

“A Sword of Damocles”: Media Policy, Digital Cultures, and the Discourse of Press Code Reform

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This article analyzes the evolution of media policy in Morocco, focusing on discourse surrounding 2016 revisions to Morocco’s press code. As part of a larger conservative turn in digital media policy post–Arab Spring, Moroccan authorities framed press code revisions as fulfilling commitments to the international community, adopting a more conciliatory approach than other oft-cited authoritarian states. This disparity makes it worth considering why Morocco’s new press code became the site of contentious and protracted struggle and what the policy-making process reveals about the intersection of neoliberal globalization, digital culture, and authoritarian politics. Policy analysis based on comparative reading of legal texts and discourse analysis demonstrates how the policy-making process works as a mechanism for authoritarian legitimacy on the world stage. I argue that revisions to Morocco’s press code demonstrate a reassertion of sovereign power alongside increased mechanisms for the legal and discursive distribution of responsibility to diverse stakeholders.

Keywords: Media policy, globalization, digital culture, authoritarianism, Morocco

“Historic. Seven months of waiting while it took only 48 hours for Twittoma to speed things up” (Ezzouak, 2018a). This tweet from *Yabiladi*’s director, Mohamed Ezzouak, came after several days of controversy on social media over *Yabiladi* and *Le Desk* being denied press cards by the Ministry of Communication. The tweet thanks those who mobilized and intervened on *Yabiladi*’s behalf, including Prime Minister Saad Eddine El Othmani. Ending with “now *Le Desk*,” it includes a photo of Ezzouak’s recently delivered press card (Ezzouak, 2018a). The next day, *Le Desk*’s director Ali Amar also tweeted a picture of his press card, saying, “Thank you to all for imposing the rule of law. This confirms our mission” (Amar, 2018). Ezzouak’s reference to Twittoma, the Moroccan community of Twitter users, and its ability to secure a rapid response from the highest echelons of authority demonstrates state concern about public perception, particularly regarding two francophone sites with audiences abroad.

The press card controversy came in the wake of 2016 reforms to Morocco’s press code, which largely focused on convergence and bringing digital media under the policy umbrella of the press code. Among other things, the new press code required directors of digital publications to have a press card. As the tweets from Ezzouak and Amar indicate, however, attempts to comply with the new policies revealed

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them to be opaque bureaucratic barriers rather than straightforward procedures. In an article detailing his press card saga, Ezzouak describes the Ministry of Communication as "the Bermuda triangle of journalists" and a "black hole"; he was told he couldn't get a press card because he hadn't received approval from the courts, but he needed a director with a press card to get court approval (Ezzouak, 2018b, p. 1). Amar describes the press card as "a sword of Damocles" hanging over the heads of journalists and the process of accreditation as indicative of "a desire to 'clean up' the sector, but the problem is that a blog that has not been updated since 2016 is among the accredited media" (Majdi, 2018, para. 13). The extent and precarity of journalists' legal obligations under the new press code suggest a shift in the role of media policy in a global era and in authoritarian contexts in particular.

Independent Media, Digital Cultures, and Policy Discourse

This article analyzes the evolution of media policy in Morocco, focusing on discourse surrounding 2016 revisions to Morocco's press code and their framing by independent media, civil society, and the government. Situating these revisions in relation to economic liberalization raises questions about the role of policy and policy making in a global era, particularly their ties to recent state strategies of judicial harassment and economic censorship. In addition to specific changes in Morocco's press code, this article explains shifts in the policy-making process and how power operates in relation to the cultural field. Much of Morocco's digital media emerged in the aftermath of the 2011 Arab Spring, and the project to revise Morocco's press code was introduced in 2012 under a newly elected Islamist Justice and Development Party (PJD) government, eventually becoming law in 2016. While the government framed the laws as a victory for freedom of expression and professionalization of the emergent sector, media industries and civil society raised concerns about their attempt to reign in the popular political potential of digital culture. For the latter, the new press code responded to the rise of the digital as a platform for independent media and broader cultural dynamism.

Analyzing the 2016 press code through this lens demonstrates that discourses of professionalization both draw on frequent allegations that a critical press is not a professional one and attempt to reassert state gatekeeping power over digital media with a mixture of market and bureaucratic mechanisms. For example, law 88-13 requires that digital media companies file paperwork with the courts 30 days before a site becomes active, apply for an annual filming license to produce audiovisual content, and have a publication director in possession of a press card. Morocco's 2016 press code reforms institutionalize a paradigm shift in media-state relations that began during economic liberalization in the 1990s and developed over the course of Mohammed VI's reign. In Morocco and many other societies that mix strong state influence with neoliberal tendencies, a combination of written and unwritten rules and discretionary application of policy shape the bounds of agency, with emergent digital platforms and practices presenting new dynamics of contention and negotiation among media practitioners, civil society, and the state.

A Comparative Global Framework

Post-Arab Spring, many authoritarian states adopted legal frameworks to legitimate control over digital media. Taking a comparative perspective on the conservative turn in digital media policy illuminates larger trends in this turn as well as the specificity of the Moroccan approach. Budnitsky and Jia (2018) point

to the use of policy as a form of nation branding, which high-profile authoritarian states like Russia and China have used to brand themselves as defiant challengers of Western hegemony and rights discourse in digital governance. These countries have been leading proponents of an alternative discursive formation around Internet sovereignty, in which they are “often supported by Central Asian and Middle Eastern autocracies,” although these formations are more complex than this binary suggests (Budnitsky & Jia, 2018, p. 597). According to Nocetti (2015), the Arab Spring produced concern among Russian political elites about digital political mobilization, and these concerns were reinforced by digitally-coordinated mass protests following Russia’s 2011–2012 election cycle. As a result, a shift toward security and digital sovereignty followed, with new laws oriented toward greater state control of the digital space (Nocetti, 2015). These included measures oriented toward data localization that would restrict the use of foreign servers, and requiring Russian data storage and domain names to bring them under the jurisdiction of the national telecom regulator (Nocetti, 2015). Russia’s shift in digital governance demonstrates trends such as the use of security discourse and political stability as justification for the possibility of greater regulation and control. Practically, the broad scope of legislation, which affords interpretive leeway, and emphasis on bringing global platforms and data under national jurisdiction are mechanisms by which Internet sovereignty is constructed. It is significant to note, however, that concerns about digital dependency and security are not unique to authoritarian states.

On a regional level, Sakr (2005) argues that post-9/11 media policy in the Middle East and North Africa (MENA) region is defined by continuity rather than change, with nationalism, sovereignty, and strategic cooperation shaping the contours of the media landscape and responses to U.S.-led globalization. Generally, MENA media policy falls in the sovereignty camp, privileging stability of the political establishment while countering Internet freedom discourses that privilege American corporations and ignore abuses. One particularly important regional case is that of Turkey, which, pre-Gezi Park protests, was held up in Morocco as a regional model of democracy. In 2014, Turkey’s AKP introduced press law amendments, similar to many eventually passed in Morocco, that imposed greater bureaucratic burdens on Internet news sites (Yesil, 2016). A report on Turkey’s Internet policy post-coup attempt demonstrates decentralization of controls that rely on uncertainty, opacity, and discretionary application of a variety of legal tools, including the Internet Law, Anti-Terror Law, Press Law, and Penal Code (Yesil, Kerem Sözeri, & Khazree, 2017). The authors argue that Turkey adopted a similar strategy to Russia, one oriented toward decreasing the power of the networked public sphere through data localization (Yesil et al., 2017). Elsewhere in the region, Tunisia brought online information under its press code in 1997, indicating a much more proactive approach to control that preceded Morocco’s press code reform by several decades (Zayani, 2015). In comparing Internet policies in Morocco and Tunisia, Bras (2007) highlights the differing approaches of regional neighbors, arguing that Tunisia privileged public order and state-led digital development, while Morocco based its policies on liberal precepts and the private sector.

As a country with a multiparty system, Morocco has long had a greater diversity of voices in its public sphere than many regional neighbors and approached the early Internet as a steam valve, taking a relatively hands-off approach outside established red lines of Islam, the monarchy, and the Western Sahara. With the 2016 press code, Morocco clearly participated in the post-Arab Spring conservative turn in digital media policy seen in Russia and Turkey, as well as other states, but this turn took place amid a different digital culture and a different discursive construction of policy changes. Morocco’s government opted for a

conciliatory approach that framed revisions as a means of fulfilling its commitments to the international community even while producing some similar policies and pushing back on critiques. This disparity makes it worth considering why Morocco's new press code became the site of such a contentious and protracted struggle and what the policy-making process reveals about the intersection of neoliberal globalization, digital culture, and authoritarian politics.

Methodology

This article follows Papathanassopoulos and Negrine's (2010) conception of policy analysis by "[examining] the ways in which policies in the field of communication are generated and implemented and their repercussions for the field" (p. 5). The analysis comprises two parts. The first is a comparative reading of legal texts taken from Morocco's *Bulletin Officiel* and France's *Journal Officiel*, starting with the French press law of 1881, which served as the model for Morocco's first press code in 1914, through changes to Morocco's code between 1914 and 2016. The second part is a discourse analysis focusing on debates surrounding the 2016 code and their framing by independent media, civil society, and the government. The discourse analysis includes 10 outlets and 101 articles across French and Arabic between 2014, when the initial draft law was introduced, and 2017, when it went into effect, illuminating how the code was written, revised, contested, and enforced.¹ Because of space constraints, only the most significant findings from each of the two parts are highlighted.

Moroccan independent media are media unaffiliated with the state or political parties, although this category is increasingly contested amid the growth of digital outlets. The publications are mostly commercial or activist, have a history of pushing margins for critique, and are vocally engaged in media policy debates. The civil society category focuses on non-governmental organizations (NGOs) dedicated to human rights and freedom of expression; these include Moroccan organizations such as the Moroccan Association for Human Rights (AMDH) and the National Human Rights Council (CNDH), as well as international organizations such as Reporters Without Borders (RSF) and Human Rights Watch (HRW), all of which issued reports on the new press code. Government discourse included official communications from the PJD-led government and the Ministry of Communication, as well as interviews with the Minister of Communication and government spokesperson, Mustapha El Khalfi.

Media Policy Between the State and the Digital

Communication policy involves defining the public and public interest. In the Global South, where media and communication policy often arose during, and were used in service of, colonial administrations, postcolonial policy making has tended to privilege national sovereignty. Since the 1980s, the rise of neoliberal globalization has led to an emphasis on deregulation and a redefinition of public interest as best served by transnational market forces (Harvey, 2007), raising questions about a shift in the scale of policy making. In Morocco, neoliberalism has led to changes in governance whereby responsibility and risk are increasingly distributed. Bogaert (2018) argues that a neoliberal governmentality has emerged in Morocco

¹ The discourse analysis included coverage of the press code by 10 outlets: *Yabiladi*, *Le Desk*, *Telquel*, *Médias24*, *H24Info*, *HuffPost Maroc*, *Lakome2*, *Goud*, *Febrayer*, and *Akhbar al Youm*.

based on a movement from sovereign power to biopower, with its emphasis on techniques of ruling the self (Foucault, 2008). However, the press code demonstrates a reassertion of sovereign power alongside increased mechanisms for the legal and discursive distribution of responsibility. Here, Morocco challenges many of the assumed temporal and spatial logics of power in the digital age, suggesting that shifts between different modes of power are never complete, and sovereign power rooted in territoriality remains central to digital governance.

My argument is twofold. First, I argue that a shift in the scale of policy making points to the ways that sovereign power is simultaneously constructed and circumscribed by geopolitical concerns, the international community, and regional market considerations. This follows Chakravartty and Sarikakis' (2006) point that "in the era of globalization, or more precisely of market and finance integration, the actors involved in decision-making are located not only at the national level but also at the supranational, regional and local, transnational and translocal levels" (p. 5). It is significant that Moroccan journalists had long pushed for the removal of prison sentences from the press code, but this change came about after being explicitly recommended by France and Canada as part of Morocco's periodic review at the UN Human Rights Council in 2012. In discourse surrounding the 2016 reforms, Morocco's new Islamist government clearly engaged in a process of legitimacy building across multiple scales, building on discourses of Moroccan exceptionalism and positioning itself as a regional leader in media freedom. In the process, it confronted a digital culture of calling out hypocrisy and speaking back to authorities online, where independent media and civil society raised concerns about the sometimes intricate ways in which the new press code produced mechanisms for control even while purporting to disassemble them.

My second argument is that Morocco's conservative turn in digital media policy highlights a changing logic of power post-economic liberalization, from having a law in place and operating outside of it to producing a legal framework for the legitimation and distribution of control. Here I build on Tung-Hui Hu's (2015) work on data bunkers that demonstrates the reemergence of sovereign power in conjunction with more distributed modes of power and governance. Hu (2015) states that scholars have largely ignored sovereignty because it "seems to apply to the era of kings, and not digital protocols" (p. 95). Morocco makes explicit that these two things are not mutually exclusive; the era of kings, whether kings as monarchs, kings of capital, or both, is part of the digital age. Sovereign power is not confined to a different temporality nor can it be dismissed as a problem of development or democracy. Instead sovereign power is an actual product of governance in the digital age where different modes of power coexist in the service of capital.

For Morocco, neoliberalism has not necessarily led to a withdrawal of the state, but rather to a reconfiguration of state power toward capital and the unprecedented concentration of economic power in the monarchy. This ushered in an era of economic censorship and judicial harassment of the press built on discretionary logics of investment and advertising, as well as application of regulations. For independent media, which bore the brunt of these discretionary applications, this resulted in an ambivalence toward both global capital and market protections. The 2016 press code distributes legal and discursive responsibility for the financial viability of the Moroccan press across media industries, to practitioners and self-regulatory bodies, advertisers and investors, as well as international rights organizations and the international community. However, in its regulation of media infrastructure and subsidy system, it also represents the reassertion of sovereignty and territorial logics in conjunction with market logics—both of which rationalize

state administration of the digital space, positioning the government as a protector from the very market forces it perpetuates.

Evolution of the Moroccan Press Code

Communication policy involves the power to act on behalf of principles regarding control of and access to communication and media systems (Bar & Sandvig, 2008). Morocco's first press code came in the early years of the protectorate and was taken almost word-for-word from the 1881 French press law (Loi, 1881). Starting with the promising declaration that "printing and publishing are free" (Dahir, 1914, p. 296), it nevertheless contained small but significant differences from the French code. The initial Moroccan law required publications to pay a security deposit, contained restrictions on language, and expressly prohibited the circulation of any unauthorized political communication. These provisions demonstrate that logics of control were inscribed in the origins of the Moroccan press code, and some of these continue today.

Like that of France, Morocco's press code comprised two parts: first, laws governing organization and industry logics of the press, and second, laws related to the status and working conditions of journalists. The first included a variety of requirements for publications, procedures for authorization, chains of responsibility, ability to post information publicly, prohibitions against defamation and provoking crime, protection of the state and moral standards, and procedures for legal recourse. Each prohibition states associated penalties, generally a possible range for imprisonment and/or fine. Analysis of *Bulletin Officiel* records shows 17 modifications of the 1914 Dahir² over the course of the protectorate, concentrated in periods of conflict such as the Rif War, World War II, and the nationalist movement. The imposition of martial law and states of siege led to higher bars for authorization, more restrictions on Arabic and foreign publications, and increases in penalties for offenders.

The Dahir of April 18, 1942, introduced the second part of the press code. Based on France's 1935 Brachard Law, which defined the status of professional journalists, it introduced a professional identity card. Defining who is a journalist and therefore subject to protection under the law became a key question, with the French and, later, Moroccan codes defining a journalist as one whose principal occupation and income are derived from journalism (Dahir, 1942; Loi, 1935). In the Moroccan code, the press card is foregrounded and takes on a top-down character, given that it is issued by the secretary general of the protectorate, with detailed conditions for its revocation reinforcing its punitive rather than protective function.

Major Revisions

Substantive revisions of the Moroccan press code came in 1958 and 2002, following Morocco's independence from France and transition from the reign of Hassan II to Mohammed VI, respectively. Multiple scholars (Hidass, 2016; Karimi, 2011; Kiyindou & Mathien, 2007; Mollard, 1963) have noted the continuity between colonial and postcolonial press codes, and their repressive uses in both eras. The 1958 Dahir removed references to the protectorate and privileged national sovereignty; publications were required to have a director living in Morocco, and all owners and shareholders were required to be Moroccan nationals, with penalties for

² A Moroccan Dahir is a royal decree that brings a law into force.

hidden sponsorship (Dahir, 1958). There are also restrictions on foreign periodicals and propaganda likely to harm the national interest, a prohibition against foreign funding except advertising, and a provision for the interior minister to unilaterally seize publications that disturb public order (Dahir, 1958). Other significant provisions include broadly worded prohibitions against provoking crimes or offenses against the external or internal security of the state, and "any offense . . . toward Our Majesty, royal princes and princesses" (Dahir, 1958, p. 1916). That the postcolonial code maintains the sacred status of the monarchy demonstrates a logic of continuity and the extent to which the monarchy is always accommodated. In the 2002 code, the most significant change is the explicit inscription of red lines in the infamous Article 41, which expanded to prohibit not just offenses against the king and royal family, but "the publication of a newspaper or publication causing prejudice against Islam, the monarchy or territorial integrity" (Dahir, 2002, p. 132). Article 77 continues to allow the interior minister to seize publications for the purposes of public order, but also offenses related to Article 41 (Dahir, 2002). The durability of Articles 41 and 77 in postcolonial press codes, as well as their roots in Articles 28 and 16 of the 1914 code, reveal a continuity of control amid a changing logic of power.

The 2002 revisions were part of a suite of reforms under Mohammed VI, including freedom of association and limited liberalization of the audiovisual market. While attention has focused on the 2002 code as indicative of a democratic transition, 1995 revisions to the professional journalist statute indicate a significant shift in the monarchy's punitive approach toward media that preceded political transition (Dahir, 1995). This punitive approach is most evident in 1973 revisions to the press code that substantially increased penalties, coinciding with the Years of Lead.³ Twenty years later, the 1995 revisions came at the end of Hassan II's reign, during a period of economic opening when the monarchy was working closely with international institutions and revamping its reputation in the wake of revelations about human rights abuses. They are a sharp contrast, preceded by a statement of motives that includes excerpts from a speech given by Hassan II in 1993, in which he adopts the language of rights and public interest (Dahir, 1995). The language of rights is paired with responsibility and framed as a series of guarantees enshrined within mentions of democracy, liberty, and the modern, offering a vision of Morocco aspiring to international norms. Karimi (2011) calls the Moroccan model of press policy "uncodified freedom," that is, liberty that is based in norms and practice rather than legal protection, and therefore precarious. Likewise, Benchenna, Ksikes, and Marchetti (2017) note that the wider margins for debate during this era were based on shifting norms and assurances from powerful people rather than laws. The high degree of continuity in the Moroccan press code, paired with the shift in discourse, suggests that the unparalleled media dynamism Morocco experienced in the late 1990s and early 2000s was less about changes in law and more about shifting norms and practices.

A Conservative Turn in Digital Media Policy

The 2016 revisions to Morocco's press code were proposed in 2012, following the 2011 *Mouvement de 20 février* (M20), constitutional reform, and elections that resulted in an Islamist PJD government. Up to this point, Morocco had generally approached the digital as an economic good and social steam valve, but 2011 led to a new appreciation for its popular political potential. The 2016 press code continues the shift in framing from 1995 and 2002 while representing a remarkable expansion in scope. Law 88-13 begins by referencing

³ The Years of Lead refers to a period between 1965 and 1990 that was characterized by disappearances, torture, secret prisons, and arbitrary judicial proceedings.

Articles 25, 27, and 28 of the 2011 constitution; these guarantee freedom of thought and expression, the right to access information, and freedom of the press, respectively, as well as international conventions ratified by Morocco, setting up the new code as a fulfillment of commitments to publics across multiple scales (Dahir, 2016c). For the purposes of control, changes to accreditation and penalties are the most significant. Requirements for accreditation are increased, setting up discourses around professionalization and justifying the expansion of responsibilities for directors. Directors are asked to assume responsibility for all audiovisual content, linked content, and comment sections, signaling a remarkable expansion in administrative and monitoring responsibilities.

Penalties were among the most conspicuous changes in the 2016 press code, which eliminated imprisonment as a possible repercussion for press code violations. The word *imprisonment*, which appears 23 times in the 2002 code, is entirely absent from the 2016 code. And yet, immediately preceding the publication of the new press code in the Bulletin Officiel were concurrent revisions to the penal code. The first revision to the penal code addressed Article 267, titled "Insults to the emblem and symbols of the Kingdom and attack on its institutions," establishing imprisonment and fines as consequences for "anyone who attacks the Islamic religion, the monarchical regime or undermines the territorial integrity of the Kingdom" (Dahir, 2016d, p. 1860). Thus, while imprisonment was removed from the press code, it was simultaneously reinscribed in the penal code, effectively allowing the same penalties under a different law and extending red lines to the entirety of the population rather than just media. The penal code revisions more than doubled the range for prison time and fines (up to MAD 500,000 or approx. \$55,000 USD) for the public violation of red lines, whether through meetings or media. This signals that a key purpose is to control increasing publicness and public discourse as facilitated through media. At the same time, the dramatic increases in fine amounts reinforces the strategy of economic censorship that has operated as the state's preferred dissuasive mechanism under Mohammed VI.

Convergence and Digital Media Policy

Historically, regulation of Moroccan cultural industries has followed the pattern of different policy regimes for different mediums cited by Bar and Sandvig (2008), evident in the different policies that emerged around telecommunications, broadcasting, and the press. Telecommunication policy came from earlier laws that organized the postal system to be regulated by the National Telecommunications Regulatory Agency (ANRT), while broadcasting laws evolved separately under the authority of the High Authority of Audiovisual Communication, both of which were distinct from the press code. The digital has collapsed many of these distinctions, and the 2016 press code has attempted to bring these different regulatory regimes into congruence. The new press code starts by defining 10 terms, five related to the digital. Where "the press" had previously been the generic term for print media, "journalism" is now defined as a profession involving information gathering, verification, and content production, "whatever medium is used for its publication or dissemination to the public" (Dahir, 2016c, p. 1861). This more inclusive definition of journalism moves away from association with a specific medium, but also brings many more types of content under the rubric of the press code. The "electronic press" is defined as "any publication . . . which is regularly updated and which is made under a domain name specific to the electronic journal and according to a content management system" (Dahir, 2016c, p. 1861) This definition would seem to include almost any website that produces original content, greatly expanding the types of content regulated by the press code and subject to professional requirements.

Chapter VI of the 2016 press code, titled "Electronic press services," reaffirms this emphasis on the digital and incentives allowing for access as well as the possibility of control (Dahir, 2016c). All electronic newspapers are entitled to a free domain name ending in .ma, and by taking advantage of this domain name, they become eligible for other public incentives such as state subsidies. The use of Moroccan domain names brings sites into the literal domain and reach of Moroccan authorities, suggesting that infrastructure has become a key site for the reassertion of sovereignty. The .ma ccTLD (country code top-level domain) is administered by the ANRT through Maroc Telecom, a public company in which the state holds a 22% stake as of 2019, and requires the appointment of an administrative contact in Morocco to work with a local registrar and the ANRT (Agence nationale de réglementation des télécommunications, 2019). This is particularly notable given a history of sites being hosted on servers abroad. The convergence of digital and print policy is again highlighted in Article 35, which requires electronic outlets to fulfill the same authorization requirements as a print publication. Specific affordances of the digital are also addressed, with the electronic press required to obtain a filming authorization from the state cinema body for audiovisual production. This authorization and its one-year validity indicate the perceived threats posed by digital affordances for user-generated video production, sharing, and logics of virality.

Professional Journalist Statute and Conseil National de la Presse (CNP)

The other two laws in the 2016 press code are law 89-13, the professional journalist statute, and law 90-13, which created a national press council. The first requires professional journalists to have a press card, issued each year by the newly established National Press Council (CNP; Dahir, 2016b). A good portion of the professional journalist statute is dedicated to press card processes, contract rights, and labor regulations, with most of the changes following the logics of expansion seen in law 88-13 and bringing more people under the domain of the press code. The administration of the statute is delegated to the CNP, which is charged with "safeguarding the principles that are the honor of the profession and respect for the code of ethics, laws and regulations" (Dahir, 2016a, p. 1470), as well as a variety of functions, including accreditation and arbitration. Although the council is presented as a self-regulatory body, the law's extensive top-down requirements evince a distribution of responsibility and enforcement rather than real power. Provisions for a government official to sit in on council meetings and requirements that candidates for the council have 15 years of professional experience and no disciplinary or judicial history relevant to the press demonstrate continuing government involvement and reinforcement of the status quo.

The Discourse of Press Code Reform

That the new press code became the subject of a highly contentious and protracted debate among the governing PJD, civil society, and independent media is indicative of anxieties surrounding civil liberties in the aftermath of the Arab Spring. Changes to the press code were part of a larger reform ethos emerging from this moment, but they were accompanied by widespread anxiety from the Left about what those reforms would look like under an Islamist government. Press freedom was enshrined in the 2011 constitutional reform, with the king calling civil society and media "fundamental partners" in "political construction and the fields of human rights and development" (Mohammed VI, 2011, para. 28). At the same time, the PJD's movement from opposition to governing party indicated a need to perform legitimacy across multiple scales. In the press code, the party found a cause that would establish both its human rights and legislative credentials, given that press

code reform had eluded two previous communication ministers, while providing grounds to engage some of the party's most vocal critics in civil society and independent media.

Government

Press code reforms were a legislative priority for the first PJD government, the initial driver of discourse around the 2016 reform. From the outset, the PJD conducted a remarkably consistent messaging campaign that framed the reforms in terms of professionalization of the sector, the participatory nature of the policy-making process, and conformity with international engagements. All three of these frames are rooted in the PJD's first government program presented to parliament when the party came to power in 2012. Based on five pillars, media are included under "strengthening of indivisible national identity" (Parti de la Justice et du Développement [PJD], 2012, p. 14), suggesting a conservative orientation tied into a majoritarian ethos. Professionalism is explicitly inscribed in the government's plans for the communication sector, stated in its intention to "apply the rules of quality, competition, professionalism, transparency and partnership" (PJD, 2012, p. 15). Here "quality" and "professionalism" are markers that serve to frame the press as deficient in serving the needs of the public, while ignoring systematic problems with access to information that affect the ability to produce innovative and publicly relevant work—plus the buttressing of self-censorship by a history of judicial proceedings against journalists.⁴ The policy-making process is also framed through the terms "transparency and partnership." Before any mentions of media, the PJD declared its intention to do policy making differently, based on "integrated and complementary action, a participative approach, and accountability" (PJD, 2012, p. 5). "Participative approach" becomes a slogan of government discourse surrounding press code reform, signaling the PJD's need to perform process to legitimize outcomes. Another pillar of the PJD's program is "promotion of positive interaction with the regional and international environment" (PJD, 2012, p. 9), setting the stage for the press code to be framed as an exercise in international engagement and a mechanism for honoring Morocco's international commitments.

The government followed up this messaging with annual reports titled "Efforts to Promote Press Freedom," frequent ministry communiqués, and El Khalfi's omnipresence in the press. In a telling presentation to Parliament, El Khalfi said that reforms "are intended to strengthen the quality of journalistic products, by controlling access to the profession" (L'Economiste, 2015). Exhortations for quality and professionalism particularly invoke digital outlets more likely to operate informally as a hobby or activist project and less likely to meet requirements for accreditation. The more problematic aspects of some electronic sites—unverified claims, plagiarism, sensationalism, clickbait, etc.—are generally attributed to their lack of resources, a position that ignores market rewards for these practices and the sites without

⁴ The lead-up to the Arab Spring constituted the culmination of a state strategy of judicial harassment and fines against the press that began in 2003. In a year-end summary of major stories, *Telquel* named 2009 as "the year where defamation cases have been used to punish newspapers," citing fines levied against newspapers *Al Ahdath*, *Al Jarida Al Oula*, and *Al Massae*, the seizures of *Telquel* and *Nichane*, interrogation of journalists for reporting on the king's health, the interdiction of arabophone daily *Akhbar al Youm*, the incarceration of *Al Michaa'l's* director, and multiple other prison sentences (often under reprieve) and fines levied against journalists; this included a MAD 5.9 million fine against *Economie & Entreprises* that led to its property being auctioned off ("Journalistes taisez-vous!" 2009, p. 21).

resources adhering to journalistic norms. The PJD's decision to introduce subsidies for the electronic press mid-reform is presented as a means of improving professionalism and independence (Roudaby, 2015), while paradoxically producing administrative and economic dependency.

Civil Society

NGOs dedicated to human rights and freedom of expression were vocal public participants in the debates over press code reform, serving important documentation and data-gathering functions in a notoriously opaque system and amid a lack of systematic data. AMDH (Association Marocaine des Droits Humains & NovAct, 2017), CNDH (Conseil National des Droits de l'Homme, 2014), RSF (Reporters sans frontières, 2014), and HRW (Human Rights Watch [HRW], 2017) all issued reports on the press code project; the CNDH and RSF reports issued in 2014 were recommendations based on initial drafts of the law, and the AMDH and HRW reports issued in 2017 were evaluations of the new law as it went into effect. These reports suggest that these NGO reports and studies provide a voice for media professionals unwilling to speak out publicly, which is also suggested by the extent to which independent media reported on these documents. These civil society voices offer the most direct contestation of government claims about reform, providing broader context for the press code and its practical implications. All the reports adopt diplomatic language to varying degrees, often applauding reform efforts even while critiquing their character. These reports frame press code reforms as a continuation of centralized state power over the press and as contradictions to international law and conventions.

The dominant frame driving NGO evaluations and advocacy is the press code's deficiency relative to international standards, with CNDH in particular citing extensively from international case law. The HRW report is the most direct contestation of Moroccan government claims that the press code upholds international norms for freedom of expression. The Moroccan government defended criminalization of causing harm to Islam by citing Islam's sacred status in the constitution and the need to defend public order. Additionally, the government stated that this provision of the press code was based on a resolution from the UN General Assembly aimed at combatting religious intolerance. HRW contested this characterization of the clause as a defense of human rights, saying that international conventions, rather than national constitutions, set international norms for human rights, including freedom of speech. The HRW report argues that "the assertion by Morocco that UNGA resolution 65/224 gives states a green light to criminalize insults to religion misstates international standards on freedom of expression with respect to religion" (HRW, 2017, p. 15) and goes on to quote specific provisions of the International Covenant on Civil and Political Rights as the authoritative text on freedom of expression in international law. Use of an antidiscrimination clause to prevent critique of a state religion seems a creative interpretation at best; yet, that the Moroccan government responded in such depth and in reference to international conventions is indicative of the political professionalization of the PJD and the international influence of these NGOs at a time when improving external relations was a PJD priority.

Independent Media

The announcement of press code revisions in 2012 played into the reform ethos of the post-Arab Spring moment, but by the time the first draft of the law was introduced in 2014, official backlash against

protest movements was under way. The high-profile prosecution of Ali Anouzla (whose website *Lakome* revealed the king's pardon of a Spanish pedophile and sparked protests), under the terrorism law rather than the press code, raised questions about whether a new press code would really protect journalists. Journalists had been calling for reform since the 2002 code—particularly in regard to prison sentences, defamation, and seizures—but increasingly contested whether the 2016 law could be classified as "reform." In independent media coverage, the press code is framed in terms of particularly problematic provisions: as a Trojan horse for more government control and as a mechanism for the imposition of Islamist ideology by the PJD, to the detriment of economic viability.

Initially independent press coverage of the draft law focused on particular provisions, such as protections for confidential sources and assumptions of good faith in defamation cases; however, eventually these were subsumed under concerns about penalties, the role of the judiciary, and accreditation. With the introduction of penal code revisions at the end of 2015, the tone became more combative, with allegations that the government was intentionally trying to mislead journalists. Framing of the new press code as a Trojan horse for more government control used the language of concealment and smuggling to argue that the press code's disadvantages were greater than its advantages, that its impact would be the opposite of government promises, and that, overall, it constituted a rollback of press freedoms. The Moroccan Federation of Newspaper Publishers (FMEJ) is positioned in opposition to El Khalfi; executive committee member Taoufik Bouachrine was one of the most visible and outspoken commentators, saying, "The state 'is organizing censorship, not press freedom'" (Bennamate, 2015, para. 3). Many outlets reported on a November 2015 FMEJ communiqué, announcing that it "will oppose the draft press code 'by all means possible,' especially that 'the code was introduced in the legislative procedure without the consensus of professionals, in total contradiction of the slogans about the participative approach'" (Rédaction, 2015, para. 4).

In early 2016, Bouachrine made the rounds of talk shows, appearing on Al Jazeera, France24, Médi1, and 2M (the latter alongside El Khalfi); he later testified in front of the parliamentary commission, where he called the law "the opposite of freedom and democracy," saying that journalists are scared and embedded in a system of self-censorship (Akhbar, 2016, 0:40). The obvious duplicity of transferring imprisonment to the penal code generated an outcry across parliament, civil society, and the press, with some members of the PJD joining the opposition in critiquing the move, and Abdellah Bekkali, Moroccan National Press Syndicate president and Istiqlal deputy, calling it "deceit" (Mouhsine, 2016, para. 4). "Everyone against El Khalfi" became the overall tone of independent press coverage based on perceptions of a betrayal of process in which consultations with professionals either were not represented in the final law or were circumvented by other means. A dissection of the law in *Febrayer* argues that the provisions in the press code are not new; rather, "the difference today is that the government used language and control over wording to conceal these regressions" (Moukrim, 2016, para. 2). In other words, the press code constructs a facade of progress while institutionalizing constraints.

Key Takeaways

First, the dominance of government discourse highlights both the weakening of the independent press in the lead-up to and aftermath of the Arab Spring, and the strategic communication offensive mounted by the

Ministry of Communication around the law. There was no shortage of white papers, workdays, and special commissions as part of the press code revision project, all of which were used by the government to justify revisions and represent the process as participative regardless of the code's final content. The PJD relied on volume of communication in a context in which access to official information was limited and responded directly to coverage and critiques deemed unfavorable. The speed and detail of these responses demonstrate that the PJD cared very much about public perception of the law and worked through media, rather than against it, to dominate public discourse. The PJD's program of press code reform represents the institutionalization of this approach by a populist party playing into anti-elite and anti-media discourse globally while claiming to speak for a majority marginalized by francophone elites. In doing so, it made the new press code a site of contention between Islamist and Leftist counterpublics seeking to reshape a public political discourse in flux, coming out of the Arab Spring moment.

The second key takeaway is the channeling of independent media discourse through professional associations, with established interests being challenged by digital newcomers. While the FMEJ opposed the press code at particular junctures, its interests were not entirely separate from those of the government. At the behest of Mohammed VI, FMEJ signed an agreement with the Minister of Communication in 2005 (extended in 2009 and 2013) aimed at modernizing the press sector and resulting in grants to publishers (Benchenna et al., 2017). Because professionalization was largely constructed as a problem of resources, subventions became a logical response for both the government as market manager and professional associations seeking market protections. Thus, professional associations played into framing of the press code as a force for professionalization to the exclusion of new digital players; the voices of independent websites and bloggers were heard remarkably little throughout these debates. While some digital outlets called for legal recognition to increase access for coverage and protection under the law, these demands were then used largely to impose constraints. Likewise, enlarging the scope of the press code through media-agnostic policies privileged established players in the sector who were better equipped to comply with administrative demands. It is significant that while independent media framed the new press code as imposing Islamist ideology, this discourse was linked closely with debates about allowing alcohol and games-of-chance advertising. This question almost exclusively affected francophone newsmagazines, revealing further divisions in the press sector and the ways that religious ideology became a proxy for debates about financial viability.

Conclusion

Morocco's conservative turn in digital media policy is not unique. The increasing commonality of these types of policies in the digital space and in authoritarian contexts in particular suggest that media policy is taking on a new role in the context of digital cultures and neoliberal globalization. Like countless other countries, Morocco is putting in place a legal framework meant to constrain the popular political potential of the digital based on a combination of distributed and sovereign modes of power. But this is not a simplistic dynamic of top-down power and control, and this analysis demonstrates the contingency of policies often presented as self-evident after the fact. In emphasizing process, there is space for negotiation that has the potential to be generative, and discretionary enforcement allows for calculated innovation and risk-taking within the sector. Here, the policy-making process generally and the press code specifically become mechanisms for reclaiming sovereignty across multiple scales, from global institutions, corporations, and NGOs to individual citizen subjects and popular protest movements.

Adopting a comparative global framework suggests that a toolkit for strong state governance of the digital realm is being developed across a variety of policy-making contexts. Evolving attempts to reclaim sovereign power rooted in territoriality are seen in Turkey's 2020 law requiring social media platforms to open offices in Turkey and store user data inside Turkey. The same year, a Moroccan social media bill (Loi 22-20) that would have banned calls for boycotts on social media, among numerous other restrictions, provoked an outcry before being suspended. These attempts also extend beyond authoritarian contexts as democratic governments look to reassert sovereignty and adopt policy frameworks for largely unregulated global platforms operating in their territory. Examples include the EU's General Data Protection Regulation that applies data privacy regulations to all organizations that collect data related to people in the EU; France's digital services tax, which applies a 3% tax to revenue generated in France by digital companies; and Canada's attempts to update its broadcasting law for the digital era, which provoked heated debates about regulation of online speech. In some ways, Internet sovereignty discourse relies on eliding differences in the sovereignty of states, global corporations, and citizens/consumers, as well as the implications of specific policies based on institutional context.

The approach to policy also matters. The Moroccan government's decision to present the new press code as an engagement with the international community rather than a rejection of it comes with a particular type of discursive performativity. That at least five iterations of the press code were produced and hundreds of amendments proposed as part of the revision process demonstrates its hotly contested nature, as well as active struggles to shape the law and its public perception. Analysis of legal texts and their discursive construction highlights continuity certainly, but also a changing logic of power based on the distribution of responsibility and self-governance within a framework established by authorities. On one hand, this allows for monitoring and intervention; on the other, it depoliticizes enforcement as mere imposition of order and respect for the rule of law. Order is, of course, highly political, and press code revisions participate in the production of a governmentality oriented toward stability, security, and sovereignty in a postcrisis economy. One of the most important impacts of the 2016 press code has been the foreclosure space available for independent media, particularly amateur, activist, and voluntary media projects. The application of the press code to a broader swath of communicative practices puts these initiatives in a legally precarious position, with their viability dependent on contribution to or contradiction of state interests. This precarity, plus a trend in the use of the penal code to imprison independent journalists based on sex charges, suggests the state's willingness to deploy a diversity of legal mechanisms and a new discursive strategy aimed at undercutting transnational civil society's support for independent media.

This work makes sense of a major shift in media-state relations in Morocco emerging from economic liberalization and a more conciliatory approach to policy than other oft-cited authoritarian states. It demonstrates how the policy-making process works as a mechanism for authoritarian legitimacy on the world stage while serving to distribute responsibility for policy changes to the demands of diverse stakeholders. If the digital has challenged state sovereignty over information, press code revisions and the surrounding discourse demonstrate a reassertion of sovereign power alongside the extension of neoliberal governmentality into the digital realm. Through this lens, press code revisions can be seen as an attempt to insulate markets—and state institutions as drivers of those markets—from popular demands and new forms of publicness online.

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