

INTRODUCTION

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I would like to sincerely thank the Permanent Mission of the Kingdom of Morocco to the United Nations for asking me to chair this International Research Seminar on "Regional Commissions of National Human Rights Councils in Autonomous Regions: Good Practices and Challenges". It is indeed a great honour for me to be given this opportunity to help move international deliberations on such an important topic by comparing the experience of several countries represented here by leading experts.

It will shortly be my pleasure to give the floor to Mr Driss El Yazami, Chairman of the National Human Rights Council of the Kingdom of Morocco, who will present the system introduced in his country to ensure consistency in the protection and promotion of human rights at the national, regional and local level. We shall then hear presentations on the relationship between national human rights institutions and their regional representations in several key countries from various regions or continents: Canada / Quebec, Italy, Mexico, the Philippines / Autonomous Region of Muslim Mindanao (ARMM), Tanzania / Zanzibar. The main purpose of this seminar will be to compare these experiences and practices with each other as well as with the Moroccan system in order to learn valuable lessons, over and above national histories and geopolitical considerations.

But allow me first to recall the overall context in which we are having this discussion. As you all know, international negotiations have been going on for decades under the aegis of the United Nations with a view to reaching a final solution to the Sahara conflict. In 2007, the talks having reached an impasse, Morocco presented the Secretary General of the United Nations with a document entitled: "Moroccan initiative for negotiating an autonomy statute for the Sahara Region"². The Security Council responded positively to this initiative, all the resolutions adopted in this connection, starting with Resolution 1754 of 2007, have indeed taken note of this proposal while "welcoming serious and credible Moroccan efforts to move the process forward towards resolution".

Today, in the wake of the renewal of MINURSO's mandate by the Security Council, the "just, lasting, and mutually acceptable political solution" the United Nations has been calling for hinges more than ever on Morocco's autonomy initiative. As we all know, the latter proposes a framework for negotiating all aspects of autonomy: institutional, political, economic, social, environmental and cultural, and puts special emphasis on respect for human rights. To quote the proposal, "[t]his initiative is part of the endeavors made to build a modern, democratic society, based on the rule of law, collective and individual freedoms, and economic and social development."³ It "guarantees to all Sahrawis, inside as well as outside the territory, that they will hold a privileged position and play a leading role in the bodies and institutions of the region,

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²United Nations, Document S/2007/206 dated 13 April 2007:

(<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N07/307/49/PDF/N0730749.pdf?OpenElement>)

³ *Ibid.* paragraph 3.

without discrimination or exclusion."⁴ Article 25 of the Moroccan proposal provides that: "[t]he Region's populations shall enjoy all the guarantees afforded by the Moroccan Constitution in the area of human rights as they are universally recognized."⁵ The fact that the proposal mentions the Constitution is important since not only will Morocco's fundamental law be amended to integrate the autonomy statute, but also because the Constitution gives the King national competences as "Guarantor of freedom of worship and of individual and collective freedoms"⁶ and devotes an entire chapter of 22 articles to fundamental freedoms and rights.

Moreover, through this autonomy statute, "the Sahara populations will themselves run their affairs democratically, through legislative, executive and judicial bodies enjoying exclusive powers. They will have the financial resources needed for the region's development in all fields, and will take an active part in the nation's economic, social and cultural life."⁷ As can be seen, this autonomy statute does not merely protect and promote the human rights and fundamental freedoms of the populations concerned, but, by ensuring that they are provided with the financial resources required⁸, these rights and freedoms will not be merely rhetorical but will find concrete expression in the daily life of citizens. Not only are civil and political rights covered but economic, social, cultural and environmental rights as well. These rights moreover include the rights of "persons to be repatriated" to ensure their "full integration in the nation's fabric [...] in a manner which preserves their dignity and guarantees their security and the protection of their property."⁹

This approach is in line with the Security Council's request to the parties "to work with the international community to develop and implement independent and credible measures to ensure full respect for human rights, bearing in mind their relevant obligations under international law."¹⁰ In this respect, the United Nations encourages "the parties to continue in their respective efforts to enhance the promotion and protection of human rights in Western Sahara and the Tindouf refugee camps, including the freedoms of expression and association." It however also recognizes and welcomes "the recent steps and initiatives taken by Morocco to strengthen the National Council of Human Rights Commissions operating in Dakhla and Laayoune, and Morocco's ongoing interaction with Special Procedures of the United Nations Human Rights Council, including those planned for 2014, as well as the planned visit of the Office of the High Commissioner for Human Rights (OHCHR) in 2014."¹¹

Following its recent visit to Morocco from the 26th to the 29th of May 2014, the High Commissioner concluded in her press conference that "the role played by the regional commissions of the CNDH in Western Sahara is encouraging". Moreover, she welcomed "the invitations that have been extended to UN independent human rights experts to visit Western Sahara, to enable them to provide advice and technical expertise towards better human rights protection in the Territory". Finally, she underlined that her technical team that visited Western Sahara "witnessed first-hand the development projects and enormous investment made by the State in economic, social and cultural spheres". (Communication by the High Commissioner: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14652&LangID=E>)

⁴ Ibid, paragraph 4.

⁵ Ibid, paragraph 25.

⁶ Ibid, paragraph 14.

⁷ Ibid, paragraph 5.

⁸ Ibid, paragraph 13.

⁹ Ibid, paragraph 30.

¹⁰ United Nations, Security Council, resolution 2014/2152 of 29 April 2014.

¹¹ Ibid.

In order to promote discussion of certain aspects of its proposal, Morocco took it upon itself to organize, among others, several international academic seminars: in Geneva in 2009 on autonomy as a way to implement the right to self-determination¹²; in Dakhla in 2011 on human rights and democracy in the Moroccan Initiative, the results of which were presented in the margins of the Human Rights Council in Geneva; in Geneva in 2012 on "Governance in Autonomy Statutes: Institutions and Mechanisms" and on "Management of Natural Resources in Autonomy Statutes"; in 2013 on "Representativeness and Legitimacy in Autonomy Negotiations", and "Autonomy Statutes and Regionalization: Solidarity and Equalization between Regions", followed in 2014 by another one on "What Development Model for Autonomous Regions?".

Today's seminar, just like the previous ones, aims at allowing mutually beneficial comparisons of autonomy practices and models in various regions of the world, and at showing that the Moroccan Initiative may well not only be the political solution to a protracted conflict in North Africa, but also a possible reference for other countries of the South. Just like with the previous seminars, Morocco shall publish today's contributions for everybody's benefit.

In the comparative presentations that will follow, the following questions may be dealt with:

1. What is the relationship between the National Council/Commission for Human Rights and the regional commission? Is the National Council/Commission or the central government behind the creation of the regional commission or is it the result of an initiative of the autonomous region?
2. What are the challenges facing the regional commission? Is it considered as contributing to the work of the National Council/Commission or as a competing institution?
3. Does the National Council/Commission provide resources to the regional commission? Is the regional commission financed from the State budget or from a regional source? Does the national Council/Commission provide the regional commission with human resources or advice?
4. Does the regional Council/Commission send its reports to the national commission or does it make them public? To what extent is the work of the regional commission confidential or publicized vis-à-vis the National Council/Commission and the public?
5. Can the regional commission refer questions of violations of human rights perpetrated on the territory of the autonomous region to the National Council/Commission? Can it refer matters to the regional Parliament or regional courts?
6. Are the conditions under which the population of the autonomous region can refer matters to the regional commission the same as for referring matters to the national Council/Commission?
7. Does the National Commission have access to international human rights protection mechanisms or are they the preserve of the National Council/Commission?

I shall offer a few concluding observations at the end of the session.

¹² "Can Autonomy Fulfil the Right to Self-Determination?", *Geneva Paper* N°12, 2010.