

SYSTEM OF STATE BODIES IN MOROCCO

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• THE POLITICAL SYSTEM OF MOROCCO:

- The first article of the constitution defines the system as ‘**a constitutional monarchy, democratic, parliamentary and social**’. The political regime is supposed to be based on the separation, balance and cooperation of powers, as well as on a citizen and participatory democracy. However, it should be emphasized that the concept of constitutional monarchy in Morocco is quite different from the English monarchy, and that the notion of parliamentary monarchy clearly has nothing to do with parliamentary monarchy as defined by the Spanish Constitution of 1978. In the Moroccan Constitution, **the king reigns and governs**, and his powers are **not just symbolic**. Even if article 6 of the constitution speaks of ‘the law as the supreme expression of the will of the nation’ and declares that ‘all physical or moral persons, and including the public powers, are equal before it and held to submit themselves to it’, it does not necessarily put the king under any legal constraints, because in reality the whole architecture of the constitution gives the monarch a supreme position without accountability.
- Meanwhile, the notion of a ‘social monarchy’ in this context refers to social rights and the role of the monarchy in protecting these rights. It is probably closer to the concept of a ‘welfare state’ as it exists in other constitutions

• SCHEME OF STATE BODIES OF MOROCCO:

- HEAD OF THE STATE IS THE KING of Morocco
not just a façade but GOVERNS

01

- LEGISLATIVE POWER

- PARLIAMENT Consists of two chambers:
 - The chamber of Representatives
 - The Chamber of Counselors By elections

02

- EXECUTIVE POWER

- GOVERNMENT
headed by the Prime Minister (appointed by the King.

03

- JUDICIAL POWER

- JUDICIAL BRANCH
(Supreme court's judges Appointed By The King.

01 HEAD OF THE STATE

- KING MUHAMMAD VI





- **KING MUHAMMAD VI:**

- King of Morocco is a descendent of Alaouite offspring
- King Mohammed VI, son of the late King Hassan II, is born on August 21st, 1963, in Rabat.
- The enthronement of His Royal Highness Crown Prince Sidi Mohammed Ibn Al Hassan Ben Mohammed, king of Morocco, was on July 30th, 1999.
- On 22 June 2000, Mohammed received an honorary doctorate from George Washington University.
- Upon ascending to the throne, Mohammed initially introduced a number of reforms and changed the family code, Mudawana, which granted women more power.
- Mohammed has vast business holdings across several economic sectors in Morocco. His net worth has been estimated at between US\$2.1 billion and over US\$8.2 billion, and according to the American business magazine Forbes, he was the richest king in Africa and the fifth-richest monarch in the world.

• FUNCTIONS OF THE KING : ROYAL POWER.

- The executive branch: The Moroccan Constitution recognizes the royal power as a separate power.
- First form of power that is defined by the constitution is that of the **'commander of the faithful'**. Article 41 is the first article that defines royalty (title 3 of the constitution). The king is first a 'commander of the faithful' before being 'head of state'. Sections 41 and 42 define the multiple functions of the king as 'commander of the faithful' and **'head of state'**. He ensures respect for Islam, the constitution, the good functioning of the institutions and respect for Morocco's international commitments.
- The king is **the protector of democratic choice** as well as the rights and freedoms of citizens and communities. Finally, he guarantees **the independence of the nation and its territorial integrity**. Each of these functions is echoed and manifested in other provisions of the constitution.
- The king has a civil list. Article 46 states that 'the person of the king is inviolable, and respect is due him'. The acts of the king enjoy also complete immunity.

• CONTINUATION : FUNCTIONS OF THE

- Under the Latest constitution, KING is no longer 'sacred', article 46 states that 'the integrity of the person of the king shall not be violated'. The king has the power to **appoint the head of government** (article 47) and **government ministers**, while symbolically he is supposed to do so after a proposition from the head of government. After 'consultation' with the head of government, the king can **dismiss government ministers** (article 47). Article 48 stipulates that the king presides over cabinet meetings, and, using the dahir system, he has the **power to dissolve parliament** (article 51). The king is the '**commander-in-chief of the armed forces**' (article 53), **appoints ambassadors** (article 55) and through article 41 is amir al mouminin (**commander of the faithful**), the most powerful religious authority of the country. In general the king has not relinquished any of his prerogatives, and will continue to have veto power over all major decisions.

02

LEGISLATIVE POWER

- PARLIAMENT



- **PARLIAMENT :**

- As states the article 60 : “The Parliament is composed of two Chambers : the Chamber of Representatives and the Chamber of Councilors”.
According to article 62 : “The members of the Chamber of Representatives are elected for five years by universal direct suffrage.”



• CONSTITUTION : CHANGES AND CONTINUITIES :

- Morocco experienced eight legislatures between 1963 and 2007. Apart from a short period during which the parliament was dissolved by the monarchy, it has generally continued to exist on a permanent basis. From one constitution to the other, the powers of the parliament were reinforced in an organic manner. During the first parliaments, with the exception of that in 1963, the legislature was considered a 'rubber-stamp chamber': its role was to consult about and legitimize decisions taken outside it. The more recent experiences of the late 1990s, and those under the reign of Mohammed VI, show that the parliament has tended to play an increasingly effective role in the field of lawmaking and government oversight. Its prerogatives were strengthened with the 1996 constitutional reform, which established a bicameral system to replace the unicameral one.



Maintaining a bicameral system with pre-eminence to the Chamber of Representatives :

- The 2011 constitution maintains a bicameral parliament composed of a Chamber of Representatives (majlis al-nuwwab), which is elected by universal direct suffrage for five years, and a Chamber of Councilors (majlis al-mustasharin), which is elected indirectly by local and national electoral colleges. The composition of the Chamber of Councilors, and the duration of its mandate, have witnessed some changes. The new status of the region was taken into account: 'The one-third reserved to the region is elected at the level of each region by the Regional Council from among its members' (article 63). Although trade unions are still represented, the new text gives similar rights to the most representative professional organizations of employers, which was not the case in the 1996 constitution.
- The number of councilors, as well as the duration of their mandate, has been reduced. The Chamber of Councilors has a minimum of 90 members (maximum of 120) who are elected for six years. In the previous legislature, the Chamber of Councilors consisted of 270 members who were elected for nine years. A different trend can be observed in the Chamber of Representatives; the number of its members increased from 325 to 395 due to the regime's attempts to increase the representation of women and youth in parliament.



Weakness of the parliament :

- The monarchy maintains its predominance over the parliament, which allows it to orient and influence parliament's work. The king addresses messages to the parliament when presiding over the opening sessions of the legislative year. These messages set the political and parliamentary agenda for the year and serve as a reference for MPs in their debates. The king's messages cannot be the object of any debate (article 52). The king promulgates laws in the 30 days following their transmission to the government (this deadline is only 15 days in Spain). The promulgation concerns laws and not administrative acts. The king can demand that the two chambers proceed to a new reading of any draft or proposed bill, and the parliament cannot refuse (article 95).
- The king maintains the power to dissolve one or both chambers (article 96); this provision is not similar to that defined in the framework of parliamentary regimes, rather it is part of the powers bestowed on the king.



- **Predominance of the king over the parliament:**

- Finally, the king signs and ratifies treaties. Parliamentary approval is asked for only for 'treaties of peace or of union, or those relative to the delimitation of the frontiers, commercial treaties or those which engage the finances of the state or the application of which necessitate legislative measures, as well as those treaties relative to the individual or collective rights and freedoms of the citizens ...' (article 55). Parliament does not have the power to approve treaties that have a political or military dimension, or those that can result in a law being either abrogated or modified, as is the case in other countries such as Spain.



03 EXECUTIVE POWER

- GOVERNMENT



- **Government:**



- As states the article 67 of the latest Moroccan constitution : The government is composed of the Head of Government and of the ministers, and may consist also of the Secretaries of State.

According to article 88 : After the designation of the members of the government by the King, the Head of Government presents and introduces before the two Chambers of the Parliament meeting [jointly], the program that it intends to implement [compte appliquer]. This program must delineate [degager] the directive lines of action that the government proposes to lead [mener] in the various sectors of national activity and notably, in the domains concerned with economic, social, environmental, cultural and foreign policy.

• Functions of government:

- Conforming on article 89 of the constitution : The government exercises the executive power. Under the authority of the Head of Government, the government implements its governmental program, assures the execution of the laws, disposes the administration and supervises the public enterprises and establishments and assures their protection [tutelle].

Based on article 90 , The Head of Government exercises the regulatory power and can delegate certain of these powers to the ministers. The regulatory acts of the Head of Government are countersigned by the ministers charged with their execution.

Also as stated in the article 91, The Head of Government appoints to the civil offices [emplois] in the public administrations and to the high functions of the public establishments and enterprises, without prejudice to the provisions of Article 49 of this Constitution. He can delegate this power.



- Mentioned by article 93 : The ministers are responsible, each in the sector for which he has the responsibility [charge] and in the framework of governmental solidarity, of the implementation of the policy of the government.

04 JUDICIAL POWER

- Courts system



• JUDICIAL POWER :

- As claimed by article 107 of the Moroccan constitution :The judicial power is independent of the legislative power and of the executive power.The King is the guarantor of the independence of the judicial power.
- The Courts system is divided into three principle types of courts which are: -
 - _General jurisdiction courts
 - _Specialized jurisdiction courts
 - _Special courts



1. General Jurisdiction Courts :

- There are 837 municipal and district courts with a single, non-professional judge. These were established in 1974 to make justice more accessible to people. Judges belong either to the career judiciary or are elected by a commission headed by the local political authority. Elected judges are assisted by two elected advisers. [These courts rule on minor criminal offences and on civil cases where the amount in dispute is less than \$US 110.
- The 68 first instance courts exercise general jurisdiction over civil, social and commercial matters, and hear personal status and real property cases. These courts hear criminal cases involving petty offences and misdemeanors, and offenses which are punishable by a sentence of more than one month in prison and a fine of more than 1,200 dirhams. Single judges' jurisdiction has been reintroduced for social law matters. The presiding judge of the first instance court has personal jurisdiction in summary and urgent matters, as well as for ex parte orders. Serious offences are investigated by an investigating judge, who also has the power to put a suspect in pretrial custody.
- The 21 courts of appeals hear appeals filed from first instance courts. An appeal court includes a criminal division which hears crimes punishable by death, imprisonment, temporary confinement, assigned residence or the loss of civic rights. The criminal division is composed of five judges. It also includes a misdemeanor division which rules on the appeals from first instance courts, and orders issued by the investigating judge.

2. Specialized Jurisdiction Courts :

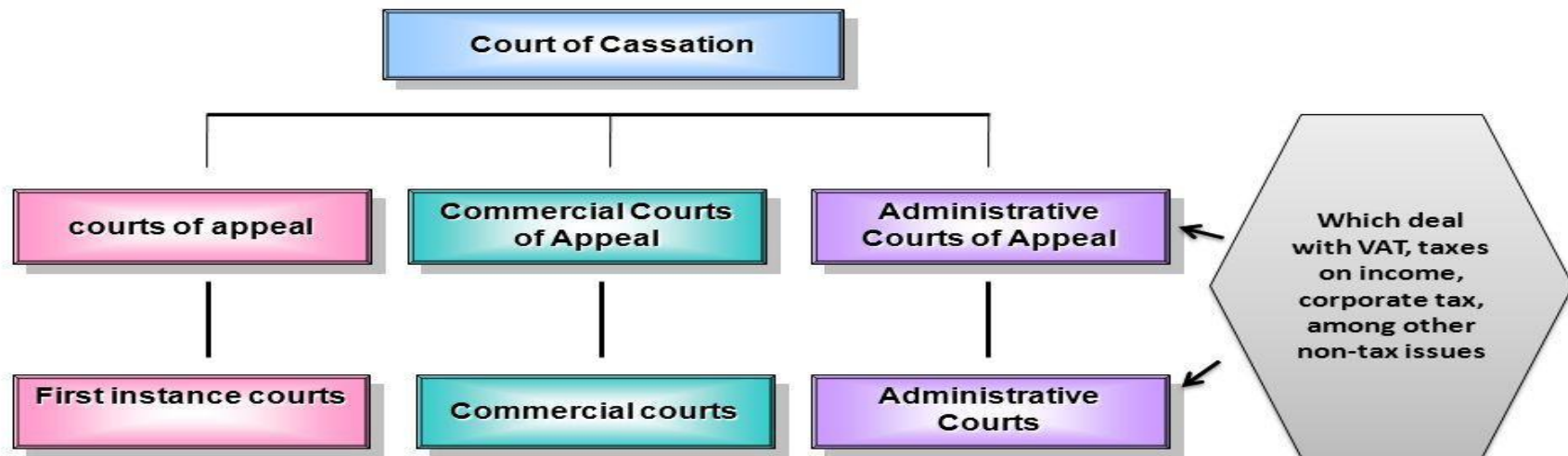
- There are 7 administrative tribunals established by a 1991 law. Administrative courts are widely held respected. There are plans to establish administrative appeal courts. Appeals are currently filed with the administrative division of the Supreme Court. There is in an independent system of audit courts at the central and regional levels. They are considered so important in the institutional structure of the judiciary that an entire title of the Constitution is devoted to them. There are eight commercial courts and three commercial appeals courts which were created in 1997. These courts hear commercial cases where the amount in controversy is in excess of 20,000 Dirhams and the dispute concerns commercial contracts, commercial paper or commercial goods. Commercial courts supervise the operations of the commercial registry, which is composed of local registries attached to local courts and a central registry under the authority of the Ministry of Trade. Their objective is to register all persons engaging in trade.

3. Supreme Court:

- The Supreme Court is the highest appellate court in Morocco. The court has six specialized divisions, which are each divided into sections. A panel of at least five justices hears cases. For important cases, it may sit en banc. The Supreme Court is a court of cassation, which means it hears appeals only on issues of law. When a petition is granted and ruled on, the case is referred back to an appeal court to decide on questions of both fact and law. The court also reviews cases of abuse of discretionary power in decision-making by regulatory or administrative tribunals, the prime minister, or other administrative authorities where such decisions concern more than one administrative court's territorial jurisdiction. The Supreme Court decides approximately 40,000 cases a



Structure of the Current Moroccan legal system



• CONCLUSION : Critical analysis

The constitution imposes significant limitations on the legislative process. Civil society does not have sufficient access to parliament, committee meetings remain generally secret, and parliament is subordinate to the government and by extension to the monarchy. Additionally, the king retains wide-ranging and vague emergency powers that require no legislative approval. The 2011 constitution ensures the independence of justice through the principle that judges are irremovable; however, this principle is limited to the magistrat de siège. On the issue of governance, the king remains at the centre of political and constitutional life under the new constitution. He alone can revise the constitution, and the powers of the head of government and the parliament are in this regard only formal. Significantly, the king appoints the head of government and other cabinet members on a proposal by the head of government. In contrast, in Spain, the king proposes a candidate for the presidency of the government in consultation with representatives designated by political groups with parliamentary representation.

The king also maintains significant power over the government's decision-making process. The constitution draws an important distinction between the Council of Ministers and the Council of Government. When the government meets under the chairmanship of the head of the government, it is referred to as the Council of Government, but it is the king who chairs the Council of Ministers. The Council of Ministers has veto power over all decisions made by the Council of Government, leading to a relationship of control by the first and submission of the second. No vote is taken in the Council of Ministers, because the monarch is the head of the council and no votes can be imposed upon him.



THANK YOU