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Governance in Morocco: Discourse, Policies and Reality

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In Morocco, internal demands for institutional reform backed by popular support have become a major lever in assisting to establish good governance in the country since early 2011. This was reflected in the King's speech in March 2011 and the constitutional amendment in July of the same year.

This paper deconstructs the prevailing discourse around the governance and legislative reforms aimed at establishing a system of good governance in Morocco. It assesses the reality of governance in Morocco and its future prospects, using good governance indicators such as the Worldwide Governance Indicators and components of the Arab Democracy Index issued by the Arab Reform Initiative.

Based on this analysis, implementation of the following recommendations would contribute to enhancing the status and practice of governance in all its dimensions in Morocco:

- Extend the democratization process of the Moroccan political regime and the reach of the rule of law.
- Work on changing the management culture of officials by spreading a culture of serving the public good, linking responsibility to accountability.
- Establish an annual national prize for officials who embody the principles of good governance in the course of the performance of their duties.
- Establish procedures that contribute to increased public oversight of officials, with the possibility of removing from office those officials involved in corruption and misuse of power.
- Accelerate the enactment of laws that guarantee access to information, the submission of petitions, and legislative initiatives.

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1. Conditionality and the prevailing discourse on governance

At the beginning of the 1990s, following a decade of implementing restructuring programs, international financial institutions adopted the concept of governance as a major factor to explain shortfalls in development and economic progress in developing countries. These institutions concluded that the limited results could be linked primarily to weak institutions.¹

After years of growing concern over the technical aspects of economies and development, international actors started to focus on political aspects in their diagnosis of the development impasse. A number of international donors (the US, the UK, Germany, France, Canada, the Netherlands, the Scandinavian countries, and multi-lateral organizations such as the EU and the OECD Development Assistance Committee (DAC)) added political approaches to their diagnosis of the impasse. These ranged from the need for long term political change, such as transparent electoral democracy, to more limited concepts such as good governance, administrative efficiency, transparency and effectiveness in the public sector, and technical and administrative reforms aimed at strengthening "an enabling environment" for development and economic progress.²

Concern about "governance" and "good governance" did not emerge from analysis of the elements required for democracy, the transition to democracy, or even fighting despotism, but was based solely on analysis of the limited success of the restructuring policies that had been applied since the 1980s as part of the donor conditions for debt restructuring and aid provision. Consideration of this context is essential for understanding the definition accorded to good governance and its realization on the ground, as well as the position of the actors supporting its establishment.

The World Bank incorporated governance-related conditions within its development loans policy, requiring governments receiving loans to demonstrate effective performance and pursue deep reforms. The basis for these requirements was premised on the idea that "good governance" – which counters corruption, favoritism, bureaucracy, and mismanagement – would ensure the effective use of assistance to achieve the goal of poverty alleviation. The World Bank, as part of its traditional mandate and in conjunction with the International Monetary Fund (IMF), did not look address the political institutions that direct state

¹ According to a 1989 World Bank report, *"Sub-Saharan Africa: From Crisis to Sustainable Growth"*, the root causes of weak economic performance lie in institutional shortcomings. As such, if private sector initiatives and market mechanisms were important to achieve development – which the restructuring programs set out to establish – then these should run alongside the existence of effective management of government, a reliable judicial system, and an administration that is accountable for its decisions and actions. The analysis concludes that an effective government requires political renewal with an underlying fight against corruption at all levels. Therefore, model institutions are required that undertake the task of enhancing accountability, encouraging public debate, and promoting freedom of the press.

Jean-Claude Williame, « L'exportation de la démocratie: enjeux et illusions », in *Démocratie et développement : mirage ou espoir raisonnable, acte du colloque international sur pouvoirs et États dans l'histoire de Madagascar et du Sud-est de l'océan indien, Antananarivo 16-12 mai 1992*, Paris, Antananarivo, Karthala, Ornaly sy Anio, 1995, p. 45.

² Mohamed Benhlal, "Economic reforms and democratic transition: the case of Morocco," PhD thesis, 2004, p.36.

governance: the core mandate of the World Bank, according to its founding agreement, does not involve reform of the governance system beyond that linked to economic growth.³

International financial institutions talk about governance as the management of public institutions and the ability to implement economic policies, achieve economic progress, and fight poverty.⁴ As such, these institutions focus on only two of three main dimensions of governance:

- The process of determining, monitoring, and replacing those who are in power (the political dimension);
- The government's ability to manage resources effectively and implement sound policies (the economic dimension);
- Respect for institutions by citizens and the state (the dimension of respect for institutions).⁵

2. Promoting the system of governance in Morocco

Political regimes crucially influence the system of governance since the rules and principles that lay the foundation for good governance (transparency, accountability, participation, etc.) are framed by the nature and interrelations of the political institutions, and to the extent to which the regime respects these principles in its public decisions (the aforementioned political dimension.) Therefore it is important to analyze the nature of the political regime in Morocco as established by the Moroccan constitution and its reflection in practice before we address the constitutional basis for governance and Morocco's ratification of the UN Convention Against Corruption (UNCAC). This should avoid the trap of the technical approach to governance that focuses on the ability to take and implement decisions without addressing the public's selection and replacement of officials.

The Moroccan political regime and good governance

Since the enactment of the first constitution in 1962, Morocco has undergone several constitutional reforms brought about by changes and constraints in political life. The 2011 constitution is latest version, following a review of the 1992 and 1996 constitutions that established the conditions for the 1997 opposition election victory, with Abdel Rahman Al Yousef leading the consensus rotation government.

Chapter 1 of the 1 July 2011 constitution stipulates that "the system of governance in Morocco is a system of constitutional, democratic, parliamentary, and social monarchy".

³ Ved P. Nanda, "The "Good Governance" Concept Revisited," in *The Annals of the American Academy of Political and Social Science*, 603, January 2006, p. 272.

⁴ Idib, p. 273.

⁵ Daniel Kaufmann, *Myths and Realities of Governance and Corruption*, Munich Personal RePEc Archive (MPRA) Paper No. 8089, posted 8. April 2008 available online : http://mpra.ub.uni-muenchen.de/8089/1/Myths_Realities_Gov_Corruption.pdf

The constitutional system of the kingdom is based on the separation, balance, and cooperation of powers, citizen participation in democracy, principles of good governance, and the link between responsibility and accountability. The nature of the constitutional monarchy in Morocco differs from that in the British or Spanish experience. According to the provisions of the constitution and the political reality in Morocco, the King holds real rather than symbolic⁶ powers as in Britain or Spain.

The political regime in Morocco, according to its constitutional evolution, is based on the following:

- The King holds several powers, including the appointment of the Prime Minister from the party winning the elections. The King also appoints government members upon the suggestion of the Prime Minister and has the power to relieve one or more of its members of office upon consultation with the Prime Minister.⁷ Additionally, the King heads the ministerial council and has the power to dissolve the Parliament.
- The office of the Prime Minister, which has become an executive power, has been strengthened. The 2011 constitution accorded the head of the government the right to appoint people to public positions and some senior civil servant positions that are not part of the powers of appointment of the King. The Prime Minister also has the power to dissolve the Parliament upon consultation with the King, the Speaker of the Parliament, and the Chief Justice of the Constitutional Court (Chapter 104).
- The powers of Parliament to draft legislation and oversee the government were strengthened by the amended constitution, which maintained the same powers stipulated in the 1996 constitution. A government is not fully appointed until it obtains the approval of an absolute majority of the House of Representatives (the lower house of Parliament) for the government program. The Parliament has the right to dismiss the government. The topics of legislation that the Parliament can address have been expanded. In terms of government oversight, the constitution stipulates a monthly question session (Chapter 100) dedicated to the Prime Minister's response to questions by members of Parliament on public policies. It also stipulates an annual session to discuss and evaluate the government's public policies (Chapter 101), and the power of committees of the two Houses, in the presence of the relevant ministers and under their responsibility, to hear the heads of public directorates, organizations, and contractors (Chapter 102).
- The current constitution talks about a judicial authority rather than using the term judiciary as under the previous constitution. This allows us to state that the judiciary has become a constitutional institution of equal standing to the other constitutional powers. The constitution included requirements to achieve what was referred to as "the independence of the judicial authority from the legislative and executive branches of power".⁸ Below are some of the most important requirements:

⁶ Mohamed Madani, Driss Maghraoui and Saloua Zerbouni, "The 2011 Moroccan Constitution, A Critical Review," *International Institute for Democracy and Electoral Assistance (IDEA)*, 2012. http://www.constitutionnet.org/files/the_2011_moroccan_constitution_english.pdf

⁷ Chapter 47 of the 2011 constitution.

⁸ Chapter 107 of the 2011 constitution.

- Judges are solely responsible for the application of the law. Any breach on the judge's part of the duty of impartiality and independence constitutes a professional misdemeanor that can be pursued by the Higher Judicial Council without prejudice to other trials.
- It is illegal to exert influence on a judge.
- The creation of the Higher Judicial Council headed by the King with an increased number of elected members. The President of the Court of Cassation is the President-Delegate, a stipulation that excluded the Minister of Justice, who was the President-Delegate under the 1996 constitution.

Constitutional basis for good governance

The 2011 constitution has an entire 12-chapter section dedicated to good governance, plus other chapters in different locations, and section 10 relating to the Higher Council of Accounts. The Higher Council of Accounts is an institution of good governance specialized in auditing and controlling the accounts of the state's facilities and public institutions, as well as monitoring state funds and financial management. In total, more than 21 chapters focus directly on issues of good governance, indicating its importance for the 2011.

The 2011 constitution included the following mechanisms to ensure good governance:⁹

- Several principles that govern the operation of public facilities and institutions: equal access to public services, democratic management of these services, and the responsibility and accountability of officials.
- Stipulating a number of institutions with different powers and mandates: the Competition Council, the Integrity and Anti-Corruption National Commission, the National Council for Human Rights, the Higher Council of Accounts (i.e. financial courts), etc.
- Pointing to a charter of good governance that includes principles of good governance applicable to public agencies.
- The constitution granted citizens a number of rights in support of good governance that were not stipulated in previous constitutions, including:
 - The right to access information held by public authorities, elected institutions, and bodies invested with a public service (Article 27).
 - The right to present motions on legislative matters within the conditions and modalities established by an organic law (Article 14).
 - The right to present petitions within the conditions and modalities established by an organic law (Article 14).

⁹ Mohamed Benhlal, "Moroccan Constitution and Good Governance Project", *Ibn Khaldoun Journal de Web*, 2011 - Centre d'Etudes Internationales. Article available online: <http://ibn-khaldoun.com/172.pdf>

Morocco's ratification of the UN Convention Against Corruption (UNCAC)

Morocco ratified the UNCAC, which had been adopted by a UN General Assembly resolution in October 2003. In line with this ratification, a decree was issued to create the Central Agency for the Prevention of Corruption on April 2, 2007. The Agency was assigned powers to pursue its main task, the coordination of policies to prevent and combat bribery, and the compilation and dissemination of information in this regard.¹⁰

3. The reality of governance in Morocco

To examine the reality of governance in Morocco, the impact of legislative processes and decreed measures need to be compared with actual changes in governance on the ground. To map good governance trends in Morocco, we rely on governance indicators tabulated by a number of organizations including those of the Worldwide Governance Indicators, the Global Integrity Index, and some components of the Arab Democracy Index.

Worldwide Governance Indicators

The Worldwide Governance Indicators issued by the World Bank Group measure six dimensions of governance: voice and accountability; political stability and absence of violence/terrorism; government effectiveness; regulatory quality; rule of law; and control of corruption.¹¹

¹⁰ Article 2 of the 2007 decree creating a Central Agency for the Prevention of Corruption defines the powers of the Agency: "Proposing to the government general policies related to the prevention of corruption, particularly involving cooperation in the fight against corruption in the public and private sectors:

- Propose measures to raise awareness among the public and conduct media campaigns for this end;
- Contribute, in cooperation with the public administration and organizations, to the development of international cooperation in the area of preventing corruption.
- Monitor and evaluate measures taken to implement the government's policy in this field and submit recommendations to the public administration, public agencies, private contractors, and any others involved in policies for the prevention of corruption
- Give advice to administrative authorities about potential measures to prevent corruption.
- Undertake the task of compiling data related to corruption and manage the information in a database.
- Inform the competent judicial authority about all actions about which the Commission may become aware in the performance of its duties that may constitute corruption as defined by law".

¹¹ The World Bank defines the six dimensions of the Worldwide Governance Indicators as follows:

- **Voice and accountability:** captures perceptions of the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media.
- **Political stability and absence of violence/terrorism:** measures perceptions of the likelihood that the government will be destabilized or overthrown by unconstitutional or violent means, including politically-motivated violence and terrorism.
- **Government effectiveness:** captures perceptions of the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies.
- **Regulatory quality:** captures perceptions of the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development.
- **Rule of law:** captures perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence
- **Corruption control:** captures perceptions as to the extent to which the public authority practices petty or major acts of corruption to achieve private gain in addition to detecting the extent of hegemony of elites and private interests over the state.

Table 1 shows the following results for the status of governance in Morocco:

- Scores were highest for government effectiveness, regulatory quality, rule of law, and corruption control, with percentile rankings near 50%. Scores were lower for voice and accountability, and political stability and absence of violence/terrorism, with each ranking close to 30%.
- Looking at indicators from three different reports spaced over 10 years (2002, 2007, and 2012) does not reveal a substantial change in results, with increases or decreases of only two to four points over that period. In other words, the legislative and institutional measures undertaken did not bring about a substantial improvement in the six dimensions of governance measured.

Table 1: Worldwide Governance Indicators – Morocco					
Indicator	Year	Number of Sources	Governance Score (-2.5 to +2.5)	Percentile Rank (to 100)	Standard Error
Voice and Accountability	2002	9	-0.52	34.62	0.16
	2007	15	-0.73	28.37	0.12
	2012	17	-0.61	29.38	0.11
Political Stability and Absence of Violence/Terrorism	2002	5	-0.35	33.65	0.30
	2007	7	-0.51	27.40	0.24
	2012	8	-0.46	32.23	0.22
Government Effectiveness	2002	7	-0.14	51.22	0.17
	2007	10	-0.16	50.97	0.19
	2012	10	-0.04	53.11	0.18
Regulatory Quality	2002	8	-0.16	47.55	0.20
	2007	10	-0.20	49.51	0.17
	2012	12	0.09	50.24	0.16
Rule of Law	2002	10	-0.01	52.15	0.17
	2007	14	-0.26	46.89	0.15
	2012	16	-0.19	49.29	0.13
Control of Corruption	2002	6	-0.18	53.17	0.18
	2007	12	-0.32	47.57	0.16
	2012	14	-0.41	42.11	0.15

Source: Worldwide Governance Indicators <http://info.worldbank.org/governance/wgi/index.aspx#home>

Global Corruption Barometer

Transparency Morocco published the Global Corruption Barometer's report for 2013 showing the following results on corruption in Morocco: ¹²

- Out of 1004 respondents, 49% indicated that they had given a bribe in at least one of the sectors included in the survey during the 12 months preceding the survey.
- 89% of the respondents believed that corruption had remained the same or increased, versus only 11% who believed it had decreased.
- The majority of respondents considered government anti-corruption measures to be ineffective.
- The results for Morocco raise concerns about almost all sectors. The sectors classified by respondents as "very corrupt" were the health and police sectors with a score of 4.2 out of 5; public administration (4.1/5); the judicial authority (4/5); political parties (3.9/5); and education (3.7/5).

Selected governance levels in the Arab Democracy Index

The Arab Democracy Index measures the process of democratic transition in a number of Arab countries, including Morocco. It consists of 40 sub-indicators, some of which focus on measuring the opinion of citizens regarding aspects of governance. Part of the specificity of the Index is that it involves a comparison between legislative and institutional mechanisms for governance and the development of related practices.

In comparing legislation with practice, the findings of the most recent report¹³ demonstrate that Morocco is maintaining a steady increase in legislative and institutional measures to support democratic transformation (scoring 915 points out of 1000 during the years included in the assessment), including measures to combat corruption and support the rule of law, and the existence of strong institutions.

While these sub-indicators have improved, the indicators for putting these institutional changes into practice were much lower. In other words, there is a large gap between the adoption of legislation and the actions of organizations on the ground. The same report notes that the sub-indicator for the rule of law ranged around 600 (out of 1000) between 2008 and 2012 despite an increase during 2009 and 2010. The indicator for the existence of strong institutions stabilized during 2008, 2009, and 2010 at around 600 points, before increasing to 689 points in 2012.

¹² Transparency Maroc, Press Release, "Global Corruption Barometer 2013: New confirmation of the alarming situation in Morocco," available online: <http://transparencymaroc.ma/TM/fr/content/Communiqu%C3%A9-de-presse-barom%C3%A8tre-mondial-de-la-corruption-2013>

¹³ Arab Democracy Index Report of 2012, under publication.

Conclusion

Following an analysis of the longstanding discourse about governance, this paper attempted to review the measures aimed at supporting good governance in Morocco and contrasted them with the reality. As a result of the analysis, the following major observation may be made: the policy to institutionalize good governance in Morocco tends to focus on the narrow approach to governance demonstrated in the system of conditionality imposed by institutions and donor countries (reform of governance laws and institutions). This focus was made clear by the dedication of a section of the constitution to good governance and anti-corruption institutions, with the aims of enhancing the capacity of managing institutions to respond to demands by donor agencies, foreign capital, some Moroccan businessmen, and the public for transparent and accountable institutions. The reforms are limited and include only the expansion of some of the powers of the Prime Minister and an increase in the powers of Parliament to draft legislation and legislative initiatives. Even using a narrow concept of good governance, policies focus on laws and institutional procedures that do not translate into a drastic transformation in the status of governance and the nature of the Moroccan political regime.

Based on this analysis, implementation of the following recommendations would contribute to enhancing the status and practice of governance in all its dimensions:

- Extend the democratization process of the Moroccan political regime and the reach of the rule of law.
- Work on changing the management culture of officials by spreading a culture of serving the public good, linking responsibility to accountability.
- Establish an annual national prize for officials who embody the principles of good governance in the course of the performance of their duties.
- Establish procedures that contribute to increased public oversight of officials, with the possibility of removing from office those officials involved in corruption and misuse of power.
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