

Political and Administrative Reforms in Morocco

Amina El Messaoudi

Faculty of Law,
Université Mohammed V,
Agdal-Rabat

The second half of 2003 bore witness to numerous upheavals in Morocco, which despite their different characteristics, have influenced the Moroccan social landscape in several respects.

The first type of unrest was due to the attacks of 16th May 2003, which were followed by the adoption of a new antiterrorist law and a general restructuring of religious activities. The second was linked to the coming into force of the new code of family law, which aims to introduce a number of new social practices.

There is no doubt that after the attacks of 11 September, a great many reforms were imposed by the United States, either through the channels of the World Bank and other international institutions, or in response to the demands of globalisation and internalisation. The need to react to the challenges arising from this situation made social and political issues the main priority in Morocco during the year 2004.

The reforms undertaken in Morocco in 2004 had already been at least partially initiated during the period of the Youssoufi government (1998), although at the time an unstable atmosphere had arisen due to slow progress and various other obstacles which had impeded the normal process of introduction of the reforms.

The priorities for 2004 therefore included reform of the administration, a law on the concession of public contracts and licences, a new banking law, and the modernisation of the business environment. The social aspect was also specifically

taken into account in the government agenda, in particular with the adoption of a new Labour Law and the introduction of compulsory health insurance. A great many factors left their mark on the end of 2003 and 2004, especially in the fields of human rights and of administrative regulations.

The “tragedy” of May 2003 and human rights

It should first of all be noted that in the ministerial reshuffle on 8th June 2004, the portfolio of Ministry for Human Rights, held by Mohamed Aujjar, was abolished. After the attacks in May 2003 the Moroccan Parliament passed antiterrorist law 03/03, characterised, among other aspects, by stiffer penalties as well as by the restriction of certain freedoms.

Since these attacks, a recurrent theme has dominated public debate, that concerning the place of religion in public life. A subject which mobilised debates and reflections throughout the year 2004 was the separation of politics and religion, or in other words the need for a general restructuring of religious activities.

The debate was marked by two key dates: 30th April and 30th July 2004. In his speech to the nation on 30th April 2004, King Mohamed VI thus broadly outlined the new religious policy. One of the institutional aspects of this new policy is the creation of three new Departments in the ministry of Habous and Islamic Affairs, headed by Ahmed Taoufik since the time of the Jettou Government: the Departments of Islamic Affairs, Mosques and Original Teachings. Sixteen regional offices for Islamic Affairs were also created. Apart from existing mem-

bers whose periods of office are renewed, new members of the Higher Council and the Councils of the Oulemas (religious scholars) must comply with a new profile whose characteristics were outlined by the Monarch during his discourse on 30th April: “Religious scholars known and recognised for their loyalty to the status quo and to the nation’s sacred institutions and for their ability to combine religious erudition and openness towards the modern world.” In the speech from his throne on 30th July, the King also reminded the nation that the only institution in which religious elements and politics may be united is the institution of the Monarchy, the King being Amir El Mouminine (Commander of the Believers).

It was in this same area of human rights that the Moroccan Parliament, during its session in April 2004, passed Law No. 79/03 abolishing the Special Court of Justice, which had been responsible since 1964 for investigating corruption, its powers henceforth being devolved to the Appeal Court.

However, what had an even greater impact on human rights issues in Morocco during 2004 was the establishment of a process of reflection on the years of lead. On 7th January 2004, King Mohamed VI accordingly presided over the inauguration ceremony of the Justice and Reconciliation Commission, intended to give the country a mechanism to finish with the years of lead. On 20th and 21st December, the first public hearings for the victims of those years were organised and broadcast live on television (RTM).

On the occasion of the inauguration of the Justice and Reconciliation Commission, H. M. the King pardoned 33 people sentenced for a variety of offences.

Critical moments in the legislative sector

The two critical moments in the legislative sector in 2004 were the law on the liberalisation of the audio-visual media, and the bill on political parties.

In February 2004, the King established the Higher Council for Communication and Audio-visual Affairs which is, as it were, the debating chamber of the Higher Council for Communication and Audio-visual Affairs (HACA). The latter has extensive prerogatives, it is accordingly called on to "ensure that pluralism, freedom of pluralist expression, State institutions and the dignity of individuals are respected and to propose all kinds of measures to the government, in particular on public order, and even to facilitate compliance with these principles." The HACA also monitors the laws and regulations on audio-visual communication through all the responsible powers or bodies.

The year 2004 was thus a key date for the telecommunications sector, in particular due to the abolition of the monopoly on fixed telephony. The law on audio-visual liberalisation was adopted at the Council of Ministers on 3rd June and the law on audio-visual communication was passed unanimously by the House of Representatives on its second reading on 25th November 2004. The Government thus advocated the transition from a State monopoly to progressive, controlled liberalisation. RTM changed its legal status from a public company to that of a public limited company. We are thus confronted with a de-nationalised audio-visual landscape, controlled and regulated by the HACA.

Still in the area of regulation, efforts have been made to accelerate the restructuring of the economy, others to give a little more dynamism to business enterprises or to make direct improvements to the daily life of the citizens while improving the business environment. The implementation of the new banking law concerns the latter area, as does the redrafting of the statutes of the *Bank Al Maghrib*. The main objectives of this judicial arsenal are to make the financial sys-

tem secure. These fundamental reforms will go hand in hand with a major shake-up, primarily with the implementation of a merger between the BCM and the *Wafabank*.

Overall, it needs to be pointed out that greater democratisation of business is incorporated into the new Labour Law (law 65/99) which includes numerous innovations aiming to consolidate fundamental rights for workers as well as to improve the management of businesses, namely greater democratisation of professional relations.

The State will moreover continue with the privatisation of certain public enterprises. Anticipated receipts are estimated by the Ministry of Finance at 12 billion dirhams. Other small interests will also be transferred.

On another note, the liberalisation of air transport constitutes to be one of the beacon projects in 2004. It will be an "efficient" liberalisation since it has essentially been decided to place this opening up at the service of tourist policy and promotion.

In the tourism sector it is difficult to talk about actions undertaken in 2004 without including them in the vision for 2010, a strategy which is bound to attract 10 million tourists to Morocco.

In the area of social security, the technical commission responsible for monitoring compulsory health insurance (AMO) has just assessed two draft enforcement decrees. The first sets out the conditions of affiliation and registration in the AMO regime while the second determines the contribution rates for the National Social Security Fund (CNSS) in the case of the private sector, as well as for the National Fund for Social Welfare Organisations (CNOPS) in the case of the public sector. Contribution rates are thus set at 5% for the public sector, 2.5% for pensions, and 5%, of which 1% is allocated to family benefits, for the affiliated companies of the National Social Security Fund.

Like the social area, the political area has in turn witnessed certain innovations, in particular with regard to rationalisation of the political field through the possible adoption of the bill on political parties.

Preliminary bill on political parties

A preliminary bill on political parties is now the subject of intense debate in Morocco. In fact, the Minister of the Home Affairs, Mostafa Sahel, presented this bill at the end of October 2004 to enable the political parties to submit their observations and criticisms.

It should be remembered that in 2001, under the Youssofi government, two versions of the same bill had already been drafted, one by the Ministry of Home Affairs and the other by the Ministry for Human Rights.

The present bill, analysed by the political parties, human rights organisations, universities and specialists, has been the subject of a great deal of criticism directed at the conditions under which parties are constituted as well as their suspension or dissolution; those which should be under the sole jurisdiction of the judiciary are an exclusive prerogative of the administration (Ministry of Home Affairs) in the preliminary bill.¹

The restrictions imposed on the freedom of constitution of parties, such as those on religious or regional grounds are also subject to criticism.

Notwithstanding certain negative points, the objective of the preliminary bill on political parties is to rationalise the constitution of parties as well as to ensure their financial transparency.

Far from the texts and on the partisan scene, the Justice and Development Party held its 5th national congress on 10th and 11th April 2004. This congress was characterised by the election of Saâd Eddine El Othmani to the post of Secretary General of the party, who thus succeeded to the post of his senior colleague, Abdelkrim Khatib. During the congress, the debates focused on two main themes: first of all the positioning of the PJD on the national political chessboard and the question of the party's alliances; then on the subject of constitutional reform which came up for debate again, in particular since the mediatory interventory by Mostafa Ramid on the prerogatives of the King and Imarat Al Mouminine (Commander of the Believers). Ramid's

¹ At the beginning of February 2005 during a Cabinet meeting, the Minister for Parliamentary Relations presented a statement concerning the preliminary bill on political parties which stipulated that the judiciary must be granted the right to abolish or suspend a political party.

JUSTICE AND RECONCILIATION COMMISSION (IER)

The Justice and Reconciliation Commission (IER) was created on 7th January 2004 to investigate the violations of Human Rights committed in the past, during the so-called "years of lead," following the royal approval of the recommendation of the Advisory Council on Human Rights (CCDH). According to King Mohamed VI, the objective of the Commission is that "Moroccans get reconciled with themselves and their history and that they free their energies to turn themselves into an active part for the construction of a modern and democratic society, a guarantee that these past acts will never be repeated."

The IER is composed of 16 commissioners and a president. Eight of the commissioners come from the CCDH and the rest are members of former opposition movements and from civil society, especially from movements for the defence of Human Rights.

The extent of the mandate of the IER is from Moroccan independence in 1956 until 1999, the year in which Mohamed VI approved the creation of the Committee for Independent Arbitration (IAI). Equally, the mandate also specifies that its work be centred on cases of forced disappearance and arbitrary arrests. Regarding its competences, the IER exerts the following functions: the establishment of truth through the investigation of violations of Human Rights, the elaboration of a report to establish recommendations and guarantees for the prevention and non-repetition, as well as reconciliation. However, the IER is not a judicial Commission and therefore cannot establish individual responsibilities. Officially, this organism started working on the 10th April 2004, for a period of nine months, with the possibility of an extension of another 3 months at most.

At the end of 2004, the IER had already carried out several investigations, analyses of witnesses and applications from victims, both individually and collectively, the study of files, as well as the organization of individual interviews. Equally, the Commission worked towards the creation of a database of victims, the localization of secret detention centres and determining the final destination of those people who disappeared. However, the most noteworthy activity of the IER to date is perhaps the organization of public hearings, which were adopted in July of 2004. Thus, between 21st and 22nd December the victims explained in person to representatives of the Government, Parliament, political parties, civil organizations and the media, the abuses that had been committed on them. Moreover, these hearings were transmitted live on public radio and television stations.

Since its creation, the IER has received as much praise as it has criticism, both from Moroccan society and internationally. Its opponents point out the length of the mandate of the IER, since it is supposed to evaluate the testimonies of victims within a single year and that within the first three months it had already received 20,000 filings. Other aspects that have been criticized are the fact the victims and witnesses cannot mention the names of torturers, as well as the fact that the IER remains extra-judicial in character. On the other hand, those who support the Commission highlight that it is an innovative process without any precedents in the Arabic world. The IER offers Moroccan society, in response to the requests of society and of movements for the defence of Human Rights, a process of collective catharsis. Equally, the Commission has received the support of the international community, which considers this

initiative as an important sign of openness. In general, Moroccan associations support the idea that the IER represents an initiative without precedent, but it is not possible to evaluate its real importance until the process is over, in order to be able to see how the process is interpreted and how useful the testimonies will be considered.

For more information:

Kingdom of Morocco Ministry for Communication, Creation of the Committee for Fairness and Reconciliation

www.mincom.gov.ma/french/generalites/equite_recon/sommaire.html

Justice and Reconciliation Commission (IER)
www.ier.ma

Speech of King Mohamed VI in the Royal Palace of Agadir on the occasion of the creation of the IER

www.ier.ma/_fr_article.php?id_article=23

Advisory Council on Human Rights (CCDH).
www.ccdh.org.ma/

Moroccan Organization for Human Rights (OMDH)

www.omdh.org/weCFR/index.htm

Moroccan Association for Human Rights (AMDH).

www.amdh.org.ma/

International Federation for Human Rights, IFHR, Report, Regional Seminar "Les commissions de vérité et de réconciliation: l'expérience marocaine." Rabat, Morocco, from 25th to 27th March, 2004.

www.fidh.org/IMG/pdf/Ma396f.pdf

Mariona Rico
IEMed

position is backed by a wing of the PJD, even though the constitutional reform is not yet on the party's political agenda for the star performers of the PJD.

Still in the political arena, on 6th June 2004, five political groupings formed an alliance within the Assembly of the Democratic Left (ADL), constituted by the Ittihad National Congress, the Unified Socialist Left and the Democratic and Socialist Avant-garde Party as well as the movements of Annahj addimokrati and Loyalty to Democracy. Moreover, throughout 2004, the free trade agreement with the United States

constituted a new element in Morocco's foreign relations.

Free trade agreement: constraint and challenge at the same time

The conclusion of negotiations with the United States was initially scheduled for the end of 2003, but the negotiators were unable to comply with the deadline in view of the complexity of the files. It was not until January 2004 that they completed the pending agriculture and textile files. With regard to the other pro-

ducts apart from agriculture and textiles, even though the lists were settled, sources close to the file explained that the minor amendments were possible at the last minute, particularly since the American Congress had authenticated the terms of the agreements prior to ratification. With regard to the file on agriculture, the toughest and most complex of all, the Moroccan delegation was very anxious about its passage when placed under pressure by the American negotiators. A member of the delegation explained that "in view of the political importance of the global agreement and the

extreme sensitiveness of the file on agriculture for both the USA and Morocco, the parties would have to arrange the conclusion of an agreement that would suit everyone, at least on the surface." This agreement will imply a great many opportunities as well as challenges. It is incumbent on the parties to the agreement to bear this in mind henceforth in order not to make the same mistakes which have prevailed since the agreement with the United States. In short, by diversifying its partnerships, Morocco is seeking to give a boost to its opportunities to improve growth.

Hence, on 3rd June 2004, after Wash-

ington had agreed the status of "major non-NATO ally" with Morocco, the Commission for Foreign Affairs, Defence and Islamic Affairs in the Chamber of Deputies passed the free trade agreement signed by Morocco and the United States with a majority vote. On 15th June 2004, following ratification of this agreement, the deputies unanimously agreed that the latter is of huge importance for the future of the national economy. The agreement would offer a great many opportunities to speed up the reform tempo, in particular in the areas of tax and customs, integration of the national economy in the international and regional economic en-

vironment and attraction of foreign investments by exploiting the geostrategic position of Morocco as a platform for production and exports.

Bibliography

Economic and Social Report on Morocco, OKAD publishers, 2003 and 2004. National Press.

Med. 2003 Mediterranean Yearbook. IEMed-CIDOB 2004.

Statistical Yearbook for Morocco, 2003.