibility that lasting agreements on natural resource management and revenue distribution form the basis of final resolutions of a previously intractable conflict; the emergence of a geo-economic space created by the combination of territorial dispute, natural resource exploitation, and legal ambiguities; and the importance of changing geopolitical circumstances. Throughout the 20th century, Kurds had been in conflict with Iraq but had had no real negotiating power owing to an asymmetric relationship. In 1990-1991, the First Gulf War and the Kurdish intifadah (rapareen) changed the dynamics of the relationship between the 'centre' and the 'periphery'. After the 1998 Washington Agreement, which allowed for increased Kurdish involvement in the Iraqi opposition, and following the 9/11 attack when Kurds became valued partners of the US in targeting Saddam Hussein, an alignment of Kurdish and American interests strengthened the Kurdish negotiating position as partners with Baghdad. The Kurdish party had been the strongest in Iraq; Kurdistan had functioning institutions, a Kurdistan Regional Government (KRG), and a militia. However the territorial dimension of the dispute remained unsolved: the KRG's 'Green Line' was included in the Constitution in 2005 but the notion of 'disputed territories' was not recognised by Baghdad. The referendum called for by the Constitution to be held before the end of 2007 never took place. The boundaries of gover-

norates, especially Kirkuk, were not agreed, and this affected the resolution of all the other problems. An alliance between the Shi'a and the Kurds has been in place since 2003, but future elections could expose cleavages within still existing communities. Substantial amounts of oil and gas were involved (45 billion barrels of oil). The Constitution distinguished between present oil fields (not assigned, but de facto within regional responsibility) and future oil fields (clearly within regional responsibility); revenue was to be distributed in a "fair manner", which left the door open to wide interpretation. The KRG passed its own "Oil and Gas Law" before the passing of the Iraqi Hydrocarbons Legislation, and invited foreign oil companies to operate. Its relationship with Turkey was crucial to the development of an independent oil industry. Four potential solutions or developments could be envisaged:

- A 'grand bargain' and 'oil for soil': Kirkuk would go to the KRG but the oil from that region to Baghdad;
- Separation of 'oil from soil': agreement on the hydrocarbons legislation, introduction of a management process in Kirkuk and another for the solution of the territorial dispute;
- A return to the Constitution and application of asymmetric federalism;
- Status quo pending escalation of the conflict between the KRG and Baghdad, among the Shi'a, through a return to sectarianism, or via regional intervention.

3.2. The case of the French territory of New Caledonia in the South Pacific was also examined. After a period of transition, including phased redistribution of economic power and shared sovereignty, evolution to full sovereignty became an option. Following a reminder of the colonisation process of that territory and the struggle of the pro-independence movement, culminating in violent clashes in 1988, the 1988 Matignon Accord was mentioned.¹⁰

¹⁰ Full text in French available at: www.nouvelle-caledonie.gouv.fr/sections/le_departement/institutions/accord_de_matignon/downloadFile/file/Accords_de_Matignon.pdf?nocache=1148957754.69.

Concluded between the representatives of the French Government, the local European loyalist movement (RPCR) and the Kanak pro-independence movement (FLNKS), the main provisions allowed for a gradual devolution of state powers to the local institutions in the course of a 10-year transition phase during which the existing economic imbalance between the Kanak and European populations would be redressed, and at the end of which a referendum on self-determination would be held. For that consultation, it was agreed that the electorate would be frozen to avoid any possible disruption by a massive arrival of French settlers. New Caledonia was indeed a strong economy with USD 36,376 GDP per capita, due mainly to nickel deposits (world's 4th largest producer, 3rd largest reserves amounting to 25-30% of world reserves), but with great inequalities between the European and Kanak populations. Since those inequalities had been insufficiently redressed and the demographic balance was still in favour of the loyalists, it was agreed in the 1998 Nouméa Accord¹¹ to postpone the self-determination referendum for a new transition period of up to 20 years. The new agreement specified in greater detail the redistribution of economic power and the devolution of competencies, in phases corresponding to the territorial assembly's terms (1st term: labour laws, communications, trade; 2nd-3rd term: secondary education, civil registration; 4th term: the French State would retain only regalian functions). Sovereignty symbols (anthem, motto, flag, bank notes) would be jointly designed by the New Caledonian communities. A complex system, combining a qualified majority in the territorial assembly and the French State as a last resort, would decide on the date of the self-determination referendum, the soonest being in 2014 with up to two further attempts. The options included full sovereignty, if at the last attempt there were still no majority in favour of independence, the current status would become irreversible. In sum, this autonomy process proved to be successful in maintaining peace and the search for consensus solu-

11 Full English translation available at: <http://www.austlii.edu.au/au/journals/AILR/2002/17.html#Heading51>

tions; it recognized the cultural and legal identity of the Kanak community; it contributed to granting greater economic autonomy to that community, which benefited from positive discrimination, notably in public investment, and was granted a 51% share in the ownership of the future nickel plant in the northern province. Nevertheless, this process was still insufficient to bridge the social and educational gap between the Kanak and Europeans, rendering the outcome of the future referendum uncertain.

3.3. Some comparisons were made between the autonomy processes of Kurdistan and New Caledonia. Both cases involved: constitutional references and legislative processes; the importance of natural resources and revenue sharing, with involvement of foreign companies; gradualism and interim periods; redistribution of power between the centre and the region; agreed frameworks for continuous dialogue to avoid violence. The cases differed in terms of: the territorial aspect of the dispute (settled in the case of New Caledonia); methods of revenue sharing (through shareholding in New Caledonia); and the prospects for independence (excluded from scenarios of the central government and the international community in the case of Kurdistan while explicitly included as an option in the case of New Caledonia).

3.4. The discussion raised the issue of mechanisms for external monitoring of revenue flows. In the case of Chad and South Sudan, promises of such mechanisms were not fulfilled. In the case of Iraqi Kurdistan, it was doubtful whether such a mechanism existed because contracts were secret documents; Baghdad was holding onto oil revenue as leverage to force the KRG to take specific actions. In the case of New Caledonia, monitoring was part of the permanent dialogue between the parties, allowing for a yearly review of the implementation of the Accord. Moreover, the evolution of the territory was under scrutiny at the United Nations.

3.5. It was asked whether natural resources could bring positive settlements or always had a negative impact and made conflict inevitable. According to one view, natural resources could contribute to settling disputes when relations between the parties were already stable and peaceful. In most other cases, they rather fuelled conflict. A mention was made of joint development zones as a model for revenue sharing as well as for arbitration (as in the case of Sudan).

3.6. As to the impact of natural resource sharing on the success of autonomy as a means of self-determination, one participant believed that a sustainable solution to the resource question would remove the main contentious issue between the Kurds and the rest of Iraq. For another, as shown in the case of New Caledonia, revenue sharing was crucial to the success of autonomy, but not sufficient alone: other elements such as respect for cultural identity, traditions, and dignity were equally important. It was concluded that mutual trust was a decisive factor in any revenue-sharing negotiation.

How to Guarantee the Protection of Human Rights in an Autonomous Region?

4.1. On the issue of the protection of minority rights in autonomous regions, one view considered that management of their internal affairs was the main priority of autonomous regions. However, legally, as a subject of international law, the state was responsible for implementation of treaties on the whole of its territory and compliance with its international obligations, in particular regarding human rights and international humanitarian law. In practice, it was up to the state structures to decide on norms, and up to the authorities of autonomous regions to implement those norms. In doing so, both the state and local authorities were obliged to protect universal human rights as well as the rights of persons belonging to national minorities. In the case of all

the states having emerged from the former Yugoslavia and the former Soviet Union, there was a common denominator in their identity as part of the socialist ideal. Now the common denominator among those states was the concept of nation-state. Even the Russian Federation, although containing many ethnic minorities, had promoted a Russian identity. The new states were composed of majorities and minorities, between which ancient hatred often existed. In contrast to the peaceful conclusion of the Cold War between the major antagonists, this context led to tensions, regional violence and bloodshed and was the result of a deliberate Stalinist policy of prevention of nationally unified republics which could be tempted from the fringes to challenge the dominance of the Kremlin. For instance, the Tajik cities of Samarkand and Bukhara were attributed to Uzbekistan. Even Kosovo, which seceded from Serbia as a minority, now had its own minorities, causing a serious problem. The Georgian regions of South Ossetia and Abkhazia declared their independence but could not be recognised because of their questionable status: they became counter-models of autonomy management. To avoid such situations in future, the international community needed to focus on preventive actions. Long-term prevention depended on a number of factors: economic development, power sharing and respect for human rights. If the onus for the promotion of the rights of all citizens rested with the state, it was the responsibility of the international community to create the proper legal framework. If states did not fulfil their obligations within their borders, and, for instance, failed to act in the case of massive human rights violations (or worse, took part in such violations), more radical steps should be envisaged as provided for in the concept of 'responsibility to protect'. Third-world countries were sceptical about this concept because they feared for their sovereignty. But 'responsibility to protect' was no longer preventive and could be applied only in extreme cases of violent conflict. The existing concept of peacekeeping was seen as more compatible with sovereignty. Prevention should focus

on cases where there was greater potential for violence. Three possible methods could be applied :

- Separation/partition: Czechoslovakia succeeded harmonious partition; Yugoslavia less so; there was further potential for violence in Georgia;
- Assimilation: in the case of the US, Canada, or Australia, assimilation was successful because voluntary; in Europe, national identity remained strong; forced assimilation always led to conflict (Turkey and the Kurds, tensions in Central Asia and Eastern Europe);
- Integration: called for conditions respecting diversity and multi-ethnicity, and therefore required specific tools.

In Europe, post-totalitarian societies placed a high degree of importance on national identity. Even in democratic societies, a resurgence of nationalism could be observed (Denmark, Holland, France, Germany). But if minorities were to respect territorial integrity, their identity also had to be preserved. Indeed national minorities may try to restore their suppressed identities and push for greater self-determination (as in the case of Kosovo). Each of the two sides had their own responsibilities, as did the neighbouring states, since there was a tendency of minorities to look to their kin state for support, which led to instability.

4.2. Another issue raised was whether an autonomous region could go beyond what the state had agreed to protect. At the initiative of the NGO Geneva Call, some Kurdish groups fighting against Saddam Hussein agreed not to use anti-personnel landmines even when Iraq used them.¹² Some autonomous groups had agreed not to use child soldiers even though the states they were fighting against did. Kosovo could go beyond what Serbia had agreed. The Scottish justice system recently applied the 'compassionate release' of a Libyan prisoner while under British law, such a provision did not exist. Moreover, many auton-

¹² See : <http://www.genevacall.org/news/in-the-press/f-in-the-press/2001-2010/2002-02sep-lib%5BFRA%5D.htm>.

omous regions had their own minorities which restricted the appeal of statehood: most states had not fragmented into more states. In cases where an entity was claiming statehood, its right to do so should be determined. Genocide was an extreme case, with a high threshold in the scale of violence, difficult to prove, and should not be the standard. Crimes against humanity were a clearer threshold. The 1970 Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States¹³ contained a criterion for refusal of the right to break away from an existing state: the “possession of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.” Regarding the rule of law and human rights, the onus of implementing norms was on states, but individuals were running states and could now increasingly be personally considered responsible for violation of international norms. This could act in a preventive way, for instance through the system of universal jurisdiction. With regard to ‘responsibility to protect’, the threshold of ‘massive violations of human rights’, amounting to genocide, was too high to allow international intervention; the perpetration of war crimes and/or crimes against humanity was a more accessible criterion requiring international action (in any case the result of such crimes was often as serious as genocide).

4.3. In the discussion, Iraqi Kurdistan was mentioned as another example where the autonomous region undertook more obligations than did the central government: in contrast to Baghdad, Iraqi Kurdistan did not require entry visas from foreigners arriving directly on its territory. Another consideration held that autonomy agreements should include clauses on human rights with reference to international agreements, so that both parties would bear the responsibility for abiding by those

13 Available at: <http://www.hku.edu/law/conlawhk/conlaw/outline/Outline4/2625.htm>.

agreements. Yet another comment held that the ‘representation test’ could be a serious impediment if it meant access to executive power: did the Native Indian-Americans in the US and Canada have a right to secede because they did not take part in the federal government? With whom did the power of decision rest as to who was under-represented? Some global governance structures were perhaps needed, especially in current global challenges: would the climate ‘refugees’ be entitled to autonomy within the states that accept them? It was suggested that separation could be prevented by active promotion of minority rights, with full participation in society, the police force, and other administrative instances. The OSCE High Commissioner for National Minorities was considered to have an important role in the early warning and prevention of disputes. The UN would be well-advised to create its own High Commissioner, even if the UN High Commissioner for Human Rights and the International Criminal Court could also play a useful role in terms of prevention. Fact-finding was also helpful in the case of minor incidents, to diffuse tension and weaken the spoilers attempting to distort the facts. On forced assimilation, one participant recalled that there were 13 million Kurds in Turkey without the right to full use of their own language, or to independent private schooling. In Transnistria, police entered schools where Moldovan was being taught in Latin instead of Cyrillic script. Nation-building in some countries (Turkmenistan, Uzbekistan) was based on the suppression of minorities. One participant referred to the 1999 OSCE Lund Recommendations on the Effective Participation of National Minorities in Public Life¹⁴ and wondered whether they would be applicable in the case of Western Sahara. He considered that the linkage between citizenship and voting rights could be at a low threshold for local elections but higher for national elections. Proportional representation had received general consensus as being the best system for

14 Available at : <http://www.osce.org/item/2929.html>.

accommodating minorities, although it could lead to nominal rather than real representation. Minorities could at times be power-brokers in proportional systems, causing 'make or break' coalitions (like in Croatia, where Serbs serve as power-brokers without having a special position in executive government). Another opinion held autonomy as a democratic proxy, granting more rights to one group of citizens over other citizens. Yet another recalled that the OSCE wished to diminish the differences in rights between citizens and non-citizens. But there were also opposite trends, as in the Netherlands, where the Government proposed that national minorities could only use Dutch in public, while tourists could use other languages.

Evolution and Prospects of Autonomous Regions

5.1. It was asked whether autonomy was always the end-result of a process or whether there should be a further stage possible. There was historical evidence to show that when a group chose to go further than autonomy, this became a cause for war. In fact, there were many forms of autonomy, each responding to specific challenges. Open conflict had been avoided in the case of Vojvodina, a region of Serbia, and it was worth looking into what prevented conflict there. In ethnic terms, Bosnia was believed to be the most complex situation, but Vojvodina was even more complex. It was the last enclave of multiculturalism inherited from the Habsburg Monarchy. In addition to a 65-67% Serbian majority, some 25 minority groups and six official languages coexisted. Vojvodina had gained its autonomy because it had been multicultural since 1918. During World War II, it lost its Jewish community while Serbs and Romas were also killed. After the war, some 4,000-5,000 ethnic Germans were expelled. Socialist Yugoslavia was built on the assumption that past conflicts had be overcome to establish a new relation among different nationalities. To the Communist way of dealing with

such problems was not democratic, but it helped to achieve this goal. After the divorce with Stalin, Yugoslavia became a different Communist state, providing more cultural if not political freedoms. Vojvodina went through a fruitful period of cultural and social interaction among its different ethnic communities, including inter-marriages and multicultural activities. Hungarian intellectuals in Vojvodina became a beacon of light for culture in Communist Hungary itself, where many books were smuggled. Cultural and artistic freedom showed that it was possible to develop an identity beyond purely ethnic criteria. However, with the break-up of Yugoslavia in the 1990s, nationalist sentiment prevailed and Vojvodina paid a high price for this: inter-group communication was replaced by mistrust; there were a few incidents of ethnic cleansing against Croats. One needed to remember that President Milosevic had pressed the Serbs to 'colonise' Vojvodina to replace the expelled German population so as to change the ethnic composition of the area. It was easier to destroy trust than to rebuild it, even after the democratic changes in Serbia. However, now 80% of Hungarian children in Vojvodina studied in their own language at the elementary level and 72% at the secondary level. It was even possible to study in one's mother tongue at the university level. The same applied to Romas and Slovaks. Despite this, insufficiencies in representation remained: minorities were under-represented in the administration, the judiciary and the police. In the 1990s young urban professionals emigrated, causing a brain drain. Without an intellectual elite, minorities were in danger of stopping short of building a cultural identity and growing introverted. Vojvodina appeared as a test case for Europe, where few such mixed groups existed. How to ensure continuity of this fabric? The sole answer lay through the EU and NATO integration of all western Balkan countries without which there would be neither the will nor the resources to nourish such an experiment. There could even be external interference (for instance on the part of Hungary) or a resurgence of nationalism during election campaigns with

exclusive slogans. The best principle to apply to such situations was the EU principle of subsidiarity. But a new status for Vojvodina was under discussion which increased the powers of the autonomous region and gave it some form of international representation.

5.2. Did self-determination always equate with independence? In the 19th century, the principle of nationality gave birth to many states. In the early 20th century, US President Wilson believed that every nationality should choose for itself the status it wished to have. The 1970 Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States provided that any agreed status between entities would be in conformity with the right to self-determination. Today, the dichotomy between globalisation and subsidiarity could bring more states to accept the principle of autonomy for some areas. Three categories of autonomy were identified:

- Administrative autonomy: a mere delegation of powers, it could probably not serve as self-determination;
- Personal or cultural autonomy: a system under which a minority in the country, which did not constitute the majority in any part of the country, was granted the right to organise its cultural, religious and educational activities by itself. This kind of autonomy could be considered to grant a certain kind of self-identification;
- Territorial political autonomy: here, under certain conditions, the need for self-determination might be achieved because it involved the transfer of certain powers – usually in the field of economics and social matters – to the local institutions, while preserving the unity of the state.

Twenty measures and circumstances capable of enhancing the success of a regime of autonomy were identified:

1. A regime of autonomy should be established with the consent of the population intended to benefit from it. However, sometimes a popula-

tion that at first only reluctantly accepted a regime of autonomy, later came to favour it (as happened in the Åland Islands).

2. The regime should be established with the express or implied consent of a foreign state to which the autonomous group may have an ethnic or other affiliation. (Sweden's positive attitude had contributed to the success of the autonomous regime of the Åland Islands).

3. Membership in a supra-regional organisation may also be helpful (the situation in South Tyrol/Alto Adige improved after both Austria and Italy became members of the EU).

4. The regime should be beneficial for both the state and the population of the autonomous region.

5. The local population should be permitted to enjoy the formal or symbolic attributes of self-determination such as a flag, an anthem and an officially recognised language. (Most of the successful autonomies enjoy these privileges, including the Åland Islands, Greenland, and Scotland).

6. Some international capacity or representation could be useful (as in the case of Hong Kong and New Caledonia).

7. The division of powers should be defined as clearly as possible. (The texts concerning the Åland islands, South Tyrol/Alto Adige, Memel/Klaipeda, and Eritrea were quite detailed; however, although the documents concerning Greenland and the Faroe islands were rather short, their autonomy had nevertheless been a success).

8. In cases where the activities of the central government in spheres that were under its authority directly affected the autonomous region, the local authorities should be consulted, where possible. (This practice is particularly evident in the case of the Åland Islands and Greenland).

9. An organ (or several specialised organs) for cooperation between the central government and the local authorities should be established, as far as possible, in advance. (The Åland Delegation had prevented many misunderstandings).

10. Modes and mechanisms for dispute settlement between the central and the local authorities should be established, with a maximum of clarity. (However, when relations between the centre and the autonomous authority were good, disputes could often be prevented at an earlier stage by the organs of cooperation).

11. Under certain circumstances it may be preferable to establish the autonomy in stages, that is, to transfer the relevant powers (and perhaps also the territory involved) gradually. (Gradualism was particularly effective in the case of Greenland).

12. The prospects for success were greater if both the central government and the autonomous authorities were based on democratic regimes. (As examples one may refer to Puerto Rico, Greenland, the Åland Islands and Scotland).

13. Every regime of autonomy must include guarantees for the respect of human rights, including the principle of equality and non-discrimination among all the inhabitants. Similarly, a minority living within an ethnic group that had been granted autonomy should enjoy minority rights. This was particularly important in cases of considerable ideological or traditional differences between the centre and the autonomous population on matters of human rights – for example, the status of women and the rights of the child.

14. A rather similar stage of economic development and standard of living in the autonomous region and in the state as a whole may enhance the chances of success. (Thus, Denmark's efforts to raise the standard of living in Greenland helped to make this autonomy arrangement a success, while the economic and social differences between the North and the South may have contributed to the failure of the autonomy in southern Sudan).

15. If autonomy was established for a limited period of time, the procedure to be followed at the end of that period of time should be estab-

lished at the outset. If possible, a list of tentative options to be considered at that stage should be drafted.

16. If the autonomy arrangement included a commitment to certain rules of behaviour, it may be beneficial to base said rules on international norms (e.g., references to international standards of human rights, health, and environmental protection).

17. The most important, indeed indispensable condition for successful autonomy was a prevailing atmosphere of conciliation and goodwill. This condition must be generated by an energetic and sustained effort to explain and to engage in patient dialogue. (To date, no arrangements of autonomy had succeeded in a hostile atmosphere. The atmosphere may, however, improve with time, as occurred in the Åland Islands).

18. Autonomy should be established before relations between the majority in the state and the majority in the region deteriorate considerably. Experience showed that autonomy alone was incapable of calming down a situation strained by hatred and frustration.

19. The aspiration to self-determination may be satisfied by the granting of a certain degree of sovereignty to the autonomous area. Since the notion of sovereignty had undergone great changes, and since autonomy and sovereignty were not mutually exclusive, one could consider shared sovereignty (New Caledonia) or functional sovereignty.

20. In a similar vein, one may consider addition of the name of the autonomous territory into the passport of the state.

It was thought that the most important of these points were no. 1 – the need for the consent of the population, and no. 17 – the atmosphere of conciliation and goodwill.

5.3. In the discussion, one participant examined the case of the proposed status of autonomy of Western Sahara in light of these criteria, and considered that it fulfilled all of them, including regional integration.

Concluding Remarks

One participant proposed the conclusions that he drew from this seminar. He considered that the complexity surrounding self-determination came from the differences between internal processes and international recognition. To the question “Can autonomy fulfil the right to self-determination?” he noted the possible following answers:

- In some cases, self-determination and autonomy do not appear to be reconcilable because one side asserts territorial integrity, the other asserts claims, and neither side’s preferences can be fully realised through autonomy. This is the situation in the Caucasus, Cyprus, Kashmir, and leads to frozen conflicts. Some governments fear autonomy as a slippery slope inevitably leading to independence. In that sense, Kosovo can be seen as a moral hazard. There is also the risk of external interference, as seen in Kashmir.

- In other cases, on the contrary, autonomy does allow for self-determination and is compatible with a central state’s sovereignty, as demonstrated in Spain, Northern Ireland, Aceh, Adjaria, Vojvodina. Law can be interpreted differently; it can be aligned to reality in different cases; legal and practical barriers can be overcome. In this regard, the Moroccan

proposal of autonomy for Western Sahara is viewed as sophisticated and innovative.

- For a third category, autonomy can fulfil the right to self-determination only under certain conditions. It depends very much on the existence of a sense of conciliation and trust among the parties, as well as a sense of urgency to solve an existing or potential conflict. A resolution based on a process of autonomy can act to prevent the frustration resulting from uncertainty about the future.

Regarding the methods of achieving autonomy, the need was stressed to take into account identity narratives, the symbolism of political elites, the willingness of parties to negotiate, the commitment of mediators, the open-ended nature of negotiations. Ultimately, one needs to be fully aware of the root causes and reasons for seeking independence. If it is only about prestige, there may be other ways to provide it short of full-fledged independence.

With respect to the relationships between the centre and the local authorities, there are important economic dimensions (institutional or joint development, arbitration, etc.), but also legal dimensions (international norms and rights regarding minority participation, regional norms, for instance on the identity of indigenous populations). As to institutional and constitutional guarantees, best practices point to proportional representation in a constitution-making body where all stakeholders develop a sense of common ownership (as in South Africa or Nepal). On the method for selecting the minority group, self-selection is one option, but it can also be done through the electoral process.

Morocco and Western Sahara were considered to be caught between two systems: Western Europe (focusing on subsidiarity, devolution, rights of minorities and democratic governance) and Africa (with a decolonisation mindset and tribalism still alive, where the recognition of ethnic identity is seen as risky for state-building). In this regard, resorting to a referendum calls for careful analysis: it may facilitate a process or serve

as early warning (like in East Timor), but it may also derail or block the process (as it did in Cyprus).

Three sets of policy recommendations were made :

- Firstly, make unity attractive (as in Sudan). It can be an option to avoid separation and armed conflict;
- Secondly, develop scenarios aiming at making unity particularly attractive in economic terms, so as to generate ‘peace dividends’ (as in South Africa);
- Finally, recognise the importance of mechanisms that help create new ideas, be innovative. (For instance, in the constitutional process in Fiji, a convention sent representatives to other countries to study experience abroad).

In the end, what seems most effective is to bring the parties together to seek, together, what the future will look like down the road, with the aim of building a common destiny or of agreeing to various forms of self-government on a consensus basis.

Keynote Address by Professor François Heisbourg, Chairman of the Foundation Council, GCSP

Briefly, I would like to make some general, unscripted remarks on the issues involved in the topic of this seminar. Normally it would have taken four horses to drag me to speak on this controversial subject, a real minefield. There are so many different ways to deal with this delicate issue. But I was convinced by two things. One is related to our location: Switzerland is indeed a remarkable demonstration of how multiple identities, multiple power levels and multiple levels of autonomy can be managed in a way that never ceases to surprise me. Switzerland is in a way the functional equivalent of bumble bees which, as engineers will tell you, are not supposed to be able to fly because of the characteristics of their aerodynamics. On the face of it, Switzerland should not be able to fly. It is even more complicated than Bosnia in terms of its institutions, and yet it flies reasonably well. The other reason is more personal: one half of me comes from the former imperial power, France, but the other half comes from a small entity called Luxembourg, and also I belong to the European Union. There are three aspects that I would like to touch upon. First, the issue of identity, or the 'battle of narratives' if you will; secondly, the issue of force, or the 'narrative of battles'; and thirdly, how globalisation affects the topic of your seminar.

First, the ‘battle of narratives’. I think it was Simon Bolivar who said – and please correct my paraphrase – that the only political legitimacy of a nation lies in the sovereignty of the people. It sounds very clear, very simple. But that raises the question: who is the ‘people’? In some ways, and certainly for a European, it is easy to be misled by the analogies between the nation-state on the one hand, and information technology (IT) on the other: for the nation-state, you have a people, a territorial framework and a discourse; for IT, you have hardware as material framework, software, and an operating system for content management. These analogies are broadly correct: in both instances, you will find these components. But in practice, they are enormously different: there is no single definition of the ‘people’; there does not exist a single standard relationship between the people, the territorial framework and the nature of the content and the content management i.e. the discourse. In this sense, the analogy with IT breaks down. For instance, if I take content, what we would call the “*marqueurs identitaires*” in French, the ‘markers of identity’, and look at the various uncontested – or at least currently uncontested – nation-states around us whose existence does not pose major practical or metaphysical problems, even in this group, the key markers are extraordinarily diverse. In some cases, they are going to relate primarily to the past. The past in many countries is not ‘another country’ to paraphrase a well-known expression. In many cases, it will be religion; in other cases, it will be values (look at the United States of America); it will be language; it will be cultural background; it will be ‘race’ in the 19th-century meaning, what we call today, more politely, ethnicity. Along with these differences, you have narratives which are vastly different in nature. Look at the United States, building the ‘New Jerusalem’, the ‘shining city on the hill’, the American dream. The Soviet Union was another ideological state, where the ideological component of the narrative was absolutely vital. Take France, with its more territorially and historically based narrative (“*nos ancêtres les Gaulois*”). Or take

the biological nature of the German romantic vision of the nation in the 19th century, with its many interpretations in Central and South-Eastern Europe, or indeed sometimes beyond.

Then let's look at the relationship between content, territory and people. There is no set relationship between these three categories as there would be in the field of IT: in the case of the Soviet Union, to take an extreme case, there was no territory, at least initially, when there was only a narrative (the Komintern hymn mentioned the Soviet Union as the 'World Soviet'). This is of course entirely different from other situations where the territory will be considered as the absolute essence. There are many permutations possible between these three components which are people, territory and content. This is another way of saying that, given those complexities, one should not be surprised that it is possible to have multiple identities without being individually or collectively totally dysfunctional. One can be from France and from Luxembourg at the same time. One can be from the Canton of Valais (in Switzerland), with a father from the German-speaking part of the canton and a mother from the French-speaking part of the canton, one being a Catholic and the other a Protestant. All these identities are actually of a very great importance. Look at the complexities of the dosage of Swiss political life, with the de facto need to balance the numbers.

But at the end of the day, the heart of the answer to your question is power. At what level of identity will power rest? Will it be at federal or executive level? Will it be at the intermediate level? Will it be at a lower level? There are places – Switzerland being one of them, or the European Union, a vastly larger structure, being another – where the power issue has been basically resolved. Power for a certain type of collective endeavour will rest at one level, and power for another type of collective endeavour at another level. One finds such allocations of political power between different levels in federal states more generally. One finds it no less readily in post-modern settings such as

the European Union. You can at the same time be a good Catalan, a good Spaniard, and a good European, even with strong identities at each level. But this of course is not a general rule in the world, where the rule is simplification, and where the 19th-century models are more prevalent than the late 20th-century models. One way of illustrating this is in relationship to ‘walls’: for the Europeans, the Berlin Wall was very ugly because it separated, it split; therefore Europeans tend to conclude that all walls are bad. In other societies, like in Israel, you may consider walls as good because “good fences make good neighbours”. Or in Morocco, you may consider that the “mur” in the Sahara is not necessarily a bad thing. Once again, it is impossible to define a single set of rules or standards for all.

On the issue of simplification – and this is where I get to the ‘narrative of battles’ – precisely because it is both so important and so difficult to bring together or to mobilise in a stable manner a human collective entity, there is an immense temptation to simplify. And the ultimate simplification is war. If not war itself, it will be the narrative of war, of battles. To turn around a French expression, “la guerre, c’est la mobilisation”, war is mobilisation. War allows the forces of society to mobilise. War is about shared pain, suffering, sacrifice, therefore a shared narrative. But if a country like Luxembourg had built its identity on the ‘narrative of battles’, there would be no Luxembourg: we would have been crushed... The temptation of simplification carries two risks: first, war can be lost – and war tends to be a zero-sum activity; secondly, war can generate dependency on ‘benevolent’ outsiders. If a collective entity seeks to reinforce its identity through simplification by way of war, historically, often the opposite occurs: the phenomenon of dependency makes it virtually impossible actually to bring to fruition the project of identity (“le projet identitaire”). We can see this in various regions of the world.

Third issue: globalisation. As it operates since that word was created nearly fifty years ago, how is globalisation different from previous episodes of international history? Essentially by two aspects. The most apparent, if not the most important, is the instantaneous exchange of information (and this has some bearing on your topic: look at how easy it is today for a diaspora to mobilise electronically for a cause). The other dimension of globalisation is empowerment of non-state actors at whatever level of operation is relevant to them: cross-border globally, cross-border for a regional cause, intra-border for local or sub-national causes. This is probably the most important factor of globalisation vis-à-vis your field today. That effect leads to a large extent to the erosion of borders. But I come back to the caution expressed earlier about walls: I am very glad to be a citizen of the European Union, where borders are no longer walls. At least internally, borders in Europe do not exclude, do not oppose, but at the same time, borders do exist notionally. Even though this existence is notional it is by no means less important. It is a very important existence. Borders not only organise conflict or war, borders also make it possible to organise peace. I know where Luxembourg and France begin and end. This in itself is conducive to peace. It is not so much “good fences” which make “good neighbours”, but simply the fact of knowing where your property begins and ends. This provides for reassurance and stability. It is essential to have good neighbourly relations, but globalisation does work against that, because globalisation works across borders in the manner which I indicated earlier on.

On another note: despite the advent of Einsteinian physics, globalisation operates in a world where Newtonian physics also apply: every action provokes an opposite and equal reaction. This is also the case with globalisation. It works against identities, against established

borders, towards some homogenisation (although not in as unequivocal a manner as once described by Thomas Friedman),¹⁵ and at the same time it provokes opposite reactions by building up identities, including smaller, more inward-looking identities. This can be seen in the activity of diasporas: precisely because they live in societies which in terms of national belonging are not perceived as entirely their own, they generally tend to press harder on some issues than their people in the homeland, and contribute to a concentration of power at that level of identity within set and clear borders. It does not make it necessarily easier to come to solutions. I have not been in Western Sahara for some years now, but I suspect that the mentalities in El-Ayoum and in Tinduf remain probably quite different, notwithstanding the purported homogenising consequences of globalisation.

I would like to propose three bottom lines in conclusion.

First, there is no single toolbox. We are in an area of ‘ad-hocry’ because the building of identities does take place in ways which are so extraordinarily different in terms of the ‘markers’ that one adopts and the manner in which those ‘markers’ operate. This does not make the work of analysts or policy-makers, let alone lawmakers, any easier. But it is important to recognise that the quest for a single toolbox is vain, and that pragmatism and empiricism are probably even more helpful in this area than in others.

Secondly, multiple identities are possible, but they are fragile, even within the European Union. Look at Belgium. Look at the much more complex cases of the former Yugoslavia in the 1990s or Lebanon in the 1970s, previously called the “Switzerland of the Middle East”.

Finally, one cannot tackle the topic of autonomy without recognising that it is ultimately about power and the spreading of power. Precisely because multiple identities are possible, power can and should be spread at various levels of identity like in federal states or diversified

¹⁵ Friedman, Thomas. *The World Is Flat: A Brief History of the Twenty-First Century*, 2005.

models such as Switzerland. It is not because you have to answer the power issue that you have made your task impossible. You will make it impossible if you pretend to resolve the question of identity without addressing the question of power. This is ultimately what made the Soviet Union so fragile: there were many factors in its downfall, such as the nature of its economic system and its social system, but, ultimately, it did not survive as a recognisable state because of the deliberate and successful attempt by its early rulers – notably Stalin – to disconnect as much as possible the question of identity ('nationality') from the issue of power ('citizenship'). You were a Russian or a Tajik national and a Soviet citizen, but only the Soviet level of power had any real existence as compared with the extraordinarily weak, residual elements of political power at the level of component states, and not simply the peripheral entities of the USSR but also the largest ones, such as Russia. And it is not entirely by chance, comrades, that Russia, by declaring its independence in 1991, made the complete disappearance of the Soviet Union inevitable. This is what happened.

I do not know whether I have confused further an already complex issue, but this is the contribution I wish to offer as someone who is the bearer of multiple identities.

Programme

Wednesday, 6 October 2009

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|---------------|--|
| 09h00 – 09h15 | Welcome Address |
| 09h15 – 10h15 | Session I:
The Road to Autonomy: Negotiations, Referendum, Constitution...
"The Moroccan Proposal for the Autonomy of Western Sahara" |
| 11h00 – 11h45 | Session II:
Power-Sharing and Institutional Arrangements
Keynote Address: Professor François Heisbourg, Chairman, Foundation Council, GCSP |
| 14h00 – 14h45 | Session III:
Economic Aspects of Autonomy:
Revenue Sharing, Exploitation of Natural Resources
"The Case of Iraqi Kurdistan"
"The Case of New Caledonia" |

15h15 – 16h00	Session IV: How to Guarantee the Protection of Human Rights in an Autonomous Region?
16h45 – 17h30	Session V: Evolution and Prospects of Autonomous Regions “The Case of Vojvodina”
18h00 – 18h30	Conclusion

List of Participating Experts

Mr Kavus Abushov, Lecturer, Azerbaijan Diplomatic Academy, Baku.

Professor Andrew Clapham, Professor of Public International Law, Graduate Institute of International and Development Studies, Geneva.

Dr Caty Clément, Faculty Member, GCSP, Geneva.

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