

June 2022

CONCEPT NOTE

International Research Seminar

DEVOLUTION OF LEGISLATIVE POWERS IN REGIMES OF TERRITORIAL AUTONOMY

The Permanent Mission of the Kingdom of Morocco to the United Nations (UN) is organising an international on-line research seminar on the topic “Devolution of Legislative Powers in Regimes of Territorial Autonomy” on **1 July 2022 from 10.00 to 13.00 Eastern Daylight Time**.

Background

On **11 April 2007**, the Kingdom of Morocco presented to the UN Secretary-General its “Initiative for Negotiating an Autonomy Statute for the Sahara Region” in order to break the stalemate in negotiations on the regional dispute about Sahara.¹ The UN Security Council in successive thirteen resolutions qualified this initiative as “serious and credible”. It recalled “*its endorsement of the recommendation (...) that realism and a spirit of compromise by the parties are essential to achieve progress in negotiations*”² and its call upon neighbouring states “*to strengthen their involvement to end the current impasse and to achieve progress towards a political solution.*”³

With the aim of promoting discussion on aspects of that proposal, Morocco initiated several international academic seminars in Dakhla, Geneva, or New York on the following topics: “Can Autonomy Fulfil the Right to Self-Determination?” (2009), “The Democracy and Human Rights Dimensions of the Moroccan Initiative” (2011), “Governance in the Statutes of Autonomy: Institutions and Mechanisms” and “Managing Natural Resources in Statutes of Autonomy” (2012); “Representation and Legitimacy in Autonomy Negotiations” and “Autonomy Statutes and Regionalization: Solidarity and Equalization between Regions” (2013); “What Development Models for Autonomous Regions?” and “Regional Commissions of National Human Rights Councils in Autonomous Regions: Good Practices and Challenges” (2014); “Civil Society and Non-governmental Organizations in Autonomous Regions: Role and Responsibilities” (2015); “External Relations of Autonomous Regions and Transboundary Cooperation” (2016); “Regionalization and Territorial Autonomy: Differences, Singularities, Complementarity” (2017); “Models of Territorial Autonomy: Convergences and Differences” (2018), “Territorial Autonomy: An Effective Means for the Political Settlement of Conflicts” (2019), and “Ensuring Success of Regimes of Territorial Autonomy: Devolution of Judicial Powers” (2021).⁴

The Ministry of Foreign Affairs and Cooperation of Morocco published the contents of all seminars in separate reports, also available on a dedicated website of the International Academic Network on Autonomy: www.academicautonomynetwork.com.

Aims of the Seminar

The seminar convened on **1 July 2021** will pursue the same objectives as the previous ones: promoting the importance of the Moroccan Initiative for a negotiation on the autonomy of the Sahara Region, as a means of political settlement

¹ United Nations Security Council, Document S/2007/206, 13 April 2007.

² United Nations Security Council, Document S/RES/2218(2015), 28 April 2015.

³ Ibid.

⁴ The comparative studies included the cases of: Aceh, Andalusia, Azores and Madeira, Bangsamoro, Cameroon, Caribbean island states, Catalonia, Eastern Malaysia, Greenland, Indian Northeast, Iraqi Kurdistan, Italian autonomous regions, Mexican states, New Caledonia, Newfoundland, Nicaragua’s Atlantic Coast, Northern Ireland, Nunavut, Puerto Rico, Quebec, Spanish Provinces, South Tyrol, Vojvodina, Wallonia, Zanzibar, etc.

and in the light of the efforts made by Morocco in terms of economic, socio-cultural, environmental, and human development of that region. This seminar will offer an opportunity to study the lessons learned from experiences of devolution of legislative powers in the framework of systems of territorial or regional autonomy on several continents, as well as to compare them with the provisions offered by the Moroccan Initiative.

As a reminder, shortly after the introduction of its proposal for the autonomy of the Sahara Region aiming at putting a definitive end to this dispute, Morocco opted in 2008 for a policy of “**Advanced Regionalization**” aiming at promoting citizens’ participation, democracy, and decentralization as means of facilitating economic, social, and cultural development as well as modernization of State structures and improvement of local governance. This reform was then enshrined into the 2011 **constitutional revision** that adopted the principle of self-government for regions and granted them, among others, the main competency in terms of economic, social, cultural, and integrated sustainable development.⁵ This process established mechanisms for dialogue and consultation to involve citizens and NGOs in the elaboration and monitoring of development programmes.

Regarding **legislative powers**, the Initiative for the Autonomy of the Sahara Region includes several provisions:

- Art. 5: (...) the Sahara populations will themselves run their affairs democratically, through **legislative**, executive, and judicial bodies enjoying exclusive powers.
- Art. 12: In keeping with democratic principles and procedures, and acting through **legislative**, executive, and judicial bodies, the populations of the Sahara autonomous Region shall exercise powers, within the Region’s territorial boundaries, mainly over the following:
 - o Region’s local administration, local police force and jurisdictions
 - o In the economic sector: economic development, regional planning, promotion of investment, trade, industry, tourism, and agriculture
 - o Region’s budget and taxation; infrastructure: water, hydraulic facilities, electricity, public works, and transportation
 - o In the social sector: housing, education, health, employment, sports, social welfare, and social security
 - o Cultural affairs, including promotion of the Saharan Hassani cultural heritage
 - o The Environment.
- Art. 19. The **Parliament** of the Sahara autonomous Region shall be made up of members elected by the various Sahrawi tribes, and of members elected by direct universal suffrage, by the Region’s population. There shall be adequate representation of women in the Parliament of the Sahara autonomous Region.
- Art. 20. Executive authority in the Sahara autonomous Region shall lie with a Head of Government, to be elected by the regional **Parliament**. He shall be invested by the King [...].
- Art. 22: Courts may be set up by the regional **Parliament** to give rulings on disputes arising from enforcement of norms enacted by the competent bodies of the Sahara autonomous Region. These courts shall give their rulings with complete independence, in the name of the King.
- Art. 24: **Laws**, regulations and court rulings issued by the bodies of the Sahara autonomous Region shall be consistent with the Region’s autonomy Statute and with the Kingdom’s Constitution.

It is also important to note that the international negotiations on the so-called conflict of Western Sahara are being conducted within the United Nations and that this seminar does not aim at substituting these negotiations but at facilitating their success.

As for the previous events, the contributions to this seminar will be published by Morocco as well as uploaded to the www.academicautonomynetwork.com/ website.

Format

The seminar of **1 July 2021** will take place in a virtual format on the Zoom platform, according to the draft programme below. It will be chaired by an expert on autonomy statutes, and other leading experts on, or from, states with autonomous regions on several continents will contribute to it. This seminar will be open to relevant representatives, including journalists, academics, and non-governmental organisations. Simultaneous interpretation of the

⁵ Moroccan-American Center, “Morocco is Irreversibly Committed to Democratic Reform and Good Governance, www.moroccoonthemove.com (Jan. 2012).

proceedings will be offered in English and French, and the written contributions will also be published in English and French.

Contributions of the Speakers

Each speaker is requested to submit a written contribution to the seminar, including on comparisons between their region of focus and the provisions of the Moroccan Initiative. The length of each paper should be 15-20 A4 pages (1.5 line spacing; Arial 10 font; 2-cm margins). Each paper will be summarised and orally presented to the seminar by its author in a presentation of 30 minutes maximum (possibly using PowerPoint). The papers may be circulated at the seminar, but the organisers reserve the right to include them in full or in part into the publication that will result from the seminar. For the paper and the presentation, each author will receive an honorarium of **1,000 US dollars** from the organisers.

Authors are requested to send their papers to the organisers **no later than 20 June 2022**, in time for their translation into the other working language and the preparation of the publication to be issued shortly after the seminar.

Agenda

The seminar will be opened by a presentation by the chair recalling the provisions of the Moroccan Initiative for the Autonomy of the Sahara Region, particularly with regards to devolution of legislative powers to the bodies of the autonomous region. This will be followed by **comparative analyses** between several cases of autonomous regions and the proposals included in the Moroccan Initiative. The following questions could be addressed (this list is only illustrative):

1. Do the powers attributed to the autonomous region by its status include legislative powers apart from the executive competencies?
2. If this is the case, are these legislative powers exercised independently from national legislative powers or concurrently?
3. Do the legislative powers attributed to the autonomous region apply to all areas of competency recognised to the autonomous region or does the parliament of the central state still exercise some powers in domains which are deemed strategic?
4. Is the legislation of the regional parliament applicable automatically in the autonomous region or is it subject to validation by the national parliament? Can the national parliament modify or cancel the regional legislation?
5. Are there any mechanisms to solve or negotiate on conflicts between regional and national legislation?
6. Is the election to the regional parliament regulated only in the framework of the autonomous region or also in the national framework?
7. Is there a representation of the regional parliament in the national parliament?

Draft Programme

(Times in Eastern Daylight Time or UTC-4)

10:00 am – 10:30 am	Mr Marc Finaud	Introduction: <i>Devolution of Legislative Powers in the Moroccan Initiative for the Autonomy of the Sahara Region</i>
10:30 am – 1:00 pm	Presentations on experiences related to devolution of legislative powers of in regimes of territorial autonomy, and comparison with the Moroccan Initiative for the Sahara Region	
- 10:30 am – 11:00 am	Dr Joan-Josep Vallbé , Associate Professor, University of Barcelona, Spain	<i>Canary Islands (Spain)</i>
- 11:00 am – 11:30 am	Dr Carine David , Professor of Law, University of French Antilles, Pointe-à-Pitre, Guadeloupe, France	<i>New Caledonia (France)</i>
- 11:30 am – 12:00 pm	Mr Jorge M. Farinacci Fernós , Associate Professor, School of Law, University of Puerto Rico, United States Commonwealth	<i>Puerto Rico (United States Commonwealth)</i>
- 12:00 pm – 12:30 pm	Ms Marie Valerie Uppiah , Faculty of Law and Management, University of Mauritius	<i>Island of Rodrigues (Mauritius)</i>
12:30 pm -1:00 pm	Mr Marc Finaud	<i>Discussion and Concluding Remarks</i>

Contact

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