

INCREMENTAL CONSTITUTIONAL REFORM IN MOROCCO: AN APPROACH TO THE 2011 CONSTITUTION

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Constitutional reform in Morocco has been characterized by its incremental nature since the country's first Constitution was enacted in 1962. A number of amendments have been passed that, taken as a whole, reflect the country's political and social transformation. Constitutions, for all their typical stability, cannot be regarded as sacred. They will always require reforms in line with developments in society.

The memorandum mechanism has provided a means of communication between the monarchy and national political parties in recent decades and has contributed to overcoming the tension and distrust that characterized their relations in previous periods. Morocco's activist movement has been peaceful and flexible. This is only natural in the light of a number of factors including the country's achievements in promoting human rights, the political opening that culminated in the opposition entering government in the late 1990s, and the support for women's participation and the improvement of their position in society. We may also mention the implementation of transitional justice through the Equity and Reconciliation Commission. This process took place free of any pressure and left many of the victims unenthusiastic about the activist movement. The king's speech of 9 March 2001, with its announcement of major steps towards reform, also played its part in reducing tension.

The outbreak of the 20 February Movement's protests played a key role in bringing the issue of constitutional reform back to the top of the agenda. The political activism that Morocco saw with the advent

of the movement had a great impact on the process adopted for reforming the Constitution. Political forces, including parties, trade unions, academics and rights groups, were all consulted. The movement also influenced the content of the reform, leading to an emphasis on enhanced rights and freedoms, the giving of constitutional effect to the recommendations of the Equity and Reconciliation Commission, greater clarity over the division of powers, and overcoming the ambiguity of previous constitutional provisions.

The outbreak of the 20 February Movement's protests played a key role in bringing the issue of constitutional reform back to the top of the agenda.

Although the monarch has retained critical powers in the fields of religion and security, as well as legislative, judicial and executive powers, the powers of the government, parliament and judiciary have been increased.

The adoption of a new constitution that reflects political and social changes will not magically resolve all the problems and constraints that the country faces. But many provisions in the new Constitution can revive Morocco's political life if they are correctly implemented. It is incumbent on the parliament, the government and the various political and civil groups and elites to ensure that they are.

THE HISTORICAL CONTEXT OF INCREMENTAL CONSTITUTIONAL REFORM IN MOROCCO

Constitutions, in all their variety, and despite their typically entrenched and stable nature, can never be considered sacred. They are in constant need of review and amendment in line with social transformations. This is only natural when we consider that one of the characteristics of the legal system is that it is social.

Procedures for amending entrenched constitutions¹ vary according to the relevant provisions of the constitutions themselves. There may be a requirement for a constitutional assembly, the parliament may be empowered to amend them, or amendment may be conditional on the approval of citizens in a referendum. According to one researcher, “the purpose of constitutional entrenchment is to give the constitution a certain fixity and stability. To that end its rules and provisions are surrounded by a strong barrier that bestows some degree of raised status on them and shields them from changes that might be made without due planning and consideration.” (Qalloush, 1995).

Since its independence, Morocco has seen a number of constitutional amendments and revisions reflecting the varying balances of power and political changes over the course of a decades-long struggle between, on the one hand, the monarchy and, on the other, the opposition as represented by the parties emerging from the nationalist movement.

Not all those amendments have been of a progressive nature. There have also been some backward moves, as in the case of the 1970 Constitution. Some of its provisions were regressive compared to the 1962 Constitution, the first that Morocco adopted after its independence. Even so, they led to important political debates, bringing dynamism to the Moroccan political scene.

We can thus see that constitutional reform and related debates are nothing new in Morocco. Indeed, some research points to relevant intellectual stirrings as early as the beginning of the twentieth century. Historical studies indicate that *ulama* and notables from the city of Fez submitted a draft Constitution to Sultan Abd al-Hafiz on 8 October 1908. Its content was published in the Tangiers newspaper *Lisan Al Maghreb*.

Constitutional reform was implemented in a top-down way for several decades after independence, as the Constitution placed it in the purview of the monarchy, which therefore retained the initiative in the field.

The early 1990s saw domestic political change, with growing demands from political parties and rights organizations for reforms to protect human rights and enhance democratic practices. These coincided with the great international changes linked to the end of the Cold War, and growing international concern for democracy and human rights. At this point, a certain level of consensus developed between the monarchy and the national parties, paving the way for two major constitutional amendments in 1993 and 1996. Important though these were, they did not, however, affect the elevated status of the monarchy as the dominant and ruling institution.

The early 1990s saw domestic political changes, with growing demands for reforms to protect human rights and enhance democratic practices.

The 1962 Constitution tried to lay the foundation for post-independence institutions based on a modern and open monarchy. A parliament and government were established alongside the monarchy. The preamble to this Constitution also affirmed that: “The

1. Rigid constitutions are those that require more complicated and difficult procedures to amend them compared to ordinary laws and legislation; the opposite type of constitutions are flexible constitutions, which are usually amended by ordinary laws made by the legislative power via simple and uncomplicated procedures.

Kingdom of Morocco is a fully sovereign Islamic state. The Arabic language is its official language and it is part of the Greater Maghreb." Article 1 of the Constitution stated that: "The system of government in Morocco is a social and democratic constitutional monarchy." Article 3 stated that: "Political parties contribute to organizing and representing citizens and the one-party system is forbidden in Morocco."

The Constitution also affirmed a set of political, economic and social rights. A bicameral parliament was established with powers to legislate and to supervise the work of the government. The powers of the government and prime minister, and their accountability to the monarch and the two chambers of parliament, were also defined. In return, Article 19 stated that: "The King is the Commander of the Faithful, the symbol of unity of the nation, the guarantor of the state's existence and continuity, the protector of religion, the vigilant guardian of the Constitution; he also protects the rights and freedoms of citizens, communities and public bodies; he is the guarantor of the country's independence and of the Kingdom's territory within its rightful borders."

As regards constitutional amendments, the Constitution gave the right of initiative to the prime minister and the two houses of parliament (Article 104).

The 1970 Constitution, by contrast, came after the late King Hassan II imposed a state of emergency² in the aftermath of the political and social events, including rapidly escalating protests, witnessed by some Moroccan cities on 23 March 1965.

Among the changes in this amendment were the abolition of the bicameral system in favour of a single chamber, the House of Representatives. Part III of the Constitution deals with the organization of the House, its powers and the manner in which they may be exercised. The powers of the monarchy remained central and crucial.

As regards constitutional amendments, the right of initiative lay with the monarch (Article 97 of the Constitution). The House of Deputies could propose a revision of the Constitution to the monarch with the agreement of two thirds of its members (Article 98 of the Constitution).

The 1972 amendments to the Moroccan Constitution, by contrast, came during a period of relative political opening, which made a number of important gains possible in various domains.

With regard to the parliament (the House of Representatives), whose members were elected for a six year term under Article 43 of the 1970 Constitution, the 1972 Constitution provided for a four year term (Article 43). The composition of the House was given a democratic character by the election of two thirds of its members through direct popular ballot. The remaining third were elected by an electoral college composed of members of municipal and village councils as well as electoral colleges composed of electors from the professional chambers and representatives of employees (Article 43). These amendments also sought to strengthen the House's legislative powers (Article 45 of the Constitution).

As regards the executive power, the prime minister's powers in administrative affairs were strengthened under Article 63 of the Constitution, and under Article 64 he became responsible for coordinating ministerial activities.

In addition, a number of further powers were placed within the remit of the Council of Ministers (Article 65), including the declaration of a state of siege, the declaration of war, the power to seek a vote of confidence from the House of Representatives for the government to remain in office, the preparation of draft laws for submission to the office of the House of Representatives, and the drafting of constitutional amendments.

2. Article 35 of the 1962 Constitution stated that: "If the integrity of the national territory is threatened, or if any events that could affect the functioning of the constitutional institutions occur, the King has the right to declare a state of emergency by royal decree, after having consulted the presidents of the two Houses and after delivering a speech to the Nation. For that reason, he has the power, regardless of any contrary provisions, to take the measures required, in order to defend the national territory and restore the functioning of the constitutional institutions. The state of emergency is terminated by the same measures followed to declare it."

The harmonious relations between the monarchy and the national parties in the mid-1970s enabled the revival of the political sphere and the activation of many constitutional provisions.

In the 1970s the National Bloc's demands centred on the establishment of a constitutional monarchy and the formation of a constituent assembly. Recalling the relevant experience of the National Bloc in that particular period is important for two reasons. First of all, it demonstrates that the demand for reform is not new. Secondly, in subsequent periods a number of unnatural alliances were born, characterized by narrow electoral and partisan preoccupations.

The National Bloc emerged in 1970, in the aftermath of the state of emergency imposed by the late Hassan II in 1965 under which the work of institutions was suspended and political tension escalated. Fourteen years had passed since independence and two coup attempts were soon to take place. The Bloc took the form of a bipartisan alliance between the Istiqlal Party and the National Union of Popular Forces. The two parties had a common origin in the nationalist movement and shared many concerns and priorities, at a time when the late Hassan II wished to develop constructive relations with the national parties so as to overcome the burdens bequeathed by the previous period and its negative repercussions on political life.

The challenges of the period convinced the two parties to overcome their differences and form a bloc that could act as a counterweight in demanding a number of reforms. The Bloc's covenant set out an analysis of the general situation in the country and its political (both external and domestic), social and economic constraints.

It also set out the two parties' positions on social, economic and political issues, issued a call to overcome the after-effects of foreign occupation, and rejected the unjustified state of emergency. It committed the parties to working together to establish political, economic and social democracy, strengthen human rights, reform the education system and the economy, regain the remaining occupied territories,

build the North African Union, and support the struggle of the Palestinian people. The covenant was open for other political forces and organizations to adhere to.

This coalition had its ups and downs, due to developments such as the split of the Socialist Union from the National Union of Popular Forces in 1975 and the Istiqlal Party's decision to enter government in 1977 while the Socialist Union Party chose to remain in opposition. None of these prevented the parties from coordinating their positions and contributing to a more cordial political atmosphere after the organization of the Green March. The Green March brought about a considerable degree of consensus between the monarchy and the national parties, which was reflected in the country's political life as a whole, with a certain level of trust between the different actors becoming apparent.

In the early 1990s, in an exceptional international environment marked by the end of the Cold War and a growing concern for democracy and human rights, and with rising social problems and political tension, the Democratic Bloc opened up to other national parties (the Progressive Party, the Socialist Party and the Democratic Action Organization). This resulted in a number of achievements, including the return of exiles, the release of political detainees and constitutional reform, and paved the way for the opposition to enter government under the leadership of Abderrahmane Youssoufi.

In contrast to the historical period in which the National Bloc arose, and its demands, which reflected a certain degree of struggle with the monarchy, the demands of the Democratic Bloc remained linked to the implementation of reforms by agreement with the monarchy. These involved the expansion of parliament's powers in legislative matters and in supervising the work of the government, as well as the establishment of a suitable mechanism for constitutional review of laws.

Despite the differences between the two contexts, this practical experience showed that influential blocs and alliances, which are open to citizens' real

concerns and usually appear in difficult times, can exact a certain level of coordination and cooperation in dealing with the problems and challenges of the time. They have also had the merit of fleshing out reformist proposals from a stronger position (Lakrini, 1997).

In this period, the memorandum mechanism became a means of communication between the monarchy and the national parties, and contributed to easing the tension and mistrust that had characterized their relations in previous historic periods.

New provisions in the 1992 Constitution affirmed respect for human rights, as recognized internationally; increased the powers of the government, and supported parliament's role in supervising the work of the government. Laws could be referred to the Constitutional Council on the request of one quarter of the members of the House of Representatives. The House also retained its legislative powers should a state of emergency be declared.

The constitutional judiciary was also strengthened by replacing the Constitutional Chamber of the Supreme Council with the Constitutional Court, under Article 76 of the Constitution.

On the other hand, the monarch also retained his critical functions. Indeed, there were some extensions to his powers, such as the power to establish parliamentary committees of enquiry (Article 40 of the Constitution), and the power to refer laws to the Constitutional Court to determine their constitutionality prior to enactment (Article 79). This was despite other developments that limited the monarch's powers relative to parliament with regard to the implementation of laws, the declaration of a state of emergency, and the ratification of international conventions; or relative to the government, as the powers of the prime minister were extended.

The new Constitution also recognized the region as an administrative division alongside the prefecture,

province, and urban and rural municipality, under Article 94. An Economic and Social Council was established.

In 1996, a constitutional amendment was adopted in the same manner, paving the way to the consensual transfer of power led by the opposition parties. Many researchers and observers saw this amendment as an expansion, in form and substance, of the previous amendment of 1992. It extended the monarch's powers in a number of civil and military areas and in his relations with the three powers.

As regards the activities of the government, the 1996 Constitution tended towards granting it administrative authority.

The bicameral system was adopted and the role of the two houses in supervising the government's activities was enhanced. The amendment gave the House of Counsellors significant powers in legislation, the formation of parliamentary committees of enquiry, and supervision of government. The House of Representatives had sole power to vote on the programme for government, and its supervision of government activity was strengthened by making it easier to propose a censure motion.

Thus the parliament was once more composed of two houses (Article 36 of the 1996 Constitution): the House of Counsellors, whose members had a nine year term, with one third subject to re-election every three years, and the House of Representatives, whose members' term of office was reduced from six years to five.

The parliamentary duality³ in this Constitution was not new: the system had been obtained in Morocco under the 1962 Constitution. Some concerns, however, were raised by the legislative and supervisory powers that the 1996 Constitution granted the two houses, which appeared to be almost equal (as is proven by Articles 44, 45, 46, 50, 56, 57, and 58 of this Constitution).

3. For more details on the two-house system, see Abu Zaid Mohammad Ali, M. (1994). *Parliamentary Duplication and its Impact on Achieving Democracy*. Egypt: Egypt Book Board.

It should be noted that there were conflicting views regarding the bicameral system adopted in the amended 1997 Constitution. Those who supported implementing this system in Morocco considered that it would provide an opportunity for wider representation of the country's regions and sectors, embed the regional system and enhance the legislature's professional performance. Others observed that the upper house, rather than serving as a platform for deliberation and proposals, had become a near copy of the lower house, with closely matching powers, thereby stripping the dual system of any substance. In particular, the upper house held decisive powers such as that of removing the government. Article 77 of the 1996 Constitution provided that: "The House of Counselors may vote on a motion of warning or of censure to the Government."

Some went so far as to view this system as an obstacle to legislative work and a mere 'political luxury'; especially since elections to the upper house have seen a number of illicit practices, such as bribery and use of money. Others saw it as an attempt to restore the system whereby one third of the parliament was elected indirectly (Lakrini, 2008).

During a speech given by the late Hassan II on 3 March 1996, he announced that the return to the bicameral system was intended to achieve a number of fundamental advantages, which he summed up as follows:

- A. Expanding the base of popular participation by citizens, in line with demographic growth;
- B. Guaranteeing fair representation to Morocco's economic actors;
- C. Ensuring compatibility between the legislature and the regional system;
- D. Stimulating parliamentary supervision of government activity through the two houses along with the supervision carried out by the monarch.

The amendment also sought to enhance the policy of regionalization adopted by Morocco in the framework of administrative decentralization based on enabling territorial units and public bodies to reduce the grow-

ing burdens on the state through management of local issues via a policy of proximity and participation.

It is important to note that regionalization, in its administrative and political aspects, refers to a modern administrative model typical of contemporary states. It is based on the division of powers between the centre and the periphery within a participatory framework that allows territorial units to manage local affairs democratically having regard to the region's needs.

Various circumstances have led countries to adopt the regional option, including a desire to strengthen development and reduce economic and social disparities between regions by allowing regional components to create wealth, exploit available resources and market them optimally. A preoccupation with regionalization may also stem from a desire to manage social diversity and exploit it in support of the state's unity and cohesiveness, resulting in local political dynamism that can enhance local democracy. Both arguments are supported by the experiences of countries that have led the way in regionalization (Spain, Italy and Germany).

Since independence, Morocco has opted for a decentralized approach to administration. In Morocco, regionalization has been proposed in various historical, social and political contexts.

In the early 1970s, seven economic regions were established with the aim of bringing about balanced regional development. When failings in this approach became apparent, the region was promoted to the status of an administrative division under the revised 1992 Constitution. With the 1996 Constitution, the number of regions became 16 under a framework that was set out in Regional Organization Law 96-47 of 1997.

Due to the growing contradictions in the existing regional system resulting from shortcomings in terms of powers, resources and intervening parties, which negatively affected local development and local democracy, a new debate developed on the reform of the regional system in Morocco. The King of Morocco appointed a broadly-based committee to

draw up a general report identifying the shortcomings and actions required to overcome them. It was to consider expanding the powers of regional councils, strengthening solidarity and cooperation between the various territorial units, reducing the dominance of the prefectures, and supporting the regions' revenues. This led to broad political and academic discussions in recent years with the participation of various actors and interested individuals. A number of issues concerning the Moroccan experience were considered, including boundaries, powers, funding and intervening parties. Various pioneering international experiences in this regard were also discussed. A set of conclusions and recommendations was proposed supporting this option.

The 1996 constitutional amendments also sought to strengthen the financial judicial system. The Court of Accounts was recognized in the Constitution, as were regional courts of accounts. They were to perform judicial monitoring of public funds by verifying that operations relating to the income and expenditure of local authorities and state bodies were carried out correctly.

The freedom of private enterprise was also affirmed,⁴ signalling the state's moves towards a more open economy in its economic and social policies and its endeavours to incentivize the private sector to play a role in development.

The power to revise the Constitution was given to the monarch and the two houses of parliament subject to certain rules.

THE CONTEXT AND CONTENT OF THE 2011 CONSTITUTIONAL AMENDMENTS

The Arab World has seen a massive wave of protests, which has brought the question of political and constitutional reform issue back to the top of the agenda.

The nature of this movement varied from country to country. While it took the form of violent struggles in Libya, Syria, Egypt and Yemen, it was distinctly peaceful in Tunisia, Morocco and Jordan.

Despite the protesters' radical demands for toppling regimes, combating corruption and adopting fundamental economic and social reforms, constitutional issues were also prominent in their demands and slogans.

There were calls for democratic constitutions that would ensure respect for human rights and protect the people from tyranny and absolute rule through democratic mechanisms breaking with the constraints and shortcomings of the past.

In Morocco, the 20 February Movement emerged, organizing a series of protests that spread to several cities. At those protests, demands and slogans were raised calling for the adoption of a constitutional monarchy, the reform of the judiciary, giving constitutional effect to the recommendations of the Equity and Reconciliation Commission, and support for judicial independence.⁵

Demands for political and constitutional reform in Morocco have not been unique to the 20 February Movement; they were in continuity with the struggles and efforts led by various civil, political and rights groups over previous decades.

Nevertheless, the outbreak of the Movement's protests revived the idea of constitutional reform fifteen years after the passage of the last constitutional amendment, especially since many political parties and elites had not considered constitutional reform their priority during that period. Since the adoption of the 1996 constitutional amendments, the issue had all but disappeared from public debate.

The Movement took advantage of growing social and political tension at the time, and the stresses of

4. Article 15 of the 1996 Constitution states: "The right of property and the freedom of private enterprise are guaranteed. The law can restrict their extent and exercise if economic and social development so requires. Property may not be expropriated except in such circumstances, and according to such procedures, as are provided for by law."

5. For further details concerning the circumstances in which the Movement, its demands and its effects appeared, see: Lakrini, I. (2011, April). Possible Implications to the 20 February Movement in Morocco. *International Politics Magazine*, 184.

the transitions that the countries of the region were going through, to raise the issue of a constitutional amendment from a position of strength.

A number of factors explain the peaceful nature of the Moroccan movement. First of all, the reformist discourse was not new. Morocco had achieved much in the field since independence, especially since the political opening and advances in rights of the late 1990s that culminated in the opposition entering government under the leadership of the Socialist Union Party.

In addition, many initiatives related to women's empowerment, support for their access to decision-making positions, such as the parliament and government, and family law reform, had been adopted in the preceding years. A promising experiment in the field of transitional justice was established in the form of the Equity and Reconciliation Commission, enabling Morocco to come to terms with the massive violations of human rights it witnessed between 1956 and 1999. The Commission submitted an important report to the king comprising conclusions and procedural and legal recommendations for establishing a law-bound state with strong institutions respecting human rights, thus sparing future generations any repetition of these harsh experiences. A number of international conventions related to human rights were also ratified.

Neither were the protests led by the movement alien to Moroccan political life. Citizens had become accustomed to daily protests outside the parliament and elsewhere, organized by unions pursuing professional demands or by university graduates seeking access to the labour market.

The King of Morocco's speech on 9 March 2011, only a few weeks after the beginning of the protests led by the 20 February Movement, summarized the political and constitutional reforms that the country would implement during this period. The speech

came at the right time and was well received by many political, human rights and social groups.

The speech set out a number of key issues that would be covered by the constitutional amendments of 2011. These included judicial reform; constitutional recognition of the pluralistic nature of Morocco's unifying identity, with the Amazigh identity as an integral part thereof; the expansion of individual and collective freedoms, with guarantees for their exercise; the strengthening of human rights institutions; and giving constitutional status to the important recommendations of the Equity and Reconciliation Commission. This speech, which pre-emptively addressed various demands, contributed to easing the tense atmosphere and played a major part in reducing the intensity of the protests.⁶

Amid all these rapid developments, the king appointed a committee of experts to formulate a vision for these constitutional reforms through debate with the various political parties, unions, and civil and academic bodies, and submit a report to him by June 2011.

The activism that Morocco saw with the birth of this movement had a great impact in accelerating the constitutional reform process. It also played a major role in involving society as a whole in the debate on constitutional reform, which had previously been restricted to elites.

The movement's birth in the context of the transformations brought by the wave of protest in the Arab world had an obvious impact on both the form and the content of the constitutional reform. The movement had, from its first appearance, called for the establishment of a constituent assembly to draft the Constitution. Even though the amended Constitution was not drafted by a constituent assembly and did not lead to the parliamentary monarchy repeatedly demanded by the movement, the committee that was established for this purpose, and which

6. The impact of the withdrawal of the Justice and Charity Group from the protests of 20 February, and the victory of the Islamist Justice and Development Party in the legislative elections and its subsequent entry into government, cannot be denied. For further details on the topic, see the researcher's interview with *Hespress*, published on 20 February 2012, through the following link: <http://www.hespress.com/interviews/48006.html>

put the draft before the people in a referendum, succeeded in gaining the support of 98% of the electorate, according to official figures. This was a record in the history of Moroccan constitutional amendments.

The activism that Morocco saw with the birth of 20 February Movement played a major role in involving society in the debate on constitutional reform, which had previously been restricted to elites.

The widespread debates and consultations that took place upon the announcement of this amendment saw many divergent positions emerging. Particularly intense polemics developed over issues related to identity, Islamic authority and women's rights.

It appears that the circumstances that paved the way for this reform had a great impact on the way the amendment was developed. A great number of political forces, parties, unions, academics and rights groups were consulted. A similar impact could be observed in the content of the constitutional document, which was much more detailed than equivalent documents in the past.

The committee charged with drafting the Constitution received various proposals and petitions from unions, political parties, and academic, technical, sports, civil and rights bodies. This led to the detailed nature of the 2011 constitutional amendment, which included a number of fundamental reforms in vari-

ous fields, to the extent that some considered it a Constitution aimed at pleasing everyone.

The constitutional document contained a number of provisions that sought to promote rights and freedoms in several respects. Regarding women's rights and empowerment, Article 19 of the Constitution states: "Men and women equally enjoy rights and freedoms of civil, political, economic, social, cultural and environmental character... The State works for the realization of equality between men and women. To this end, an Equality and Non-discrimination Authority is created."

Constitutional force was given to a number of the Equity and Reconciliation Commission's recommendations concerning judicial independence and the criminalization of arbitrary or secret detention, genocide, torture, cruel, inhumane or degrading treatment, and treatment offensive to human dignity.

The amended Constitution gave constitutional status to institutions and councils dealing with human rights, including the National Human Rights Council and the Equality and Non-discrimination Authority.

Abandoning the ambiguity of some provisions in the previous Constitution, whose multiple possible readings and interpretations left them entirely subject to the balance of power, the 2011 Constitution sought to clarify and detail many powers. In order to overcome the great problems posed by Article 19 of the previous Constitution⁷ in relation to the monarch's interlinked religious and civil powers, a subject which had taken up much of the political, constitutional and academic debate since the first Constitution that Morocco adopted in 1962, this article was split into two parts. The first sets out the monarch's religious authority (Article 41 of the Constitution),⁸ while the

7. Article 19 of the 1996 Constitution states that: "The King is the Commander of the Faithful, the Nation's ultimate representative, the symbol of unity of the Nation, the guarantor of the country's existence and continuity, the protector of religion, the vigilant guardian of the Constitution, he also protects the rights and freedoms of citizens, communities and public bodies; he is the guarantor of the country's independence and of the Kingdom's territory within its rightful borders."

8. Article 42 of the 2011 Constitution states that: "The King is the Commander of the Faithful, the protector of faith and religion and the guarantor of the freedom of practice in religious matters. The King, the Commander of the Faithful, chairs the Supreme Council of the Ulama which studies the cases the King proposes to it. The Council is the only body competent to issued official fatwas (Islamic advisory opinions) on issues referred to it, based on the principles and provisions of the true Islamic religion and its merciful intentions. The terms of reference, composition and procedure of the Council are determined by Royal Decree. The King practices his religious powers related to the commanding of the faithful, exclusively authorized for him, according to this Article, through Royal Decrees."

second sets out his civil authorities and functions (Article 42 of the Constitution).⁹

The monarch enjoys a number of critical powers in religious and security matters, as well as legislative, judicial and executive powers. In return, the powers of the government, parliament and judiciary are strengthened.

In contrast to the prime minister's functions in the 1997 Constitution, according to which he coordinated the work of the government, he now becomes the head of government and leads its work, and is appointed from the political party that wins first place in the election of the members of the House of Representatives.

Furthermore, the amendment also strengthens the parliament's powers relating to the appointment of the government and the passage of legislation. The two chambers of parliament become the main legislative authority, with the matters covered by their legislative powers doubled from 30 to more than 60. The amended Constitution includes new provisions to simplify parliament's role in supervising the work of the government, such as in the establishment of fact finding committees. The document includes new powers supporting the parliamentary opposition's participation in committees of parliament and in supervising the work of the government, enacting legislation and practising parliamentary diplomacy.

The amended Constitution also includes new provisions supporting the financial and administrative independence of the judiciary. It replaces the term 'judiciary' with the term 'judicial power' in Part VII, and it affirms the independence of this power from the other powers (Article 107). The Supreme Judicial Council is replaced by the Supreme Council of the Judicial Power. Under Article 115 of the amended

Constitution, the membership in this Council is expanded to include a number of independent bodies, notably the National Human Rights Council and the Ombudsman, as well as "persons known for their competence and integrity," thus guaranteeing the Council's independence compared to the composition of the previous Council.

The Constitution enhanced the regionalization policy as a means of achieving local democracy and enabled civil society groups to strengthen this policy by participating in policy development locally and nationally.

Article 108 affirms that judges cannot be removed from office or transferred except in accordance with the law. Article 109 prohibits interference in cases that are before the judiciary. Judges can turn to the Supreme Council of the Judicial Power whenever the independence of the judiciary is threatened. The provisions of the amended Constitution also grant judges the right to freedom of expression and the right to establish and join associations (Article 110).

Citizens are now able to sue the state and obtain compensation for any damages suffered if an unlawful judgment is issued against them (Article 122). Article 127 bans the establishment of extraordinary courts. The 2011 constitutional amendments confirm Morocco's policy of regionalization and set out some basic principles intended to overcome the problems that marked the Moroccan experience. The second paragraph states the following: "The region, under the

9. Article 42 of the current Constitution states that: "The King is the Head of State and its highest representative, the symbol of unity of the Nation, the guarantor of the country's existence and continuity and the highest arbiter among its institutions, the vigilant guardian of the Constitution and the proper functioning of the constitutional institutions; he is the protector of democratic choice and of the rights and freedoms of citizens, both men and women, and of communities, and of respecting the Kingdom's international obligations. He is the guarantor of the country's independence and of the Kingdom's territory within its rightful borders. The King exercises his functions by issuing Royal Decrees through the authorities explicitly granted to him by the text of the Constitution. Royal Decrees are signed by the Head of Government, except for those provided for in Articles 41, 42 (second paragraph), 47 (second and sixth paragraph), 51, 57, 59, 103 (first and fourth paragraph) and 174."

supervision of the president of the regional council, has the leading role relative to the other territorial units in developing and pursuing regional development programmes and regional land planning schemes, while respecting the specialized competencies of those territorial units.”

In addition to enhancing the regionalization policy as a means of achieving local democracy and development, the Constitution enabled civil society groups to further strengthen this policy by participating in policy development locally and nationally. It designated Amazigh as an official language of the state alongside Arabic. It also affirmed the link between responsibility and accountability.

The 2011 constitutional amendment is highly significant for its major enhancements to rights and freedoms and the establishment of a degree of balance between the various powers – all the more so given that the Constitution’s elevated status requires legislation and public policy to adapt to its spirit. These reforms, however, will remain futile unless the organic laws giving effect to them are correctly framed. In this regard, we may refer to the organic law on exercising the right to strike and the organic law giving effect to the official status of the Amazigh language.

The 2011 constitutional amendment is highly significant since it enhances rights and freedoms and establishes a degree of balance between the various powers.

In addition, many researchers and political actors have noted problems raised by the 2011 Constitution concerning the principle of linking responsibility to accountability, and limits thereto, as well as the guarantee of certain collective rights. Some opposition forces in parliament have argued that the government is still acting according to the previous constitutional logic, and that it has not yet fully absorbed the new constitutional developments. Conversely, some researchers affirm that the parliamentary opposition has yet to exploit the possibilities and opportunities provided by Article 10 of the new Constitution.

CONCLUSION

The rapid developments following the appearance of the 20 February Movement, and all the political and constitutional reforms that followed, demonstrate that Morocco accomplished a series of achievements in a pressing regional and domestic situation.

The new provisions of the amended Constitution, if they are brought into effect, can revive Morocco’s political life. Nevertheless, despite this Constitution’s great importance, it cannot be considered a magical solution to all the social, economic and political problems and constraints the country faces.

All the new provisions of the latest constitutional amendment must be properly brought into effect to give them real significance. This is incumbent on the parliament, the government and the various political and civil actors.

In fact, influential political elites are still needed that could translate these developments into practical reality, thus gaining the citizens’ trust and encouraging political participation.

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