



Statement on Morocco's Election Legislation

by Transparency Maroc and Democracy Reporting International

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Following a preliminary mission to Morocco in May by Democracy Reporting International in co-operation with Transparency Maroc, the two organisations present the following findings and recommendations:

I. General Comments on Elections in Morocco

1. The current consultation process on changing the election legislation remains limited to government parties without participation by the opposition, civil society or the public. Given the tight deadline - legislation should be adopted one year before the elections to the House of Representatives in 2007 - there is a risk that changes will be made quickly without real public debate. However, questions regarding the election system and its implications concern citizens as much as political parties.

2. While changes to the election legislation before 2002 significantly improved the quality of the elections, further amendments should be made in view of obligations under article 25 (Right to Vote) of the International Covenant for Civil and Political Rights (ICCPR), notably:

- The election legislation should stipulate criteria and procedures for the de-limitation of election districts, including an obligation that the ratio of

voters per seat is similar across the territory, in order to ensure the equality of votes. In the 2002 elections this was not respected.

- There should be additional provisions ensuring the prompt and detailed publication of election results at all levels of the counting and tabulation process.
- Access to media by candidates and parties as well as campaign financing should be better regulated.
- The election legislation should clarify the status, rights and obligations of non-partisan election observers.

3.) The role of the Chamber of Representatives should be strengthened, so that it is able to fully perform its role of holding the executive accountable. In this context the United Nations Human Rights Committee notes in its commentary on article 25:

“Where citizens participate in the conduct of public affairs through freely chosen representatives, it is implicit in article 25 that those representatives do in fact exercise governmental power and that they are accountable through the electoral process for the exercise of that power.”¹

Making the election process more meaningful and increasing its credibility will be key to addressing the widely-acknowledged problem of falling voter turn-out (51,6% in the 2002 elections).

II. Recommendations for Improving the Election Process

Before the 2002 elections, improvements to the integrity of the process were introduced, notably the use of one ballot instead of multiple ballot papers, which had facilitated vote buying and the inking of fingers to avoid multiple voting. Nevertheless, manipulations and improper payments were reported, requiring further measures to ensure genuinely democratic elections.

Election Districting should respect Equality of Votes

Currently the law (art. 2 law on the Chamber of Representatives²) entitles the Ministry of Interior to determine constituency boundaries. The law provides no criteria or procedures on how this should be done. However, election districting is particularly sensitive in that it can favour particular political parties or candidates. Furthermore, the equality of votes should be ensured. This was not respected in the 2002 elections, where the ratio of voters per seat varied greatly across the country (from 3,000 to 64,000 voters per seat).³ In order to respect international obligations, the election law should specify criteria and transparent procedures for

¹ Point 7, General Commentary (1996). Morocco ratified the International Covenant for Civil and Political Rights in 1979. The Human Rights Committee monitors the implementation of these legally binding obligations. Its comments constitute an authoritative interpretation of the Covenant.

² All articles quoted are from the Law on the Chamber of Representatives, Law No.29-02, if not otherwise indicated.

³ ‘Pour une Observation Non Partisane des Elections’, Report of a network of Moroccan NGOs on the 2002 elections.

the delimitation of constituencies and reiterate the need for a balanced voters/seat ratio.

Prompt and Detailed Publication of Results

Transparency of counting, tabulation and publication of results is a key requirement to ensure confidence in an election process. In 2002 the publication of results was delayed and contrary to stipulations of the law no intermediary results were published before the Minister of the Interior announced overall results, leading to doubts about the integrity of the process.⁴ The election legislation specifies that result forms in each polling station and result protocols produced at higher levels of the election administration should be given to all political parties. However, the law should also foresee that results are publicly posted at polling stations. Detailed results from polling stations and their tabulation should also be posted on the internet. The law should clarify that political parties can also be present at the level of “bureaux centralisateur” (art.75, 76) and that they should be given official result forms there; these should also be publicly posted outside those offices. Article 80 should not only allow candidates to inspect result forms after the elections, but also other persons (e.g. media, observers, voters).

Access to Media and Campaign Financing should be better regulated

Article 295 of the election law stipulates that access to public media will be regulated by a decree proposed by the Ministers of the Interior, Information and Justice. Given that equal access to media is a necessary precondition for democratic elections, the law should list the criteria to be applied when adopting the decree⁵.

Similarly article 289 of the election law foresees that the Ministers of the Interior, Justice and Finances decree a ceiling for campaign expenses. Again, the law should provide criteria for establishing such limits and clarify how candidates and parties should manage their campaign funds (e.g. use of a single dedicated bank account, publication of campaign expenditure).

Election Appeals and Complaints

Under any election system problems can occur and results can be contested by stakeholders, in particular if results are very close. It is therefore vital that the election system foresees avenues to address any complaint and appeal in a transparent and prompt manner.

In this context it may also be worthwhile to re-consider the provision stipulating that non-contested ballots are destroyed in the polling station after counting. Such a process does not allow re-counts. In remoter parts of the country ballots may not be contested, because of the absence of representatives of any competing parties in the polling stations. These should nevertheless have the opportunity to review ballots, for instance where polling station results seem implausible (e.g. 100% for one party).

⁴ ‘Pour une Observation Non Partisane des Elections’, *supra*, page 26

⁵ It does not appear that the law foresees ratification of such decrees by the Parliament in the sense of art. 45 of the Constitution.

Clarify the Status of Non-Partisan Election Observers

The election legislation is silent in regard to non-partisan election observers. While non-partisan election observation was carried out in 2002, the status of observers was not clear and a number of observers were prevented from entering polling stations. The Minister of the Interior indicated that a number of observers were “problematic”. To avoid similar problems in the future, the law should clearly stipulate rights and obligations of observers and transparent and objective accreditation procedures. Domestic election observation has become part of normal procedures in most transition countries, playing an important role in increasing voters’ confidence and deterring fraud.

Consideration should also be given to amending the law in order to allow international election observation. The presence of international election observers has become a wide-spread practice, even in established democracies. For example, elections in France, Spain, the United Kingdom and the United States were assessed by the Organisation for Security and Co-operation in Europe⁶. Recent elections in Palestine and Lebanon were observed by the European Union. Principles for international election observation have been agreed under the auspices of the United Nations. These principles stress the need for a clear framework for the operation of international observers in any given country.⁷

Democracy Reporting International and Transparency Maroc will closely follow the further preparation of the 2007 elections and intend to prepare an in-depth review of the electoral framework once changes to the law have been made.

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⁶ See reports on: <http://www.osce.org/odihr-elections/14207.html>

⁷ ‘Declaration of Principles for International Election Observation’, New York, October 2005, see: http://www.accessdemocracy.org/library/1923_declaration_102705.pdf