

The Parliamentary Opposition in Morocco: Evolution and Legal Challenges

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Abstract: Parliamentary opposition in Morocco has long been fragmented and confined. However, the Moroccan Constitution of 2011 solemnly enshrines the status of the parliamentary opposition, demonstrating the sincerity of its recognition. This enshrinement, although controlled by the majority, is enacted by four constitutional articles – notably Article 10, which grants the opposition a specific list of rights. This article provides a comprehensive reflection on the parliamentary opposition in Morocco by identifying its four essential dimensions: legal recognition, status, exercise of rights, and duties. An analysis of these aspects specifies the contours of the parliamentary opposition, evaluating its capacities for action and examining its legal characteristics and challenges. The article starts with a brief historical perspective that points to the opposition’s difficult and legally weak position since the establishment of the Moroccan parliament in 1963. Turning to the constitutional reform in 2011 and subsequent developments, the analysis shows that parliamentary practice in Morocco has not fully reflected the opposition’s new role. Rather, rationalized parliamentarism and the dominance of the majority continue to prevail in Moroccan parliamentary life, limiting the impact of the opposition despite the constitutional rights granted to it.

Keywords: Parliamentary Opposition; Morocco; Opposition Rights

A. Introduction

In a democracy, parliamentary opposition is essential to ensure the balance of powers. It represents an electoral minority and plays a crucial role in monitoring the ruling majority and proposing political alternatives. This counter-power, legitimized by popular suffrage, is at the heart of democratic functioning.

However, the opposition can be described as a “politically unidentified object”.¹ To establish its status, it is crucial to define it clearly. The opposition lies at the intersection of

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1 *Daniel C. Martin*, À la quête des OPNI (Objets politiques non identifiés). Comment traiter l’invention du politique ?, *Revue française de science politique* 39 (1989), p. 793.

law and politics, an “elusive reality” oscillating between institutions and power dynamics.² Although primarily a political concept, the “rights recognized to it” reveal the place and role attributed to it within a political regime.³ Moreover, a distinction is made between “good” opposition, which is compliant and loyal, and “bad” opposition, perceived as disloyal and anti-system. To overcome the biases of these approaches, Nathalie Brack and Sharon Weinblum define political opposition as “all positions of opposition, criticism, and reservation, publicly expressed by mobilized actors, in a non-violent manner, targeting the government, its policies, the political elite, or the regime as a whole”⁴.

The opposition manifests as a dissent against power and a counterbalance to it, with particular attention to parliamentary opposition.⁵ Hence, parliamentary opposition constitutes an essential component of opposition forces, “comprising actors and/or political formations present within an assembly, who seek, through institutional means and extra-parliamentary exchanges, to influence and control governmental action, while positioning themselves as a credible alternative for the next elections.”⁶ It is frequently described as “the most advanced and institutionalized form of political conflict.”⁷ As a “political minority” opposing a majority, the parliamentary opposition generally finds a privileged means of recognition and expression in the deliberative institution⁸.

The relationship between law and opposition is complex. Historically informal, parliamentary opposition is now also governed by written law, albeit imperfectly. Great Britain and countries following the Westminster model have institutionalized opposition by symbolically recognizing the principal opposition party, adapted to their bipartisan system. However, this model is not universally applicable. In Book I of *The Spirit of the Laws*, Montesquieu demonstrates that the success of legal adaptation is often uncertain, as national cultures and traditions can alter its effects.⁹

The affirmation of formal rights in favor of the opposition also occurs in emerging democracies. For example, the Portuguese Constitution of 2 April 1976 first mentions the notion of opposition in Article 114.¹⁰ Similarly, in Morocco, the parliamentary opposition

2 *Carlos Miguel Pimentel*, *L'opposition ou le procès symbolique du pouvoir*, *Pouvoirs* 108 (2004), p. 45.

3 *Olivier Nay*, *Opposition*, *Lexique de science politique*, Paris 2008, p. 365.

4 *Nathalie Brack / Sharon Weinblum*, *Pour une approche renouvelée de l'opposition politique*, *Revue internationale de politique comparée* 18 (2011), p. 13.

5 *Robert A. Dahl* (ed.), *Political Oppositions in Western Democracies*, New Haven CT 1966, p. 1.

6 *Yves Surel*, *L'opposition et Parlement. Quelques éléments de comparaison*, *Revue internationale de politique comparée* 18 (2011), p. 118.

7 *Ghita Ionescu / Isabel de Madariaga*, *Opposition: Past and Present of a Political Institution*, London 1968, p. 9.

8 *Pascal Jan*, *Les oppositions*, *Pouvoirs* 18 (2004), p. 24.

9 *Charles-Louis de Secondat Montesquieu*, *De l'esprit des lois*, Paris 1977.

10 Article 114.2 of the Constitution of Portugal determines that “minorities have the right to democratic opposition, as laid down by this Constitution and the law”.

is officially recognized by the 2011 Constitution, granting rights to strengthen democracy.¹¹ This approach, influenced by national specificities, remains complex, combining constitutional elements, legislative measures, and practical usages. Indeed, identifying the status of parliamentary opposition raises questions about its institutionalization, its institutional and behavioral variability, and its place within the constitutional order. The study of parliamentary opposition can encompass a wide range of nuances, from its protection process to the most harmonious cooperation to the most determined competition.

This article aims to analyze the legal framework governing the rights of the opposition in Morocco, focusing on the 2011 Constitution's recognition of the opposition. By integrating constitutional and sub-constitutional norms, including organic laws, ordinary laws, and parliamentary regulations, we assess the impact of these norms on the role and conception of the opposition within the parliamentary assembly.

Granting a status to the opposition means that the constitution recognizes and protects the rights of non-ruling parties, such as the rights to freedom of expression and participation in parliamentary debates. However, are these rights truly respected? Can the opposition exercise its rights without hindrance, or does it encounter institutional and political obstacles? This contribution will examine how the rights guaranteed by the constitution are effectively applied and whether the opposition can truly play its role as a counter-power.

Although extra-parliamentary oppositions are important, this analysis focuses on the opposition forces in the Moroccan parliament. It begins with a brief historical perspective that points to the opposition's difficult and legally weak position since the establishment of the Moroccan parliament in 1963 (A). Turning to the constitutional reform in 2011 and subsequent developments, the article successively examines the opposition's legal recognition (B) and the use of its rights (C), before concluding with a reflection on the duties of parliamentary opposition in Morocco (D).

B. Parliamentary Opposition and Developments Prior to the 2011 Reform: An Incomplete Path to Recognition

To understand the significance of our subject, it is essential to begin with a historical perspective. Since the establishment of the parliament in Morocco in 1963, the status of the opposition has evolved considerably. This evolution has led to the affirmation of the King's role in the political arena, as well as the majoritarian principle and the struggles among political actors which have redefined the balance of powers.

The opposition in Morocco has always occupied a difficult position in the political system. Although recognized, it has not benefited from constitutional protection or a specific legal framework, rendering it legally elusive. This deficiency led to random recognition and limited rights, often derived from the privileges granted to parliamentarians in general.

11 The Moroccan Constitution of 2011.

From 1963 to 2011, the Moroccan opposition experienced eight legislative periods marked by various challenges:

1.1963-1965: The Beginnings of Parliamentary Opposition and Political Tensions During the first legislative term (between 1963 and 1965), the parliamentary opposition in Morocco, primarily led by the Istiqlal Party¹² and the National Union of Popular Forces¹³, played a significant role. In the legislative elections held on May 17, 1963, the Palace aimed to weaken these parties by appealing to rural elites¹⁴ and establishing the Front for the Defense of Constitutional Institutions (FDIC)¹⁵. However, the Istiqlal Party and the National Union of Popular Forces maintained substantial influence, particularly in regions such as Souss, Casablanca, and Rabat.

Despite the administration's support for the Front for the Defense of Constitutional Institutions in rural areas, the results did not meet the Palace's expectations.¹⁶ The opposition, holding 69 out of 144 seats, strongly contested the Palace's policies. Capitalizing on the disagreements between the government and its majority, the opposition adopted an aggressive approach, filing a motion of censure against the economic policy, attempting to socialize the economy, and requesting an extraordinary session.

The period of parliamentary activism ended with the events of March 1965. Shortly before, several plots aiming at overthrowing the regime were foiled, and riots sporadically erupted across the kingdom. The most significant riots occurred in March 1965 in Casablanca¹⁷. They were violently suppressed by the Royal Armed Forces, resulting in several disappearances and deaths. The National Union of Popular Forces requested a parliamentary inquiry commission, but the authorities refused. More importantly, the unrests allowed the king to strengthen his power by declaring a state of emergency.¹⁸ This measure

- 12 The Istiqlal Party (PI), founded in 1943 by Allal El Fassi and young nationalists, was the main force in the National Movement for Morocco's independence. After independence, a split in its left wing led to the creation of the National Union of Popular Forces (UNFP).
- 13 The National Union of Popular Forces (UNFP) was formed in 1959 after splitting from the Istiqlal Party (PI). Founders included Abderrahmane El Youssfi, Mehdi Ben Barka, and Abdellah Ibrahim. In 1963, the party faced repression after Morocco's first legislative elections. Internal conflicts led to a split in 1972, creating the Socialist Union of Popular Forces (USFP).
- 14 *Rémi Leveau*, *Le Fellah marocain, défenseur du Trône*, Paris 1976.
- 15 The Front for the Defense of Constitutional Institutions (FDIC) was created in 1963 by Ahmed Reda Guedira and other ministers. It included three political parties: the Popular Movement (MP), the Democratic Constitutional Party (PCD), and the Independent Liberals Party (PLI). In 1964, after losing its majority and the withdrawal of the MP, the FDIC decided to dissolve.
- 16 The Front for the Defense of Constitutional Institutions secured only 36.5% of the votes, compared to 56.5% for the opposition (32% for the Istiqlāl Party and 24.5% for the National Union of Popular Forces). See *Pierre Vermeren*, *Histoire du Maroc depuis l'indépendance*, Paris 2016, pp. 32-44.
- 17 *Jeune Afrique*, *Que s'est-il vraiment passé le 23 mars 1965*, 21 March 2005, <https://www.jeuneafrique.com/86510/archives-thematique/que-s-est-il-vraiment-pass-le-23-mars-1965/>, (last accessed on 1 March 2025).
- 18 See *Susan Gilson Miller*, *A History of Modern Morocco*, New York 2013.

suspended all constitutional institutions (including parliament) and concentrated all powers in the king's hands. The surveillance of opposition parties became systematic and arrests of their activists and leaders occurred, often justified by accusations of conspiracies. A five-year period of quasi-military dictatorship followed.

II. 1970-1972: The Second Legislature With a Weakened Opposition

The second legislature of Morocco began in 1970, at a time when the monopolistic ambitions of King Hassan II were being strongly contested by a significant portion of the Moroccan elites.

To remedy this situation, Hassan II ended the state of emergency on July 7, 1970, promulgated a new Constitution, and called for new legislative elections. The legislative elections on August 21, 1970, were officially boycotted by the parties from the national movement, such as the National Union of Popular Forces (UNFP) and the Istiqlal Party. However, some members of these parties ran as independents.

In general, constitutional reforms, notably those of 1970, significantly reduced the opposition's rights and immunities, strengthening the King's power and further marginalizing the opposition. Unicameralism was established in a way that weakened the opposition. Of the members of parliament, 90 were elected by universal suffrage, 90 by local elected officials, and 60 by professional and trade union organizations¹⁹. The parliament then was dominated by independents (159 seats) and the Popular Movement²⁰ (60 seats), with a marginal presence of the National Union of Popular Forces (1 seat) and the Istiqlal Party (8 seats).²¹ Moreover, Article 37 of the 1970 Constitution abolished parliamentary immunity in cases where the opinions expressed challenge the monarchic form of the State or the Muslim religion or constitute an infringement of the due respect for the King.

III. 1977-1983: The Third Legislature and Socio-Economic Crisis

To neutralize an opposition weakened and exhausted by years of marginalization and repression, Hassan II had promised the initiation of a democratic process by organizing elections on June 3, 1977. However, this controlled opening proved to be illusory. The administration ensured the election of the Palace's supporters and divided the opposition. The third parliament of independent Morocco covered the period from 1977 to 1983.

The Istiqlal Party, which had secured 51 seats, returned to government after more than fourteen years of opposition, while the Socialist Union of Popular Forces (USFP) was

19 *Ahmed Belhaj*, *Le Parlement marocain, in Édition d'un État moderne: le Maroc de Hassan II, sous la direction de Driss Basri, Ahmed Belhaj, et Mohammed Jalal Essaid*, Paris 1986, p. 72

20 The Popular Movement (MP), founded in 1957 by Mahjoubi Ahderdane, Dr. Abdelkrim El Khatib, and Benabdallah Waggouti, is a party with a strong Amazigh identity and rural base. Its main goals were to support the monarchy and counter the dominance of the Istiqlal Party (PI).

21 *Dieter Nohlen et al.*, *Elections in Africa: A Data Handbook*, Oxford 1999, pp. 623–644.

marginalized with only 15 seats, becoming the main opposition party for twenty years. The Independents, the parliamentary base of the regime, founded the National Rally of Independents²² (RNI) in 1978, the first in a long line of administrative parties serving the regime. This situation was explained by the nature of the electoral system, the support of rural areas, the administration's activism (criticized by the opposition), and the consensus around the Sahara issue.

Despite the dominant authority exercised by Hassan II over Morocco, the country experienced a profound socio-economic crisis in the late 1970s and early 1980s. The war in the Sahara, the decline in phosphate prices, the second oil shock, the recession in Europe, and several years of drought compelled the regime to implement unpopular measures, such as structural adjustment.²³ These measures led to riots in 1981 and 1984. The repression affected not only the rioters but also the militants and leaders of the opposition.²⁴ The left-wing opposition was then either silenced (such as the National Union of Moroccan Students and the far-left movements), controlled (such as the Socialist Union of Popular Forces²⁵), or co-opted (such as the Party of Progress and Socialism²⁶).

IV. 1984-1993: The Fourth Legislature and Political Stagnation

In a difficult context, the legislative elections of September 14, 1984, were held. Unsurprisingly, the parties supported by the king won the majority of seats. The Istiqlal Party, after having fulfilled its role of legitimization, was relegated to the opposition (forty-three deputies). The moderate far-left was introduced in small doses (two deputies from the Party of Progress and Socialism and one deputy from the Organization of Democratic and Popular Action²⁷). However, the Socialist Union of Popular Forces returned to the level of Istiqlal by doubling its representation (thirty-nine deputies). The ensuing political stagnation demonstrated that the political system had reached its cruising speed. The ad-

22 The National Rally of Independents (RNI) was founded in 1978 by Ahmed Osman. After the 1977 legislative elections, where independent candidates won over 141 seats, they formed the RNI, becoming the leading electoral force in the country.

23 Vermeren, note 17, p. 74.

24 Santucci Jean-Claude, *Chroniques politiques marocaines (1971-1982)*, Paris 1985.

25 The Socialist Union of Popular Forces (USFP) split from the National Union of Popular Forces (UNFP) in 1972 and was officially established in 1975. The party shifted from revolutionary tactics to a democratic approach, joining the Socialist International. It was the main opposition party until 1997, after which its parliamentary presence decreased.

26 The Party of Progress and Socialism, founded by Ali Yata in 1974, succeeded the Moroccan Communist Party (PCM) and the Party of Liberation and Socialism (PLS), both of which were banned multiple times.

27 In 1983, a faction of the far-left attempted to emerge on the official political scene. The heirs of the March 23 movement then created the Organization of Democratic and Popular Action (OADP), centered around the figure of the veteran of the Moroccan Liberation Army, Mohammed Bensaïd.

ministration parties emerged largely as the majority in the fourth legislature, in place for nine years (1984-1993).

V. 1993-1997: The Fifth Legislature and the Revival of Democratic Transition

The end of the Cold War, marked by events such as the fall of the Berlin Wall, heralded the advent of a new world order and also triggered a wave of democratization. Hassan II could no longer rely on his traditional allies to govern in the same manner, especially as the economy stagnated, the regime's image was tarnished by human rights violations, and the Islamist threat began to emerge.²⁸ In this situation, the historical opposition, represented by the Socialist Union of Popular Forces (USFP) and the Istiqlal Party (PI), attempted to revive the democratic transition process.

The monarch sought to buy time to prepare a controlled opening. He leveraged the issue of the Sahara to postpone the elections scheduled for 1989 and 1990 by three years. Simultaneously, he demonstrated goodwill by releasing political prisoners, tasking the Advisory Council on Human Rights (CCDH) with addressing victims' issues, initiating a modest reform of the personal status code, and proposing a constitutional reform.

Although Hassan II did not address the main demands of the opposition, he sought to co-opt them to improve his image, particularly on the international stage. Negotiations for government participation failed due to the king's refusal to dismiss Driss Basri, the powerful Minister of the Interior and a symbol of the "Years of Lead"²⁹. Consequently, the Socialist Union of Popular Forces (USFP) and the Istiqlal Party (PI) withdrew, and inconsequential elections were held on June 25, 1993. Despite their withdrawal from government negotiations, both the USFP and the Istiqlal Party secured seats in the legislature, with the USFP winning 48 seats and the Istiqlal Party winning 43 seats.

VI. 1997-2002: The Sixth Legislature and Controlled Political Opening

Despite the initial failure to co-opt the forces of the historical opposition, Hassan II persisted in addressing internal and external challenges, ensuring a smooth succession for his son and heir, Mohamed VI. He aimed to neutralize the Socialist Union of Popular Forces (USFP), the Istiqlal Party (PI), and their allies while demonstrating a commitment to the rule of law yet maintaining firm control over power.

The elections of November 14, 1997, characterized by consensual alternation, resulted in the definitive integration of the historical opposition, with the appointment of a government led by the USFP in March 1998. However, this opening remained under the vigilant control of the king, who retained a strong grip on power through the Chamber of

28 *Mohamed Tozy*, *Monarchie et islam politique au Maroc*, Paris 1999.

29 The period known as the Years of Lead in Morocco, from the 1960s to the early 1990s under Hassan II, was marked by severe repression against political dissidents, leaving a lasting impact on the country's history.

Councillors, endowed with blocking powers. The opposition leaders agreed to participate in the government, thereby acknowledging the supremacy of the monarchy.

A more moderate opposition emerged, tempted to enter the imposed framework in exchange for partial recognition and comfortable political careers.³⁰ Thus, the *Koutla* parties³¹ and moderate Islamists illustrate how the opposition can navigate a restrictive political framework to maintain some influence.

VII. 2002-2007: The Seventh Legislature and Political Manoeuvring

The accession of Mohammed VI to power in 1999 did not alter the extensive prerogatives of the monarchy, despite a symbolic desire to break with the past. Hopes for a democratic transition were quickly dashed. By the end of 2000, the king had regained control by arresting Islamist and leftist activists and suspending several newspapers. In 2001, the appointment of a Minister of the Interior and super-governors demonstrated the technocratic orientation of the regime.

The political parties involved in public administration, notably the USFP, gradually lost credibility. The political parties were weakened by internal struggles and dissensions. Despite the USFP's victory in the legislative elections of September 27, 2002, Mohammed VI took advantage of the fragmentation of the House of Representatives to appoint a technocrat as head of the government. This manoeuvre marked the end of the mission of the alternation government: to legitimize and facilitate the transition at the head of the state while maintaining the supremacy of the monarchy.

To participate in the elections, moderate Islamists first joined the Constitutional and Democratic Popular Movement (MPCD)³², which allowed them to win 9 seats in the 1997 legislative elections. In 2000, they founded their own party, the Justice and Development Party (PJD), which now won 42 seats in the 2002 legislative elections. The PJD established itself as an influential political force, especially in the context of the Arab Spring, serving as an intermediary between the government and radical Islamism, skilfully using institutional resources to conform to the criteria of government parties.

30 *Bernard Cubertafond*, *L'opposition au Maroc*, Pouvoirs 89 (1999), p. 158.

31 *Koutla* means "coalition" in Arabic. This Moroccan political coalition comprises three main parties: the Istiqlal Party (PI), the Socialist Union of Popular Forces (USFP) and the Progress and Socialism Party (PPS). It was formed to unite these parties in their political efforts and common goals.

32 The Popular Democratic and Constitutional Movement (MPDC) was founded in 1967 by Dr. Abdelkrim El Khatib after splitting from the Popular Movement (MP). Dr. El Khatib, who opposed the 1965 state of emergency, established the MPDC, which later led to the creation of the Justice and Development Party (PJD).

VIII. 2007-2011: *The Eighth Legislature and Developmental Authoritarianism*

Starting in 2002, Morocco witnessed the emergence of developmental authoritarianism, where the monarch utilized major projects as the primary lever for growth. This strategy, which benefited a portion of the population in the short term, allowed the regime to expand its support base and enhance its image, to the detriment of traditional political parties, which weakened, except for the Islamists.

Political parties, notably the USFP, saw their credibility and influence erode, while the population, depoliticized for various reasons, turned away from politics. This disinterest was reflected in a record abstention rate of 63% during the legislative elections of 2007³³. The monarchy remained at the center of power, with the Islamists as the only opposition capable of threatening this hegemony in the long term.

Following the 2007 elections, the opposition was led by the Justice and Development Party (PJD) with 52 seats, joined by the Popular Movement (MP) with 41 seats and the Constitutional Union (UC) with 27 seats. Concurrently, the parliamentary group of Authenticity and Modernity, formed in October 2007 to initially support the government of Abbas El Fassi, withdrew its support in June 2009 and positioned itself in the opposition. However, it failed to unify the opposition, which remained fragmented. The divergences within the opposition were deeper than those among the majority parties, resulting in a lack of coordination and harmony.

C. **The Granting of an Organized Status and Formal Recognition Since 2011**

The provision of a structured status and formal recognition of the parliamentary opposition is crucial to ensuring effective counter-power. This process includes examining (I) Post-Arab Spring electoral milestones 2011, 2016, 2021, the formalization (II), and recognition (III) of the parliamentary opposition.

I. *Post-Arab Spring Electoral Milestones: 2011, 2016, 2021*

Starting in 2007, the Moroccan monarchy encouraged the creation of the Authenticity and Modernity Party (PAM)³⁴ to monopolize the political landscape while allowing a certain degree of freedom of expression. This party's mission was to block the rise of Islamists and revitalize the partisan landscape to better control it. Despite numerous denunciations, everything suggested that this project would succeed, as the balance of power was undeniably in

33 *Miquel Pellicer / Eva Wegner*, Socio-economic voter profile and motives for Islamist support in Morocco, *Party Politics* 20 (2014), p. 116.

34 The Authenticity and Modernity Party (PAM) was founded in 2008 by a coalition of politicians from various political backgrounds, including Fouad Ali El Himma, who was then the Minister Delegate to the Interior.

favor of the monarchy and its allies. However, this balance was disrupted by exceptional events: the popular uprisings of 2011 in several countries in the region.

In Morocco, a heterogeneous protest movement emerged on February 20, 2011. The “February 20 Movement”, inspired by uprisings in other countries, played a crucial role in demanding significant political reforms. Unlike traditional parliamentary oppositions, this movement emerged outside conventional political spheres and called for the establishment of a parliamentary monarchy. This popular pressure caught the political parties in parliament off guard, who reacted with some hesitation to rally to this cause. This contrast highlights the dynamic between institutional oppositions and popular movements, showing how the latter can sometimes force significant reforms outside established political channels. However, the lack of clear demands and the weakness of the mobilization allowed the monarchy to quickly regain the initiative.³⁵ On March 9, Mohammed VI announced a reform plan that included the overhaul of the constitution and the organization of early elections. A new supreme law was approved less than four months later, on July 1. As a kind of concession to the protestors, the new supreme law constitutionalized the opposition (see below). Yet, the king retained his extensive prerogatives.³⁶

The legislative elections of November 25, 2011, allowed the regime to neutralize parliamentary Islamism by appointing an Islamist leader to head a heterogeneous government coalition. Although the Islamists were integrated into the government, they remained the only political force capable of seriously challenging the monarchy's dominance in the long term.

The 2016 electoral campaign in Morocco was dominated by the Justice and Development Party (PJD) and the Authenticity and Modernity Party (PAM), creating a bipartisan dynamic. The PJD, led by Abdel-Lilah Benkirane³⁷, won the elections, increasing its seats from 107 in 2011 to 125 in 2016. The PAM secured second place, rising from 47 seats in 2011 to 102 in 2016.³⁸

Following the elections, King Mohammed VI tasked Benkirane with forming a new government. The PAM quickly announced its intention to join the opposition. Benkirane's consultations with other parties proved difficult, particularly due to a disagreement with the National Rally of Independents (RNI). On March 17, 2017, the king ended the deadlock by replacing Benkirane with Saad Dine El Otmani. A new government was formed on April 5, 2017. This period highlighted the challenges faced by the Moroccan opposition. The

35 *Fouad Abdelmoumni*, *Le Maroc et le Printemps arabe*, Pouvoirs 145 (2013), p. 123.

36 *Omar Bendourou*, *La nouvelle Constitution marocaine du 29 juillet 2011*, *Revue française de droit constitutionnel* 91 (2012), p. 511.

37 Abdelilah Benkirane is a notable Moroccan politician and the leader of the Justice and Development Party. He served as the head of government from November 29, 2011, to April 5, 2017.

38 *Youssef Ait Akdim / Charlotte Bozonnet*, *Élections au Maroc: participation limitée, les islamistes dénoncent des tentatives de fraudes*, *Le Monde*, 7 October 2016, https://www.lemonde.fr/afrique/article/2016/10/07/elections-au-maroc-participation-limitée-les-islamistes-dénoncent-des-tentatives-de-fraudes_5010240_3212.html (last accessed on 1 March 2025).

PAM sought to distinguish itself by quickly joining the opposition, but internal tensions and strategic differences complicated the formation of a unified coalition. Benkirane's refusal to accept RNI's conditions illustrated the difficulties of negotiation and compromise within the opposition.

The new opposition included the PAM with 102 seats, the Istiqlal Party with 46 seats, and the Federation of the Democratic Left with 2 seats.

The 2021 Moroccan legislative elections marked a significant shift in the political landscape. The Justice and Development Party, which had led the government since 2011, suffered a major defeat, dropping from 125 seats in 2016 to just 13 in 2021.³⁹ This decline was influenced by the electoral quotient reform and growing criticism of the party's governance. The National Rally of Independents, led by Aziz Akhannouch⁴⁰, emerged as the big winner, securing 102 seats. The Authenticity and Modernity Party and Istiqlal also performed well, with 87 and 81 seats, respectively. The RNI formed a government with the Authenticity and Modernity Party and Istiqlal, excluding the Socialist Union of Popular Forces and the Constitutional Union.⁴¹

Since the elections, the Moroccan opposition has faced fragmentation and reorganization. The Justice and Development Party's defeat led to a new political configuration dominated by the National Rally of Independents, the Authenticity and Modernity Party, and Istiqlal. The opposition parties struggle with internal divisions and ideological differences, weakening their ability to present a united front and challenge the government effectively.⁴² This fragmentation benefits the current government, allowing it to operate with fewer constraints even though the opposition was now formally strengthened.

II. *The Formalization of the Opposition*

The opposition, as a hybrid entity at the crossroads of politics and law, manifests itself in various forms (unconstitutional opposition, parliamentary opposition, extra-parliamentary constitutional opposition) and intervenes on several fronts. Political opposition is never

39 *Thierry Desrués / Saïd Kirhlani*, De la débâcle du Parti de la justice et du développement (PJD) aux élections de 2021: les significations de l'alternance politique au Maroc, *L'Année du Maghreb* 28 (2022), p. 199

40 Aziz Akhannouch, born in 1961, is the current Head of Government of Morocco and the leader of the National Rally of Independents (RNI). He is also a prominent businessman, serving as the CEO of Akwa Group.

41 The Constitutional Union (UC), founded in 1983 by Maâti Bouabid, former Prime Minister from 1979 to 1983, was in opposition for four consecutive legislatures: 1997, 2002, 2007, and 2011. In 2016, the party left the opposition to join the government majority led by the PJD.

42 Opposition groups see their legislative proposals, such as the capping of hydrocarbon prices, the liquidation of Samir, and the development of mountainous areas, rejected without discussion. Despite their constitutional prerogatives, the opposition is ineffective against the majority. For example, for the 2022 Finance Bill, the opposition proposed 92 amendments, but only 3 were accepted. Their efforts to unite have not been taken into account.

homogeneous, but diverse and sometimes very disparate, which is a potential weakening factor.⁴³ The constitution has, therefore, chosen to define the opposition by placing it in parliament. This choice has overcome the difficulty of defining the legal opposition. Article 10 of the new constitution specifically establishes the status of the parliamentary opposition and protects its activity in the assembly. This indicates that the supreme legislator wishes to give a privileged place to this form of opposition

Article 10 of the 2011 Constitution states, “The Constitution guarantees to the parliamentary opposition a status conferring on it the rights that will permit it to appropriately accomplish the missions that accrue to it in the parliamentary work and political life”. While the constitutionalization of the parliamentary opposition transforms a political activity into an official institution, its contours remain vague. In theory, this recognition should promote the proper functioning of the parliamentary system by bringing stability and predictability to interactions between parliamentarians.⁴⁴ However, in practice, the formalization poses challenges as it attempts to fix “a plural and fluctuating political reality”.⁴⁵ The question of the appropriateness of constitutionally codifying the opposition remains complex and warrants thorough reflection. Establishing fixed rules for a parliamentary assembly can be complex, as they may not always adapt to constant changes and various circumstances.⁴⁶ Also, the granting of specific rights requires prior identification of the subject of law (see below). Moreover, the constitution does not consider the possibility of opposition to the head of state. In Morocco, despite the constitutional revision, the king retains significant powers.⁴⁷ The constitutionalization of the opposition can be seen as a way for the king to compensate for the transfer of powers to the head of government.⁴⁸ Thus, the king retains his privileged role as an arbiter between political factions.

43 *Surel*, note 6, p. 120.

44 *Marie-Laure Fages*, L’opportunité manquée d’un statut de l’opposition en France, *Politeia* 16 (2009), p. 338.

45 *Ariane Vidal-Naquet*, L’institutionnalisation de l’opposition, *Revue française de droit constitutionnel* 1 (2009), p. 166.

46 *Pierre Avril*, L’improbable ‘statut de l’opposition’ (à propos de la décision 537 DC du Conseil constitutionnel sur le règlement de l’Assemblée nationale), *Les petites affiches* n°138 (12 juillet 2006), p. 9.

47 *Omar Bendourou*, La nouvelle Constitution marocaine du 29 juillet 2011, *Revue française de droit constitutionnel* 3 (2012), p. 512.

48 The 2011 constitutional reform in Morocco granted more executive authority to the head of government, including powers to appoint officials, preside over the Government Council, and propose legislation. This aimed to balance power between the monarchy and the elected government. However, the king still retains significant powers, such as dissolving parliament and presiding over the Council of Ministers, maintaining his central role in the political framework.

III. Recognition of the Parliamentary Opposition

The identification of political opposition is complicated by the fact that it is a plural and protean phenomenon. This diversity makes it difficult to develop a substantive definition of “parliamentary opposition”.⁴⁹ The legislator has relied on two formal criteria: one organic, relating to structure, and the other functional, relating to activities. It has been stipulated that only opposition parliamentary groups can fully enjoy the rights set out in Article 10 of the constitution⁵⁰. Thus, although individual parliamentarians and political parties have certain constitutional rights, they cannot individually access the privileges reserved for the parliamentary opposition. In other words, these rights are designed to be exercised collectively, requiring membership in a parliamentary group to be fully effective.

Parliamentary groups are essential for the proper functioning of parliament. Their existence ensures specific rights for all parliamentarians, including those in the opposition.⁵¹ Parliamentary work is structured both organically, through the formation of parliamentary groups, and functionally, through the dynamics between the majority and the opposition. These two aspects are interconnected, as the ability of each group to influence the decision-making process (such as legislation and government oversight) depends on their power and institutional strategies.

Being crucial for any activity within the assembly⁵², parliamentary groups hold significant powers, notably in the appointment of internal parliamentary bodies such as the bureau, standing committees, delegations, and inquiry committees. However, it is important to note that the influence of opposition groups in these bodies is limited by their proportional representation in the number of seats they hold. Since the rights granted to the opposition are attributed to parliamentary groups rather than to individual parliamentarians, these competencies are recognized as a right of a collective entity and not as an individual right of each parliamentarian to oppose. Thus, opposition can only be exercised at the level of the parliamentary group, and deputies not affiliated with a group are excluded from this process.

However, the parliamentary legislator has taken into account the Constitutional Council's remarks on the constitutionality of the 2013 Rules of Procedure of the House of Representatives⁵³, particularly regarding the rights of the parliamentary opposition. The Council has determined that these rights should also include parliamentary groups (at least 20 members), parliamentary groupings (at least four members), and representatives not affiliated with an opposition party or parliamentary group. Thus, the Council has broadened

49 *Francis Delpérée*, *L'opposition parlementaire*, Paris 2010.

50 This stipulation is specified in the 2011 Constitution and the Rules of Procedure of Parliament.

51 *Nadia Bernoussi*, *Les groupes parlementaires au Maroc*, *Revue française de droit constitutionnel* (RFDC) 61 (2005), p. 207.

52 *Gilles Le Béguec*, *La constitution des groupes parlementaires*. *Questions de méthode*, Paris 2001, p. 184.

53 Constitutional Council Decision No. 2013/924, issued on August 22, 2013.

the definition of a “parliamentary group”. Indeed, the recognition of minority groups and the constitutionalization of the opposition can promote more authentic and diverse representation within multiparty regimes, thereby avoiding artificial bipolarization.

Article 60 of the constitution emphasizes the importance of the organic nature of the opposition within parliament. It specifies that “the opposition is an essential component of both Houses. It participates in the functions of legislation and oversight.” This institutional recognition of the opposition makes it a key element of parliamentary functioning, thus ensuring democratic balance. The functional criterion of the parliamentary opposition is based on the assignment of specific missions that clearly distinguish it from the roles of majority groups, extra-parliamentary opposition, and political parties in general. By combining these criteria, the parliamentary opposition becomes a distinct working body within parliament, reserved for certain groups that benefit from specific missions and rights.

Defining the opposition is not limited to distinguishing the majority from the minority, as it involves political choices rather than a simple calculation.⁵⁴ The constitution has not set precise criteria for identifying the opposition, as each criterion presents challenges and political implications. Some researchers distinguish between “institutional” and “behavioral” criteria.⁵⁵ Institutional criteria, such as the results of legislative elections, identify the opposition by the losing parties. However, this method does not clearly define “defeat” and allows a defeated party to remain in a composite majority. The criterion of participation in the government is also problematic, as some groups may support the government without directly participating in it. Moreover, designating the largest minority group as the opposition is not appropriate for multiparty systems. Behavioral criteria, such as the attitudes of deputies, are subjective and vary according to the political situation, complicating the structuring of political forces desired by the constitutionalization of the opposition. The voting of parliamentarians on issues of confidence, budget, and bills poses similar difficulties.

In Morocco, a system of opposition membership has been established through communications and notices. Each parliamentary group leader must inform the presidency of the assembly in writing of their group's affiliation with the majority or the opposition. In this context, the Rules of Procedure of the House of Representatives of 2024 for the 11th legislature (2021–2026) specify how parliamentary groups, groupings, and unaffiliated deputies can declare themselves the opposition. Each parliamentary group leader and grouping leader, as well as each unaffiliated deputy who chooses the opposition, must inform the President of the House of Representatives in writing. This notification is then announced at the next public session.⁵⁶ By requiring groups to announce their opposition affiliation

54 *Eric Thiers*, *La majorité contrôlée par l'opposition : pierre philosophale de la nouvelle répartition des pouvoirs ?*, *Pouvoirs* 143 (2012), p. 63.

55 *Olivier Rozenberg / Eric Thiers*, *L'opposition parlementaire*, Paris 2013, p.12.

56 See in particular Article 22 of the Rules of Procedure of the Chamber of Representatives for the year 2024, https://www.chambrederesrepresentants.ma/sites/default/files/2024-09/RI2024F_0.pdf (last accessed on 30 June 2025).

and not granting decision-making power to the bureau in case of dispute, the Rules of Procedure of the House of Representatives strive to respect the second paragraph of Article 7 of the Constitution: “Political parties work to educate and politically train citizens (...) Their constitution and the exercise of their activities are free”. A reading of the internal regulations of both chambers of the Moroccan parliament reveals that the provisions relating to membership prevent any interference in the internal affairs of parliamentary groups. However, the formalization of opposition membership alone is not sufficient to guarantee a true separation of powers.

The status of the parliamentary opposition provides specific rights and protections, allowing opposition parties to fulfill their oversight and critique functions without being subject to the arbitrariness of the majority. This status recognizes the opposition not only as a force present within the assembly but also as a key actor in the legislative process. Indeed, the constitution grants the opposition particular rights so that they can carry out their parliamentary and political missions effectively and without excessive constraints (see below). Thus, although subject to the same rules as other parties, the opposition has additional guarantees to fully exercise its functions.

In total, the Moroccan constitutional text highlights the importance of the parliamentary opposition by solemnly enshrining it through no less than four articles. Article 10, located in the first title relating to general provisions (and not in Title IV relating to legislative power as one might expect), lists an impressive array of 12 rights granted to the opposition. Additionally, Article 60 of Title IV, relating to legislative power, stipulates that the opposition is “an essential component of both chambers”. Furthermore, Article 69 mandates that each chamber of parliament establishes internal regulations, which include rules on the composition, functioning, and affiliation of parliamentary groups, as well as the specific rights recognized for opposition groups. It also requires that the presidency of at least one or two permanent commissions be reserved for the opposition. Lastly, Article 82 ensures that the agenda of each parliamentary chamber includes the examination of opposition proposals, with at least one day per month reserved for this purpose. This broad recognition represents a significant step that has garnered positive appreciation from many observers. However, the emphasis on the rights of the opposition in the 2011 Moroccan Constitution could be seen as a “communication revision” strategy, intended to project a positive image rather than to implement profound reforms.

D. The Rights Guaranteed within the Parliamentary Institution

The 2011 constitutional text elevates the role of parliament, highlighting the importance of the parliamentary opposition. Once marginalized and perceived negatively, the supreme law now recognized the opposition as an indispensable partner of the majority and as a force playing an active role in oversight and legislation. Article 10 of the Constitution guarantees the parliamentary opposition a status that confers the rights necessary for it to effectively

fulfill its missions in parliamentary work and political life. Specifically, it guarantees the following rights:

- Freedom of opinion, expression, and assembly;
- Air time on official media proportional to its representation;
- Public finance benefits according to law;
- Effective participation in legislative procedures, including proposing laws;
- Effective participation in government oversight through motions of censure, interpellations, oral questions, and inquiries;
- Proposing candidates and electing members of the Constitutional Court;
- Appropriate representation in parliamentary activities;
- Presidency of the legislation commission in the Chamber of Representatives;
- Necessary means to fulfill institutional functions;
- Active participation in parliamentary diplomacy to defend national interests;
- Structuring and representing citizens in political party work;
- Exercising power at local, regional, and national levels through democratic alternation.

In general, the list includes a variety of rights that touch upon different topics while also differing greatly in importance for opposition forces. Also, some issues are further specified through other rules. For instance, article 102 of the Rules of Procedure of the House of Representatives stipulates that the Bureau of the House, in consultation with the government, must ensure the allocation of broadcast time for parliamentary activities on all public media. This provision must be implemented in respect of the rights of the opposition, as defined in Article 10 of the Constitution.⁵⁷ It also guarantees public funding, in accordance with the provisions of the law. This funding mechanism is intended to enhance the effectiveness of the opposition in its performance of its parliamentary and political functions. The Moroccan state budget thus provides for an annual financial allocation for political parties. The distribution of this funding is conditioned by participation in elections and the obtaining of a minimum percentage of the votes to secure seats in elected institutions. This right to funding applies equally to all parliamentary groups, regardless of their position as majority or opposition.

Furthermore, some of the rights enshrined in Article 10 reaffirm established freedoms, such as the freedom of opinion, expression, and assembly mentioned in Articles 25⁵⁸ and 29⁵⁹ of the constitution, as well as public funding and the contribution to the training and

57 Article 32 of Organic Law No. 29-11 on political parties states: “The State grants legally constituted political parties annual support to contribute to the coverage of their management expenses”, see Official Bulletin No. 5992 of November 3, 2011.

58 Article 25 provides that: “The freedoms of thought, opinion, and expression in all their forms are guaranteed.”

59 Article 29 provides that: “The freedoms of assembly, gathering, peaceful demonstration, association, and union and political affiliation are guaranteed.”

representation of citizens by political parties, as indicated in Article 7.⁶⁰ Other rights apply to all parliamentarians, regardless of their position vis-à-vis the government, including participation in the legislative process, oversight of government work, proportional representation within parliamentary bodies, and the necessary means to fulfil their functions. What is more, some rights such as “the exercise of power within the framework of democratic alternation”, do not confer specific competencies. In contrast, two rights are specifically granted to the parliamentary opposition: the presidency of the legislative committee in the House of Representatives and the privilege of having its bills examined during the monthly session dedicated to this purpose.

While Article 10 of the 2011 Constitution also guarantees the opposition the right to contribute to the nomination and election of members of the Constitutional Court, the impact of this right is less clear. The 2011 Constitution reconstituted the Constitutional Council as the Constitutional Court, maintaining twelve members appointed for a non-renewable nine-year term. Six members are appointed by the King, including one member appointed by the Secretary-General of the Supreme Council of Ulema (Islamic scholars). The remaining six members are elected by the two Houses of Parliament. Three members are elected by the House of Representatives and three by the House of Councillors, through a secret ballot requiring a two-thirds majority of each House's members. In theory, this electoral process involves both majority parties and the parliamentary opposition, ensuring that opposition members can be part of the Constitutional Court. However, government-affiliated MPs may not have to consider the opposition's wishes if they hold two-thirds of the seats. Hence, the opposition's influence depends on its seat share.

In sum, Article 10 guarantees numerous rights to political oppositions within the parliamentary institution. Two principal categories we deal with in the following are: (I) rights related to legislative drafting, and (II) rights to oversee government action and parliamentary inquiry.

I. Rights Relating to the Legislative Drafting

The Moroccan Constitution, in its Article 10, ensures the parliamentary opposition's active participation in the legislative process, including the inclusion of bills on the agenda of both chambers. Article 82, paragraph 2, states that “at least one day per month shall be reserved for the examination of bills, including those of the opposition”. This provision requires the legislature to devote that monthly day to this review. Thus, Article 82 guarantees the effective participation of the opposition in the legislative process thereby preventing the majority from controlling the proposals of the opposition.

In addition, Article 10 confers on the opposition the chairmanship of the committee responsible for legislation in the House of Representatives. Article 69 of the 2011 Consi-

60 Article 7 states that: “Political parties work to provide guidance and political training for citizens, as well as to promote their participation in national life and the management of public affairs.”

tution, in its fifth paragraph, stipulates that “the rules of procedure shall determine, inter alia, the number, powers, and organization of the standing committees, and reserve the chairmanship of one or two of these committees for the opposition”. In accordance with this provision, the House of Representatives’ rules of procedure of 2024 state that the chairmanship of at least two committees must be reserved for the opposition, including, on a mandatory basis, the Committee on Justice, Legislation, Human Rights and Freedoms, whose chair hence can only be held by a member of the opposition.⁶¹ By assuming the chairmanship of certain parliamentary committees, the opposition acquires the means to be informed of government activities which helps to participate in overseeing the government and in legislating.

During the ninth legislature (2011–2016), for instance, the opposition effectively chaired three standing committees: the Commission on Justice, Legislation, and Human Rights, led by the Party of the Constitutional Union; the Commission for Foreign Affairs, National Defence, Islamic Affairs, and Moroccan Residents Abroad, under the chairmanship of the Authenticity and Modernity Party; and the Commission for the Interior, Territorial Communities, Housing, and Urban Policy, chaired by the Istiqlal Party. These prerogatives allow the opposition to play a significant role in defining the agenda of the assembly. It is thus able to propose specific topics for debate and to animate discussions by presenting alternative points of view to majority decisions.

The constitutional text also enshrines the status of the parliamentary opposition in its “positive” logic – that is to say, as a force for initiative and proposal. This dynamic is reinforced by the affirmation of the principle of proportionality in the representation of the opposition in the bodies of parliament, further illustrating its ability to contribute to the work of the majority. Thus, the rights granted to the opposition reinforce the distinction between the opposition within the regime, which is seen as a legitimate contender for power and is expected to eventually gain power through democratic processes, and the opposition against the regime, which refuses to participate in the institutional game and does not seek to gain power through the established political system.

II. Rights of Oversight and Inquiry

The oversight function exercised by the parliamentary opposition is fundamental in a democracy. It involves monitoring and evaluating the actions of the government and its majority. Although the government and its majority are responsible for decision-making, these decisions must be executed under the vigilant eye of the opposition to revitalize parliamentary oversight.⁶² The constitution guarantees the opposition an active role in overseeing government work, notably through motions of censure, government questioning, oral

61 See in particular Article 9 of the House of Representatives’ Rules of Procedure for 2024, https://www.representants.ma/sites/default/files/2024-09/RI2024F_0.pdf (last accessed on 30 June 2025).

62 *Pauline Türk*, *Le contrôle parlementaire en France*, Paris 2011, p. 24.

questions, and parliamentary inquiry commissions. Oral questions, in particular, offer all parliamentarians, including those in the opposition, the opportunity to publicly present their criticisms and divergent viewpoints. Additionally, other forms of oversight, such as motions of censure and inquiry commissions, are implemented collectively, thereby enhancing the opposition's capacity to exercise structured oversight.

The opposition can use the motion of censure to assert itself on the political scene and to create crises in its relationships with the majority and the government. Such motion was filed and adopted twice in Morocco's constitutional history: in 1964, against the *Bahnini* government, and on 14 May 1990, against the *Azzedine Laraki* government.⁶³ Both motions did not lead to a government downfall due to a lack of support by the parliamentary majority. However, they served as a pressure instrument for the opposition, creating divisions within the parliamentary majority and destabilizing the government. Even if a motion is not actively used, the mere possibility to do so can influence the government's action.

The first Moroccan Constitution of 1962 was particularly advanced in this area compared to other constitutions. Indeed, it only required the signature of one-tenth of the members of parliament to present a motion of censure. This provision encouraged the parliamentary opposition to initiate a motion of censure against the government in 1964. In all the constitutions that Morocco has known, the adoption of a motion of censure requires an absolute majority. Although this legal framework has often limited the opposition's ability to provoke major political changes, it has managed to exert significant pressure on power. By taking actions outside parliament, such as calling strikes and drafting constitutional memorandums, the opposition has succeeded in influencing the political debate and making its voice heard.⁶⁴ The 2011 Constitution significantly strengthened the role of the opposition by reducing the number of signatures required to submit a motion of censure from one-quarter under the 1996 Constitution to one-fifth (Article 105). However, even if the opposition reaches this quorum, it must still overcome the hurdle of having the motion approved, which requires the vote and agreement of the majority of the members supporting the government. This requirement highlights the challenges the opposition faces in fully exercising its role as a counterbalance.

For the House of Councillors, the 2011 Constitution removed the right to present or vote on a motion of censure, unlike the 1996 Constitution. Instead, Article 106 allows the opposition to submit a motion of interpellation, signed by one-fifth of the members, followed by a debate without a vote. This provision gives the opposition a tool to exert pressure on the government and monitor its actions in line with citizens' expectations. Although the primary goal of a motion of censure is to overthrow the government, which is difficult to achieve in practice, the submission of a motion of censure remains an

63 *Abdelhamid Benkhattab*, *Le parlement marocain : Régulation politique et incertitude transitionnelle*, REMALD (2012), p. 44.

64 *Sanae Kasmi*, *Le statut de l'opposition au Maroc*, *Revue française de droit constitutionnel* 102 (2015), p. 440.

important symbolic act for the opposition. It allows the opposition to officially express its disagreement with government policy and exert pressure on the government. An illustration of this mechanism in practice occurred on November 20, 2017, when the House of Councillors rejected a motion of interpellation regarding the government's accountability in the "Sidi Boulaalam tragedy" in the province of Essaouira. Introduced by the Authenticity and Modernity Party, this motion followed the tragic event of November 19, 2017, where 15 women lost their lives in a stampede during a food distribution.⁶⁵

Although reserved for opposition groups, other forms of oversight must meet a numerical condition. Thus, these are rights granted to the opposition as a minority. However, the opposition distinguishes itself from a mere minority by actively criticizing the ruling power and positioning itself as a political alternative. The ability to trigger constitutional review is one example. According to Article 132 of the Moroccan Constitution, one-fifth of the members of the Chamber of Representatives (or 40 members of the Chamber of Councillors) may refer matters to the Constitutional Court. This competence protects minority rights and acts as a counterbalance. Requiring a qualified two-thirds majority for certain important decisions, such as constitutional revision according to Articles 173 and 174 or the appointment of constitutional judges according to Article 130 of the constitution, helps to ensure that minority rights are not crushed by a potentially oppressive majority.

Furthermore, the oversight function allows the opposition to request information on the actions of the government and administration, to demand the communication of necessary documents, to hear from the heads of public services and enterprises, and to establish inquiry commissions. These prerogatives are essential for the opposition to fully exercise its role of oversight and counterbalance. The purpose of inquiry commissions, for example, is to achieve two main objectives: to ensure effective political oversight of the government and to collect necessary information for the legislative function.⁶⁶ They are also at the intersection of political and judicial oversight methods.⁶⁷ In this regard, the first three Moroccan constitutions (1962, 1970, 1972) did not mention the right to form parliamentary commissions of inquiry. This right was introduced in the 1992 and 1996 constitutions, but it remained difficult for the opposition to exercise, as it required a request from the parliamentary majority. Now, Article 67 of the 2011 Constitution allows one-third of the members of the House of Representatives (132 members) or the House of Councillors to form commissions of inquiry.

These commissions gather information on specific facts or the management of public services and submit their findings to Parliament. They cannot be formed if judicial proceedings are ongoing regarding the facts in question. To activate this important oversight mech-

65 Telquel, *Le gouvernement ne sera pas interpellé sur le drame de Sidi Boulaalam*, 27 November 2017, https://telquel.ma/2017/11/27/gouvernement-sera-pas-interpelle-drame-sidi-boulaalam_1570650 (last accessed on 1 March 2025).

66 *Nicolas Lagasse / Xavier Baeselen, Le droit d'enquête parlementaire*, Bruylant, Brussels 1998, p. 5.

67 *Vincent Marc Uyttendaele, Trente leçons de droit constitutionnel*, Brussels 2014, p. 394.

anism and pressure the government to improve its public policy outcomes, the 2013 Rules of Procedure of the House of Representatives include several rights for the parliamentary opposition:

1. The position of chairperson or rapporteur of the commissions of inquiry is reserved for opposition groups.
2. Priority in choosing between these two positions is given to opposition groups, and only a member from the opposition can run for the chosen position.
3. Half of the time allocated for discussing the reports of the commissions of inquiry is reserved for the opposition.
4. All opposition groups are represented in these commissions.

While these provisions make it easier for the opposition to form commissions of inquiry, the commissions can also refer their reports to the judiciary, enhancing parliamentary oversight mechanisms.

The significance of parliamentary inquiry commissions became evident in the early 2000s, particularly with the investigation into the National Social Security Fund in 2002, which uncovered embezzlement and fraud. More recently, in 2021, an inquiry was conducted into the Ministry of Health's public contracts in response to the Covid-19 pandemic. The request to establish these commissions often originates from the opposition but can also come from parties within the governing coalition. For instance, the Justice and Development Party, then in power, requested an inquiry into hydrocarbons, with the report being released in May 2018.⁶⁸

Given the current political landscape under the government of 2021-2026, the scope of these commissions is uncertain. The three parties forming the government hold a majority of nearly 68% of the seats in the House of Representatives. The Constitutional Union and the Popular Movement support this coalition, leaving the Socialist Union of Popular Forces, the Justice and Development Party, and the Party of Progress and Socialism with little room for maneuver as they only hold 17 percent of seats (Socialist Union of Popular Forces: 34 seats, Justice and Development Party: 13 seats, Party of Progress and Socialism: 22 seats). Their diversity makes it difficult to form an effective counter-power. Thus, despite the constitutional recognition of the opposition as an essential component of both chambers, it will be difficult for them to establish inquiry commissions in the current political context.

In addition to commissions of inquiry, parliamentary questions play a crucial role in overseeing government actions. Article 100 of the Constitution mandates a weekly session for parliamentary questions, with the government required to respond within twenty days. Questions on general policy are addressed monthly by the Head of Government, with responses due within thirty days. In addition, Article 275 of the Rules of Procedure of

68 *Rachid El Bazzim*, *The Independence of Morocco's Competition Council*, *Journal of African Law* 67 (2023), p. 167.

the House of Representatives allows each member of parliament to submit written or oral questions to the Head of Government, with responses required within thirty days. Members may also direct questions to ministers regarding sectoral policies, with responses required within twenty days. Weekly and monthly public sessions are dedicated to parliamentary questions, with a session every Monday for oral questions. A portion of these questions is reserved for the opposition, reflecting its representation. Hence, parliamentary questions are straightforward to utilize and challenge the government. Though their political impact might be limited, they remain a crucial tool for the opposition to monitor and scrutinize government actions.

E. The Duties of the Parliamentary Opposition

The Moroccan Constitution grants specific rights to the parliamentary opposition, with the goal of integrating it into the majority decision-making process. However, these rights are accompanied by often undefined duties (I), which can increase the burden on the opposition. In this context, the separation of powers is manifested between, on the one hand, the government and all parliamentarians supporting its actions, and on the other, the opposition, which proposes and critiques the alternatives (II).

I. The Parliamentary Opposition: An Actor of Pluralism and Political Diversity

A major issue in the legal recognition of political opposition is the need to guarantee pluralism. The rules that grant rights to the opposition help to preserve political diversity, provided they are adapted to the various forms that these oppositions may take. It is crucial to consider the foundations of parliamentarism as well as the normative model that governs parliamentary deliberations and mandates.⁶⁹ Although the majority retains decision-making power, it is now under the scrutiny of the opposition. The latter plays a crucial role in ensuring respect for the principles of debate and pluralism of opinions.⁷⁰ Rather than positioning itself as an adversary, the opposition is perceived as a complementary partner, fostering cooperation within parliament. It is essential to note that even though the opposition participates in providing oversight, it is parliament that holds the general authority in this matter.

In exchange for the rights granted to it, the parliamentary opposition is expected to commit to fulfilling its loyal duties, criticizing the government without challenging the rules of the game.⁷¹ According to Article 10 of the constitution, “opposition groups are required to make an active and constructive contribution to parliamentary work”. Therefore,

69 *Maurice Var de Hulst*, *Le mandat parlementaire. Étude comparative mondiale*, Geneva 2000, p. 6.

70 Article 10 of the Constitution, which defines the status of the parliamentary opposition, ensures it “the freedom of opinion, expression, and assembly.”

71 *Marie-Claire Ponthoreau*, *L’opposition comme garantie constitutionnelle*, *Revue de droit public et de science politique en France et à l’étranger* 4 (2002), p. 1136.

in return for its rights, the parliamentary opposition is now seen as needing to fulfill its duties, showing the capacity and ambition to govern as a viable alternative. This is particularly explicit in the Moroccan context, where rights are granted to the opposition to enable it to “properly fulfill its missions related to parliamentary work and political life”.

However, the Moroccan constitution does not specify the missions that the opposition must accomplish. Nevertheless, the constitution requires the parliamentary opposition to adopt an active and constructive attitude to fulfill its duties. It cannot be content with mere criticism but should participate positively in parliamentary work. This behaviour is essential to ensure that the decisions made are balanced and representative of diverse opinions. The rights of the opposition are granted in exchange for this responsibility. The goal is to ensure that the opposition contributes positively to the functioning of institutions, rather than creating obstacles. Thus, the opposition plays an important consultative role, collaborating with the majority to legitimize the decisions made rather than establishing a true counter-power. The constitutional enshrinement of the duties of the opposition reinforces the idea that its specific rights can only be exercised if it uses its prerogatives with moderation and does not hinder legislative production.⁷²

The exercise of the opposition's duties is conditioned by the implementation of its status by the majority. The majority holds the power to define the components of the opposition's status, specifying them through sub-constitutional norms. The Moroccan constitution uses the technique of referral, which consists of formally referring to other provisions. Thus, Article 10 provides that the modalities for exercising the rights of the opposition are determined by organic laws, ordinary laws, or the internal regulations of each chamber of parliament. Additionally, Article 69 specifies that the internal regulations of the chambers establish the rules of membership, composition, and functioning of parliamentary groups, as well as the specific rights recognized to opposition groups.

By mentioning the duties of the parliamentary opposition, the constitution allows the majority to condition the rights of the opposition on an attitude deemed acceptable. However, it is difficult to determine when the opposition has moved from legitimate action to illegitimate obstruction. This ambiguity can be politically exploited, allowing the majority to judge the “constructive” attitude of the opposition under the supervision of a chamber president whose impartiality is crucial.⁷³ Although the constitutional provisions are intended to protect the opposition, they can also reinforce the dominance of the majority.

72 *Renaud Muller*, Un nouveau rôle pour l'opposition dans la procédure législative ?, *Cahiers de la recherche sur les droits fondamentaux* 10 (« Esclavage et travail forcé ») (2012), p. 105.

73 *Valérie Sommacco*, *Le droit d'amendement et le juge constitutionnel en France et en Italie*, Paris 2002, p. 65.

II. *The Parliamentary Opposition: Guardian of the Separation of Powers and Adversarial Debates*

To ensure an effective democratic debate, the representative assembly would operate on the “litigants’ model”: “it would not be a matter of organizing a conversation, a dialogue, but rather of ensuring the presence of opposing arguments, explicitly contradicting each other”.⁷⁴ This approach allows for testing of the robustness of political decisions and ensures more informed and responsible decision-making. A representative opposition makes debates livelier and can contest – and sometimes neutralize – the initiatives of the executive power. The presence of a parliamentary opposition is essential if parliament is to serve as a counterbalance to the executive power.⁷⁵

Indeed, regardless of the absence of effective disciplinary instruments available to the ruling majority, the tendency towards the fusion of legislative and executive powers remains a characteristic of Moroccan constitutional practice. The separation of powers is now reflected in a marked divide between the majority and the opposition in parliament. This dynamic is common in regimes where the concentration of legislative and executive powers in the hands of a single party or a coalition of parties accentuates the polarization between majorities and oppositions.⁷⁶ In Morocco, coalition governments are typically formed when no single party wins a majority of seats in the parliament. Parties must then negotiate and form alliances to create a majority coalition government. This process involves significant political manoeuvring, negotiations, and compromises among the parties involved. The role of competition is crucial, as parties vie for influence and positions within the coalition, balancing their own interests with the need to form a stable government. Maurice Duverger was one of the first to analyze this phenomenon⁷⁷, and Dean Vedel also recognized it in his comments on the French Constitution of 1958, noting that the dialogue between the majority and the opposition tends to replace the traditional separation of legislative and executive powers.⁷⁸ Of all the Moroccan constitutions, the 2011 Constitution best reflects this logic: as the separation of legislative and executive powers becomes more difficult to implement, it becomes necessary to create new counterbalances between these two bodies through the constitutionalization of the rights of the parliamentary opposition. Declared an “essential component of both Houses”,⁷⁹ the parliamentary opposition is promised a political status and means of action that will ultimately contribute to reinventing the meaning of the separation of powers in Moroccan constitutional practice.

74 *Bernard Manin*, *Délibération et discussion*, *Swiss Political Science Review* 10 (2004), p. 190.

75 *Yves Guchet*, *Droit parlementaire*, Paris 1996, p. 65.

76 *Jean Bénetti*, *L’impact du fait majoritaire sur la nature du régime (Réflexions sur le régime parlementaire de la Ve République)*, *L.P.A.* 138 (2008), p. 20.

77 *Maurice Duverger*, *Les partis politiques*, Paris 1976, p. 515.

78 *Georges Vedel*, *La continuité constitutionnelle en France de 1789 à 1989*, Paris 1990, p. 148.

79 Article 60.2 of Morocco’s Constitution of 2011.

The effective implementation of opposition rights will take time. As Ariane Vidal-Naquet points out, it is important not to perceive the opposition as merely oppressed by an all-powerful majority⁸⁰. Granting the opposition a platform in Parliament also confers responsibilities. Within the framework of rationalized parliamentarism⁸¹, the status of the opposition involves the recognition of its rights, but also its duties, such as accepting the majority law and respecting the democratic framework.

F. Conclusion

The rights of the parliamentary opposition in Morocco stem from a coherent, determined, and constitutionalized status. They are designed to prevent a majority tyranny and take into account the balance of powers in Morocco, as well as the privileged position of the king in the political system. The status of the opposition is also recognized in the rules governing debates in parliamentary assemblies. Outside these assemblies, the rights of the opposition include proportional funding based on electoral results and access to the media.

The 2011 Moroccan constitution grants great significance to the parliamentary opposition, surpassing what is observed in many systems aspiring to democracy. Although this recognition is widely praised, some view it as a political communication strategy. Nevertheless, this advancement marks a significant turning point in the Moroccan political landscape. Recognition of the parliamentary opposition as an essential component of the Moroccan parliament reflects an ambition of profound political transformation. Constitutionalization aims not only at establishing a legitimate and active opposition but also at revitalizing a parliament that has lost credibility. Thus, the efforts of political actors converge to restore confidence in a political system seeking renewal.

A cultural transformation can accompany the process of strengthening the opposition, as the political climate in which parliamentarism operates profoundly influences the effective practice of law. Indeed, a climate of consensus and positivity fosters the harmonious and constructive application of laws. Conversely, a political climate marked by conflicts leads to a more tumultuous and often antagonistic practice of law. This dichotomy clearly illustrates the impact of the political environment on the effectiveness and nature of parliamentary practices. Therefore, a cultural evolution cannot be dissociated from the envisaged reforms, as it conditions the success of parliamentary opposition and its acceptance within society.

80 *Ariane Vidal-Naquet, L'institutionnalisation de l'opposition. Quel statut pour quelle opposition ?, Revue française de droit constitutionnel 1 (2009), pp. 153-173.*

81 Rationalized parliamentarism is a dynamic that, after World War II, influenced the constitutional law of many European states. It formalizes, through written rules, practices that were traditionally based on customs, such as the formation of the government, the resignation of ministers, and the dissolution of Parliament. This approach aims to frame all political life within a formal legal structure.

Recognition of the parliamentary opposition is not intended to hinder the functioning of institutions but to improve their efficiency. Indeed, the evolution of political practices shows that the executive power tends to dominate, while deliberative bodies increasingly focus on oversight activities. In this context, the Moroccan parliament, as a place of deliberation, is called upon to play a crucial role through discussion and critique.

States adopting a new constitution during a democratic transition tend to grant explicit rights to the opposition. However, this recognition can be instrumentalized to simulate the acceptance of political pluralism without real implementation. Nonetheless, even symbolic recognition can be a resource for the opposition, which can use these symbolic clauses to claim its rights. In Morocco, the constitutionalization of opposition rights can play a role in balancing powers and pacifying the political arena. Although its effects may take time to manifest, it remains essential to maintain this balance and strengthen the resilience and legitimacy of the democratic process.

Without the opposition's contribution to adopting consensual policies to pacify the political arena, power disputes can overflow the institutional frameworks provided, leading to unpredictable situations. Indeed, as highlighted in this contribution, political opposition is not limited to parliamentary opposition. Although this analysis focuses primarily on this type of opposition, it is crucial to recognize the vitality of extra-parliamentary opposition forces in Moroccan society. The Al Adl Wal Ihssane (AWI) movement, founded in 1973, is an Islamist movement not recognized by the authorities. On the other hand, Annahj Ad-dimocrati (Democratic Path), a far-left communist party with a Marxist–Leninist ideology, shares with the AWI a strategy of boycotting elections. Together, they form a political opposition outside of parliament that is also energizing the political scene in Morocco.



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