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ACCURACY - DEPTH - TIMELY - IMPACT

**(Un)Participatory Democracy?  
The Limits of Institutional  
Petitions in Morocco**

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# About the Author

## About the Author :

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# Introduction

## Introduction:

Granted by art. 15 of the Constitution of 2011, the right to petition has been widely acclaimed as a direct way to include Moroccan citizens in the political process of the country. Configured as a mean to express citizens' demand with a legal guarantee for an official response, citizens may gather support for an initiative upon which public powers will take action. However, the appraisal of this policy draws a tainted picture. Since the promulgation of Organic Law n° 44-14 on petitions and of Organic Law n° 64-14 on legislative motions in 2016, no legislative motion has been presented and only five national petitions have been submitted to public powers. At the level of local governments, the right to petition has been established art. 139 of the Constitution of 2011 and implemented by the different Organic Laws on local governments[1]. Even if it has been seized more consistently – by reaching over 200 petitions,[2] their concrete effect on local governance is, however, unknown.

What are the reasons for the scarce use of this instrument?

This paper argues that delayed and uncertain implementation of Morocco's participatory democracy has diluted the excitement and fanfare with which these reforms were welcomed in the constitutional reforms of 2011. Between excessive formal requirements, delays in the implementation of the legal framework and its ambiguous exploitation by public powers, the effectiveness of petitions as a mean to claim citizens' right is questioned.

This article will critically assess the design of the right to petition, together with the chronicle of its implementation in Morocco's legal framework and compares it with the accounts of the uses of petitions and officials' reactions. In turn, this will shed light on how the institutional design of the right to petition constitutes both an obstacle that petitionary initiatives hardly manage to overcome and a primal burden to the choice of exercising this right by citizens.

In order to surmount these difficulties, it would be advisable to foster a more prompt and transparent communication on the petitions that have been presented and on their outcome. Sharing the knowledge on initiatives that have been presented could support those who are planning to present a petition or that are already gathering signatures in their petitionary process, increasing their chances of avoiding the flaws that caused the inadmissibility of the petitions presented so far. Furthermore, it would be advisable to disclose the data on petitions at the local level, specifying issues raised through petitions, which initiatives have been accepted, which have been rejected and on which basis. Since the widespread use of local petitions could represent a cause of optimism, a more effective communication on the result of this policy at the local level could escalate its use as well as its benefits.

## **The cost of the exercise the right to petition**

Morocco's 2011 new Constitution recognised participatory policies as a fundamental step forward in Morocco's democracy. Participatory democracy mechanisms in the reformed Constitution has been largely understood as the concretisation of a new political relationship between the state and citizens, resulting in particular from the demands of a more just division of political power made during the Arab Spring in Morocco – and by the 20th February Movement in particular[3]. These reforms aim at forging a new type of active citizenship and at creating concrete opportunities for citizens to directly take part in the country's political life[4]. It has been presented as a political strategy in which everybody is supposed to win: social movements have an institutional channel to bring forwards their grievances, while avoiding negative externalities, and the state protects itself from excessive and/or violent upheavals[5].

Formally introduced by art. 15 of the Constitution of 2011[6], the conditions for the exercise of the right to petition are defined in Organic Law n° 44-14[7]. Among the different conditions, the element that strikes the most in the analysis of this law is the number of signatures required to support a petition. Specifically, 5000 signatures are required in order to back a petitionary initiative. This number has not failed to raise concerns during the debate on the orga-

nic law project that preceded its approbation. Both National Council of Human Rights (CNDH)[8] and the civil society organisations[9] considered that this number was excessive and unrealistic, and needed to be lessened before the final approbation of the organic law. Nonetheless, a member of the parliament reported that this threshold was decided on the basis of a benchmark and aimed the “responsibilisation” of citizens that engaged with petitions, while avoiding ridiculing the initiative[10]. The fact that some petitions have been presented with less than 5000 signatures speaks volumes on how citizens were overwhelmed by the high number of signatures; the fact that no legislative motion, which requires 25000 signatures in its support, has been submitted so far also backs the argument that signature requirement play a crucial role in the use of these mechanisms by Moroccan citizens.

Furthermore, signatures have to be gathered in a paper form, in which the number of the national identity card has to be provided, together with a photocopy of the identity document[11]. On top of the concrete cost of photocopying and gathering 5000 signatures, the fact that the ID has to be provided as well may entail dynamics of self-censorship also due to a generalised mistrust towards state institutions[12]. The recurrent fear of being targeted in reason of one’s political activity may be triggered by having to provide the number, and even further a physical copy, of the ID card [13]. A last element that has been remarked as critical is the fact that citizens have to be registered in electoral lists for their signature to be considered. Aside from the ambiguous formulation of this requirement in Organic Law n° 44-14[14], this criterion limits the pool of potential participants considerably. In a situation in which participation to the last legislative elections in 2016 has attained only 42,29% and dropped in comparison to the 45,4% in 2011 legislative elections[15] and only 15 million Moroccans out of 22 million eligible voters are enrolled in electoral lists[16], imposing this burden on those who want to exercise the right to petition is substantially inhibiting the potential of this reform.

Finally, not every topic that may be tackled with a petitionary initiative. On one hand, there are clearly defined subjects that the petition cannot address and that are cause for the rejection of the initiative[17]. For instance, the unity of

the state, the Muslim religion, the Monarchic form, domestic security topics, and having a partisan or trade-union character. On the other, the criteria for the admissibility of the initiative are quite vague[18]. Namely, a petition needs to be ‘in the general interest’, ‘lawful’ and ‘written clearly’. These notions bear a great risk, since it is left to public powers to define what belongs to the general interest and the degree to which the propositions made by the citizens are lawful and clear enough.

It seems that institutionalisation of participatory mechanisms followed the same logic of conventional participation, perhaps falling to seize the full potential of innovative mechanisms to go beyond classic dynamics of participation, foster inclusion in public debates, and effectively share power with the citizenry.

## **Sharing political power through petitions?**

When examining participatory policies in general, one of the arguments that is most commonly brought forward for the deployment and institutionalisation of participatory mechanisms is the will to attain a more just distribution of political power – and thus work for the inclusion of the citizens in the political processes of the country. As seen above, this has been the case for the Moroccan example as well, in which participatory democracy has been presented as the answer to the social upheavals of 2011. Nevertheless, it is the exam of legislation in relation to the data on the use of petition thus far that will provide a clearer picture on whether power has been shared so far.

The starting point of this analysis is the definition of petition in Organic Law n° 44-14. In art. 2, a petition is defined as “any written request containing revindications, propositions or recommendations expressed by citizens residing in Morocco or abroad to public powers concerned, in order to take the appropriate measures concerning it”[19]. The division of powers between the citizen and the state is thus clear from the very beginning: citizens have the right to present an issue to public powers, who are then in charge of developing and adopting a solution to citizens’ issues. Even if citizens manage to overcome the conditions for the submission of the petition, they will not be included in



the design of the solutions to the issues they presented. Separating those who presented the petition from its concrete outcome, citizens' participation through institutional petitions is limited to the agenda-setting process.

However, in present-day Morocco institutional petitions are not the only way to influence the agenda-setting process and, in particular, other forms of petition and channels of political expression proved to be quite effective mechanisms to see popular demands addressed by public powers. For instance, protests in the Rif and in Jerada since 2016 and 2017 showed that classic forms of protest are still effective to catch the attention of public powers. In both cases, dramatic events generated long-lasting protests that called for an improvement of life conditions and increased accountability, which consecutively grew into social movements[20]. In parallel, the online boycott campaign of three major companies that started in 2018 showed that online actions can escalate very quickly and captivate large fringes of the population[21]. Albeit not qualifying for the institutional mechanisms of participation – due to the lack of compliance to formal criteria-, online petitions are also widespread in Morocco, with the most recent and prominent case related to the arrest of journalist Hajar Raissouni. After an online campaign mobilised more than 10.000 individuals in Morocco and abroad, who signed an online petition in her support, she has been released thanks to a royal grace[22]. Therefore, citizens chose those forms of engagement over petition because they were deemed more effective and less costly.

In theory, the creation of an institutional channel to present citizens' grievances may reduce the cost associated with protest activity. i.e. if there is a legitimate way to present citizens' demands, they should encounter less resistance by state actors[23]. More importantly, Organic Law n° 44-14 foresees some guarantees for a follow-up of the initiative by public powers. Indeed, if the petition is accepted, citizens have the guarantee that public powers will address their demands and take the 'appropriate measures'. Even if citizens are separated from the development of the solution, yet, they have, at least, the assurance that the topic will be addressed. Furthermore, public powers are bound to follow specific delays to provide citizens with a response to their initiative[24].

This represents a crucial element since it holds public powers accountable towards citizens' demands, providing citizens with the legal guarantee that public powers will attend their matters promptly. However, in reality these delays are not respected and no petition has received a response in due time. The first petition ever presented represents a notable example. Tackling the alleged unlawful expropriation of 1600 hectares of agricultural land for a luxury requalification project in the valley of the Oued Martil, this petition was presented on January 9th 2017 – that is, four months before the creation of the commission of petitions which was supposed to examine the initiative – and received a first feedback on its status only in July 2018 by former Minister and previous official spokesperson for the government, Mustapha El Khalfi[25] and finally an official response on the official portal of participation; only by November 6th 2019[26].

## **Local petitions: a window of optimism?**

In this quite pessimistic panorama of the first years of Morocco's participatory democracy, a reason for optimism could be found in the wide use of local petitions. The right to petition at the local level is being seized increasingly over the past few years, reinforcing the idea that citizens' participation has to go hand in hand with the advanced regionalisation process. The increased level of participation may be explained by the fact that citizens 'live locally' and thus it is easier to engage in problems that affect one's daily life. Plus, the conditions to exercise the right to petition at the local level are more accessible than the ones for the national level.

At the local level, the exercise of the right to petition is extended to associations and the number of signatures that is required for the presentation of the petition is substantially smaller, reaching a maximum of 500 signatures for regions with more than 3 million inhabitants.

Moreover, the right to petition at the local level is configured as a mechanism to add a topic to the following council meeting of the local government. It is a central difference with national petitions since the right to petition at the local level is entrenched with the already existing calendar of council meetings

and it does not require the creation of a commission that is supposed to evaluate petitions. Therefore, through local petitions citizens engage in a direct way with the governance of their region, prefecture or province and municipality. Since the topic of the petition has to belong to the remit of the local government, local petitions mainly deal with local public service delivery and urban planning. For instance, successful initiatives have resulted in the construction of roads or of local cultural centres, whilst other petitions have been neglected due to – amongst others – the lack of financial resources. Participatory democracy at the local level is thus inevitably linked with the effectiveness of local governance.

### **Conclusion: petitions, a problem of information?**

Originally, petitions aim at enhancing citizen engagement in public policies processes, thus aiming at a more just division of political power, but it seems that this initial objective has not been achieved so far. The conditions to submit petitions at the national level critically affect citizens' capacity to seize this right[27]. When they have seized it, their demands have not received a follow-up from public powers.

To increase the exercise of the right to petition, it is crucial to make changes in the legislative framework. In this regard, the recommendations of both civil society organisations and the CNDH in the course of the development of the Organic Law are important to take into consideration, including the recommendations to decrease the number of signatures on a national level.

Thus, in order to promote the exercise of petition – and increase its effectiveness – it is advisable to increase the access to information on the petitionary process[28]. It would be fundamental to publicly share the information on why a petition has been rejected, which criteria it did not fulfil, and any other issue in the process. This recommendation is in line with the principles and action plan of the Open Government Initiative (OGP)[29], of which Morocco is a new member, and improves the accountability of public powers in respect to the practices of participatory democracies. Concretely, ameliorating public knowledge on the results of petitionary initiatives will both increase the possibility that

other citizens will seize this right and the chances of those who are currently preparing a petition providing more information on issues of the process itself.

Finally, it is crucial to increase public knowledge on the outcomes of petitions at the local level. Given their central importance for the development of a new model of citizenship and as a new mode of local participation, it is critical to publicly share what is being asked and what is being achieved by local petitions, as well as on which basis local petitions have been rejected. Following the same logic, increasing the civic education on petitions has the potential to increase exponentially the number of petitions submitted at the local level. In turn, this could represent a crucial step forward in the transformation of citizenship at the local level.

## Footnotes

[1] Respectively, Organic Law n° 111-14 (on regions), n° 112-14 (on prefectures or provinces) and n° 113-14 (on municipalities).

[2] Abdelali El Hourri, “Pétitions nationales : 5 saisines en deux ans, toutes irrecevables”, Medias24, 30/9/2019. <https://www.medias24.com/petitions-nationales-5-saisines-en-deux-ans-toutes-irrecevables-4638.html> (accessed on 25/11/2019)

[3] Cfr. Conseil Economique Social et Environmental. (2019). Rapport annuel 2018. Retrieved from [http://www.ces.ma/Documents/PDF/Rapports annuels/2018/RA-VF-18.pdf](http://www.ces.ma/Documents/PDF/Rapports_annuels/2018/RA-VF-18.pdf) (accessed 24/11/2019). However, this assessment is undermined by the fact that the 20th February Movement has been critical of the process and the result of the constitutional reform of 2011, to an extent to which it called the boycott of its referendum vote. For more details please refer to Desrues, T. (2012). Le Mouvement du 20 février et le régime marocain : contestation, révision constitutionnelle et élections. *L'Année Du Maghreb*, (VIII), 359–389.

[4] Zair, T. (2012). Citoyenneté et démocratie participative au Maroc, les conditions de la construction d'un modèle. In *Processus constitutionnels et processus démocratiques : les expériences et les perspectives*.

[5] Touhtou, R. (2014). Civil Society in Morocco under the New 2011 Constitution: Issues, Stakes and Challenges. Arab Center for Research & Policy Studies. Retrieved from [www.jstor.org/stable/resrep12647](http://www.jstor.org/stable/resrep12647). (accessed on 26/11/2019)

[6] Full text of the Constitution of Morocco of 2011 (in French) available at [http://www.sgg.gov.ma/Portals/0/constitution/constitution\\_2011\\_Fr.pdf](http://www.sgg.gov.ma/Portals/0/constitution/constitution_2011_Fr.pdf) (accessed on 26/11/2019)

[7] Full text of the Organic Law n° 44-14 (in French) available at [http://www.sgg.gov.ma/Portals/0/lois/Loiorganique\\_44-14\\_Fr.pdf?ver=2017-02-08-171743-837](http://www.sgg.gov.ma/Portals/0/lois/Loiorganique_44-14_Fr.pdf?ver=2017-02-08-171743-837) (accessed on 26/11/2019)

[8] Conseil national des droits de l'Homme. (2016). Avis du CNDH sur les projets de lois organiques relatifs aux motions en matière législative et à l'exercice du droit de présentation des pétitions aux pouvoirs publics.

[9] For instance, see Ristel Tchounand, "Loi sur les pétitions : Le seuil des 5 000 signatures n'est pas réaliste selon Ahmed El Haij", Yabiladi, 27/07/2016. <https://www.yabiladi.com/articles/details/46055/petitions-seuil-> (accessed on 26/11/2019); Redaction Le Matin, "L'OMDH plaide pour l'allègement des modalités d'exercice du droit de présenter des pétitions", Le Matin, 07/01/2016. <https://lematin.ma/journal/2016/l-omdh-plaide-pour-l-allegement-des-modalites-d-exercice-du-droit-de-presentier-des-petitions/239022.html> (accessed on 26/11/2019)

[10] Reda Zaireg, "Marocains, vous pouvez désormais adresser des pétitions et des motions aux pouvoirs publics", Huff Post Maghreb, 21/08/2016. [https://www.huffpostmaghreb.com/entry/petitions-motions-maroc\\_mg\\_11637600](https://www.huffpostmaghreb.com/entry/petitions-motions-maroc_mg_11637600) (accessed on 24/11/2019)

[11] Art. 2 of Organic Law n° 44-14.

[12] As highlighted by the findings of a fieldwork made by the author between January and March 2017, and during continuous field observation over the course of one and a half.

[13] For a complete overview of officials requirements for the submission of a petition, see also the official guidelines to submit a petition (in Arabic) [https://www.eparticipation.ma/sites/default/files/documents/PetitionNationale/guide/Petitions\\_nationales\\_Guide\\_Ar.pdf](https://www.eparticipation.ma/sites/default/files/documents/PetitionNationale/guide/Petitions_nationales_Guide_Ar.pdf)

[14] In defining the supporters, art. 2 § 4 of organic law n° 44-14 does not mention the enrolment, but the "fulfilment of the conditions of the third paragraph of this article". Only the paragraph describing the initiators includes explicitly the criterion of the inscription in the electoral lists.

[15] Data on the last legislative elections available at <http://www.elections.ma/elections/legislatives/resultats.aspx>

[16] Data on the electoral list available at <https://www.listeselectorales.ma/fr/statistiques.aspx>

[17] Art. 4 of Organic Law n° 44-14.

[18] Art. 3 of Organic Law n° 44-14.

[19] Art. 2 of Organic Law n° 44-14 indeed states that a petition could be any written request but then in the decree that promulgated the commission on petitions (published on May 11th 2017), state authorities developed a mandatory layout for the submission of the petition – in evident contrast with the formulation of the organic law.

[20] For more information on the protest in the Rif, please refer to Smail Hamoudi, "'Securization' of Rif Protest and its Political Ramifications", MIPA Institute, 20/9/2019, <https://>

mipa.institute/7003 (accessed on 26/11/2019); for more information on the protest in Jerada, please refer to “Sous le charbon de Jerada, les braises d’un nouveau Hirak”, Middle East Eye, 29/01/2019. <https://www.middleeasteye.net/fr/reportages/sous-le-charbon-de-jerada-les-braises-dun-nouveau-hirak> (accessed 26/11/2019).

[21] Cfr. the focus on the boycott Conseil Economique Social et Environmental. (2019). Rapport annuel 2018. Retrieved from [http://www.ces.ma/Documents/PDF/Rapports annuels/2018/RA-VF-18.pdf](http://www.ces.ma/Documents/PDF/Rapports%20annuels/2018/RA-VF-18.pdf) (accessed 25/11/2019).

[22] See for instance Yasimine Bidar, “Grâce royale pour Hajar Raissouni, son fiancé et l’équipe médicale”, HuffPost Maghreb, 16/10/2019. [https://www.huffpost-maghreb.com/entry/grace-royale-pour-hajar-raissouni-son-fiance-et-lequipe-medicale\\_mg\\_5da742ece4b062bdcb1c9fcc](https://www.huffpost-maghreb.com/entry/grace-royale-pour-hajar-raissouni-son-fiance-et-lequipe-medicale_mg_5da742ece4b062bdcb1c9fcc) (accessed 26/11/2019) and Mohamed Masbah, “Is Raissouni’s Pardon Simply Playing Politics in Morocco?”, MIPA Institute, 4/11/2019. <https://mipa.institute/7051> (accessed 26/11/2019).

[23] For more information on the debate on the coexistence of legitimate ways of participating and social movements, please refer to Neveu, C. (2011). *Démocratie participative et mouvements sociaux : entre domestication et ensauvagement ?* Participations, 1(1), 186.

[24] The delay for the response of public powers is described between art. 8 and art. 15 of Organic Law n° 44-14. In short, after the reception of the petition the authority that received it has 15 days to submit it to the commission that will give its opinion on the demand within 30 days of its reception. Then, once the commission has rendered its opinion, the authority that received the petition has 30 more days to inform those who submitted the petition of its outcome.

[25] For more information, see Mohamed Adil Al-Tatu, “al-khalfi: al-othmani sayuqadim jawabah ‘alaa ‘aridat titwan.. wahadha ‘adad al-‘arayid al-maqbula” [E Khalfi: Othmani will give its answer on the Tetouan petition... and this is the number of accepted petitions], Al3omk.com, 26/07/2018. <https://al3omk.com/316013.html> (accessed 26/11/2019).

[26] Available at [https://www.eparticipation.ma/espace/detail\\_petition/215](https://www.eparticipation.ma/espace/detail_petition/215)

[27] See for instance Ayoub Naïm, “Lois organiques : obstacles à la pelle pour les pétitions”, LesEco.ma, 24/08/2016. <https://www.leseco.ma/maroc/49099-lois-organiques-obstacles-a-la-pelle-pour-les-petitions.html> (accessed 26/11/2019).

[28] In force since March 2018, law 31-13 on the access to information is the new legislative framework for the access to information in Morocco. Whilst this regulation will surely have effects on the way in which data on petitions is disclosed, the analysis of its impact is not in the remit of this article.

[29] “Citizen participation” is one of the five axes for the implementation of the Open Government Partnership in Morocco. For more info, please refer to <http://www.gouvernement-ouvert.ma/fr/axes/4>



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