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Civil Society in Morocco under the New 2011 Constitution: Issues, Stakes and Challenges

Rashid Touhtou | Sept 2014

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Introduction

With the advent of the Arab Spring and the February 20 movement, many new protest groups and organizations have emerged in Morocco. The surge in number and diversity of groups, including feminists, Amazigh, human rights activists, youth, and Islamists, have created a dynamism in Morocco's public sphere that did not previously exist. Although the effectiveness of these new organizations remains to be determined, the historical significance of emerging civil society organizations and protest movements merits attention. This new visibility may help bridge the gap between public and private spheres, and between formal and informal ways of doing politics in Morocco. The 2011 reform of Morocco's constitution was a historical moment that provoked a dynamic dialogue between civil society and state, and that gave rise to heated debates on the provision of an enabling environment for the empowerment of civil society.

At the beginning of 2011 a strong social mobilization triggered by the Arab Spring brought about unprecedented popular demands in Morocco to combat corruption, promote democratization, freedom, and human dignity. The king's March 9, 2011 "historic" speech, promising wonders to Moroccans, and announcing time lined steps towards the drafting of a new constitution followed by a referendum and elections, succeeded in stifling these protests. Such acceleration of history allowed Islamists in Morocco, for the first time, the opportunity to form a government. Since the Party of Justice and Development (PJD), an Islamist party, failed to make a tidal wave during the November 25, 2011 elections, it was forced to form a fragile coalition with four major political parties that share very little of its vision.

While Moroccan civil society cannot be said to have played a key role in the social protests embodied by the February 20 movement, its interaction with the constitutional reform workshops cannot be denied. In fact, many civic rights, women's cultural, developmental, and educational associations provided memoranda and proposals to the

king's appointed commission in charge of amending the Moroccan constitution. Moroccan associations demanded that the new constitution would strengthen the powers and broaden the prerogatives of civil society.

Civil society principles come with the promotion of participatory democracy and the reform of state bureaucratic institutions and processes as key elements to the improvement of people's lives. In this connection, the participatory governance package, made essentially of decentralization reforms and participatory mechanisms for youth and women, represents a constitutional tool that should be adopted by the Moroccan government as a basis for addressing the challenges of promoting democratic institutions and reducing the growing social inequalities.

The new constitution intimates that the ability of a government to address socio-political issues is inextricably linked to the imperative of designing, implementing, and sustaining a comprehensive strategy of participatory governance. If carefully implemented, the new constitutional principles on participatory governance could assist both the government and civil society actors in developing participation principles, procedures, and practices. For the would-be Moroccan civil society, participation is not a concept which can be addressed once through principles and norms defined by the constitution and then shelved.

In this context, this paper will be divided into five main inter-dependent sections. First, it will provide a theoretical background on the notion of civil society and what this means in Morocco. Second, it will address the status of civil society as per the 2011 constitution. Then, it will shed light on the concept of participation as it appears in the constitutional text. Fourth, it will explore some of the correlations between civil society and the democratization challenges. Finally, the paper will discuss some aspects of the preliminary interaction between the current government and civil society and the way the national political context affects these dynamics.

Civil Society: A Theoretical Framework

In describing civil society, Seligman[1] mentions three uses of civil society. First, as a slogan of different movements and parties. Second, as an analytical concept used by social scientists and third – as a normative concept in the ethical sense – to vehicle a vision of the social order. Seligman argues that "the idea of civil society thus embodies for many an ethical ideal of the social order, one that, if not overcomes, at least harmonizes, the conflicting demands of individual interest and social good"[2]. Civil society for liberal thinkers balances the equation between rights and responsibilities. It also reflects a deep concern with the role of the state.

Civil society organizations or associations can thus play the role of mediating structures between the individual and the larger structures of the state.[3] The emphasis on these mediating structures is to secure integration of all individuals in decision making and it is a return to local civic associations in managing local affairs. In their preface to Civil Society and Political Theory, Arato and Cohen define civil society as "[…] a sphere of social interaction between economy and state, composed above all of the intimate (especially the family), the sphere of associations (especially voluntary associations)"[4]. In their definition, they distinguish civil society from political parties and economic society. This, as Michael Edwards argues, is the meaning given to civil society as associational life.[5] This understanding of civil society relies on two aspects of civil

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[1] Adam Seligman, *The Idea of Civil Society* (New York: Free Press, 1992), p. 16.

[2] Don E. Eberly, ed., *The Essential Civil Society Reader: The Classic Essays* (Lanham, MD: Rowman and Littlefield, 2000), p. 13-14.

[3] Peter L.Berger and Richard J. Neuhaus, *To Empower People: The Role of Mediating Structures in Public Policy* (Washington, D.C.: American Entreprise Institute for Public Policy Research, 1977).

[4] Andrew Arato and Jean Cohen, *Civil Society and Political Theory* (Cambridge: MIT Press, 1992), p. ix.

[5] Michael Edwards, *Civil Society* (Cambridge, UK: Polity Press, 2004).

society organizations: the non-profit and the non-governmental. It is based on a tripartite schema, distinguishing civil society from the market and from the state.

Howell and Pearce question the autonomy of civil society. Contributing to this conceptual differentiation, they argue that civil society "defined as non-governmental, it should be materially independent of the state; defined as non-profit, it should not accumulate capital".[6] Indeed, this is one of the dilemmas and contradictions linked to the role of civil society, in addition to its fuzzy definition and its embedded ambiguity.

Howell and Pearce summarize the uses of civil society in two categories: the mainstream perspective and the alternative set of views.[7] The mainstream approach to civil society finds its roots in liberal thinking; while the alternative approach is engaged with the Gramscian vision. For the liberals or the new-Tocquevillians, the realm of civil society is the sphere of voluntary associations. Michael Edwards explains that "the dominant theme debate in this was the value of voluntary associations in curbing the power of centralizing institutions, protecting pluralism and nurturing constructive social norms, especially generalized trust and cooperation".[8] This view of civil society is based on the American school in political theory especially the legacy of Alexis de Tocqueville who greatly influenced the debate on civil society. Tocqueville described the Americans' tendency to form and join associations of all sorts. These local civic associations or as Tocqueville calls them 'little schools of citizenship'[9] teach people democratic practices. They serve as agents of democratic socialization.

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[6] Jude Howell and Jenny Pearce, *Civil Society and Development: A Critical Exploration* (Boulder: Lynne Rienner, 2001), p. 80.

[7] Ibid.

[8] Edwards, *op. cit.*, p. 7-8.

[9] Eberly, *op. cit.*, p. 17.

Tocqueville however detected the early signs of civic disengagement and warned against extreme egoistic self-interest. This 'bowling alone' inspired Robert Putnam's study on associational networks in Italy and also his study on the decline of a thick associational life in the USA. Robert Putnam explores the importance of a thick associational life in building up trust and social capital.[10] He argues that trust and norms of reciprocity increase within organizations, thereby augmenting the likelihood of cooperative ventures among members of society as a whole.

On the other hand, the alternative vision is based on the idea of civil society as a site of rebellion against the orthodox and the construction of hegemony, a clear Marxist reading of the interaction among state, individual and society. Civil society here is an arena of challenge and contestation, based on mutuality and solidarity. Civil society in this sense is impregnated with conflict, class and power. Howell and Pearce explain how this alternative genealogy owes a great deal to the Italian Marxist Antonio Gramsci in shaping the critiques of the market, neo-liberalism and globalization today and the growth of social movements adopting the language of civil society.[11]

The alternative view starts with the legacy of Hegel, who viewed civil society as occupying a space between the family and the state. He believed that civil society can exist only under the control of a supervising state. Karl Marx too stressed this but saw civil society as a realm of conflict between organized classes. Gramsci was unsatisfied with this pure economic explanation of political action and argued that ideology plays an important role as far as interpretation of action is concerned.[12] Gramsci shifted the

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[10] Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon & Schuster, 2000).

[11] Howell and Pearce, *op. cit.*, p. 37.

[12] Ibid.

focus of attention from the material relations of society to the cultural and spiritual agencies that shaped the consciousness of its members.

Out of this legacy, American philosophers developed the theory of the public sphere. John Dewey and Hannah Arnedt theorized deliberative democracy. Brooke A. Ackerly explains deliberative liberal democratic theory, arguing that "explicit and implicit in their work is criticism of a society in which political power is unevenly disbursed and an argument that more inclusive public deliberation will enhance the legitimacy of political decision making even while those decisions remain in the hands of representatives".[13] Habermas developed his theory of the public sphere from these philosophers. He recognized that despite deliberation, domination exists in civil society and thus detected such power differentials within civil society itself. Habermas viewed the public sphere as offering possibilities for organizations and actors to influence decision-making processes and at the same time remain independent from the state. He defines the public sphere as:

"A network for communicating information and points of view (i.e., opinions expressing affirmative or negative attitudes); the streams of communication are, in the process, filtered and synthesized in such a way that they coalesce into bundles of topically specified public opinions. Like the lifeworld as a whole, so, too, the public sphere is reproduced through communicative action for which mastery of a natural language suffices; it is tailored to the general comprehensibility of everyday communicative practice."[14]

For civil society organizations, the public sphere is important in the sense that it allows an expression of the transformation of private individuals and private social issues into

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[13] Brooke A. Ackerly, *Political Theory and Feminist Social Criticism* (Cambridge 2000), p. 6.

[14] Jurgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (Cambridge, MA: MIT Press, 1996), p. 360.

public issues. This, I believe is a characteristic of the emerging social actors in Morocco. Feminists also warned against the double-edged sword nature of civil society which can allow for counter-hegemonic discourses, whilst gendered behaviors, norms and practices are acted out and reproduced. Habermas argued that in order to avoid these dilemmas and contradictions within a space of freedom and democracy "a healthy civil society is one that is steered by its members through shared meanings that are constructed democratically through the communications structures of the public sphere".[15] Feminists took Habermas' theory of the public space and attempted to critically develop it through a gender lens.

Nancy Fraser revised the theory of public sphere stressing the need for 'interpretations' or the battle of meaning constructions. In a very illuminating article entitled: 'struggle over needs: outline of a socialist-feminist critical theory of late capitalist political culture', she sketches out an approach to needs in a conceptual move from 'needs satisfaction' to 'needs interpretation'. This approach best captures not only the shifting boundaries between private and public spheres, but also the polemical interactions framing talks on needs across the boundaries. This approach further enables the understanding of different discourses about needs and the interconnectedness of different spheres, mainly the flows of gendered discourses, practices and norms within and between spheres.

In the Arab world, social capital from within civil society is being mobilized to push for more democratic reforms. A very recent study by Amaney A. Jamal deals with the question of the usefulness of the concept in capturing dynamics of democratization in the Arab world. Her study focuses mainly on Palestine but is also extended to Egypt, Jordan and Morocco. Jamal's main argument is the following:

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[15] Edwards, *op. cit.*, p. 9.

"Because political institutions shape civic attitudes, both the content and the form of civic engagement will differ across varying political contexts….the absence of accessible channels of political participation will not hinder some forms of participation but also shape one's attitude and beliefs about participation. Individuals will develop opinions, attitudes, norms, and perceptions influenced directly by the political context in which they operate. Since patterns of political participation differ in nondemocratic settings, patterns of civic engagement should differ as well."[16]

Because of the nature of the political regime and system in Morocco, the state has realized that the civic sphere should not be left for manipulation and penetration by the opposition. One of the state strategies is to sponsor, promote and build a pro-regime civic sector.[17] Association leaders in Morocco find it hard to be in total opposition with the state; that is why the thesis argues for a discursive negotiation or bargaining for interests, needs, goals and priorities vis-à-vis the state.

On the other hand, NGOs in Morocco are recognizing the effect of social capital and networking on their work and its sustainability. Fatima Mernissi was one of the first sociologists to be interested in social capital and its magical workings in civic traditions in Morocco and devoted a book to the linkages between traditional forms of solidarity as a form of social capital and associational involvement. She argues that NGOs exploit these stocks of social capital to implement development projects and to mobilize illiterate people to manage the village daily affairs[18]. Social capital, in many ways, is

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[16] Amaney A. Jamal, *Barriers to Democracy: The Other Side of Social Capital in Palestine and the Arab World* (Princeton, NJ: Princeton University Press, 2007), p. 10.

[17] James Sater, *Civil Society and Political Change in Morocco* (UK: Routledge, 2007); Jamal, *op. cit*.

[18] Fatima Mernissi, *Les Aït-Débrouille: ONG Rurales du Haut Atlas* (Casablanca: Editions Le Fennec, 1997). Also her Article: "Social Capital in Action: The Case of the Ait Iktel Village Association''. In: I. Diwan and K. Sirker, ed., *Voices from Marrakech: Towards Competitive and Caring Societies in the Middle East and North Africa* (Washington, DC: World Bank, 1997)

about needs talk, in the sense that 'oppositional' forms of needs talks are politicized in order to generate response from the state. NGOs mobilize social capital in their war to win the politics of needs.

In mobilizing social capital, NGOs impose their own interpretations of needs countering that of the hegemonic state or discourses by experts. Nancy Frazer analyses this first type of needs talk by stressing three necessary elements, "first, they contest the established boundaries separating "politics" from "economics" and "domestics".[19] Second, they offer alternative interpretations of their needs embedded in alternative chains of in-order-to relations. Third, they create new discourse publics from which they try to disseminate their interpretations of their needs throughout a wide range of different discourse publics. Finally, they challenge, modify and/or displace hegemonic elements of the means of interpretation and communication; they invent new forms of discourse for interpreting their needs". I argue that development NGOs within Morocco's civil society are contesting, reordering the political space through a revitalization of the local, through 'oppositional' discourses on the 'social' in the form of 'needs talks'.

The argument is that 'needs and interests satisfaction/interpretation' paradigm is an entry into empowerment. What is less clear is that power is embedded in empowerment and involved in the construction of interests. Power is embedded in the local. The social is thus best understood in terms of power relations. The social emerged out of the local reordering of the political in Morocco. The social blurs the boundaries between the private and the public and also among politics, economics and domestics in postmodern societies; here I quote Habermas, 'this public is made of citizens who seek acceptable

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[19] Nancy Frazer, *Unruly Practices: Power, Discourse and Gender in Contemporary Social Theory* (Minneapolis: University of Minnesota Press, 1989), p. 171.

interpretations for their social interests and experiences and who want to have an influence on institutionalized opinion-and will-formation'.[20]

The social is an arena of political contestation; a shifting terrain where different actors forge new identities and where new social agents of change emerge in the political scene. Nancy Fraser defines the social in the following terms, "the social is a site of discourse about problematic needs, needs that have come to exceed the apparently… self-regulating domestic and official economic institutions".[21] Therefore, the social is a site of contestation and characteristic of the modern public sphere. It is a conflicting, competitive way of interpreting people's needs. It also allows for a plurality of voices to emerge in the public arena. The social in Morocco is a new terrain for the state and also a new terrain for wider political contestation. Nancy Fraser argues that in the social "the focus would be as much on need interpretation as on need satisfaction. This is as it should be, since any satisfactions we are able to win will be problematic to the degree we fail to fight and win the battle of interpretation".[22]

Civil Society under the New Constitution

Under the new constitutional document, approved by the Moroccan people in a referendum held in July 2011, civil society has the right to submit petitions, make legislative proposals, and contribute in shaping public policy. Thus, in the context of the general provisions of Part I of the constitution preamble, Article 12 explicitly states that civil society and non-governmental organizations set up and carry out their activities freely in accordance with the constitution and the law. Public authorities can neither

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[20] Habermas, *op. cit.*, p. 367.

[21] Frazer, *op. cit.*, pp. 156-157.

[22] Ibid., p. 158.

dissolve nor freeze the activities of these associations or organizations except by virtue of a judicial decision.[23]

Within the framework of participatory democracy, associations and non-governmental organizations concerned with public affairs are called upon to play a role in the decision – making process, implementation and evaluation of projects developed by elected institutions and public authorities that are responsibly for organizing this participation in conformity with the conditions and clauses prescribed by the law. Incidentally, Article 13 of the constitution states that public authorities should create consultation bodies in order to involve the different social actors in the preparation, activation, implementation, and evaluation of public policies. Articles 14 and 15 further expanded the scope of civil action to include all citizens and guarantee them the right, in the field of legislation, to present petitions to public authorities under the conditions and clauses prescribed by a subsequent regulatory law.[24]

In Part II of the Constitution concerning fundamental rights and freedoms, Article 27 stresses the right of all citizens to access information held by public administration, elected institutions, and public service agencies. Article 33 states that public authorities should take appropriate measures to achieve the expansion and dissemination of youth participation in the social, cultural, political, and economic development of the country. The authorities must help young people integrate active life and community groups. An Advisory Council for Youth and Collaborative Work is yet to be founded in order to achieve this goal. Within the definitional framework of bodies promoting human development, sustainable, and participatory democracy, Article 170 of Section XII of the

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[23] See: Jefri J. Ruchti, trans., Draft text of the Constitution adopted at the Referendum of 1 July 2011 (HeinOnline World Constitutions Illustrated library 2011). Available through the following website: http://www.ancl-radc.org.za/sites/default/files/morocco_eng.pdf [Accessed September 9, 2014]

[24] Ibid., p.8.

constitution concerning good governance is set to delineate the powers of the Advisory Council for Youth and Collaborative Work created under Article 33. Article 170 deems the afore-mentioned council as an advisory body in the fields of youth protection, promotion, and the development of associative life.[25] The council is in charge of examining and following issues of concern to these fields. It is meant to make economic, social, and cultural suggestions directly connected to improving the conditions of the youth and associative work, develop their creative potential, and motivate them to engage actively in public life with the spirit of responsible citizenship. In this regard, the government emerging from the November 25, 2011 elections showed its commitment to strengthen the constitutional status of civil society through the creation of a new ministerial sector called the Ministry in Charge of the Relationship with Parliament and Civil Society.

Along these same lines, the provisions of Part IX of the constitution concerning regions and local governments, Article 139 stipulates that Regional Councils and other local government entities should develop participatory mechanisms for dialogue and consultation for the sake of facilitating the contribution of citizens and associations in the preparation and tracking of development programs. The same article re-iterates that citizens and associations have the right to make petitions, the goal of which is to demand from the councils to include in their agenda points falling under their jurisdiction.[26]

These constitutional and political changes compel civil society to bring about the necessary adjustments compatible with the new opportunities offered by the constitutional text some features of which one can identify as follows:

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[25] Ibid., p. 12 and p.39.

[26] Ibid., p. 33.

1. Strengthening the perception of its role, reconsidering its vision, and re-thinking its mission under this new constitutional context;

2. Showing more professionalism in carrying out its duties as a propositional force likely to contribute to the development of laws and programs as a positive response to the growing pressures of socio-economic public demands;

3. Making proposals concerning the work of the ministerial department in charge of civil society mentioned above;

4. Presenting relevant proposals to bear on the internal regulatory principles of the House of Representatives in order to take into account the new constitutional status of civil society and regulate the participation of the latter in the provision of legislative proposals accordingly;

5. Formulating perceptions with respect to the activation of the Articles of the constitution pertaining to the submission of petitions and contribution to public policy;

6. Accelerating the establishment of an Advisory Council for Youth and Collaborative Work with specific and accurate powers fully integrated into those of the other institutions, constitutional bodies, and related ministerial sectors;

7. Developing the relevant technological edge and necessary knowledge to build up a constructive and meaningful culture capable of contributing to the expected change. The objective is to open possibilities for networking and finding new expression, influence and mobilization channels more expansive, flexible, and accommodating than the traditional spaces of civil society.

Since only the state is expected to act for the "common good", Moroccan associations are closely regulated and monitored. No wonder any association seeking to act in a public capacity needs to apply for such an entitlement. However, associations cannot accomplish the organizational internal adjustments necessary for the exercise of this

right unless the Moroccan state reforms the Code of Public Freedoms which itself falls under the controversial 1958 Dahir (Royal decree) on associations[27]. This law identified their scope of intervention and distinguished them from other organizations such as political parties, trade, labor unions, and institutions which operate in the field of human rights and democracy-building.

Perhaps the current constitutional document implicitly admits the struggle which the associative movement has been able to carry out over time[28]. For today's constitution seems to have elevated associative struggles to the rank of constitutional powers, as

[27] Article 1 of the Dahir 01-58 defines an association as "the agreement by which two or more people share permanently their knowledge or activity for a purpose other than sharing profits." Broadly, the associative movement claims a specific definition of the notion of public interest. The current text states that any association may, after prior investigation by the administrative authority on its purpose and means of action, be recognized of public utility through decree. Associative actors demand that the objective criteria which define public interest be explicitly listed in Article 9 of the Dahir and entrust their appreciation to an impartial body. Associations offer to amend the 1958 Dahir, especially with regard to the terms of formation and dissolution of associations. At this point, the 1958 Dahir grants only courts the possibility to decide on the suspension or dissolution of associations. Additionally, associations claim the removal of all the subsequent changes introduced by the Royal Decree of April 10 1973. According to associative leaders, the text of 1973 distorted the law on associations since it gave the prime minister the possibility to suspend or dissolve an association by decree. Furthermore, while associative actors required the expansion of funding resources, the legislator made some changes to the law in 2002 in order to control foreign funding. Restrictions were also put on financial resources.

[28] Before the advent of the new generation of NGOs, Morocco experienced a tradition of associations in both urban and rural areas. Socio-economic relations and social organization requiring the presence of a sense of community were seated in collective habits and customs in Morocco: the organization of society in Jamaa, Zawiya or Twisa represents an early form of civil society. These traditional solidarity modes played an important role in the development of local population. With the French Protectorate in Morocco came the annihilation of this form of traditional civil society. In 1914, under the Protectorate, Morocco saw its first legislation of associational activities. But it was only after independence that a Royal Decree governing public freedoms was issued in 1958. It was largely inspired by the French law of 1901. Since the eighties, civil society in Morocco has experienced unprecedented development. Official figures differ according to their source and announce the existence of 45,000 associations. Whether this is a reflection of a sudden democratic openness, or a search for legitimacy in response to the consequences of the 1983 Structural Adjustment programs' reversals that spawned unemployment, rural migration, poverty, and proliferation of slums, needs to be determined.

civil society groups have strongly come to be recognized as strategic partners. The first step towards a successful entitlement to such participation is to overcome the traditional perception of unilateralism demands in implementing the constitution and its activation mechanisms. Indeed, it is the first time in the history of Morocco in which the government and the state are not the only actors responsible for implementing the constitution. The demands emanating from citizens and civil society organizations are related to chapters in the constitution which, unlike the previous constitutions, gives them the right to participate directly and effectively in the legislation and monitoring processes without transiting through parliament. Early on, the parliament used to monopolize both the legislative and oversight functions which have currently constitutionally been enlarged to encompass civil society actors and all citizens.

The constitutional reform tries to devise answers to various social demands in order to lay down the foundations for a new relationship between the rulers and the ruled. In Morocco, the constitutional text is the result of the interaction between political authorities and citizens. Such endeavor operates in a particular context dominated by a plethora of clearly expressed political, social, and economic demands. The constitution seeks to be a response to the pressures of the base as it tries to rebuild the foundations of a new balance of power based on the current social realities. The current constitution is the translation of a new form of political contract demanded by the protest movements, namely the February 20 movement. In the embodiment of this goal of sharing power through participation, the constitutional text is characterized by a reference to the mechanisms of participatory democracy. Citizen engagement supposes then the development of a genuine partnership between the citizens and their government[29]. The constitutionalization of political participation in Morocco reflects a

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[29] Kamal Lahbib, (2007), "Participation Citoyenne au Développement Local: Démocracie Participative", a presentation in a national conference held in Tangier by civil society organizations in the North of Morocco. This represented the main political and social claims of civil society in Morocco. From the 90',

change in the perception of citizenship. Participatory democracy is therefore a direct way of involving citizens in the conduct of public affairs. In this sense, Moroccan civil society seeks to immunize the citizen and the most vulnerable social group against state arbitrariness. While so doing, it protects the state from social unrest and violence through the codification of a legitimate protest behavior toward the state through the involvement of the citizenry in the management of public affairs. Political regulation would then consist in inserting, by dint of legal means, mechanisms in order to open public spaces for citizen participation. The objective is to channel protests without suffering from their negative externalities and thus maintain the necessary social cohesion and balance for the legitimization of the actions of the Moroccan state. Besides, the opening of public space to all citizens is conducted in an attempt to guarantee the transparency needed to restore citizen confidence. It is also a means of good governance and the fight against the various forms of corruption. This obsession is constantly present in the new constitutional text. It explicitly mentions instances of the protection of economic freedoms, the status of public services, the guarantees of judicial independence, and the affirmation of the a right to access information.

The Constitution and the Concept of Participation

I. Participation: Definitions and Theories

While participation is a core feature of civil society, this concept has taken much greater importance in democratic societies in recent times. Many scholars have showed the limits of representative democracy and praised the virtues of participatory democracy which guarantees citizens' rights and much larger freedoms. Participation is the most fundamental component of democracy. It can be defined as a set of standards, practices, and mechanisms which allow citizens to contribute to the life of an

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civil society organizations in Morocco lobbied and advocated democratization in the management of politics and social development.

organization or influence the course of a community. The system of representative democracy is characterized by the delegation of the exercise of power in favor of the representatives of the nation. But such a mode of governance has the disadvantage of the possible seizure of power by the ruling elite. Conversely, tools of participatory democracy allow a direct expression of citizenship since participation offers the advantage of an active intervention of citizens in the conduct of public affairs. In this perspective, the constitution of 2011 falls in the same line of thought when it refers to the consultation and participation of all people in the major decisions affecting public life. It also clearly defines the quality, the rights, and duties of citizens including the freedom of opinion, assembly, association, and the right to petition. Active participation recognizes the ability of citizens to discuss and autonomously generate policy choices. Thus, participation will enable citizens to take collective action and get more involved in public affairs.[30]

Nevertheless, it is difficult to make people participate collectively in the activities of public interest. In this sense, Marx and his followers understood that the mobilization of the working class to defend its interests is never automatic.[31] It is hampered, according to Marx, by the physical and ideological violence exercised by the ruling class. Using a psychosocial approach, some scholars argue that, in a crowd, people are irrational and thus mimic leaders or are manipulated by them.[32] Olson, who to a certain extent approximates the Marxist way of thinking, believes that rational individuals with common interests do not automatically mobilize to defend them.[33] Their desire to

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[30] Mackinnon, M. P., "Les Citoyens et l'Aspect Horizontal des Politiques: Un Ajustement Naturel". Réseaux Canadiens de Recherche en Politiques Publiques, Réseau de la participation publique, PowerPoint presentation at the Horizon Policy Management Conference. Ottawa, 2006.

[31] Montoussé, M. et Renouard, G., *100 Fiches pour Comprendre la Sociologie* (Bréal, Cedex, 1977).

[32] Ibid.

[33] Olson, M., *The Logic of Collective Action,* (Cambridge: Harvard University Press, 1995).

mobilize occurs only after they realize that the cost of mobilization is less than the expected gain. In the case of public goods, those individuals who are unable to mobilize simply adopt the attitude of the free-rider. These concepts of mass mobilization and collective action are neither easy to quantify nor predict. But once individuals are able to be sensitized, and acquire a clear perception of the problems common to a group, community or society, they seem more likely to mobilize, along with other political actors, for the purpose of searching appropriate solutions. In so doing, these problems become public affairs and participation may take several aspects.[34]

II. Forms of Participation

Within the framework of a liberal democracy, seeking collective solutions to problems qualified as public affairs requires multi-faceted forms of participation.[35] The most common forms of involvement which pay particular attention to citizen participation are information, consultation, dialogue, public debate, conciliation/mediation, conference or citizens' jury. With the expansion of the Internet, developed countries have started to talk in recent years about "e-governance", "e-government", "e-participation", and "e-democracy" as a way to facilitate and accelerate the participation of citizens in the management of public affairs – Morocco however is not yet at this technological stage. The paper will thus focus on more traditional forms of participation:

Information: This parameter is essential and is a prerequisite for any educational project on participation. It becomes imperative to provide sufficient information to the public called upon to participate. In fact, "inside every public participation program

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[34] Lemieux, V., *L'étude des Politiques Publiques - Les Acteurs et leur Pouvoir* (Canada: Les Presses de l'Université de Laval, 1995).

[35] Enriquez, E., *De la Horde à l'Etat* (Paris: Collection Connaissance de l'inconscient, Ed. Gallimard, 1995).

[there] is a good information program."[36] This information is conveyed through the traditional media, news media, Internet, or other public meetings. It must be complete, clear, unbiased, and understandable. If the public is to be meaningfully involved in the decision- making process, it seems to be the only way through which people will be empowered to act on policy issues ultimately affecting them. Additionally, no one-size-fits-all public communication method can reach all the different "target publics" with a stake in any given policy issue. Thus, it may be both useful and necessary to use different methods to communicate with the various public segments in terms of the choice of the medium, format, and content.

Consultation: Through public consultation methods, governments, prior to a major political decision, offer the public an opportunity to express its raw opinions, expectations, and needs. But these interactions are usually limited since the flow of information basically goes one-way, from the public to the governments. Nevertheless, such methods do not generate a dialogue among and between participants, nor with the government. Therefore, they are not efficient in reducing possible conflicts between stakeholders defending different interests.[37]

Public debate: This is an important step in the decision-making process and is part of the upstream process related to a potential development project or policy.

Conciliation/mediation: This is the confrontation of different points of view held by participants who are motivated by the desire and willingness to reach a solution or a majority consensus. It is through one or more forms of participation, described above,

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[36] Creighton, JL., *The Public Participation Handbook: Making Better Decisions Through Citizen Involvement* (San Francisco: Jossey-Bass, 2005), p. 89.

[37] Yankelovich, D., *Coming to Public Judgment: Making Democracy Work in a Complex World*, Syracuse University Press, 1991.

that citizens seek to participate in the development of public policy. The stakeholders are the institutions, groups, individuals, and more broadly civil society.

Conference of citizens or consensus: This is a public dialogue for consensus among a panel of committed lay citizens who received preparatory training by experts and representatives of political and economic associations.[38] Final reports, including the opinions and recommendations of the citizens' panel are made public and presented to policy makers at the end of the conference.

Citizens' jury or Planning Cells: Unlike the citizens' conference, this method is used especially at local level, particularly in the context of urban development.[39] A panel of informed citizens representing their community, and divided into small "planning cells", provide political authorities with recommendations following extensive discussions and evaluation of particular problems related to urban planning.

The public participation methods discussed above allow effective and efficient interactions among citizens and between them and their government as information flows are exchanged between both parties. Depending on the method used, some degree of deliberation usually occurring in a group setting includes more or less proportionate representatives from each side. During these face-to-face meetings, while deliberating on issues of concern to them, citizens are provided with factual, objective, and accessible information in support of the participants' deliberations. Experts may contribute to inform the participants and answer their questions. Based on the participants' deliberations, a number of recommendations can eventually be made. In essence, the act of deliberation helps transform the raw opinions of both protagonists,

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[38] Antoine Bévort, *Pour une Démocratie Participative* (Paris: Presses de Science Po, 2002).

[39] Ibid.

the government's and the citizenry's, into informed and enlightened judgments.[40] Citizens' and civil society contributions can only be fully taken into account within a democratic state which recognizes the right of every citizen to be heard beyond any other consideration.

Civil society and Democratization

In liberal and pluralistic democracies, people or citizens of a state are the true sovereign and thus must consistently be included in the process of decision making. Within this context, the notion of political participation in a democracy today plays an important role. Such participation can be achieved either by the representation of citizens through their elected representatives in parliament, or in a participatory democracy, it takes place directly through the citizens themselves.

The peculiarities of the Moroccan context dominated by democratization challenges make the issue of political participation extremely significant. However, understanding such a process can only be achieved by starting from the notion of citizenship itself. Participatory democracy is basically the answer to the development of ideas of citizenship. As the latter form of participation is more effective and efficient when people come together and coordinate their interests, organized civil society can therefore play an important role. It becomes more than a supplement to the mere

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[40] See: Rowe G. and Frewer LJ. "Public Participation Methods: A framework for evaluation", *Science, Technology and Human Values* 25(1) (2000), pp. 3–29; Rowe G., Marsh R., and Frewer L., "Evaluation of a Deliberative Conference", *Science, Technology, and Human Values* 29(1) (2004), pp. 88-121; Yankelovich, *op. cit.*; Forest PG., Abelson J., Gauvin FP., Martin E. and Eyles J. "Participation et publics dans le système de santé du Québec". In: *Le Système de Santé du Québec: Organisations, Acteurs et Enjeux*, (co-director with V. Lemieux, ed., 2nd Edition (Ste-Foy: Les Presses de l'Université Laval, 2003); Abelson J., Forest PG., Eyles J., Casebeer A., Mackean G. and the Effective Public Consultation Project Team, "Will it Make a Difference if I Show Up and Share? A Citizens' Perspective on Improving Public Involvement Processes for Health System Decision-Making", *Journal of Health Services Research and Policy*, 9(4) (2004), pp. 205-212.

representation of citizens' interests in parliament. Indeed, at this level, the wishes of the citizenry cannot always be thoroughly taken into account. However, an accurate understanding of political participation requires examining the various contradictions inherent to the concept of citizenship that expresses a duality between the "ideal" and the actual "practice" of citizenship in Morocco.

The first conception refers to the ideal "good citizen" and the other to a "theoretical" citizen, vehicle and actor of democracy, although the latter actually shows little or no interest in public affairs either by choice or exclusion. In Morocco, the gap created by this dichotomy generated a new situation between the interest in politics and the claim for citizens to play an active role in building change, taken here as a primary popular demand. Moreover, the confrontation of citizenship to the political reality reveals a glaring gap between, on the one hand, the construction of citizenship based on a formal equality of citizens and the numerous social inequalities, on the other. Ironically, the evocation of the concept of citizenship orientation towards participatory democracy is perceived by the average Moroccan as a means of legitimizing the already existing inequality in the distribution of wealth. Thus systematic oppositions appear within citizenship in terms of gender (male vs. female), spatial (urban vs. rural), regional wealthy vs. arid or social (rich vs. poor).

Despite these existing disparities, the use of modes of participatory democracy in Morocco reflects a change of citizenship at least at the level of the constitutional text and the political discourse. Such a change stems from the conviction that the traditional ways that seek to produce a representation of the public interest are not entirely satisfactory. In this regard, participatory democracy is featured as a response to the crisis of representation generated by the system of representative democracy which is based on the process of delegation. However, the widening gap between the citizens and their elected representatives eventually seems to have affected the legitimacy of the rulers themselves. The lowest elections turnout rate (especially the 2007 legislative

elections) is but the tip of the iceberg. Yet, in attempts to restore citizens' confidence, excessive populism can prove a threat. Participatory democracy tries to overcome these limitations by reconciling citizens with politics. The crisis of the delegation generated a general sense of usurpation of power by the ruling elite. In fact, inadequately designed and implemented public policies have always lacked the support of citizens required for their effectiveness. No wonder then institutions have real difficulties to pass their decisions. Traditionally, the articulation and representation of interests has mainly been carried out through political parties. Most politicians who are at the head of political parties have long occupied the position of party leaders. They neither democratized their parties nor their political practices let alone involve younger generations for a free renewal and mobility in party leadership.

Parallel to this, there are also civil society organizations and clubs which represent and defend the needs of social groups most affected by poverty, vulnerability, exclusion, and precariousness before the state. The relationship between political parties and civil society has always been treated with relative suspicion. With the establishment of a sham democracy by authoritarian regimes and pseudo-competitive elections, political action has, over time, come to be significantly discredited. Since most political parties were accused of legitimizing some sort of façade democracy by participating in electoral farces, a growing proportion of citizens have started to place their hopes in civil society. Civil society has thus become a source of energy and foundation as an "engine of democracy". Democracy is not maintained as a machinery of political institutions and rituals: people should experience democracy and be able to enjoy a meaningful life as well. For that to happen, they need to participate and assert their interests.

This is done, first, by engaging in civil society organizations. While it is true that the state is essential to guarantee the rights of citizens, it surely cannot and should not rule everything. Thus, more democracy does not mean "more government", but rather some sort of a division of labor between the state, society, and its citizens whose activities

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should complement each other. Civil society takes on the role of a counterbalance vis-à-vis the state and private economic interests. In performing this role, the principles of neutrality and independence must be maintained very cautiously. For only independent organizations vis-à- vis the state and the economic sector can observe and evaluate the actions of the latter objectively. In this regard, associative and human rights movements in Morocco played key roles in important areas and were able to achieve significant gains. Their contributions included:

1- Constitutionalizing values of human rights and the institutionalization of their protection mechanisms;

2- Struggle for the implementation of civil, political, economic, social, cultural, and environmental rights in their universality and comprehensiveness;

3- Imposition of the respect for the rights and freedoms of the individual, collective issues of good governance, fair competition, the right to information, and education as human rights;

4- Debating issues of interest to vulnerable groups (including rural women, people with disabilities, single mothers, street children, the elderly and people with HIV/AIDS)

5- Raising awareness related to key topics such as political detention, torture abduction, corruption, impunity, accountability, integrative education, evaluation of public policy outcomes, environment degradation, development and freedom of belief;

6- The struggle of the women's movement for democracy through the portal of equality, parity, and the adoption of a horizontal gender approach;

7- The role of the Amazigh movement in imposing the recognition of the Amazigh dimension of the Moroccan identity and Amazigh as an official language;

8- Breaking the wall of silence on taboos through a scientific and field approach including education on sexual and reproductive health.

In the section pertaining to the general provisions, the constitution points to the mechanisms of citizenship and participatory democracy. Citizenship can only be achieved by making citizens engaged in civil society whose duty is not solely to focus on elites since development is a community concern. Participatory democracy is presented in the constitutional document as an essential supplement to representative democracy. Accordingly, the right of foundation and practice of associative activity has become constitutionally secured. Indeed, private and civil society groups and non-governmental organizations have today a constitutional right in:

1-Preparation of decisions and projects to elected institutions and public authorities;

2- Participation in public policy development, activation, implementation, and evaluation;

3- Providing legislative proposals;

4- Filing petitions to public authorities.

The second section of the constitution refers to a group of councils towards which civil society can make a substantial contribution to, such as the formation of a Parity Board, the Advisory Council for the Family, Children and Youth Advisory and Collaborative Work Council, and the National Body for Fairness. In Part V the Constitution specifies that the governmental council will discuss public policy and human rights treaties and civil society may contribute to all of these issues in compliance with the principles of participatory democracy. Theoretically, the constitution marks a shift towards a direct involvement of citizens in the exercise of legislative power. In this context, citizens may be at the origin of a bill. Like all members of parliament, the constitution entitles them to initiate a law. To give substance to the power of a legislative proposal, citizens can

present one of the two houses of parliament with motions suggesting the adoption of a specific text. One or more groups of the relevant parliamentary chambers can sponsor these motions and translate them into bills, or call upon the government under the powers conferred on parliament.

Chapter IX focuses on the positive contribution of civil society in the preparation of development programs through dialogue, partnership, and consultation with the authorities and territorial councils. Civil society has also the right to interrogate the disbursement appropriations for the Social Rehabilitation and Inter Regional Solidarity Funds. Similarly, civil society actors can submit petitions aimed at the inclusion of a point on the local agenda of their region. Participation of citizens in the management of their own affairs is also clearly mentioned at the level of local governments. These are regarded as suitable frameworks for citizen participation given their proximity and anchorage in local traditions. Moreover, the birth and growth of participatory democracy is primarily due to a renewed vision and efficient practice of decentralized governance. Article 136 of the constitution explicitly states that Morocco is a state in which the territorial organization is based, in addition to the free administration of local governments, on the participation of people concerned in the management of their affairs and contribution to sustainable and integrated human development.

Participation is materialized by the involvement of associations in everything pertaining to the design of public policies. Thus associations and non-governmental organizations interested in public affairs have the constitutional right to act within the framework of participatory democracy. They can therefore contribute to the development, implementation, and evaluation of decisions taken by elected institutions and government alike. They may also be involved in all stages of implementation of projects approved by the government. Decisions are implemented on this basis by the democratically elected institutions. However, today citizenship has acquired a new significance that it did not a few decades ago. Citizens are better educated, more

mobile, inventive, and no longer accept being involved in public affairs only during elections, but want their voice to be heard by their institutions throughout. That is the reason why the making of the public decision is as important as the final decision itself. Public action must now be re-considered by devising new methods of decision-making since the choice of those who govern is gradually becoming more separate from the way the people expect to be governed. It is true that in a representative democracy, citizen choice "is periodic" but the way that choice has been made should become a "daily" concern for policy-makers. Choice is embodied by representative democracy while the manner of its expression is conveyed by participatory democracy. In this respect, the contribution of civil society is not just a decisive factor in the public decision-making process, but its role keeps growing in proportion to the expression of dismay of the political community translated by the current rejection of institutions.

As forewarning signs, street protests contribute to reinforce the idea that public decisions cannot prevail without the involvement of non-governmental organizations and the participation of citizens in its conception. It represents a new scenario, in many ways alarming, because these movements most often indiscriminately target everything that, in their eyes, stands for an authority figure. But this trend carries with it even more serious drifts as the official media simplification usually leads to false debates from which those arrested are denied the right to answer to their acts. As key elements of the governance process, NGOs do not hesitate to denounce such injustices and all forms of exclusions recorded under the present government, but in order to gain more credibility they should apply to themselves the transparency which they demand from the government. In others words, leading by example is the name of the democratic game.

The Current Government and Civil Society Expectations

Although a period of barely over a year is insufficient to assess the action of the Islamist PJD-led government coalition, one may already notice the gap between the high hopes placed on it by the electorate and what it hitherto has been able to deliver. If the constitution guarantees civil society and citizen participation in public policies, are the present government initiatives towards civil society framed by the contents of the constitution? If so, then to what extent are the current government policies able to respond to the rich and diverse expectations of civil society?

Raising questions on the relationship between the government and civil society supposes that the entire centers of power exist in the constitutional text. However, simply focusing on the constitution and the way it was prepared will lead to a limited understanding of the local political setting. Actually, the peculiarity of the local political system involves the presence of several legitimacies, including that of the "Commander of the Faithful". He owns key roles in the management of political affairs, which means that the real power does not necessarily lie in the constitution or with the government. Article 41 refers to the king as Commander of the Faithful, a status that elevates the king to the protector of religion, and the guarantor of freedom of religious affairs, and head of the Supreme Religious Council, and generally monopolizing everything related to religious affairs. Article 42 confers upon the king the attribute of "Head of State" or "Constitutional king". He is considered the "supreme representative of the state, the symbol of unity of the nation, the guarantor of its continuity, and the supreme arbiter among institutions" as well as "an arbiter for the respect of the constitution, the proper functioning of constitutional institutions, the maintenance of democratic choice, the defense of the rights and freedoms of the citizens and groups, and the respect of the international commitments of the Kingdom."

However, the amendments made to Article 19 in the 1996 constitution are not enough to put an end to the problem of constitutional duality of the executive authority in order to operate a shift from a monarchy above the constitution to a monarchy framed and controlled by its provisions and requirements. Article 19 of the previous constitution gives the king functions and powers based on a particular interpretation of the constitution resorted to by the monarchy in specific circumstances. Under the new constitution, however, Articles 41 and 42 explicitly give the king effective powers and functions. The former explicitly states that "The King shall exercise the powers of the Commander of the faithful, exclusively conferred upon him under this Article through Royal Decrees", which means that the constitution grants the king the monopoly of the religious arena, including the power of legislation in this area.

As stated earlier, the new constitution left some ambiguity which could be subject to interpretation in favor of the king. For example the new constitution does not make it clear who will take over the task of legislation in the transitional period separating the dissolution of parliament and the election of a new parliament. Nothing then appears to prevent the interpretation of Article 42, in particular the paragraph that makes the king "the guarantor of state perennity and continuity", in order to legitimize the exercise of this prerogative. Another example of blanks in the new constitution relates to the possibility that the prime minister might not be able to gather a majority enabling him/her to form a government. In this case, the constitutional blank leaves again political room for maneuver for the king to act based on the same interpretation of the provisions in Article 42.

Clearly, the balance of power in the country eventually yielded a "hybrid" constitutional document which does not live up to a parliamentary style of constitution. Within the Constitution of 2011 co-exist both political powers: the executive monarchy and the elected authority. Therefore, the new constitution cannot be subject to the balance of power since the constitutional text is constant and lasting while political action and

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alliances vary according to political circumstances between the explicit and implicit maze of the democratic transition. Inevitably, political action of this nature develops a process of marginalization of the constitution even though the reference to the seminal text, while constant, nonetheless remains a political tactic. This has led to the outbreak of constitutional legality between the explicit and the implicit. Articles 41 and 42 of the constitution have become a source of implicit powers of the king. This means that the powers of the latter are no longer limited to those explicitly defined in the constitution. The provisions of both articles may be implemented by the king not only in the absence of constitutional provisions, but either to replace or disable, depending on the political circumstances, Articles pertaining to other operational powers and thereby suspend their implementation.

For this reason any renewal of the national project by any political force cannot be sustained only if supported by a political action that works for the restoration of the supremacy of the constitution as an exit from the labyrinths of the shimmering democratic transition. During the protest movements in Morocco, people raised demands for a transition towards a parliamentary monarchy, which clearly cannot be achieved overnight. The political regime is evolving with time but not with the swiftness and enthusiasm required by the protest movements.

The constitution explicitly refers to the Moroccan political regime as a parliamentary monarchy even though, in reality, it exercises its powers as an executive monarchy. Given the asymmetrical powers of the king coupled with the intensification of the economic crisis, the prime minister's scope of political action has increasingly proven smaller. The political initiation of the prime minister's PJD party has long been made in a very "vocal" culture of the opposition rather than a focused devotion on the long-awaited reforms. The 'political naivety' of Islamists, their blindness by the allurements of power, and the structural roots of corruption appears to have seriously undermined

their "salvation program". Becoming very consensual, the government has been relegated to stewardship, a sign of submission to the executive monarchy.

Consequently, the government methodology in dealing with the issues of the associative movement is necessarily affected by this tension in power positions and represents an extra major political power stake. Three areas of action have been delineated by the newly formed Ministry of Relations with Parliament and Civil Society: legislative action, organization and follow-up of information on civil society, and governance of associations in order to allow civil society, just like other constitutional institutions, to act and influence public policy. Referring to the results of a survey conducted by the Haut Commissariat au Plan (HCP) in 2007, the minister pointed out the existence of major financial failures in the management of associations. No sooner had the ministry announced its intention of establishing, among other things, rules on transparency in the management and functioning of civil society organizations than the circular draft caused an outcry amongst associations. Among the measures provided in this connection are particularly the enactment of a decree on the accountability of NGOs and the establishment of coordination mechanisms between Bank Al-Maghrib and the Exchange Office for the control of foreign funding. In fact, many associations see it as a strategy to put associations under control and an obstacle to the fulfillment of the role that has been assigned to them by the new constitution, namely regarding their participation in the process of designing public policy. Civil society actors make a case that there is an urgent need for a political will should the government respond to what is already set out in the constitution. They argue they do not need discussions with the ministry that will stretch over months, but require concrete action instead.

According to some civil society actors, several articles in the minister's circular draft reduce the mission of associations to providing services and thereby link their funding to this function in direct line with the government's program. Viewed from this angle, associations will become mere subcontracting tools for the implementation of

government policies. While insisting that the associations fear no approach that aims to establish rules of transparency and good governance, they argue that any new legislation should take into account the tangible achievements of associations as well as the difficulties that hinder their action on the ground. For associative actors, no legislation can go against the provisions of Articles 12, 14, and 139 of the new constitution which exclude any form of tutelage over civil society.

Given this context of mutual mistrust, the relationship between the government and civil society cannot be safely classified as one within the participatory approach and obviously far from the constitutional document itself for the following reasons:

- Absence of a clear strategy for the advancement of and capitalization on associative work by valuing and placing it at the heart of the constitutional imperatives;
- Lack of a comprehensive vision to work with associations and a tendency to reduce their role to an implementation tool of the government programs and confine their relationship with the state to the financial aspect;
- A blackout on the democratic roles and objectives of associations and discredit attempts in the official media regarding their work;
- Ignorance of the demands of civil society in its holistic perspective associated with the legal, institutional, and financial aspects.

Conclusions

These days, many problems weigh heavily on the Moroccan economy. These arise against the backdrop of soaring prices, a declining growth due to the crisis in the euro area, the main partner of Morocco, a sharp decline in tourism and remittances from Moroccans living abroad, a waning foreign investment and a crop threatened by seasonal droughts. The action of civil society organizations has always tried to play a leading role in moralizing government action as well as in protecting the interests of the

most vulnerable social groups. Consumer rights, the ecological effects of investments, corporate relocation, queries against corruption, the tax burden, and the employment of young graduates are all mobilizing themes. With the constitutional reform of 2011, civil society has seen its status codified in Articles 12, 14, 15, 168, 169, 170, 171 of the 2011 constitution.[41] As stated earlier, a new ministry was created in the current government: the Ministry of Relations with Parliament and Civil Society. On the face of it, this could be interpreted as a sign for the existence of a political will, on the part of the Moroccan government, to increase the influence of civil society as well as involve it in decision making.

Although deemed by many as a given constitution rather than developed through wide citizen participation and involvement of all segments of society, the constitutional text seems to promote the model of participatory democracy. It offers not only a global vision but also defines a governmental strategy involving different components of the Moroccan society. However, the constitution simply ensures the exercise of participation, leaving to the organic laws the freedom to fix the legal framework and procedures for that participation. This legal device has a great utility because it defines the essence of the processes of participation. It is recognized that participation is primarily political, not constitutional. Its importance is also decisive for the accessibility of such practices to citizens and civil society organizations alike. Yet, one of the major challenges of participatory democracy is the inability of laws, taken as a regulating device, to draw in a decisive manner the scope for the practice of participation. For these practices are often determined by the complexity of political systems, social values, and economic power positions already in place.

While the official use of participatory democracy is advocated as a means of introducing a dose of representative democracy into the existing political regime, the untold story

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[41] Ruchti, *op. cit*.

is likely to be the re-adjustment of state control to face new challenges or perceived threats to that same regime. In principle, however, participatory democracy is a mutation in a democratic society whereby citizens are involved in public affairs. Moroccans already question whether they have a democratic regime, let alone the existence of participatory mechanisms. Some of the reasons behind such cynicism include Morocco's high illiteracy rates; the insufficiently representative elective bodies (including parliament) given the diversity of society; the general distrust of politicians who are inconsistent in their behavior during elections and throughout their term in office; the limited participation in elections; the lack of communication and misunderstandings between the citizen and politicians; the remoteness of elected representatives from the daily realities of citizens and finally the powerlessness of citizens to exert any pressure against their elected representatives.

Regardless of the novelty and credibility of the new constitution, it needs a political elite, state men and women endowed with enough political audaciousness to activate its provisions on the ground. The current challenge is two-fold. Elected institutions, the different structures of the state, and public authorities should appropriate this constitution and implement its provisions in their behavior of top-down institutionalization of participatory democracy. On the demand side, there must be a real practice of participatory democracy from the bottom up. Participation would mean nothing unless the citizen is politically socialized to do so. This includes all civil society organizations which are already in the field, ready to practice participatory democracy and impact policy makers at the highest level. As representatives of civil society, the new mission of associations cannot be accomplished unless the associative actors themselves show the needed qualities and entrepreneurial spirit ranging from project design to implementation through assessment. Associative structures must operate in the same manner as a private company which is organized around the values of the market (cost, profit, loss etc.). Admittedly, such a mutation clashes with the nature of

associative work and engagement. Based primarily on volunteering, this possible professional transformation of associations would profoundly impact the identity, rationale of associations, and even reshape the concept of participation.

For its future, civil society will have to solve a double identity crisis. First, at the level of participation in the early stages of a democratic transition, it is important that civil society be a force of protest to express citizens' grievances. But it is essential that these forms of protest remain peaceful because civil society is precisely supposed to contribute to the improvement of public behavior. This is true both of physical as well as symbolic violence. The main challenge for civil society will be the need to become a force of proposal, perform a new role of mediator between the state and society. In short, it should be a major player in the participatory democratic dialogue. Second, the issue of dependence vis-à-vis foreign countries remains strong. This dependence can be both economic and cultural. Certain managerial and ethical values are indeed directly imported from the West and a work of adaptation remains as necessary as it is inevitable. Similarly the link with foreign funders brings to mind a classic opposition in the MENA region: that between secular democrats and Islamists. Unlike a happy and optimistic vision of civil society under a new constitution, one should remain cautious about the possibility of seeing the associative movement develop into a real Moroccan civil society likely to erect itself as a genuine counter-power to the state.[42] This is perhaps partly the reason why it seems more appropriate to speak of an associative life in Morocco rather than of a genuine civil society.

Only the implementation of the constitution's provisions on the ground will determine its success in reaching civil society, engaging in a real dialogue with it, and giving proper representation to its demands. Despite the emphasis placed on promoting the

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[42] Denoeux, Guilain and Gateau Laurent, "L'Essor des Associations au Maroc: à la Recherche de la Citoyenneté?". *Revue Monde Arabe: Maghreb - Machrek Monde Arabe*, No. 150 (1995): pp. 19-39.

participation of civil society in public policies, there exists a gap in the constitutional discourse on civil society between rhetorical and action frames. For the skeptics, the constitution's emphasis on civil society could be a mere rhetorical device meant to gain time and legitimacy rather than a genuine move towards an active participation of citizens and social actors in the policy- making process.

Since consultation of civil society has always been 'sporadic and irregular', it is doubtful whether its voice will actually be taken into consideration in the creation of a genuine public sphere. The representation deficit left by the traditional political parties and the increasingly criticized high levels of social inequality linked with the failure of poverty reduction strategies would nourish this cynicism. The principles of equality, equal opportunity, justice for all, support of the youth, and the independence of the judiciary are not loose alien words. They represent the hotbed for the depth of any real societal reform aiming at reducing poverty, vulnerability, and restoring hope for broad categories of Moroccan citizens. The findings of this article demonstrate that the current social and political structures may restrain the constitution's impact in practice. Surely, a new legal norm cannot beget a new society; however, it can perhaps contribute to its gradual and inevitable transformation.

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