

The Maghrebian Association Fabric as an Indicator of Democratic Aspirations and the Authoritarian Syndrome

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In the Maghreb, civil society associations are one of the main actors of diversity and pluralism. Although in Tunisia, Morocco and Algeria there are very different political regimes, it can be seen that, since 2012, after the protest movements of the Arab Spring, there has been a convergent trend towards restoring government control of the association fabric. The governments of these countries try, in effect, to impede the international activity of these associations that promote democracy, human rights and civil liberties. To do so they use quite similar snares, such as the imposition of bureaucratic obstacles or complaints about international interference in the funding of these associations. This situation is a good indicator of the difficulties encountered by the democratic and pluralist aspirations of Maghrebian societies faced with government authorities.

In the Maghreb, voluntary associations are one of the main social actors that endeavour to represent the heterogeneity and pluralism of civil society.¹ Depending on the sectors involved, the causes they defend and the autonomy of action they enjoy, they are bearers, implicitly or explicitly, of a narrative that often counteracts the hegemony of the official accounts of the governors. Since 2012, after the mobilisations

of the Arab Spring, and despite the existence of three political regimes in each one of the countries involved – a young democracy in the process of institutionalisation in Tunisia, an authoritarian monarchy with auxiliary democratic mechanisms in Morocco and a gerontocratic, presidentialist, praetorian and corporatist Republic in Algeria –, there is a convergent trend towards the restoration of control over

1. This article presents some results of the projects “Problemas públicos y activismo en el Magreb. La participación social y política de los jóvenes en sus dimensiones locales y transnacionales”, funded by the Ministry of Economy, Industry and Competitiveness (CSO2014-52998-C3-2-P) and “Crisis y representación política en el norte de África. Dispositivos institucionales y contestación” (CSO2017-84949-C3-2-P), funded by the Ministry of Economy, Industry and Competitiveness, the State Research Agency (AEI) and the European Regional Development Fund.

the association fabric. This trend is reflected in the new laws regulating it (the case of Algeria, in 2012) or in the discourses that announce the reform of the latter (in the case of Morocco, in 2013, and Tunisia, in 2017). In this respect, the management of the association movement and, in particular, of the sectors that promote the mobilisation of the population in favour of democracy, human rights, civil liberties and open society, has become a valuable indicator for understanding both the democratic aspirations of societies and the authoritarian reflexes of the Maghrebian political regimes.

Tunisia: From Association Boom to the Threat of the Return of Control

In Tunisia, the rise of the association phenomenon since the 2011 Revolution is an unprecedented phenomenon in the history of the country (Al-Farshishi, 2016). The liberalisation of the right to association has been one of the priorities of the Higher Authority to achieve the objectives of the revolution, political reform and democratic transition that was established after the flight of the autocrat Zine El Abidine Ben Ali. The proclamation of Decree 88-2011 of 24 September 2011 is fundamentally liberal (Pérez Beltrán and García Marín, 2015). Although it maintains the obligation to inform the authorities that the association has been constituted, this is a mere formality, a notification that can be made in different ways and that, once completed, provides legal guarantees for the association. Each association constituted must send a letter to the General Secretariat of the Government, acting in substitution of the Ministry of the Interior with respect to the previous regime. This letter marks the start date of the legal existence of the association, which is ratified upon receipt of the certificate of approval of the standing rules within a period of less than thirty days. In

the case of a silence procedure, it is considered that the standing rules have been accepted and that the founders can publish the legalisation of their organisation in the press and then in the Official State Gazette. With this last procedure the legal existence of the association becomes definitively effective. These facilities to regularise the constitution of associations have contributed to the exponential growth of the number of registered organisations, which has doubled in little more than five years, from 9,000 in 2011 to more than 20,000 in 2017.

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Interest in the association formula expressed by Tunisian citizens and, in particular, youths, is reflected in the diversity of fields where they carry out their activities. In addition to activities related to human rights, women or unemployed graduates, the promotion and defence of new causes that were non-existent under the Ben Ali regime or did not have legal coverage, such as the associations working on the monitoring and surveillance of democratic institutions and public policies, the promotion of Amazigh culture, the defence of LGBT rights, immigrants, heritage, the environment, the fight against corruption or transitional justice, stand out. Moreover, the appearance of multiple organisations run by young people and the large proportion of youths who participate in them is remarkable (Desrues and Velasco, 2015). This association boom has benefited from the interest of international cooperation, especially the development agencies of the United Nations, the European Union and the United States, which have mobilised consistent funds to promote and consolidate the Tunisian association fabric by considering it as a key ac-



A protest in Tunis (Contacto Agency).

tor in the success of the democratic transition.² The mobilised funds have led the Tunisian government to adopt Decree 51-83-2013 of 18 November 2013, which sets the criteria, procedures and conditions for granting public funding, as well as the practical modalities of state support for the civil society actions (Pérez Beltrán and García Marín, 2015). Similarly, associations must publicly declare the aid received from foreign subsidies and inform the General Secretariat of the Government. However, despite the aid received, the reports and

diagnoses on the association fabric highlight its weaknesses, particularly the reproduction of the imbalances that affect the infrastructure and economic development of the country. Thus, they highlight the concentration in the capital of highly professionalised organisations, connected with international networks of associations, foundations and cooperation and funding organisations. In contrast, the associations in the towns within the country, in spite of also benefiting from aid from the public powers and international cooperation agencies in the

2. For example, between June 2011 and June 2012 the European Union reserved around 6,500,000 euros to support civil society through the Euro-Mediterranean Foundation of Support to Human Rights Defenders (EMHRF).

country, do not have the same level of access as the former to the centres of power and funding opportunities. Therefore, they continue to be more atomised, less professionalised and more dependent on projects and technical assistance from their partners or funders.

Together with the so-called “progressive” association sector that we have briefly presented, other initiatives, including those close to the Islamist Ennahda party, which formed part of the government from 2012 to 2014, or related to the networks of the different Salafi currents, which act in the charity, education or religious sector stand out. Although in the Ennahda environment a series of organisations are emerging that cover a whole range of activities in defence of sectoral interests and social and economic development, the truth is that, when it was in government, this Islamist party acted benevolently with a series of organisations and informal groups that, in the name of the Revolution, persecuted the old petty tyrants of the Ben Ali regime and had become guardians of morality and promoters of sharia in the neighbourhoods they controlled. With this procedure in many areas they replaced the state, whose services had disappeared. These groups, which were often members of the local committees of the League for the Protection of the Tunisian Revolution, have been accused in different places and on different occasions of aggressions against militants of the Nidaa Tounes party, of political groups of the left or the General Union of Tunisian Workers (UGTT) and against members of the forces of law and order. Faced with the growing ideological polarisation between Ennahda and Nidaa Tounes, the authoritarian restoration in Egypt and the threat of Jihadist terrorism, the League dissolved in May 2014. In that year, with Nidaa Tounes in government, control of funds from Persian

Gulf countries to fund organisations related to the sectors that promote the re-Islamisation of society became a goal. The argument used to justify it is that part of these funds are used to finance terrorism. It should be said, then, that this dualistic development of the association sector reproduces another line of fracture already institutionalised by the Ben Ali regime between progressives and Islamists, and that weighs heavily on the democratic regeneration of institutions.

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Faced with such numerical growth and interest from international agencies, governments and private foundations that cooperate in the country, the Tunisian government became concerned about its lack of knowledge of the reality of the association sector. Thus, a few weeks after his appointment in 2016, Mehdi Ben Garbia, minister in charge of relations with constitutional bodies, civil society and human rights, raised the question of the reform of the government decree of September 2011, using two arguments: the first, to respond to the requirement of Article 65 of the new Constitution to establish a specific law for associations and their funding. The second, the fight against terrorism or the possible laundering of money with the funds received by certain associations, which could be used to fund terrorist enterprises.³ The report of the Tunisian

3. See “Tunisie : Plus de 10.000 associations créées au cours des 5 dernières années sans aucun suivi de l’Eta”, *Webdo*, 27 October 2016.

Financial Affairs Commission of 2017 to the Financial Action Task Force, the international body for combating money laundering and funding of terrorism, emphasised the concern about the funding of non-profit organisations, particularly the charitable ones of a religious nature. Logically, the Financial Action Task Force stressed in its report the need to reform the 2011 legislation, which leaves the door open for a return to the constitution, operation, funding and sanctioning of associations. The associations' obligation to declare to the authorities their financial situation and, in particular, their origin, is one of the recommended measures and includes the possibility of dissolution for those who do not comply with this requirement. In fact, in the opinion of civil society actors, a sector of the government wants to take advantage of the constitutional requirement of a law to govern associations and introduce greater control of political power over the association fabric beyond the currents that preach the re-Islamisation of society, with the risks of regression that this could mean in terms of rights and freedoms.

Morocco: The Shadow of the Tutelage of the State in the Name of Terrorist Threat

In Morocco, the reform of the 2011 constitutional text dedicated several articles to associations, an expanding sector that duplicated the number of organisations between 2007 and 2011, from 47,000 to over 100,000 registered. The Constitution presents the sector as an actor of participatory democracy and considers that it should contribute to the preparation, implementation and evaluation of the policies promoted by the elected institutions and public authorities (Article 12). To fulfil this mission, the Chamber of Representatives approved the creation of a "Council for Youth and Asso-

ciation Action" in December 2017. In January 2012, after the end of the mobilisations of the 20th February Movement (M20F), the Moroccan version of the Arab Spring, the new government, led for the first time by an Islamist from the Party of Justice and Development, created a Ministry of Relations with Parliament and Civil Society. In May 2014, the king announced that 13 March would be National Day to Commemorate Civil Society. There is no doubt that associations are of interest to the political powers, who see in them an actor complementary to the action of the state in the development and provision of services for the population. This is shown, for example, by the launch of the National Human Development Initiative (INDH) in 2005, which channels most of the activities of local development and service to the population. However, what concerns the Palace and its sovereign ministries (Ministry of the Interior, General Secretariat of the Government, Ministry of Justice or Foreign Affairs) is the autonomy that can be acquired by certain organisations that promote a critical discourse. The position of these associations is used by the ministers of the Justice and Development Party, which have been in the government since 2012, according to their detractors, on the one hand, to reinforce the Islamist association sector or sector favourable to its ideas, which it subsidises with public funds and, on the other, to limit the development of the "progressive" association sector.

The Sovereign Ministers and the Harassment of the Critical Organisation

The sovereign ministers are annoyed by the critical attitudes of the organisations close to the left-wing opposition that fight for human rights, against corruption or to promote civil liberties. These organisations were to some extent prominent in the heart of the 20th February Movement in 2011 and receive the symbolic, financial, technical or human support of

international organisations. In the name of the fight against terrorism, first, and nihilism, second, the organisations that receive international funding to carry out activities are attacked, which, according to the ministry, adhere only to the agenda of foreign countries. Moreover, these same activities would negatively affect the country's image and the antiterrorist struggle, so that the government goes on the offensive against civil society.⁴

The case of the Moroccan Association of Human Rights is emblematic. It has been an association of public interest since 2000 that, since 2014, has received threats of dissolution or withdrawal of its status of public interest on different occasions from the Ministry of the Interior and the General Secretary of the Government

Apart from the organisations suspected of being close to the Frente Polisario or the Islamist Justice and Spirituality party, in the spotlight for some years have been the Moroccan Association of Human Rights (AMDH), the local sections of Transparency Maroc and Amnesty International, the Moroccan Association for Investigative Journalism (AMJI), Attac Maroc, Freedom Now, Human Rights Watch or Lawyers Without Borders, among others.⁵ The case of the Moroccan Association of Human Rights is emblematic. It has been an association of public interest since 2000 that, since 2014, has received threats of dissolution or withdrawal of its status of public interest

on different occasions from the Ministry of the Interior and the General Secretary of the Government. With the reporting of unfounded accusations of the use of torture by the state security services, the Minister of the Interior referred to a recent report of the AMDH that, in line with Amnesty International, reported the existence of this practice.⁶ This issue is sensitive to the extent that cases of torture are brought before the UN International Committee against Torture. The Moroccan authorities fear that these allegations will favour countries party to an extension of the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) in the Sahara for the protection of human rights. Since then, the public activities of the AMDH have faced various obstacles from the authorities, especially by refusing to provide meeting rooms in public buildings, pressure on private operators not to give up meeting spaces and the refusal to accept the delivery of the dossier of submission of the standing rules or the receipt that certifies such delivery, in the case of the creation of new sections or the renewal of the bureaus.⁷ In line with the Ministry of the Interior, the General Secretary of the Government has repeatedly threatened the AMDH with dissolution and, to this end, as a measure of retaliation against the association's attitude, it cites the fact that it has not submitted an annual financial report.⁸ The human rights defence organisation responds that it does not have to inform the government in this regard, since it only uses foreign funds and, according to the legislation, although it

4. See the report of the International Federation for Human Rights "Maroc : un ministre accuse les ONG de répondre à un agenda étranger et d'entraver la lutte contre le terrorisme", 29/07/2014, <https://www.fidh.org/La-Federation-internationale-des-ligues-des-droits-de-l-homme/maghreb-moyenorient/maroc/15831>.

5. Faced with such harassment, the Réseau des Associations Victimes d'Interdiction (RAVI) was created. See N. Miridjian, "Au Maroc, des ONG de plus en plus muselées", *Libération*, 28 January 2018, http://www.liberation.fr/planete/2018/01/28/au-maroc-des-ong-de-plus-en-plus-muselees_1625156.

6. M. Jaabouk, "Maroc : L'AMDH a recensé 317 cas de détentions politiques en 2013", *Yabiladi*, 18/06/2014.

7. See the website of the AMDH-France, <http://amdhpairs.org/wordpress/>

8. See S. Sbiti, "Driss Dahak demande à l'AMDH de dévoiler ses comotes", *Tel Quel*, 15 August 2014, http://telquel.ma/2014/08/15/driss-dahak-demande-amdh-devoiler-comotes_1413387

risks losing its status as an association of public interest, there is no legal reason for its dissolution. Lastly, in 2017, the Ministry of Foreign Affairs joined the other departments in adopting this attitude and announced its intention to control the international funds that the associations receive. In the name of the fight against terrorism it has asked all the diplomatic delegations and international representatives present in the country to inform it about the projects eligible for funding.⁹ International financial aid is vital for most associations, as their own funds are very limited (CESE, 2016). Thus, after the rejection of associations' registration application and the obstacles to the development of their activities, the third means used is the control of access to foreign funding. Although the administrative judiciary systematically annuls the decisions of the local administrative authority when it rejects the submission of the provision receipt and insists that the suspension or dissolution of an association depends only on judicial power, and even though the Ministry of the Interior has been condemned for the illegality of the prohibition of holding a public conference in the Rabat National Library in 2014,¹⁰ the authorities maintain pressure on the critical association sector and elevate it to the position of an authentic political opposition.

The Selective Attitude of the Justice and Development Party (JDP) towards Civil Society

The first leader of the Islamist government, Abdelilah Benkirane (President of the Government between 2012 and 2016), has not been very sensitive to the abuses of civil liberties, beyond the cases that affected the organisations

sympathetic to his ideological leaning. He has been targeted because of the conflictive relation he has had with the feminist association sectors, while the Ministers of Communication and Justice have limited themselves to advising the associations victim of the decisions of the Secretariat General of the Government or the Ministry of the Interior that enforce their rights before the court and to recall that the authors of false reports of torture can be pursued by the law (Desrues, 2015).

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The head of the Ministry in Charge of Relations with the Parliament and Civil Society launched in 2013 the National Dialogue on Civil Society and the New Constitutional Prerogatives Roles and brought together in meetings, according to the data, around 9,000 associations (Desrues, 2015). However, he has been criticised for the partisan use of his position to promote Islamist organisations and stigmatising those associations that defend causes or ideologies he does not share with the excuse that they receive funds from foreign sources. Among the examples of the latter we have the Moroccan Association for the Fight Against AIDS (ALCS), the Moroccan Association of Human Rights (AMDH), the Alternatives Forum in Morocco (FMAS) or Bayt Al Hikma. It is not surprising, therefore, that the "progres-

9. T. Savage, "Les Affaires étrangères reprennent la main sur la coopération en contrôlant les financements étrangers au Maroc", *Tel Quel*, 7 April 2017, <https://telquel.ma/2017/04/07/les-affaires-etrangeres-reprennent-main-cooperation-en-controlant-les-financements-etrangiers-ongmarocaines_1542159>

10. See "L'État marocain s'achemine-t-il vers l'interdiction de l'Association Marocaine des Droits Humains (AMDH) d'exercer ses activités?", 4 August 2014, <http://amdhpairs.org/wordpress/?p=1458>

sive” association sector refused to participate in the National Dialogue on Civil Society and supported the Appel de Rabat, an alternative initiative signed by 500 associations to establish a national dialogue outside the tutelage of the government. This sector fears an alliance between government conservatives, whether ministers of the Justice and Development Party (PJD) or sovereignty ministers (Interior, the General Secretariat of the Government), to promote restrictive legislation that further hampers the development of a democratic and plural civil society that shares the values of universally recognised human rights. Bill No. 89-15, concerning the Advisory Council for Youth and Community Action, adopted by the Chamber of Representatives in December 2017, ratifies the fears of the Appel of Rabat, since it proposes the establishment of a power under the control of the king and the government, with a purely consultative function and unable to act on its own initiative.

In the context of the wave of protests of the Arab Spring, to prevent a contagion effect that threatened the country, subjected to a series of riots in different places due to the increase in the prices of basic consumer products during January 2011, the President adopted a series of measures to buy the social peace funded by the revenue from hydrocarbons

Within the Moroccan political context, the organisations that defend rights and promote democracy and public liberties have become the last critical stronghold with international scope after the domestication of most of the political parties (Desrues, 2018). In this respect, the attitude of the ministers of the PJD is illustrative of the political class’s conformism with the guidelines of the sovereign ministries. The international repercussion of the activism that some associations carry out annoys the public

powers, which present their action within respect for human rights and the framework of the “democratic option” reiterated by the king in his speeches.

Algeria: Reforming the Law to Retake Control

In 2011, Algeria had a little over 93,000 registered associations, according to the Ministry of the Interior. Although most of them are local in scope (Izarouken, 2012), a small group of organisations in the field of human rights, civil liberties and the cultural and linguistic rights of the Amazighs concern the Algerian government. In the context of the wave of protests of the Arab Spring, to prevent a contagion effect that threatened the country, subjected to a series of riots in different places due to the increase in the prices of basic consumer products during January 2011, the President of the Republic Abdelaziz Bouteflika adopted a series of measures to buy the social peace funded by the revenue from hydrocarbons. In June of the same year, he convened the “États généraux de la société civile”, whose recommendations advocated the liberalisation of the right to association. However, Law no. 12-06 of 12 January 2012, which repealed the 1990 law, introduced restrictive provisions both for the creation of new associations and for those that previously existed, by subjecting them to an authorisation regime that replaces the declarative regime in force to date based on simple notification. This legislative modification allows for greater control by the authorities over the association fabric and leaves the multiple associations created in the framework of Law no. 90-31 of 4 December 1990 in a vulnerable situation, which had worked for years with a simple declaration, but without receiving a confirmation clearly stipulated by the administration, as the silence procedure

acted as authorisation (Human Rights Watch, 2014). The new legislation confirms what was announced by the leaders' statements when, in the mid-2000s, they resumed the idea of reforming the association law (Benramdanne, 2015). At that time, the Algerian government formulated two types of criticism of the association world: the interference of foreign powers through the introduction of external activity and funding agendas, on the one hand, and the social or economic uselessness of the associations, the vast majority of which were, it said, inactive or had little impact on society despite the public subsidies received, on the other (Benramdanne, 2015). Paradoxically, in the name of reactivation of association life, so that it fulfils its role of encouraging citizens and providing responses to social demands, this new legislation was adopted, which offers the advantage for the government of facilitating the neutralisation of critical associations and support for associations that serve the interests of the Presidency of the Republic. In other words, the aim is to create a civil society that extends the traditional clientelist system. With the new legislation, it is estimated that two thirds of the existing associations had not renewed their authorisation in 2015, which might suggest two situations: that they have disappeared or that they are in an active situation of an alegal nature and, therefore, under the threat of being persecuted by the law. Another phenomenon that slows down the development of associations is related to the attitude of the police and the gendarmerie, which continue investigating the founding members of the associations that request authorisation, even though the law does not provide for this. Neither do the authorities always deliver the receipt of submission of register of the standing rules or respond to authorisation requests with which, nevertheless, the legislation requires compliance. The organisations affected by the obstruc-

tion of the forces of law and order or public administration generally work in the field of the promotion of democracy and defence of human rights and civil liberties. Association pluralism is also limited with the argument of preventing the interference of foreign interests in the country. Any foreign cooperation or funding has to be reported to the Algerian administration, which, before deciding on its authorisation, will assess whether or not it contravenes national values (Article 22). Apart from the authorisation and access to public funding, since 2014 control by the Ministry of the Interior has also been carried out when certain organisations ask to hold public meetings (Driss-Aït Hamadouche, 2017).

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The authorities are adept at cloning associations and are also using the internal conflicts that many associations go through to exploit splits or contribute to them. The tendency to resolve conflicts through splits helps to weaken associations and the multiplication of organisations with similar spheres and objectives, as was the case with the Algerian League for the Defence of Human Rights (Human Rights Watch, 2014). The ideological polarisation between Islamists and progressives is another means that successive governments have used to justify their interference without having to resort to repression (Driss and Driss-Aït Hamadouche, 2012).

In short, despite the exponential growth in the number of associations, the fact is that Algerian civil society is weakened and unable to

fulfil the role of mediator between society and state, which partly explains the multiplication of social mobilisations of protest throughout the territory, which usually end in riots that trigger populist or clientelist responses, or police repression.

Conclusions

The right to freedom of association is recognised in the three Maghrebian countries. However, only Tunisia has legislation that comes close to the full exercise of this right. However, voices are heard from the government expressing the intention to reform legislation in the name of transparency in the internal management of associations, control of funds from abroad and the fight against international interference or terrorism. These arguments are reminiscent of those used in neighbouring countries, Algeria and Morocco, to bias freedom of association and establish control of the public powers over the organisations critical of their respective policies. In this regard, the converging trend between Algeria and Morocco to use the same tricks is striking: refusal to register the request for authorisation or to deliver the receipt of submission of the said request, impeding the holding of public activities, control of cooperation with international organisations and access to international funding, and so on. These measures, taken in the name of the fight against radicalism and terrorism, are always aimed at organisations that promote democracy, defence of human rights and civil liberties. This situation is a good indicator of the difficulties encountered by the democratic and pluralist aspirations of Maghrebian societies in the face of the permanence of the authoritarian syndrome among the ruling circles of their respective countries.

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