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## **Assessment Report**

### *Amendment of Constitution in Morocco: Reform or Containment of Democratic Transformation?*

**Policy Analysis Unit- ACRPS**

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***Assessment Report***

### Change in Morocco: From uncertainty to action

After the escape of deposed Tunisian President, the fall of Hosni Mubarak's regime in Egypt and the start of the movement of change in other Arab countries, Moroccan officials, including the Foreign Minister Al-Fasi Al-Mehri, asserting that Morocco enjoys a special status making it immune to any protest movement, made several statements. Accordingly, the term *Moroccan exception* came into circulation. Its advocates even claimed that Tunisia and Egypt should make use of the successful Moroccan model.

The *Moroccan exception* theory is grounded on two basic arguments. The first is erroneous and unrealistic, claiming that the economic and social conditions in Morocco are far better than those in Tunisia, Egypt, and other Arab countries. Therefore, it's meaningless to stage any protest, which would only be an imitation to others. The second argument maintains that the regime in Morocco is a royal one based on the *emarat al-mumineen* (emirate of the faithful), which bestows on the regime a historical and religious legitimacy that would put it beyond any potential debate doubting its continuity.

This official discourse has angered the advocates of change in Morocco, especially considering relevant statistics, including official statistics, contradict the regime's claim of economic prosperity. This is in addition to the predicament and gridlock that have long plagued political and social conditions in Morocco.

In this context, it's advisable to look at recent World Bank statistics released on Wednesday, July 6, 2011, which revealed that Morocco is still stuck in the lowest category of medium-income countries. The annual average per capita income ranges from \$1,006 to \$3,975. Comparing Morocco with other countries of the world, one can see that economic and social indicators in Morocco are still low. Indeed, some countries whose economic and social conditions were worse than those of Morocco have achieved some progress along the world ranking. Certain countries, such as Zambia, Ghana and Mauritania, which were classified as low-income countries, have moved up to lower-middle income countries. Other countries, with similar conditions to those of Morocco, have moved up, making the leap to the upper-middle income countries; these include countries such as China, Equator, Jordan, Thailand, and Tunisia.

As for the indicators of poverty, World Bank recent statistics showed that the poorest 20 percent of the population consumes only 8.5 percent of Morocco's national income, whereas the richest 20 percent of the population controls 47 percent of the country's national income. The World Bank figures, moreover, showed that the adult illiteracy rate (i.e., population above 15 years of age) in Morocco is as high as 56 percent.

In a report issued in the first week of July 2011, the Moroccan Human Rights Center accused the regime of continuing political arrests, and provided evidence of this accusation by referring to the arrest and trial of journalist Rasheed Neeny, the managing editor of the daily newspaper *al-Masa* newspaper, as well as the use of force against the protestors during the February 20 Movement for Change. The Center called upon the government to take speedy measures to

abolish the privilege system, and to dismember the ‘lobbies’ network, which are thriving on the current rentier economy.

In its annual report, July 12, 2011, the Moroccan Association for Human Rights Society said the general assessment of the human rights situation in Morocco clearly shows that Morocco is still far away from the basic requirements of the state of law and rights.

On February 20, 2011 independent, youthful groups, in addition to the opposition’s political, Islamic youth groups, have launched their movement that demands deep changes in Morocco. These groups chose *February 20* as a name for their movement. They do not identify themselves with any political party or organization. Rather, they are a spontaneous, independent, popular, and youthful movement open to all patriotic forces that agree with their basic demands. Most prominent among the February 20 Movement for Change demands are: the dismissal of the government and parliament, the establishment of a foundational association entrusted with formulating a new democratic constitution, the endorsement of a constitutional monarchy where the king acts as a head of state without ruling, the prosecution of corrupt figures, the release of political detainees, an equitable distribution of national wealth, and recognition of Tamazight as an official language in the country alongside Arabic.

In addition to active Islamic and legal organizations, the political committees in the February 20 Movement for Change are: the United Socialist Party, the Democratic Socialist Vanguard Party, the *Umma* (Nation) Party (banned), the Justice and Charity Group (a banned Islamic organization), the Democratic Way Party (*Annahj al-Democrati, a Marxist political movement*), as well as several legal and civil societies. Later, more youth and Salafi groups joined the protest demonstrations held by the February 20 Movement.

Ever since its launch, the movement has been actively holding popular protests in various areas of Morocco, to which Moroccan authorities responded with arrests, jail sentences, and repressive violent measures by the police. Many protestors have been injured. Certain sources accuse security forces of killing nine demonstrators, employing thugs to carry out violent attacks on the movement’s activists, as well as other peaceful demonstrators, in addition to threatening their families with revenge.

Popular protest demonstrators carried slogans representing the political, social, and cultural demands of the February 20 Movement. Demonstrators in several Moroccan cities carried Palestinian flags, an act that was interpreted by analysts as a message confirming Moroccan people’s solidarity with the Palestinian cause. This could be read as an implied response to what they regard as negative attitudes by King Mohammed VI that have been isolating Morocco from its Arab and Islamic depth.

### **Constitutional Amendments between Acceptance and Rejection**

The protest demonstrations held by February 20 Movement for Change caught Moroccan authorities off guard by the number of participants and its extensive sweep through many Moroccan cities and regions. It is in this general context that the speech delivered by King Mohammed VI on March 9, 2011 can be viewed. He called for constitutional amendments within

the constants of monarchy and the *emarat al-mumineen* (emirate of the faithful), and identified seven major bases for these amendments. He also promised to bring about a democratic constitution that would separate between powers, and grant the prime minister and the speaker of parliament further powers.

The king appointed an advisory committee to prepare a draft of the new constitution under the supervision of legal expert Abdul-Lateef al-Manooni. In addition to this committee, King Mohammed VI commissioned his advisor Mohammad Mutasim to hold consultations with leaders of political parties and unions about proposals for the constitutional amendment.

The parties of February 20 Movement rejected this initiative by the king as they saw it as a circumvention to their demands of genuine change, depicting it as an attempt to absorb growing popular anger.

Most Moroccan parties, member or non-member of the government (30 out of 34 parties), considered the king's initiative as one that outweighed all expectations. Some had described it as a royal revolution by which Morocco will be admitted into the *world democracy club* while others saw it as a suitable beginning towards a democracy that takes into account Moroccan peculiarities.

Three parties walked out of the consultation meeting of the political committee for constitution amendments after the king's advisor, Mr. Mohammad Mutasim, declined to hand them copies of the new constitution draft. Those to walk out were the Democratic Socialist Vanguard Party, the Unionist National Congress Party, and the Democratic Confederation of Labor. The Democratic Confederation of Labor issued a statement protesting against the way consultations were conducted, describing them as lacking any participatory methodology. The Democratic Socialist Vanguard Party announced that it would boycott the referendum.

After the publication of the official version of the new constitution, which was put to referendum, King Mohammed VI, in an official speech, called on Moroccan people to vote 'yes' to the new constitution.

In the debate on the content of this constitution, there were two basic readings of the content of the constitution among relevant actors, each in accordance with their own positions:

**The First Reading:** The first reading could be called "the comparative reading," and is advocated by the Moroccan regime supporters. In dealing with the formulation of a new constitution, the advocates of this reading revoked the 1996 Constitution, which is still valid. They consider the new 2011 constitution as more advanced and developed than that of 1996. This can be read in the following statement of Prime Minister Abbas Al-Fasi, the Secretary General of *al-Istiqlal* (Independence) Party, who said, "Thus, the King and the people represent a resurrection of our homeland through the approval of an advanced contract that would enhance the everlasting national cohesion between the Crown and the people." The same attitude was expressed by Mr. Abdul Wahid Radhi, Speaker of the Parliament, and Secretary General of the

Socialist Union Party, who stated: “Morocco enters a new era with the new constitution where it will maintain a leadership position.”

Mr. Abdallah Binkeran, Secretary General of the Justice and Development Party, said voting for the new Constitution would pave the way for a much better law with regard to democracy and identifying powers. Mr. Mohammed Al-Sheikh Beed-Allah, Secretary General of the Authenticity and Contemporariness Party, said the new constitution would take the country into the club of democratic countries that are the club of big powers.

Supporting parties argue that for the first time the political class and civil society have contributed in formulating a constitution for Moroccans. They maintain that the new constitution establishes a system based on the separation, balance, and cooperation of powers, as well as on the principles of good governance, and of the correlation between responsibility and accountability (Article 1), which was not stated in 1996 constitution.

These parties point to the notion that in the new constitution the king appoints the prime minister from within the political party arriving ahead in the elections of the members of the Chamber of Representatives, and with a view to their results. On proposal of the Head of Government, he appoints the members of the government (47). Both points were not binding in the 1996 constitution. They confirm that the reference to the *king* as "*sacred*" in the current constitution will be *removed*. They also argue that it would expand the parliament's legislative powers in areas that were confined to the royal establishment, such as general amnesty, apparatuses, and forces of security (Article 71).

**The Second Reading:** The advocates of this reading are mostly opponents of the new constitution, led by the forces of February 20 Movement of Change, as well as its supporters from political and civil parties. Discussing the constitutional content in form and substance, they think that the constitution was designed on the basis of the centrality of the king's position in the political system. The king retains control of the executive authority and deciding its strategic orientations as he is chairing the cabinet. They maintain that the new constitution consolidates the king's domination over a number of state organizations through presiding over the cabinet (Article 48), the Superior Council of the Judicial Power (Article 56), the Superior Council of the Ulemas (religious scholars) (Article 41), and the Superior Council of Security (Article 54). They evidence their argument by referring to the king's power to appoint six out of twelve judges in the Constitutional Court, as well as the president Article 130) which gives the king the power to appoint all non-judicial notables in the Superior Council of the Judicial Power (Article 115), and to appoint half of the members of the High Authority of Broadcasting [*Haute autorité de la communication audiovisuelle*], in addition to its chairman.

The advocates of this reading wonder how the king would exercise arbitration powers, while he is the presiding all these institutions and determinant of their choices. (Article 42 stipulates that “The king is the Supreme Arbiter of all state institutions, and pays great attention to the sound performance of constitutional bodies”). They attached little importance to the institution of the Cabinet of Ministers in the new constitution, because according to Article 47 all ministers are dependent on the monarchical institution after their appointment. Indeed, the king, on his

initiative, has the authority to dismiss any member of the cabinet after consulting with the prime minister, who has no power to present any proposal in this regard (Article 47). This underscores the fact that power lies with the one who has the dismissal authority.

Mr. Mohammed Al-Sasi, Deputy Secretary General of United Socialist Party, said the new constitution added new powers to the king whereby he became the president of the Superior Security Council and the constitutional president of the Superior Council of the Ulemas. The new constitution has also provided the king with an additional authority to call on the Parliament to review certain articles of the constitution, and to adopt this review without the need for a referendum.

In a statement, the Justice and Charity Group said the constitution has been formulated using a non-consultative methodology based on monopolizing power, not on dialogue. The king, according to the Justice and Charity Group, identified, in his March 9 speech, the constants of the constitution, which are supposed to be the result of a national dialogue; he was the one who laid down the seven bases for the constitutional content, who appointed the Advisory Committee to review the constitution, who decided its procedures, and who has the final word in approving the constitution draft.

In terms of form, the Justice and Charity Group noted in its statement that many articles were written more as advertisements and general principles than precise constitutional rules. Although the new constitution has not referred to the king as an authority, it granted him a lot of various powers. The Group's statement criticized the *constitutionalization* of many state councils, saying that their competence was designed to interfere and overlap with that of the government. The aim, according the statement, was to lay the foundation of an executive monarchy and to assume political tasks without being subject to the monitoring of both the government and the Parliament. The statement provided several remarks about the content and the articles of the constitution explaining that the new draft is still upholding the position of the king as a ruler above constitution, who could rule without being subject to any control or held responsible.

The paragraph in the new constitution on the Moroccan identity has raised much debate among those who reject the new constitution as they were surprised by the *balkanization* of the Moroccan identity in the constitution. They noted that this identity was distributed among several components, in addition to inserting a Hebrew component into it, a step that was rightly interpreted by analysts as an expression of the Moroccan regime desire to obtain Western consent.

### **The Referendum**

On July 1, 2011, the Moroccan Ministry of Interior released the results of the referendum on the new constitution, stating that 98.5 percent of the voters said 'Yes' to the amendments. However, the rate of participation was 73.46 percent.

All parties supporting the constitution welcomed this result, confirming the referendum's integrity and soundness. However, leaders of the Justice and Development Party have made contradictory statements about the legitimacy of the declared figures. The February 20 Movement declared the referendum a fraudulent sham as they disputed its results. Its activists confirmed that Moroccans have clearly boycotted the referendum, and pointed to serious breaches on the referendum day as well as the previous day. These breaches included circulating an official Friday prayer speech in all mosques calling on Moroccans to vote with 'yes' in the referendum, and depicting voting as a religious duty. They also used thugs and bribery, threatening to fire workers in case they fail to vote 'yes,' refraining from processing administrative applications in governmental offices for those who boycotted the referendum, using Dervish convents (*or zawaya*),<sup>1</sup> and using thugs in the demonstrations held in support of the new constitution. Conversely, the opponents of the new constitution, and those who called for boycotting the referendum, were denied any opportunity to express their views.

Many political forces have dismissed these results as rigged, describing the process as being a complete sham. They explained that these figures are not different from those of previous referendums including the 1952 referendum, which approved the constitution by a rate of 97.05 percent, the 1970 referendum, which approved the constitution by a rate of 98.7 percent, the 1972 referendum, which approved the constitution by a rate of 98.75 percent, the 1992 referendum, which approved the constitution by a rate of 99.98 percent, and finally the 1996 referendum, which approved the constitution by a rate of 99.56 percent.

These political forces presented a variety of statements using data that explained the defects in the referendum process, the most important of which is the intentional reduction in the electorate to make it confined to the number of registered voters in electoral lists, not on the basis of general population census. Accordingly, almost 10 million Moroccans were out of the official counting of participants and non-participants. Had those millions been taken into account, the rate of participation would not have exceeded 37 percent, which means a boycott of 63 percent of the electorate.

On the international level, the European Union and the United States welcomed the results of the referendum. The French foreign minister described it as transparent and democratic. However, according to Reuters News Agency, Ms. Elisabeth Storm, a lecturer in Middle East politics at Exeter University in the United Kingdom commented on the referendum process saying, "A large-scale vote with 'yes' after weak participation or invalid polling cards is by no means a great result." Furthermore, the Justice minister of Morocco said that the referendum "does not reflect the will of the people." The Moroccan Human Rights Center said, "the referendum process was marred by many breaches in many polling stations."

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<sup>1</sup> *The Dervish Fraternities* are mystic Muslim fraternities belonging to various Sufi orders; they are inclined to the spiritual life gathered round a revered [sheikh](#). They live with him, share his religious practices, and are instructed by him. In time of war against the unbelievers, they might accompany him to the threatened frontier, and fight under his eye. Each has a "rule" dating back to its founder, and a [ritual](#) which the members perform when they meet together in their [convent](#) (*khangah, zawiya, takya*).



In a report issued by Human Rights Watch on July 11, 2011, Sarah Leah Whitson, Director of Middle East and North Africa Department, commented on these violations saying: “It’s not enough to approve a constitution, which states that ‘the physical or moral integrity of anyone may not be infringed, in whatever circumstance that may be and by any person that may be, public or private,’ and then allow police to beat peaceful demonstrators with sticks.”<sup>2</sup>

In light of these remarks and data, we find ourselves confronting two contradictory positions:

The first and official position suggests that Moroccan people had said their final word by approving the constitution. Thus, protesters have to leave streets to provide the appropriate conditions to activate the new constitution. The second position, represented by February 20 Movement for Change and its supporters, maintains that Moroccan people had boycotted the imposed constitution, and this is by itself serves as a warning message to seek redress before it’s too late. They assert that they would continue peaceful protests until actual changes are implemented.

### **Possible Scenarios**

Some analysts believe that Morocco tries to present an unprecedented model of change in other Arab countries. A special reference is made here to Tunisia and Egypt, where the military establishment adopted the people’s demands, thus resolving the situation. This gives preponderance to the gradual and peaceful change assumption in Morocco. Advocates of this scenario expect King Mohammed VI to launch a socio-political dynamic starting with the promotion of trust between the regime and the emerging actor, or the grassroots groups, and later the opposition parties, especially the Justice and Charity Group. This move can be carried out through specific measures that would likely include enabling members of this group to exercise political action, and opening permanent communication channels with its leaders. It is also expected to include the release of arrested activists of the February 20 Movement and other political detainees, in addition to the opening up public media outlets to opposition groups, combating economic and political corruption, keeping suspicious figures out of the monarchical establishment, and liquidating the rentier economy and illegal privileges in various fields.

Advocates of this vision believe that the regime would tend to contain its opponents while at the same time undergoing some sort of change. In case such change occurred, regime opponents would be encouraged to step into political process; this is important because none of them have so far called for overthrowing the regime or using violence in realizing their political and social programs.

#### Second scenario

This scenario is based on the notion that the Moroccan regime has not comprehended the historic transformation underway in the Arab world. This is why the regime has not contemplated carrying out actual change; rather, it tried to avoid the storm as far as possible. The evidence for

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<sup>2</sup> Article 22 of the new Moroccan constitution

this position is the regime's resort to constitutional amendments as benchmarks and their circumventing pressures for change. Indeed, it has carried out six amendments within 49 years. Thus, this scenario expects the regime to marginalize and neutralize all its strong opponents. As a start, it may opt to persuade the constituent groups of February 20 Movement to set up a political party, and enter the political arena as a recognized opposition actor. In a later stage, it would exploit ideological differences between the active groups of this youthful gathering, causing its fragmentation. This is a well-known mechanism that has often been used by the regime to break up its opponents in Morocco political history. According to this scenario, time is an essential weapon, in addition to creating secondary issues, which would drain the February 20 Movement, and distract the attention of Moroccan public opinion until further notice.

### Third scenario

Advocates of this scenario suggest that the constitution amendments were not effective. They prove their point by referring to the fact that immediately after the referendum, protest demonstrators took to the streets in the kingdom's cities to express their rejection of the results and assert their determination to continue protesting. Moreover, a violent uprising by unemployed Moroccans took place in the phosphate-rich city of Khreibka.

According to the supporters of this scenario, the new constitution's failure to put an end to the protests lies in the king's dependence on 30-odd parties, which do not enjoy a strong popular base, to promote his constitutional initiative. Media sources said the state gave about 9 million US Dollars to some parties on the eve of the referendum. This was done despite the fact that these parties had never demanded the amendment of the constitution. These parties, who suffer from isolation within the Moroccan society, would obviously side with the regime whether it amended the constitution or not.

Others believe that the methods used by the regime were counterproductive. They suggest that these amendments brought back to Moroccan political circles an extensive debate on the monarchical regime, the *emarat al-mumineen* (emirate of the faithful), the powers of the king, and the Royal Palace rituals. Looking at it in this way moves from viewing the referendum as a vote on the new constitution to an attempt to assert the legitimacy of the monarchy.

The government has taken several measures to quell popular anger, including: launching new councils, releasing a group of political detainees, increasing civil servants' salaries, employing a group of unemployed academics, exempting small farmers of credit interests, and having the royal family abstain from investing in basic goods in the local markets. However, all of these measures failed to stop protest demonstrations led by professional union members and youth, which have taken a new qualitative track after hundreds of mosque *imams* and prayer announcers (*muezzins*) had taken to the street calling on the regime to show fairness and justice, and to prevent the Ministry of Interior forces from interfering in their affairs. Accordingly, the advocates of this scenario think that the royal regime can ignore popular protest in the short run, and resort to secondary unclear security measures in order to avoid criticisms by European Union

and the United States. The regime is obviously betting on gaining Moroccan parties' support by satisfying them in the next legislative elections.

It is very likely that protest movements would develop their methods of protest and action means to consolidate their interaction and coordination with internal and external bodies. They may attract up-to-now silent groups in Morocco. The constitutional amendments after the referendum may prompt some of its supporters to lose confidence in the regime after they realize that the regime did not keep its promises and, instead, caused a more complicated and strained reality.

As a result of this upward trajectory, Morocco might come closer to the Egyptian model, not necessarily in terms of the consequences, but in its path. The protest movements will expand and develop various patterns leading the situation to erupt. The ceiling of protesters' demands may go even higher in public space, at which point the regime would find itself unable to contain the popular movement or ease the tension, for time will never avail it an opportunity to regain initiative.

The royal regime in Morocco, however, enjoys a greater and older historical legitimacy than that of both regimes of Zein al-Abidine Ben Ali, in Tunisia, and Hosni Mubarak in Egypt. This legitimacy may stimulate self-confidence and be an incentive to proceed with reforms to the establishment of constitutional royalty. It may also provide the monarchy with a reason to believe that it is possible to contain opposition movements whatever fair their demands may be.

Opting for the second alternative, which supports the unconstitutional and unrestrained monarchy, would certainly be a grave risk especially after the Moroccan people have surprised everybody with the magnitude of their peaceful protests.