

DOSSIER

PRESS FREEDOM IN MOROCCO: a changing arena



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ABSTRACT – This article studies the structure of the press in Morocco, as well as its changes in light of the rules of conflict between forces with contradictory interests, positions, and expectations vis-à-vis the press. We base this approach on an observation of the historical changes that have occurred in press legislation in Morocco, in the institutional framework regulating the press, and the productive dynamics of press platforms in terms of the fight for a professional and independent press. The historical approach to the conflict situation is very important because it will show that the Moroccan public space has witnessed moments of harmony, apprehension, and tension which brought its political and media spheres out of a state of coexistence, over short periods, to enter into conflict, by risking imprisonment, by arresting newspapers or by imposing custodial sanctions on journalists, or by imposing fines on newspapers that are disproportionate with regard to their turnover, or even by deciding to prevent journalists from practicing their profession.

Key words : Morocco. Press legislation. Structure. Freedom. Conflictuality.

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LIBERDADE DE IMPRENSA EM MARROCOS: uma arena em mutação

RESUMO – Este artigo estuda a estrutura da imprensa em Marrocos, bem como as suas mudanças, à luz das regras de conflito entre forças com interesses, posições e expectativas contraditórias face à imprensa. Baseamos esta abordagem na observação das mudanças históricas ocorridas na legislação de imprensa em Marrocos, no quadro institucional que regula a imprensa, bem como na dinâmica produtiva das plataformas de imprensa na luta por uma imprensa profissional e independente. A abordagem histórica da situação de conflito é muito importante porque mostrará que o espaço público marroquino testemunhou momentos de harmonia, apreensão e tensão que tiraram as suas esferas política e mediática de um estado de coexistência, durante curtos períodos, para entrar em conflito, arriscando a prisão, prendendo jornais ou impondo sanções de prisão a jornalistas, ou impondo multas aos jornais desproporcionais ao seu volume de negócios, ou mesmo decidindo impedir os jornalistas de exercerem sua profissão.

Palavras-chave: Marrocos. Legislação de imprensa. Estrutura. Liberdade. Conflito.

LIBERTAD DE PRENSA EN MARRUECOS: una arena en transformación

RESUMEN – Este artículo estudia la estructura de la prensa en Marruecos, así como sus transformaciones, a la luz de las reglas del conflicto entre fuerzas con intereses, posiciones y expectativas contradictorias respecto a la prensa. Basamos este enfoque en la observación de los cambios históricos ocurridos en la legislación de prensa en Marruecos, en el marco institucional que regula la prensa, así como en la dinámica productiva de las plataformas periodísticas en su lucha por una prensa profesional e independiente. El enfoque histórico de la situación de conflicto es muy importante porque mostrará que el espacio público marroquí ha experimentado momentos de armonía, aprensión y tensión que han llevado a sus esferas política y mediática de un estado de coexistencia, durante cortos períodos, a entrar en conflicto, con riesgos de encarcelamiento, cierre de periódicos o la imposición de penas de prisión a periodistas, así como la aplicación de multas a los medios desproporcionadas en relación con su volumen de negocios, o incluso la decisión de impedir que los periodistas ejerzan su profesión.

Palabras clave: Marruecos. Legislación de prensa. Estructura. Libertad. Conflicto.

LA LIBERTE DE LA PRESSE AU MAROC: une arène en mutations

RÉSUMÉ – Cet article étudie la structure de la presse au Maroc, ainsi que ses mutations, à l'aune des règles du conflit entre des forces aux intérêts, positions et attentes contradictoires vis-à-vis de la presse. Nous appuyons cette démarche sur une observation des changements historiques survenus dans la législation de la presse au Maroc, dans le cadre institutionnel régulant la presse, ainsi que la dynamique productive des plateformes de presse au niveau de la lutte pour une presse professionnelle et indépendante. L'approche historique de la situation conflictuelle est très importante car elle montrera que l'espace public marocain a été témoin de moments d'harmonie, d'appréhension et de tension qui ont fait sortir ses sphères politique et médiatique d'un état de coexistence, sur de courtes périodes, pour entrer en conflit, en risquant l'emprisonnement, en arrêtant des journaux ou en imposant des sanctions privatives de liberté aux journalistes, ou encore en infligeant aux journaux des amendes disproportionnées par rapport à leur chiffre d'affaires, voire en décidant d'empêcher les journalistes d'exercer leur profession.

Mots-clés: Maroc. Législation de la presse. Structure. Liberté. Conflictualité.

1 Introduction

The principles of separation of powers, distribution of skills, responsibility, and organization of public interactions, guaranteeing a balance between legislative, executive, and judicial powers, are at the heart of the functioning of democratic regimes. These functions are even accompanied by prerogatives framed by the Constitution and also offer a climate conducive to the exercise of missions. It is also their intrinsic logic of counter-power which allows them to face authoritarian temptation.

The media represent, for their part, what we call a symbolic fourth estate¹ because they do not have the material and institutional tools held by the three aforementioned powers. This parallel power of the media is nourished in particular by its capacity to translate the aspirations of the social sphere. This sector indeed plays a role in the development of a democratic public sphere through a series of observations, suggestions, and solutions to problems, all levers which can often prove to be more influential and even more efficient than all the means of action of the three “first” powers, because it is very often in the light of what is broadcast in the media that the representatives of the legislative, executive and judicial powers understand societal issues.

For these reasons, the press constitutes a sphere of conflict(s) in Morocco. This research aims to discover the different aspects by addressing its nature, its subject, its different fields and parts, its means, and, finally, its results.

This field has, in Morocco, been the subject of profound changes that have had a tangible impact on the performance of its functions of information, education, supervision, awareness, and entertainment. These are changes that relate to the legal, regulatory, representational, institutional, professional, ethical, and economic aspects of the Moroccan press.

In this research, we will first attempt to address the different periods experienced by this conflict, emphasizing the changes that occurred in terms of actors as well as issues. We will then observe that the conflict in the journalistic space is in a way the microcosm of tensions on a larger scale, concerning democracy in a country that has not yet found a healthy and safe path to join the club of democratic countries, despite a process of democratization that began a long time ago.

2 Context and issues

At the dawn of the country's independence (1956), "the notion of a journalistic field [...] does not have much meaning since the journalists working in the press organs were almost all of them agents of the political field, [addressing] politically captive audiences" (Benchenna et al., 2017, p. 241). Then, during the years of lead² (1960-1990): "The dissident partisan press became [...], by capillary action, a regular and systematic target of the Ministry of the Interior" (Chafik, 2023, p. 5). From then on, al-k tla, literally "the Block", a tripartite political coalition formed in 1971³, "demands the establishment of a democratic regime as well as respect for public rights and freedoms, in particular the right to freedom of meeting, association and press" (González Riera, 2011, p. 36). The takeover "reached its climax with the annexation of the media field to the Ministry of the Interior, nicknamed mother of ministries, during the era of Driss Basri [1993-1994]" (Iharchane, 2019, p. 252). Concerning the audiovisual field, Ahmed Hidass affirms that it "was opened (and not liberalized) to the private sector (in the sense of commercial companies) in 2005" (2016, p. 29).

As for "the golden age of the independent press (1997-2010)" (Naïmi, 2016), it was not without intense turbulence. Myriam Catusse underlines that this particular journalistic genre, "with its flagship titles, *TelQuel*, the *Journal Hebdomadaire* [are subject to] pressure and [some] political violence (trials, imprisonments, tax adjustments)" (Catusse, 2013, p. 45). The press therefore seems to "remain dependent on constitutionalized red lines, causing inconsistencies between the texts of laws, offering opportune ways of evading disturbing voices, and ultimately disjoining the legal arsenal which is nevertheless conducive to a real craze for media freedom" (Chafik, 2023, p. 13).

We assume that it is in the light of legal texts, themselves evolving according to the socio-political situation, that the various forms of adversity, conflict, and combat the country has experienced and continues to experience are taking shape. The Moroccan professional press, from a political-media point of view but also between the actors who participate. We therefore wish, for our part, to study how these different struggles, since the country's independence, have forged the Moroccan press as we know it today.

3 Conceptual approach

The power of the media proves to be a double-edged sword in the sense that it can constitute either a mirror of social reality or a tool of disinformation. Essential to the democratic process, as long as it is truly free and independent, the media sphere can boast of a certain number of main functions, declined, in particular, by Bryant and Thompson: "Guarantee the right of access to knowledge. Working for a democracy of communication that unlocks public arenas. Promote political participation. Managing discussion in society, all tendencies combined. Monitor the institutions of society and protect it from deviation and corruption. Help with decisions. Influence public opinion trends. Observe contemporary events⁴" (2002, pp. 307-309).

Despite the structural influence of public power, it is also sometimes "the media that makes the event: investigative journalism, the scoop, the unexpected announcement or the revelation of a secret are all varieties of that dreaded political moment when the theme, the rhythm, the data are no longer in his hands. [...] The pleasure of the newspaper editor in creating something new is inversely proportional to the displeasure of the decision-maker who sees his plans revealed, his secret decisions revealed, or even his actions denounced. This is the essential power of the media: to add the unexpected to the expected, to burst into a predefined calendar, to disrupt political time, to discover for the public what those in power intend to hide" (Kessler, 2012, p. 108).

The press "in fact fulfills at least three major functions: guaranteeing freedom by exposing the secret mechanisms of politics; maintain the community by providing common references to citizens; make concerted action possible and rapid" (Maigret, 2015, p. 33).

It is a regulated field whose legitimacy and action are based, according to Marie-Soleil Frère, on the notion of pluralism (cf. Ndeke, 2021, p. 143).

The press sector also depends on the economic structure since, "Neo-classical theories, traditionally American, maintain that the more diversified the offer is on a market, the stronger the possibilities of expression of journalists are and the more audiences will be able to have access to various forms of information, the public monopoly of information leading on the contrary to the restriction of information" (Maigret, 2015, p. 168).

Conversely, "Stuart Hall considers the thesis of a hegemonic reproduction due to the structuring effect of the words of the

powerful. Because they have the first access to the media to comment on events and because they master the legitimate symbolic codes, the powerful impose on journalists or speakers an initial definition of the problems raised of which the latter remain prisoners” (Maigret, 2015, p. 170).

At the stage of setting up an event, Dominique Marchetti believes, for his part, that “the share of journalists in the production of the event tends to be lower in the regime of “obligatory” events, and therefore stronger in the regime of “unforeseen” events” (cf. Wuerbler, 2021, p. 1). As for the thesis of hegemonic reproduction, as envisaged by Stuart Hall, Tourya Gaaaybess, specialist in Egyptian media, prefers the Bourdieusian notion of homology between the political sphere and the media sphere:

The media field is all the more independent as it is autonomous from the political field and the constraints weigh all the less on journalists as the political field itself is a pluralist space. Thus, if public management of the media is virtuous in a democratic regime, it is less so in an authoritarian regime where, invariably, the media field is closely linked and controlled by the political sphere of which it becomes an appendage. (2019, p. 3).

This is the case of post-“Arab Spring” Tunisia, where the local media space is pointed out by Mohamed Ben Youssef “as a professional environment lacking benchmarks and where trials of intent and the settling of personal scores take precedence on neutrality and objective analysis of facts” (cf. Elhaou & Fitouri, 2015, p. 44).

4 Methodology

On a methodological level, our research refers to a case study, through which we will highlight Morocco as one of the countries of the “Global South”, in search of democratic transition. Perhaps we will ask ourselves the question: why Morocco as a subject of study?

Since its independence, Morocco chose the liberal option and adopted progressive legislation on the press, inspired by French legislation on the matter⁵, confirmed in the first constitution when it stipulated pluralism⁶, however, the legislative guarantee did not contribute to calming the conflict between power and political forces. The study of the Moroccan experience allows us to understand the following points:

- The laws alone do not create an appropriate environment for a professional journalistic practice based on the consideration of the press as an independent sphere;
- The necessary struggle to consolidate everything that guarantees freedom of the press, which continues to decline, given the democratic deficit, compared to the ambitions of the 1950s;
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- The monitoring of the journalistic body and the forces of civil society is necessary to guarantee freedom of the press because partisan and governmental interests can sometimes sacrifice this freedom. Three newspapers were suspended by administrative decision simply because they affected the interests of the government led by human rights activist Abderrahmane Yousseufi.

The historical approach to the conflict situation is very important because it will show that the Moroccan public space has witnessed moments of harmony, apprehension, and tension which brought its political and media spheres out of a state of coexistence, over short periods, to enter into conflict, by risking imprisonment, by arresting newspapers or by imposing custodial sanctions on journalists, or by imposing fines on newspapers that are disproportionate concerning their turnover, or even by deciding to prevent journalists from practicing their profession.

The intention behind this historical approach is to demonstrate that the relationship has always been governed by contexts and facts linked to historical circumstances, which leads us to conclude that there have been periods which have been opportunities that the body journalism has not been used correctly to consolidate the guarantees of a free, independent and professional press and protect it from all deviations and regressions.

In light of these elements, our approach will consist of studying the structure of the press in Morocco, and its changes, in light of the rules of conflict between forces (monarchical power, national movement, political parties, journalists-entrepreneurs, etc...) with contradictory interests, positions and expectations vis-à-vis the press. This can also measure the degree of evolution of press

freedom from a comparative perspective, not geographical and even less hierarchical, but relating specifically to the periods that Morocco has experienced since its independence to the present day.

We will therefore base this approach on the observation of historical changes that have occurred in press legislation, in particular in the productive dynamics of journalistic platforms involved in the fight for an independent professional press. With this in mind, it does not seem relevant to us to focus on citizen journalism which has particularly stood out online in recent years; if its actors can, through their activism and their exponential multiplication, fuel these notions of conflict or even mutation that we wish to highlight, they nevertheless do not carry a press card strictly speaking, and are, if you look closely, members of civil society among others.

Four historical periods emerge: from the Code of Public Liberties of 1958, applied after the country's independence in 1956, to the early 1970s, following two attempted military coups; of the Press and Publishing Code (CPE) from 1973 to the early 1990s, with the transition effort undertaken by Hassan II to correspond to the political preferences of his heir; finally the last two decades, separated by the "Arab Spring" (2010-2012) and the new legal texts attempting to respond to it, namely, the CPE of 2003 and the 2016 CPE.

It was therefore necessary to cross-reference the CPE as normative systems of reference, and the different Constitutions of Morocco as supreme laws. We therefore refer to Dahir⁷ No.: 1-58-378 of November 15, 1958, forming the Press Code. In the Dahir establishing Law No.: 1-73-285 of April 10, 1973, forming the Press Code. In Dahir No.: 1-02-207 of October 3, 2002, promulgating Law No.: 77-00, forming the 2003 CPE.

Regarding the 2016 CPE, it is made up of three laws, namely, Dahir No.: 1-16-122 of August 10, 2016, promulgating Law No.: 88-13 relating to the press and publishing, Dahir No.: 1-16-51 of April 27, 2016, promulgating Law No.: 89-13 relating to the Status of professional journalists, Dahir No.: 1-16-24 of March 10, 2016, promulgating Law No.: 90-13, establishing the National Press Council.

As for the supreme laws, it is a question of referring to the Dahir of December 19, 1962, page: 1773, promulgating the Constitution of 1962. To Dahir No.: 1-96-157 of October 7, 1996, promulgating the text of the revised Constitution. And finally, to Dahir No.: 1-11-91 of July 29, 2011, promulgating the text of the Constitution.

This comparative approach was finally based on the reports of NGOs, particularly those of Reporters Without Borders, which establishes a ranking of global press freedom. For Morocco, the classification is based on the presence and/or absence of trials brought against critical journalists for reasons unrelated to the exercise of their profession.

5 Code of Public Liberties of 1958: liberalism and *makhzen*⁸

It should be noted that post-independence Morocco was slow to promulgate its Constitution. The country gained its independence in 1956, but only approved the Constitution⁹ in 1962, which itself only came into force in 1963, after the first legislative elections were held. Its application only lasted two years, only to be suspended after the proclamation of the state of exception¹⁰, in 1965, for approximately five years, obviously due to the ambient conflict between the Palace and the National Movement. about the system of government, and the role of nationalist parties in this system that Morocco knows after independence.

The country also adopted a Code of Civil Liberties in 1958 (which included a law on associations¹¹, a law on public gatherings¹², as well as a law on the press¹³). The first thing that draws attention to this legal arsenal is its liberal character, arising mainly from the French law of August 26, 1944, on information.

These laws were promulgated by *dahirs*, in the absence of a Parliament to assume legislative power, the Monarch therefore playing this role (Decroux, 1967).

The press law¹⁴, promulgated under Dahir No.: 1.58.378, was distinguished by a regime of declaration and not authorization, a principle advanced in relation to the laws on the press in many Arab countries of that time, especially if we know that it was the king/sultan who was behind the promulgation. This choice, surprisingly complacent, is however not explained so much, as we will see, by an unshakeable faith in the freedom of the press, nor by a belief in the importance of pluralism in journalism, but clearly more by the desire to weaken the National Movement, which considered itself more legitimate to govern due to its important contribution to obtaining independence, and sought, neither more nor less, to eclipse the Palace.

Hoping to shift the power balance from the Palace to the National Movement, the King enacted a liberal law establishing pluralism and freedom of the press and association. This is what Morocco's first Constitution underlined in 1962, by establishing the prohibition of one-party rule and freedom of opinion and expression in all its forms.

Made possible thanks to the declaration regime, this principle of freedom, "foundation of the foundation", to use Heidegger's expression, allowed Morocco, from its beginnings, to comply with the International Charter of Human Rights. However, the absence of control in the enunciation of the articles, monarchical traditionalism, and the involvement of the press in a conflict over power were all altering elements that immediately emptied this principle of its content and clothed it with all the characteristics of an authorization regime. The principle of freedom was always dependent on the moods of power and the specificities of each period and each region.

The area of freedoms has, moreover and since then, been the subject of rather systematic cyclical treatment, cyclically opening a period of openness/tolerance during which the authority issued particularly liberal texts, before inaugurate an era of rigor/closure during which more restrictive nuances were introduced, the two situations can sometimes overlap, paradoxically offering some great latitude while others, as we will see later, were subjected to the greatest rigor; an ambivalence which strikes at the general and abstract character of the rule of law.

At this stage, the field of journalism constitutes a fertile ground for the political struggle between the Palace, which founded its newspapers and its press companies, such as the Maroc Soir¹⁵ Group, and the parties of the National Movement, which developed a more readable partisan press.

Several newspapers were created, mainly partisan, such as *al-alam*, a Moroccan daily created on September 11, 1946 by nationalists of the National Movement, which subsequently became the official Arabic newspaper of the PI¹⁶ or *al-bayān* (French-speaking), literally The Manifesto; *bayān al-yaŋm* (Arabic), literally The Manifesto of the Day, is the voice of the PPS. The opposition wanted to have a press speaking on its behalf, both in Arabic and in French, to counterbalance the hegemony of the official media. *La Nation Africaine*, the PI's French-language daily, appeared from May 1962 to February 1965, when it ended up being banned, two

months before *L'Opinion* saw the light of day. Finally, *al-taṣṣir* (The Liberation) is the Arabic-speaking daily of the UNFP, the result of the split from the PI in 1959. Directed by the jurist Mohamed Basri, known as Fqih, its editor-in-chief was Abderrahmane Yousseoufi, the same person who would become Prime Minister in 1998; due to the oppositional views of the party, the editorial line of the newspaper had in fact become radicalized towards the Palace, but also the PI.

On the other hand, and contrary to the relatively liberal spirit which characterized the government with regard to the written press, the Makhzen jealously guarded the audiovisual sector, by monopolizing radio and television, and by slowing down the emergence of private radio and television channels as long as he could. This choice was fueled by a conviction that sound and image have a stronger influence on the large sections of the population of deep Morocco who rarely had access to the written press.

At this same period, the 1958 law was already an obstacle to power, which quickly subjected it to amendments. On June 1, 1959, an amendment was made to the third paragraph of article 71, relating to the prosecution procedure. On September 2, 1959, a second amendment¹⁷ supplemented the Dahir, which therefore prohibited, in article 1, publications likely to destabilize the order. Article 2 provided, in response to the violation of the aforementioned provisions, imprisonment for a period between six months and two years and a fine between 10.000 and 20.000 dirhams, or one of these two penalties. As for article 3, it related to the prosecution procedure to which the defendant should be subject if the facts published, disseminated, or reproduced had caused or were likely to cause a breach of public order.

These amendments had a negative impact on the spirit of the 1958 legislation, and on freedom of the press, because the application of the law proved particularly strict.

The Power's need for control thus emerges from the trials to which it subjects certain leaders of partisan opposition newspapers, giving rise to imbroglis in their qualification: political opponents or journalists? Abderrahmane Yousseoufi was, for example, arrested and prosecuted in December 1959, as was his editorial director, Fqih Basri, for inciting violence and endangering state security and public safety, before being later released. After the suspension of the *al-taṣṣir* newspaper, the case moved from a charge of defamation to that of attempted assassination against the crown prince. It was a

Ministerial Council which finally determined the responsibility of the newspaper in the attacks mentioned and in the attack on the institutions of the nation, in the light of the issues published on December 13 and 14, 1959.

On May 28, 1960, article 77 was added a second paragraph empowering the Minister of the Interior to order the suspension of a newspaper or publication likely to undermine the foundations of the State, independently of other criminal sanctions provided for in the applicable texts. The Prime Minister obtained, for his part, the power to prohibit a periodical publication with increased penalties imposed in the event of violation of the requirements of article 77, ranging from imprisonment of six months to five years and a fine of 1.200 to 12.000 dirhams.

The concern of both camps is not really about the victory of professional journalism and/or respect for its ethics. Above all, it is about gaining space in the political struggle for power. The press is thus characterized by opinion journalism and fiery editorials, loaded with political messages.

The Journalists' Union, as a representative body of the press, fueled/crystallized another important part of the hostilities underway at the time.

One of the biggest bones of contention in the early days of independence was the representation of journalists. The National Union of the Moroccan Press (SNPM) was created in January 1963 as an independent professional association. The law stipulated that it must ensure: "The moral defense, the material and professional interests of the journalists who participate, as well as the freedom of the press and the media. It aims to defend the moral, material, and professional issues of the national media. It has the power to represent the interlocutors of the government and administrative authorities in all efforts that require its implementation"¹⁸.

The SNPM formed a front composed of Moroccan newspaper directors against the Mas Presse Group. In addition to the financial conditions of journalists, the Union intended to denounce the problems of publishing and distribution, the conditions of publication, and to take head-on the defense of freedom of expression and resistance to the threat of censorship that hovered over the Moroccan press.

Its leadership was assumed from its creation by personalities from opposition parties, such as Abdelkrim Ghallab for the PI press and Mohamed Yazghi for the USFP¹⁹.

The conflict is then still binary: the Palace on one side, the different parties of the National Movement on the other. Journalists are still only a tool serving partisan ideas. The editorial line of the newspapers is in harmony with the political line of the parties, and responsibility for publication and editing is assumed by the political leaders and/or intellectuals of the party.

With the declaration of the state of exception, the government ended up seizing the press and freedoms, as the Constitution allowed it to do (article 35), but this was without counting the aborted coups d'état, including the legal consequences turned the fight for press freedom on its head.

6 The 1973 law: legislative setback and intensification of the conflict

The amendment to which the laws protecting public freedoms²⁰ were subject in 1973, including the press law, marked a certain regression, the declaration regime of the legal system continuing to lose further substance.

The context of this revision was characterized by the end of the state of exception and power weakened by two attempted military coups. The regime therefore wanted to establish a political consensus with the civilian forces in order to marginalize the military institution. This accelerated two revisions of the Constitution (1970 and 1972), an opening to *al-kātila's*²¹ parties and a desire to organize legislative elections, a strategy which failed in the face of the refusal of *al-kātila* who preferred to remain in the opposition.

On the contrary, the opposition strengthened at that time, which had an impact on human rights, union, association, and university work. The press clearly acted as a support and recipient to promote this dynamic. Let us highlight, at this stage, the intensified tendency of the Palace as well as the opposition parties to invest in the media to crystallize the conflict.

To serve this objective, both parties attempted to strengthen their presence in the production chain of journalistic content, particularly the distribution field. Founded in 1924 as a branch of the pioneer of French press distribution Presstalis, Sochepress (Société Chérifienne de Distribution et de Presse) was then the only company in Morocco to distribute newspapers, and it was in the

hands of the government, which could therefore control the entire network as you wish.

Aware of this control, the opposition²² party newspapers took a bold initiative and created a distribution company in 1977 under the name Sapress (Berrada, 2002). Sapress quickly overtook Sochepress, breaking both the state monopoly²³ and de facto contributing to promoting opposition journalism.

The State, for its part, intended to control the press through the Ministry of Information. This desire for control reached its climax with the annexation of the media field to the Ministry of the Interior under Driss Basri. High responsibilities were entrusted to governors, prefects of provinces and regions, from the ministry itself, as was the case with the Directorate of Communication and the Department of Radio and Television. State control over radio and television was strengthened, greatly weakening the presence of opposition voices²⁴.

The State implemented a financial aid system for newspapers. This system was used as a cynical weapon of control and blackmail. The granting criteria were not objective and mainly focused on displaying loyalty to the government. Moulay Ahmed Alaoui, close to the government, stated unequivocally in 1988 that “the attack on institutions, the monarchy, Islam, democracy and territorial integrity cannot be considered as a political offense, but rather as a crime under public law, because it is linked to the attack on the sacred constants stipulated in the Constitution” (Dalle, 2011, p. 281).

The *al-mūḥarriṛ*²⁵ newspaper of the National Union of Popular Forces (UNFP) party, which became the Socialist Union of Popular Forces (USFP) in 1975,

represented the voice of progressivism which embarrassed the conservatism of the monarchy, in the sense that the King is also Commander of the Faithful. Omar Benjelloun, director of the said newspaper and emblematic figure of rebellious journalism, was occasionally imprisoned and tortured. On December 18, 1975, he was assassinated by the clandestine Islamic Youth organization (Chafik, 2023, p. 5).

The polarization mechanism activated by the positions taken by opposition press figures, however, led in 1993 to the organization of the National Media Debate in Rabat, under the slogan: Media space: challenges for the future, with the participation of 500 people. Despite the resulting²⁶ law, and the convergence of many participants to affirm its priority, the CPE of 1973 was not modified. Thus, the journalistic field began to echo, during this period, a broader political struggle.

The beginning of the 1990s gave the spectacle of deplorable political changes in terms of human rights, from which journalism suffered great costs. It was only at the beginning of the second millennium, during the reign of Mohammed VI, that a legislative modification was made to the CPE.

7 Change in the object of the conflict and its actors

King Hassan II's concern to prepare his succession and the modalities of implementing an alternation precisely in accordance with the sensitivities of the heir to the throne, naturally led to major changes in the conflict. The former opposition became part of the system of government, and thus the formerly oppositional partisan media became part of the ruling media, which historically had the responsibility to defend the government's achievements.

At this stage, journalists were sorted into two groups within government party systems like USFP, PI, PPS, etc. A non-partisan, independent press emerged then, its founders being former journalists from the partisan press. Journalists and editors alike now demand CPE reform and improved professional status.

This increased combativeness of the independent press, to the point of constituting a real oppositional public space, to the detriment of the parties, obtained more or less expected results.

The CPE of 1973, for example, ended up being modified in October 2002, during the promulgation of Law no.: 77.00, debated in Parliament for three years²⁷. The law was a step forward, but it did not abolish custodial sentences, which left journalists doubtful.

The brand new Prime Minister Abderrahmane Youssoufi, witness and victim of attacks against the press when he was editor-in-chief of the newspaper *al-tahrir*, as we have already seen, as well as Mohammed Larbi Messari at the head of the SNPM (1993-1998) and Minister of Communication within the Youssoufi government (1998-2000), did not procrastinate in banning daily newspapers *The Journal*, *al-ṣaḥyfa al-usbû'yya*²⁸, and *Demain*, through an administrative decision, when, in opposition, they considered that justice should have its say on the question. A wave of attacks on press freedom: bans, arrests, sieges, trials, etc., was still to be deployed.

NGOs such as Reporters Without Borders (RSF), Human Rights Watch (HRW), Amnesty International, and Freedom House took a stand regarding the conflict.

Among the victims is Ali Lmrabet, founder of *Demain*. According to RSF,

A. Lmrabet is a man muzzled in his country [...] In 2003, the publication, in his weekly *Demain*, of caricatures on the monarchy and the reproduction of an interview with a former left-wing prisoner in which he claimed to be a "republican", had already earned him a three-year prison sentence [...] After eight months of incarceration and a 50-day hunger strike, he was released in January 2004 on the pardon of Mohamed VI. (cf. Chafik, 2023).

He was also sentenced in 2005 to a 10-year ban on practicing as a journalist. Sarah²⁹ Leah Whitson (HRW, 04/08/2015) emphasizes, regarding the journalist Ali Lmrabet, that "this man was imprisoned because of his writings, he was banned from practicing his profession and, more recently, that they refused to give him the official documents he needed to register his magazine" (cf. Chafik, 2023).

In 2006, Rachid Niny decided to create *al-massae*³⁰, which quickly became the leading title in the Moroccan press. His columns constantly denounce corruption, injustice, and repression. In 2011, Niny was sentenced to one year in prison for endangering the security of the country and citizens, under the Penal Code.

However, the crux of the conflict has shifted further, a sort of differentiation having taken place between political demands and those inherent to the field of journalism (reform of the CPE of 1973, absence of custodial sentences, self-regulation, new system of help...).

There was also a change at the level of the parties to the conflict, in the sense that journalists and editors constituted, for the first time, a monolithic bloc against the public authorities, in particular the ministers of Communication, formerly pillars of the press opposition supporter (Mohammed Larbi Messari, Mohammed Achaari, Mohamed Nabil Benabdallah, Khalid Naciri).

Some abandoned the parties' media platforms for a press parallel to it, which sometimes became a part of the opposition, as was the case of the newspaper *al-ahdāʾ al-mağribiyya*³¹, whose founders³² came from the newspaper *al-ittihād al-īstirākī*³³, the arm of the left-wing USFP party.

One of the fundamental changes within this agonistic paradigm is found at the level of the SNPM, which has become an

organization specific to journalists, with the election, for the first time, of a journalist at the head of the SNPM, thus breaking with the monopoly of press publishers.

Press publishers, for their part, organized themselves within the Moroccan Federation of Newspaper Publishers (FMEJ).

The FMEJ³⁴ was in fact created in 2002, under the leadership of the SNPM, to differentiate between publication directors/bosses and journalists/employees. It then argued that its purpose was to defend the freedoms of the press, the circulation of information and opinion, the citizen's right to information and knowledge, the promotion of the journalist profession, respect for ethics, as well as defending the interests of media institutions, and ultimately working for the modernization of the sector³⁵.

NGOs such as RSF, HRW, Amnesty International, and Freedom House took a stand regarding the conflict. The country's ranking saw an improvement at the time compared to the period below³⁶.

Finally, the State for its part initiated a progressive liberalization of the audiovisual sector, via the creation of the High Authority for Audiovisual Communication (HACA)³⁷, and the promulgation of the decree-law which provides for the liberalization of the said sector. Note that liberalization began ambiguously as to its legal legitimacy (the television channel 2M in 1989 and Radio sawa, relay of the Voice of America channel, have been broadcasting since August 2003, even before licenses were issued to radio stations and private televisions). A certain slowness in the promulgation of the law which regulates this sector is also to be noted. Indeed, the law³⁸ was only promulgated on February 3, 2005, and the granting of licenses practically only began in May 2006, when the HACA granted ten licenses to the first generation of private broadcasting, as well as an exclusive license for the television channel Medi-1-TV³⁹. In February 2009, the liberalization project will receive new impetus, with the granting of the second generation of licenses to four thematic radio stations.

It is important to mention that the granting of licenses was limited to radio stations and did not include the television field, due to considerations related to the repercussions of this opening on other media spheres. The low number of transactions in the advertising industry and the potential harm to broadcasting, print, and electronic media are to blame. While this was the official statement, we understand that the leadership prioritized caution.

On January 19, 2017, the HACA issued decision No.: 17.04, for the adoption of a new authorization procedure. A new model of specifications was developed, in light of the new legal and constitutional provisions in terms of freedom of the audiovisual field. On the basis of these new procedural conditions, the HACA granted, on July 26, 2018, licenses to Hit Radio to create two television channels, Télé Jeunesse and Télé Découverte as well as a music radio station RadioShem's.

During this period, journalists and publishers became the first defenders of press freedom, but the government asserted itself in the face of this new independent press and was more demanding in the management of public media. The obstruction of press freedom becomes more subtle through:

- A legal polysemy and reserve legislative and regulatory texts

Legal texts can indeed, at first glance, include advanced formulas, but they are often conducive to circumstantial interpretation. There are also texts with a meaning contrary to those giving acquired knowledge, which can be activated by exploiting the inconsistencies between the different sources.

- Public aid

They allow those in power to support certain newspapers for non-objective reasons and are a means of reframing an editorial line, rewarding loved ones, or punishing platforms of mistrust. A look at the aid amounts and the beneficiary platforms is enough to confirm this⁴⁰.

- Control of the advertising market

Nor is it subject to objective criteria or understandable logic, such as the volume of diffusion, distribution, or specialization among other things. Some newspapers benefit from enormous income despite their limited circulation, while others are deprived of it despite their wide circulation. Should we emphasize that advertising revenues constitute the main resource necessary to ensure the sustainability of paper newspapers in the era of satellite channels, the internet, free newspapers, and the decline in the circulation of these same newspapers?

- Differentiated treatment

Freedom of expression does not extend to everyone in the same way. Certain opinions can be defended by a newspaper close to power, without their author being worried, whereas an independent journalist could have to answer before a judge for the publication of

a similar opinion.

- The use of defamation against disturbing media platforms

The most notable example of this period remains the extensive coverage of two demonstrations in 2006, in front of the Journal's headquarters, to condemn its republication of caricatures featuring the prophet of Islam. It turned out that the periodical had never published the satirical⁴¹ cartoons.

- Administrative blocking of websites

Consultation of certain sites is occasionally blocked for visitors from within Morocco due to the ability to control actors in the communication sector. The repeated blocking of the websites⁴² of the moderate Islamist Movement al-'adl wa-l-iḥsān Justice and Beneficence is one example among others of this technical repression which coincided with security campaigns against its members in anticipation of restrictions on the expression of their positions on certain subjects. Blockages reached their climax in 2009, from January 9, when sites remained blocked for more than fifteen days without any legal basis.

- The television reward

A practice of indirect restriction is exercised in the selectivity observable at the level of journalists invited on the sets of debate shows, or even the rave praise reserved for certain platforms, much more than others. Public television therefore still has no interest in allowing citizens access to pluralism in the political, intellectual, artistic, and journalistic spheres.

8 The post-Arab Spring: achievements without guarantee of continuity

This period begins with the adoption of the revised Constitution of 2011, for which the SNPM and the FMEJ were called upon to provide their proposals. However, it was the 2016 CPE⁴³ which represented the real progress in terms of press freedom, by sanctioning, in particular, the abandonment of custodial sentences and the creation of a self-regulatory body through the National Press Council (CNP) whose members hold elective mandates.

Article 28⁴⁴ of the 2011 Constitution constitutes progress in favor of freedoms. It was around this date that a turning point in

the agonistic paradigm around the press became more salient than ever, sliding towards a rivalry within the very elements composing the journalistic body. In addition to the disagreement between publishers, FMEJ, ANME⁴⁵ (The National Association of Media and Publishers), and FMM⁴⁶ (Moroccan Media Federation), there are also conflicts between journalists, SNPM on one side and the National Federation of Journalism, Information and Communication (FENAJIC), affiliated with the union organization: Moroccan Union of Workers (UMT).

The social demands of journalists now take precedence over the defense of press freedom and the independence of press platforms. Consequently, attacks on the press are indirect, with authorities meant to protect it instead of siding with those in power in their responses to NGO reports. The State has become the main controller of the press thanks to aid, and more particularly when covering salaries after the covid-19 pandemic.

A particularly relevant indicator of the transfer of the conflict to the components of the press organ is the state of division experienced by this body on the renewal or extension of the functions of the outgoing CNP and the legality of the bill proposed by the government and which was presented to Parliament. This is bill No.: 15.23 establishing a temporary commission for the management of the press and publishing sector, which the executive transmitted to Parliament on April 25, 2023⁴⁷.

The inability to organize the CNP elections on time, citing a legal vacuum, and the government's extension of the interim committee for a period of two years, and granting it broad powers such as "overall assessment of the situation current state of the press and publishing sector and the proposal of measures aimed at supporting its organizational foundations". These points confirm that the idea of self-regulation faces many difficulties likely to disrupt the entire experience.

NGO⁴⁸ reports overwhelm Morocco over press freedom. In the report established by RSF, the country is in 144th place out of 180 countries in the 2023 world press freedom ranking. While in 2016, it was placed in the 131st position. It is important to emphasize that Morocco obtained its best ranking before the promulgation of the new Press Code, in the sense that it appeared in 130th place in the 2015 World Press Freedom ranking. It was on the other hand 138th in 2011-2012, 136th in 2013, 135th in 2014, 133rd in 2017, 135th in 2018-2019, 136th in 2020-2021, and finally 129th in 2023-2024,

falling 10 places compared to 2005.

Notwithstanding the abandonment of custodial sentences in the 2016 CPE, independent journalists continue to be prosecuted in court, within the framework of the Penal Code, for acts not relating to their profession. Let us recall at this stage the paradox between article 28 of the 2011 Constitution: “Freedom of the press is guaranteed and cannot be limited by any form of prior censorship”, and article 31 of the 2016 CPE which restricts the expression about the monarchy, Islam and territorial integrity, a kind of red lines.

In 2017, independent journalist Hamid El Mahdaoui was sentenced to three years in prison by the Casablanca Court of Appeal for failure to denounce an attempt to harm the internal security of the State (Chafik, 2023). Such a verdict is “incomprehensible” according to RSF because “the court, which had videos, had in its possession tangible proof of his innocence” (09/13/2017). For Amnesty International (12/17/2018), “El Mahdaoui would have been deprived of his right to a fair trial” (cf. Chafik, 2023).

In February 2018,

It is the turn of the press boss, Taoufik Bouachrine, to be taken to Casablanca prison. In November 2018, the editor-in-chief of the newspaper *Akhbar Al Yaoum*⁴⁹ was sentenced to 12 years in prison for human trafficking, abuse of power for sexual purposes, rape, and attempted rape, at first instance. The critical columnist saw his sentence increased on appeal by the King’s prosecutor, who, all in all, sentenced him to 15 years in prison for sexual violence, in support of 50 videos and 8 testimonies. (Chafik, 2023).

For Souhaieb Khayati, director of the North Africa desk at RSF (09/10/2019), “the sentence required against Taoufik Bouachrine is disproportionate, and constitutes real judicial harassment” (cf. Chafik, 2023).

Soulaïmane Raïssouni, interim editor-in-chief of *Akhbar al-yaūm*, was placed, on May 25, 2020, in pre-trial detention for sexual assault, according to the newspaper *Le Monde*, published on May 25, 2020, “following “accusations published on Facebook by an activist for the rights of LGBT (lesbian, gay, bisexual, trans) people” (cf. Chafik, 2023).

The last on the list is none other than the journalist Omar Radi, in pre-trial detention since July 29, 2020, for rape and espionage. According to RSF (08/28/2020): “Omar Radi works and investigates

sensitive subjects, which have made him a target of Moroccan power” (cf. Chafik, 2023).

Éric Goldstein, director of the Middle East and North Africa division at HRW (08/28/2020), for his part, points the finger at power, because in his words, “the apparently rigged prosecutions against critical journalists appear prominently in the manual of the Moroccan authorities. On the other hand, the Moroccan authorities refuse HRW’s findings and point out that justice is indeed independent (cf. Chafik, 2023).

9 Conclusion

The press enjoys a moral authority that helps to enlighten public opinion and provide it with information and analysis enabling it to form an opinion and a vision of what surrounds it. It “can [...] exercise a form of tyranny of bad taste [...] [it] can also favor inconsiderate common actions, but this does not call into question [its] more fundamental contributions: The harm that [she] produces is therefore much less than that which [she] cures” (Maigret, 2015, p. 33).

However, Moroccan legislation does not take into account the specificity of the function of the press. A legislative philosophy that asserts its right of access to sources of information, cancels custodial sentences but maintains red lines, and does not grant newspapers all the facilities to carry out their missions. The legislative consecration of “God-Homeland-King” demonstrates that freedom of the press can still be improved.

Studying the changes in the press structure, from the independence of the country to the present day, makes it possible to concretize the aspect of relations linking public power (the Palace and the three powers) to journalists. The experience of the partisan press, as diverse as it is, supports the idea that the fight for a professional press was not always on the agenda but was first carried out by intellectual elites and politicians whose aim was to bring the reader together around the ideology of their respective parties.

The fight to establish a professional press was only led later, by journalist-entrepreneurs during the third period studied above. But this agonistic paradigm which until then linked public power on

one side and the partisan press on the other, has gradually slipped towards the very body of the profession, following the unforeseen event triggered by this generation of independent journalists. At the same time, it was journalists, once committed to the democratic ideal, who caused a lasting split in the press, by attacking their colleagues who wanted to disrupt political times, as David Kessler (2012) would say.

When it comes to public power, it demonstrates a historical and regular distrust of anything that “bursts into a predefined timetable” (Kessler, 2012), even in a period of opening to the private sector. This journalistic plurality, the result of the disappearance of the public monopoly, has not opened the much-anticipated transition towards the pluralism of the offer. In question, this control is certainly inherent to the thesis of hegemonic reproduction which Stuart Hall speaks of (cf. Maigret, 2015), due to the structuring effect of the words of the powerful. Indeed, the Palace, as a reference of public power, is “the only stable and continuous institution. [The] others, always potential, like the parties, the unions, the armed forces, the administration, the local assemblies, the parliament, the judiciary, the Moroccan employers, the press, and so on, must live in the provisional and unpredictability, dependent on royal will, their institutional autonomy remaining reduced” (Waterbury, 1977). The balance of power that plays out between all these actors in fact always suggests a superior, untouchable authority, which dictates openly, or with rigorous detachment, what is attackable and what is defensible. No truce in the hostilities seems to want to emerge, except to move, whatever the situation, whatever the efforts of the legislator, in the presence of such an institutional constraint.

NOTES

- 1 “The label of the Fourth Estate (or fourth power) dates back to the 19th century, when Edmund Burke (1729-1797) declared that there were three powers in Parliament and that in the correspondents’ room was the Fourth Estate, by far the most important of all” (Bryant & Thompson, 2002, p. 309) (translated by the authors).

- 2 A period marked by coup attempts and repression against opponents of the regime.
- 3 Following an alliance between the Istiqlal Party (Literally Independence, now PI), the National Union of Popular Forces (UNFP), now Socialist Union of Popular Forces (USFP), and the Moroccan Communist Party (PCM), now Party of Progress and Socialism (PPS).
- 4 Translated by the authors.
- 5 Law of July 29, 1881. The laws on public freedoms (public meetings, demonstrations, associations) are also inspired by French legislation, considered pioneering in terms of respect for human rights, in particular the French law on associations of July 1, 1901.
- 6 Article 9 of the 1962 Constitution.
- 7 The *dahir* is a technical and exclusive tool for the king to intervene in the area reserved for him, whether it is a legislative or organizational area. It is neither previously nor subsequently subject to review by the Constitutional Court and cannot be challenged for unconstitutionality.
- 8 The Arabic word *makhzen* means “the store” which refers to the complex system of monarchical power.
- 9 Official bulletin, No.: 2616 Bis, of December 19, 1962, pp: 1774 -1774.
- 10 Royal speech of June 7, 1965. The state of exception was lifted on July 31, 1970.
- 11 This is Dahir No.: 1.58.376 of November 15, 1958, regulating the right of association. The *dahir* is a technical and exclusive tool for the King to intervene in the area reserved for him, whether it is a legislative or regulatory area. It is neither previously nor subsequently subject to review by the Constitutional Court and cannot be challenged for unconstitutionality.
- 12 Dahir No.: 1.58.377 of November 15, 1958, relating to public gatherings.

- 13 Dahir No.: 1.58.378 of November 15, 1958, forming the Press Code in Morocco. Official Bulletin, No.: 2404 bis, 11/27/1958, P: 1914.
- 14 Note that the name was then still limited to the press and did not include publishing, which was corrected after the 2002 amendment, since this law became the law on the press and publishing, symbolized by the Dahir No.: 77.00.
- 15 Pro-government press organ, and the oldest publishing company in Morocco, founded during the French Protectorate, under the name Mas Presse, by Pierre and Yves Mas. Moulay Ahmed Alaoui founded this group which published the newspaper *Le Petit Marocain*.
- 16 See footnote 3, for the acronyms of the different parties.
- 17 This amendment coincided with the filing of a complaint against *al-taḥṛīr* by the Ministers of the Interior, National Education and National Defense.
- 18 See article 4 of the SNPM statute.
http://www.snpm.org/archive/article.php?fid_rubrique=36&fid_cat=&id (Accessed May 19, 2023).
- 19 Changes came later as membership in the union was no longer limited to newspaper directors, and extended to all newspaper publishers after the amendment of Article 5 of the union law, stipulating, for the first time, since 1980, that it opened its door to any journalist linked to a newspaper, thereby giving them access to the presidency of the Union. The presidency nevertheless remained the prerogative of partisan journalists such as Mohammed Larbi Messari, Abdellah Bakkali, Younes Mjahed, etc.
- 20 Official bulletin, No.: 3154 of April 11, 1973, pp: 533-535, of the Dahir carrying Law No.: 1.73.285, modifying and supplementing the Dahir No.: 1.58.378, forming the Press Code in Morocco.
- 21 As a reminder: PI, PPS and USFP.
- 22 Namely *al-‘alam*, *al-mūḥarṛyr* and *al-bayān*.
- 23 This competition ended after cooperation between the historical players in newspaper distribution, when Sapress sold its shares to Banque Populaire, becoming in 2008 the co-ownership of three

- financial players: CIMR, MAMDA and Banque Populaire (Benchenna et al., 2017).
- 24 The government in Morocco liberalized the written press from the start while keeping the audiovisual monopoly until the mid-2000s, under Mohammed VI.
- 25 *The Liberator* (translated by the authors).
- 26 Law No.: 21.94 relating to the Status of professional journalists of 1995, result of the National Media Debate from March 29 to 31, 1993.
- 27 Dahir No.: 1.02.207 of October 3, 2002 promulgating Law n°: 77.00 modifying and supplementing dahir No.: 1.58.378 of November 15, 1958 forming the CPE.
- 28 The weekly Journal.
- 29 Lawyer by profession and director of the Middle East and North Africa division at HRW.
- 30 *The Evening* (translated by the authors).
- 31 *The Moroccan Events* (translated by the authors).
- 32 Mohamed Brini, Mostafa Karchaoui, Abdelkrim Amrani, Abderrafi Jouahri and others.
- 33 The Socialist Union (translated by the authors).
- 34 Chaired by Abdelmounaïm Dilami (2002-2008), Khalil Hachimi Idrissi (2008-2011), Noureddine Miftah (2011-2018), Bahia Amrani (2018-2020), and Miftah for a second term (2020-....).
- 35 See article 2 of the FMEJ Statute.
- 36 In the Annex, Morocco's world ranking in terms of press freedom, from 2002 to 2023, by RSF.
- 37 Dahir No.: 1.02.212 of August 31, 2002 establishing the High Authority for Audiovisual Communication. See www.haca.ma/sites/default/files/upload/images/1-02-212.pdf (Accessed May 20, 2023).

- 38 Dahir No.: 1.04.257, January 7, 2005 promulgating Law No.: 77.03 relating to audiovisual communication.
- 39 It was unable to continue as a private channel and transformed into a public channel.
- 40 Progress has been made in this regard after the promulgation of Dahir No.: 2.18.136, relating to support for the press, publishing, printing and distribution.
- 41 Mohamed Nabil Benabdallah, Minister of Communication at the time, denied the involvement of the authorities in this affair.
- 42 yassine.net; aljamaa.org; alfoutoua.com
- 43 Official bulletin, No.: 6522, of December 1, 2016.
- 44 Freedom of the press is guaranteed and cannot be limited by any form of prior censorship.
- 45 Chaired by Abdelmounaïm Dilami, Rachid Niny and currently Driss Chahtane.
- 46 Chaired by Kamal Lahlou, CEO of New Publicity, publisher of Challenge, VH, Lalla Fatima and MFM Radio magazines.
- 47 See <https://bit.ly/3ouaahz> (accessed May 20, 2023).
- 48 Non-governmental organizations.
- 49 *Daily News* (translated by the authors).

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