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*Permanent Mission of the
Kingdom of Morocco to the
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**International Research Seminar
on
External relations of Autonomous Regions
and Transboundary Cooperation**



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**EXTERNAL RELATIONS OF AUTONOMOUS REGIONS:
COMPARISON BETWEEN QUÉBEC AND THE MOROCCAN AUTONOMY INITIATIVE
FOR THE SAHARA**

*Jean-Louis Roy*¹⁰

Mister Chairman,
Mister Head of Mission of the Kingdom of Morocco to the United Nations,
Dear colleagues,
Ladies and Gentlemen,

I wish to warmly thank you for your invitation. I am all the happier to be with you that it is with great interest that I took part in each phase of the process of research and presentations stemming from the Moroccan Autonomy Initiative for the Sahara. Through a comparative reading, these seminars successively highlighted major issues: the right to self-determination, democracy, governance and human rights and the management of natural resources¹¹.

It is important to recall that the Moroccan initiative is a leverage for stability, peace and development for the populations and the territories concerned. All independent observers have noted the Kingdom' considerable investments in favor of these populations and territories. I for one consider that the most significant of these investments is the very content of the Initiative per se, this series of proposals that cover living together, individual rights and collective institutions, the region's own resources and those that can flow from being connected to the world.

I have been asked to present Québec's practice in the field of external relations, explain their basis and effectiveness, as a Province of the Canadian Federation.

The historical factors

Like for so many complex situations in the world today, it is necessary to refer to the colonial period to understand Québec's posture as a province but also as a recognized nation in the Canadian Federation that it contributed to found 150 years ago. The long political and diplomatic battle for this recognition starts in the 18th century when the French were defeated and the continent ceded to the British. In London, the new masters saw as their interests to take into account the linguistic, social and religious distinctiveness of the population of their new Québec colony. They formally recognized

¹⁰ Chief Executive Officer, International Partnership (Montreal, Canada).

¹¹ Kingdom of Morocco, Ministry of Foreign Affairs and Cooperation, *Roundtable on the presentation of the conclusions of the International Seminar of Dakhla on democracy and the human rights dimension in the Moroccan Initiative for negotiating an autonomy statute for the Sahara region*, Geneva, 2011; *International seminar on governance in autonomy statutes: institutions and mechanisms*; *International seminar on the management of natural resources in autonomy statutes*, Geneva, 2012.

this distinctiveness in the Paris Treaty of 1763, the Québec Act of 1774 and the Constitutional Act of 1791.¹²

This was 250 years ago.

Since then, Québec and its neighbors experienced various political systems: separate and distinct colonies from 1791 to 1840; confederal Union between 1840 and 1867 and, since 1867, the Canadian Federation as we know it today.¹³ At the beginning, there were only four provinces. Since then, this federal system has been flexible and strong enough to maintain Québec's distinctiveness, integrate and accommodate six new provinces, three territories and 30 million people.

It was a little complicated, to say the least.

For a century, from 1760 to 1860, there were quasi-permanent and difficult negotiations between London and its Québec colony plus a rebellion in 1837 by French Canadians fighting to acquire full political rights. There was the temptation to join the United States in the 1850s. There were various forms of repression directed to the francophone minorities in the provinces of Ontario and Manitoba. There was a difficult moment in 1939 when a majority of French Canadians refused to be conscripted in order to defend the British Empire. Lastly, on the positive side, there was a quiet revolution in Québec in the 1960s that produced a complete transformation of the then very conservative Québec society and contributed to the deep change of the Canadian political landscape.

In just a few years, the Québécois people completely modernized their government, put their children to school, developed existing cultural and economic institutions and created new ones, including those necessary as a consequence of the nationalization of Québec's huge hydro-electric system.

Such a mutation in a very short period of time impacted Québec's relations with its Canadian partners and created a need for an opening to the world.

For many, it seemed that the new aspirations and needs of the Québec people could be satisfied by substantial adjustments to the federal system. But a solid coalition of Quebecers was formed at the beginning of the 1970s by those who believed that the quiet revolution had to be achieved by a new status for Québec, a status of full sovereignty.

This coalition was able to form a government and to call two referendums, in 1981 and in 1995, asking for a mandate to achieve full sovereignty for Québec. For them, full sovereignty meant complete control of all laws, all taxation powers and all international relations. But in both

¹² Michel Brunet, *Histoire du Canada par les textes*, volume 1 (1834-1854), volume 11 (1855-1960) Montreal and Paris, Fides, 1963.

¹³ François Chevrete and Herbert Marx, *Droit constitutionnel*, Montreal, Presses de l'Université de Montréal, 1982.

referendums, Québec's people refused to follow the vibrant leadership of the "Yes" camp and voted to stay in the Canadian Federation, a reformed one where the equilibrium between shared responsibilities and shared benefits would be redesigned.

And they were.

- The Canadian Constitution was repatriated from London with the consent of all governments taking part in the Canadian Federation, except the Québec Government;¹⁴
 - A Charter of Rights was included in the new Constitution, a Charter that has had a substantial influence since then on the judicial, political and social fabrics of the Canadian society;¹⁵
 - The French language was recognized as an official language of the whole country. Article 16 of the Constitution reads as follows:¹⁶ "*English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada.*" As a consequence, all federal services, including all proceedings in Courts established by Parliament, have to be offered in both official languages in all parts of the country. Today, all Canadian provinces and territories have a minister responsible for la "francophonie" and offer a variety of services in French, including schools and, in five provinces, at the university level, but also services related to the judicial, social and economic domains;
- In 2006, the federal Parliament overwhelmingly passed a motion recognizing that the population of Québec forms a nation within a united Canada.

Recently, the premier of Ontario, the most important Canadian province, officially apologized to Ontario's Francophones for a 1912 regulation banning French in province schools; this regulation has been removed in 1930.

I hope to have clearly illustrated the proposals of the two political forces that solicited the support of the Québec people in the last 50 years. The first is driven by the general doctrine of self-determination and its global expectations. The second is driven by the federalist philosophy and forces promising a high degree of reforms and changes based on superior values of unity and pluralism, solidarity and separated jurisdictions, human rights, multiculturalism and bilingualism.

The two options have occupied center stage for half a century.

On two occasions, the Québec people decided by referendum that the equilibrium between shared responsibilities and common benefits with their Canadian partners had to be improved, but in the federal space not outside of it. In so doing, they implicitly gave their consent to a system that

¹⁴ Guy Laforest, *Un Québec exilé dans la fédération*, Montreal, Québec Amérique, 2014.

¹⁵ Jean-François Gaudreault-Desbiens, "La Charte canadienne des droits et libertés et le fédéralisme: quelques remarques sur les vingt premières années d'une relation ambiguë", *Revue du Barreau*, Montréal, 2003, pp. 271-310.

¹⁶ Government of Canada, *1982 Constitutional Law*. Ottawa, Department of Supply and Services, 1992.

combines autonomy and solidarity, pluralism and unity, governance of the whole and full initiative of the parts.

A new referendum will be more complicated to organize due to some opinions of the Supreme Courts of 1981 concerning the clarity of the question, the obligation to negotiate its terms between the federal and the Québec governments, and the level of consent necessary to separate Québec from the rest of the Canadian Federation.

External relations

How does all this impact the vast domain of international affairs including 1) relations between governments, 2) the capacity to engage internationally and 3) to participate in multilateral institutions or organizations?

In March 2016, prior to her visit to the People's Republic of China, the Québec Minister for International Relations was in Senegal for the signing with her counterpart, the Senegalese Minister of Foreign Affairs, of an agreement between their two governments for the establishment of a Québec Bureau in Dakar. Signed in the presence of the Canadian ambassador, the agreement provides for full diplomatic recognition and privileges, including immunity.

This new international unit constitutes an addition to a network of 27 Québec General Delegations, Delegations, Bureaus or Branches in 24 countries on 4 continents plus two representations to international organizations: l'Organisation internationale de la Francophonie (OIF) and UNESCO (in the framework of the Permanent Delegation of Canada).¹⁷

Since its "Quiet Revolution" in the 1960s,¹⁸ Québec, as a province of Canada, has clearly developed a significant international presence based on a constitutional doctrine that links constitutional jurisdiction and international capacity and responsibility.

Like in all federal states, the Canadian Constitution recognizes the domains that are of federal jurisdiction and the domains that are of provincial jurisdiction. The doctrine that all Québec governments have recognized and promoted for sixty years is very simple. If a domain is of provincial jurisdiction, then the provincial authority is fully entitled to extend its management and development of this domain in the international sphere.

As you may know, prior to the Status of Westminster of 1931, the British government was in full charge of all Canadian interests in the world. At that date, Canada gained the capacity to manage its

¹⁷ <http://www.mrif.gouv.qc.ca/fr/ministere/representation-etranger>

¹⁸ Jean-Louis Roy, *Le choix d'un pays, Le débat constitutionnel Québec-Canada 1960-1976*, Montréal, Leméac, 1978.

external affairs. It was indeed a very significant addition but it was curiously not included in the revised Canadian Constitution of 1982.

Between 1931 and 1965, the federal authority took all international initiatives in all jurisdictions, federal or provincial, based on the assumption that, as a sovereign state, it was in charge of all Canadian foreign interests.

Québec's Quiet Revolution changed all that. As I said previously, such a mutation impacted Québec's relations with its Canadian partners and created a need to open up to the world.

In a speech to the consular corps in April 1965, Québec's Education Minister pleaded for a full recognition of its government's international responsibilities and capacities in all domains of its jurisdiction: "all areas falling under the exclusive jurisdiction of our federated State ... Québec is only beginning to fully use the powers vested in it in all areas under its exclusive or partial jurisdiction. From now on it intends to play a direct role in keeping with its status and its rights."¹⁹

There were a lot of "disputed issues" between constitutionalists of all sides and a circumstantial reaction of the federal government. But political realities, *realpolitik*, were stronger than all those arguments and the Canadian Federation was changed forever. *Realpolitik* was clear. There was a new force, a new dynamism inside Canada. Québec was now moving quickly, taking control of its economy, developing its own social policies and asking for a larger political space, for some, asking for full sovereignty. The consequences were numerous. They were all concerning external relations. *Désormais* (from now on), as we say in Canada, all provinces and territories have two options regarding their international obligations: they can exercise them fully or let the federal government do the job.

I was Québec's delegate to France and to the "Organisation internationale de la francophonie" between 1986 and 1990. I was appointed by the government of Québec and presented my credentials to President François Mitterrand. Like all ambassadors to France, I was "head of diplomatic mission" with one hundred people reporting to me, had full access to the French authorities, negotiated and signed agreements with the national or regional governments in Québec's jurisdiction, I organized two presidential visits to Québec and the alternative visit of Prime Ministers to Paris and Québec. I had good relations with the Canadian ambassador. The system worked well. We were both normally working under clear instructions from our respective governments, and were preoccupied with maintaining good relations with the French authorities. Also, we were both political actors at home followed closely by very indiscreet media.

Fifteen years later, that Canadian ambassador became head of Québec's separatist movement and lost the 2005 referendum. For my part, as delegate for Québec, I was elected Secretary General of

¹⁹[https://www.saic.gouv.qc.ca/documents/positions-historiques/positions-du-
qc/partie2/PaulGerinLajoie1965.pdf](https://www.saic.gouv.qc.ca/documents/positions-historiques/positions-du-qc/partie2/PaulGerinLajoie1965.pdf).

the Francophonie in 1989 and re-elected in 1993 by the 60 member states with the strong support of the Canadian federal government.

All Canadian provinces or territories can have international activities and presence. There was a time when the Provinces of Ontario and Alberta developed a network of offices in many parts of the world. They have now decided to place their agents within Canadian embassies. But they still organize cultural or commercial missions conducted by the head of their respective governments, sign agreements and pay attention to all international negotiations that impact their jurisdictions since, in that case, they will have to give their approval for the eventual signature and ratification.

As I mentioned previously, all international treaties that, directly or indirectly, affect provincial jurisdiction have to be approved by the provinces before the federal government can sign and ratify them.

Concerning international organizations or institutions, the federal government and the provinces rely on practical arrangements - federal delegations with participants from the provinces, shared delegations etc. In the 1970s, Québec negotiated with the federal authorities a permanent status in the Organisation internationale de la francophonie (OIF) and, more recently, a permanent presence in the Canadian delegation to UNESCO.

Conclusion

The lessons and conclusions that follow can be drawn from the above.

1) The legitimacy and capacity of Canadian provinces to maintain international relations are the result of the evolution of international and national policies and particularly, maybe exclusively, the evolution of Québec's policy as from 1960. They are not part of the categories negotiated in 1867 when the first Canadian constitutional text was adopted. Neither were they included in the various amendments or additions to the 1867 text that punctuated the first century of Canada's history. Finally, they did not find their way into the text of the 1982 Constitution. In a nutshell, they are nowhere to be seen in the formal constitutional texts that make up Canada's supreme law, a reference for all other laws. The external relations of Canada's Provinces, including, first and foremost, those of Québec, are of a conventional nature.

Of British constitutional tradition, the Canadian constitution contains two types of categories of references, those contained in the text of the Constitution but also those coming from non-written conventions.

These references that stem from non-written conventions are many, substantial and imperative. They are taken into account in the functioning of institutions, in federal-provincial relations, in court decisions that, by referring to them, formalize and entrench them in a way. In our constitutional

system, these non-written conventions have as much strength and authority as the acts of governments and parliaments considered as the country's Constitution. True enough, the political and/or legal interpretation of non-written conventions is often difficult and sensitive. However, to date they have been doing rather well in the face of the hazards they may have been confronted with.

2) The legitimacy and the capacity of Canadian provinces to maintain international relations have been framed in many ways. They are inseparable from the overall functioning of the entire federal regime of which they form one element among many others. In other words, in international diplomacy this approach follows national diplomacy, its requirements, first among which respecting power sharing between the federal state and federated states.

Any significant deviation would lead to repeated reminders from the federal government, attacks by opposition parties, interventions of interest groups and criticisms from the media. It would end up in court for a judicial procedure whose end-result could be terrible for the "offending" province.

Any significant deviation would lead to reminders to the national foreign government party to the provincial project, by the Canadian federal government with the consequences that you will imagine.

Finally, any significant deviation would undermine a system that, to this date, has made it possible to cohabit or share sovereignty, pleasing all parties in terms of external relations. Indeed, the inclusion in the 1960s and 1970s of this right of provinces to an international existence did not come about without tensions. It however didn't cause systemic rejection or a crisis that might crack Canada's political regime.

3) As previously recalled, those in favor of Québec's sovereignty have always wanted and still want to regain all external relations-related powers. To this day, they haven't managed to rally the full and convincing support of the people of Québec. Nevertheless, while in power they respected the system as it is and, in a number of key areas such as the negotiation of a free-trade agreement, they actively supported the federal government.

You will have understood that the strategy that led to the current arrangement with regards to the presence of Canadian provinces on the international arena was developed and implemented almost exclusively by the Government of Québec. However, all provinces and territories can use it and several of them do so to a greater or lesser extent. Due to its cultural and linguistic specificities, Québec has its own Ministry for international relations and for the past fifty years it has been acquiring a significant international presence, thus contributing, *de facto*, to an *asymmetrical federalism*.

The Moroccan Initiative

Québec's asymmetrical position can also be found in the Moroccan Initiative for the autonomy of the Sahara. This "singular province" has indeed been recognized specific capacities. Indeed, the

Moroccan proposal creates an obligation for the central state to exercise its exclusive jurisdiction with respect to international relations *"in consultation with the Sahara autonomous Region for those matters which have a direct bearing on the prerogatives of the Region."* There is a similarity here with the Canadian system regarding the scope of this provision i.e. *"those matters which have a direct bearing on the prerogatives of the Region."*

The Moroccan proposal also gives the Autonomous Region of the Sahara certain leeway in that it can *"in consultation with the Government, establish cooperation relations with foreign Regions to foster interregional dialogue and cooperation."* This reaffirms the region's capacity to take initiatives in relation to external relations, within specific national and international frameworks: at the national level *"in consultation with the Government"* and, at the international level, only with *"foreign regions"*.

In order to be fully successful, the system proposed for Morocco and that of the Canadian federation for the conduct of the external relations of provinces or *"autonomous regions"* depend on the ability of the government to look for and find convergence of interests in order to combine national and international resources and assistance.

It is pretty safe to say that these tiered systems will become ever more necessary since constantly evolving international issues and challenges require new forms of consultation between the government entities, including municipal ones, involved in one same political entity. I will give you only one recent example of the evolutions under way. The Canadian delegation to the COP21 conference was composed of the Prime Minister of Canada and all provincial and territorial Prime Ministers notably due to their involvement in the process before the conference and their intention to jointly ensure follow up. Welcome to the 21st century!

Thank you.

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