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Private Sector Accountability in **Morocco** The state, investments, and development challenges

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1. Introduction

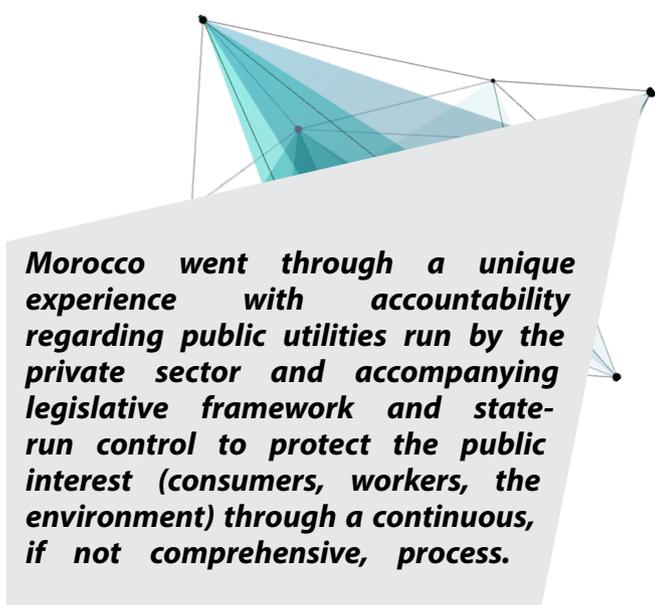
Private sector accountability is a complex issue everywhere, as it needs to take into account several economic, legal, administrative, and social dimensions. This preliminary report on Morocco's situation in this field does not claim to be comprehensive or that it will be able to analyze all its economic, social, and environmental aspects. However, it aspires to present ideas about the general situation, taking into consideration some national experiences that question the role of companies as a responsible investor, on the one hand, and the role of the state as an observer and protector of public interest, on the other.

It will begin by attempting to locate the private sector's position in Morocco, based on political and economic developments since its independence. It will then illustrate Morocco's experience with accountability regarding public utilities run by the private sector and accompanying legislative framework and state-run control to protect the public interest (consumers, workers, the environment) through a continuous, if not comprehensive, process. It will demonstrate how two very important sectors have yet not

benefited from the same supervisory framework, namely national education and higher education, and the consequent violation of the rights of citizens, children and parents, without strong accountability.

To achieve this, the paper adopts a three-stage exploratory approach:

- Documentary research to collect data on the private sector in Morocco in all its dimensions, its presence in social sectors, and the particular situation in national and higher education.
- Preliminary analysis of the data in the context of the problem posed by ANND on private sector accountability.
- The report was discussed, tested, and enriched in a national meeting that met on April 7, 2021, in Rabat, organized by Espace Associatif. The meeting was attended by associative and union actors, in addition to experts on private sector accountability and education. This final version of the report was the result of these contributions. The author of this report extends his sincere thanks to all contributors to the meeting.



Morocco went through a unique experience with accountability regarding public utilities run by the private sector and accompanying legislative framework and state-run control to protect the public interest (consumers, workers, the environment) through a continuous, if not comprehensive, process.

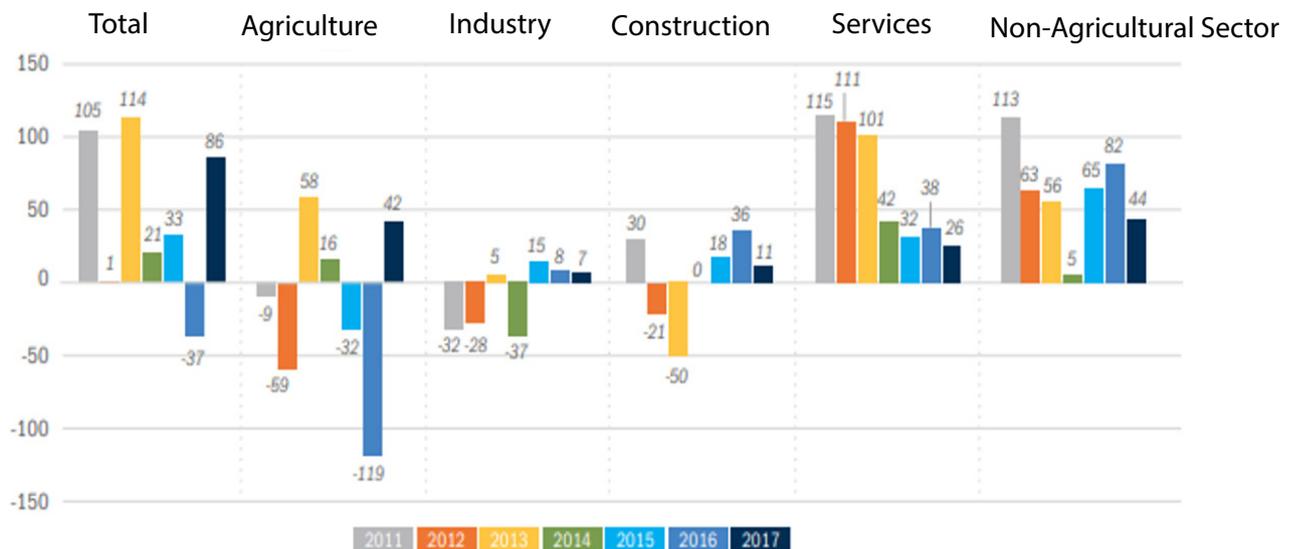
2. Characteristics of the Moroccan Private Sector

Since independence, Morocco has adopted a free market economy as a social and developmental model, protecting private property and encouraging free initiatives. However, investment and job creation in the first three decades (from 1956 to 1983) were dominated by the public sector. The reason was not ideological as much as it was a result of the infancy of the private sector. In 1983, a structural adjustment program was drawn up as a reaction to the size of the country's accumulated debts and the pressure of debtors. Since then, the state has adopted a gradual liberalization track, which entailed slowly withdrawing from certain sectors. As a result, the private sector became the biggest investor and employer in the Kingdom. Morocco has one of the highest investment rates in the world, with an average of 34% since the mid-2000s. According to a 2019 World Bank diagnostic, «private sector investment in Morocco has stagnated at around 16 percent

of GDP—just over half of total investment—over the past decade, and has not been, on the whole, dynamic in generating jobs or exports.»¹ The volume of investments in the private sector after the financial crisis of 2008 witnessed a noticeable decline, mainly due to the slowdown in the European economy and reduced demand. Thus, Morocco registered a noticeable decline in the non-agricultural growth rate, which dropped from an average of 4.7% annually between 2000 and 2008 to 3% between 2009 and 2017.²

Despite the high rate of investment compared to other countries, returns are at a minimum due to weak productive investment. Unemployment is also a major challenge, hovering around 10% in recent decades. Although the private sector is the biggest employer in the country, the lack of new business creation and the weak conversion rate negatively impact new job creation. Similarly, according to the World Bank, only 26,400 new jobs were created on an annual average between 2012 and 2016, although the working age population increases by 270,000 people annually. The report also includes information on the development of job creation between 2011 and 2017, according to High Commission for Planning data.³

Figure 1: Job Creation between 2011 and 2017



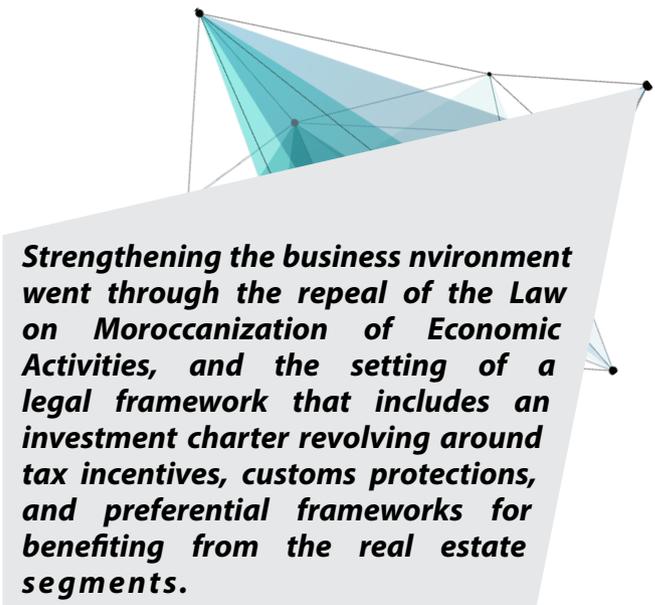
Redefining the role of the state went through several stages and new concepts were created: a strategic state that identifies the priorities and sectors to be supported instead of a planning state that adheres to precise and comprehensive goals on investment, production, and employment; a regulatory state that creates suitable spaces for investment and competition instead of an interventionist state that imposes investment options; and a supportive state that grants incentive benefits to the employment of unemployed youth with diplomas instead of an employer state that creates jobs through public direct investment. The commitment of the Moroccan state to encourage private investment is very important, and it is represented through a policy derived from the supply economy.

On the one hand, strengthening the business environment went through the repeal of the Law on Moroccanization of Economic Activities of 1973. Accordingly, all forms of discrimination against foreign investors were eliminated and several sectors were liberalized. On the other hand, a legal framework was set in 1966 that includes an investment charter revolving around tax incentives, customs protections (which have been gradually erased since Morocco joined the WTO), and preferential frameworks for benefiting from the real estate segments provided by the state for industrial investment in particular. It aimed to improve the country's investment environment and encourage national and foreign private investments, especially by taking advantage of the available incentives, as well as rationalizing and simplifying administrative procedures.

According to Conjoncture magazine,⁴ Morocco has spent nearly 42 billion dirhams (4.7 billion US dollars) annually since 2007 on infrastructure development. They included the project to modernize ports and airports (starting with Tanger Med port), the development of national roads and highways, establishing high speed railways (Al Buraq), the expansion of industrial complexes in different regions (Sale, Tangier, Kenitra, Tetouan), and the promotion of renewable energies (Noor solar power plant, wind farms).

Tax, quasi-tax, and other incentives are also available.⁵ They include free-zone incentives (permanent or temporary exemption from various costs: such as import duties and taxes),⁶ preferential treatment in the framework of agreements with the state (such as exemption for companies that register investments of no less than 200 million dirhams of import duties),⁷ provision of exceptional financial contributions,⁸ the Hassan II Fund for Economic and Social Development, and a corporate tax reduction beginning in 2008 of between 10% and 15% for MSMEs, 30% as a normal rate, and 37% for credit institutions and insurance and reinsurance companies.⁹

Morocco has also directed these measures towards FDIs. In 2010, it ranked in second place in the «Where to Invest in Africa?»¹⁰ index developed by the Diversified Financial Services and Portfolio Management Company in South Africa, rising from fourth place in 2015 and third in 2018. According to the Arab Investment and Export Credit Guarantee Corporation report for 2019, Morocco ranks fourth in the Arab world behind Egypt (first in Africa), Saudi Arabia, and the UAE. Below is the classification of foreign countries investing in Morocco, according to the latest available data.



Strengthening the business environment went through the repeal of the Law on Moroccanization of Economic Activities, and the setting of a legal framework that includes an investment charter revolving around tax incentives, customs protections, and preferential frameworks for benefiting from the real estate segments.

Figure 2: The classification of foreign countries investing in Morocco

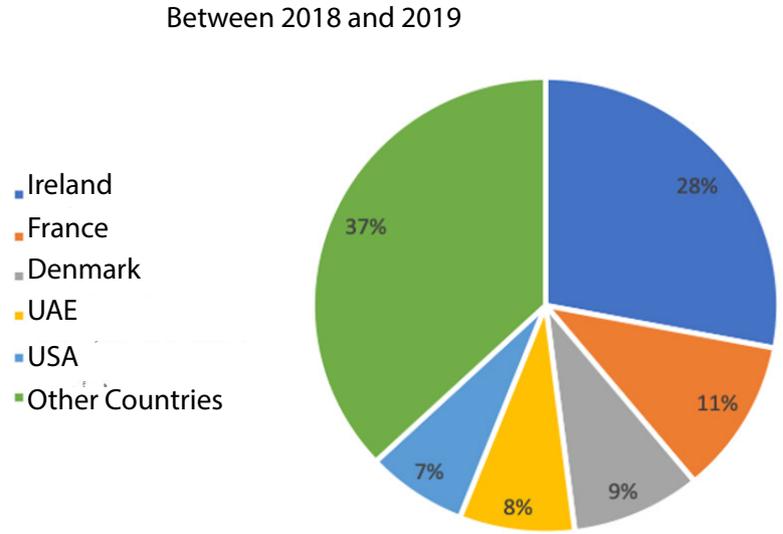
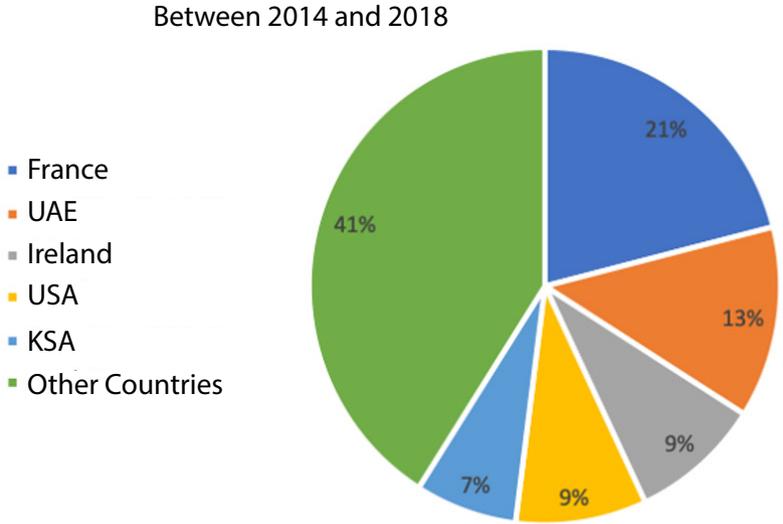


Figure 3: FDI Attracting Sectors

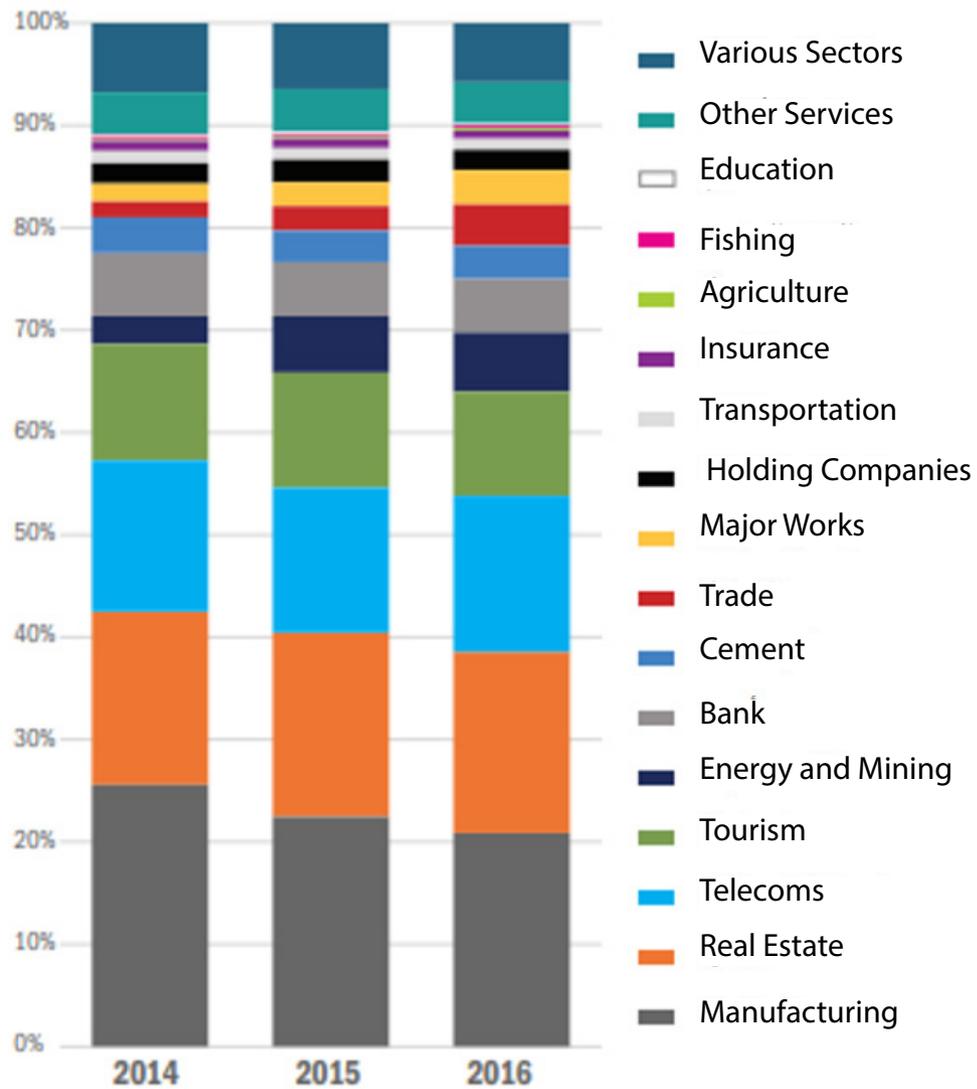


Table 1: Morocco's Doing Business Rank in the Past 5 Years

Year	Rank
2020	53
2019	60
2018	69
2017	68
2016	75
2015	71

However, did this progress come at the expense of private sector accountability, knowing that agencies that publish such rankings often adopt a liberal framework. Lacking the tools and measures used by such agencies, one cannot venture into a conclusion. However, it is certain that in the past decade, Morocco did not witness any serious change that diminishes protection afforded to workers, the environment, or consumer. Policies were mainly based on simplifying administrative procedures, liberalizing the exchange market, and gradual improvement of the commercial justice system, factors that may explain the improvement in ranking.

The private sector in Morocco is diverse in size and type. Multinational companies, major national companies, MSMEs, and the informal sector exist in a common environment with varying economic and social performance and operating conditions. According to a national survey of companies conducted by the High Commission for Planning: Contracting is mainly concentrated in the Casablanca-Tangier axis with 63% and 39% in the Casablanca-Settat region.

MSMEs dominate in terms of the distribution of companies according to size, registering 93% (64% for very small companies and 29% for medium and small companies); large national and multinational companies represent only 7% of the total.

In terms of distribution by (non-agricultural sector), services come first with 41.5%, followed by commerce with 27.5%, construction (21.1%), and manufacturing (9.9%).

Consequently, investment in Morocco does not seem to be fairly distributed. The Casablanca-Tangier axis is still dominant, while other regions suffer from marginalization and have not been able to attract sufficient private capital.

3. Moroccan Private Sector Accountability

What is the state policy on private sector responsibility and accountability?

In partnership with the Ministry of Employment and Vocational Integration, the Ministry of Industry, Trade, and New Technologies developed a new certification system for 00.5.601 NM certificate in line with social harmony. It falls under the national action plan for implementing social harmony adopted by the Ministry of Labor and Professional Integration, aiming to motivate organizations to implement the prevailing social regulations (respect for the Labor Code, social security, social insurance for work accidents and occupational diseases, compulsory health insurance) in a participatory, non-repressive framework with social partners (labor unions, workers, employees, and the government). The certificate is important for companies working in the industrial, commercial, agricultural, and forestry sectors and considered a means of checking the operator's compliance with the relevant laws in force. However, despite the ceiling of its objectives (appropriate to the legal texts), companies were not very interested for various reasons, including:

1. Obtaining the certificate did not exempt companies from inspection by the Labor Inspectorate of the Ministry of Employment.
2. The informal sector is still outside the framework of any accountability at the social level and constitutes unfair competition for the formal sector.
3. The certificate does not have any obligatory nature and is not imposed in public transactions or to obtain state support, for example.

Furthermore, with regard to social responsibility, Article 9 of the Labor Code prohibits any discrimination between employees based on race, color, sex, disability, marital status, creed, political opinion, union affiliation, national origin, or social origin, that would violate or distort the principle of equal opportunities, or lack of reciprocity in the field of employment or professionalism, especially with regard to employment, labor management and distribution, professional training, wages, promotion, and benefiting from social privileges, disciplinary measures, and dismissal from employment.

It also entails the following:

1. Women's right to conclude employment contracts.
2. Prohibition of any discriminatory measure based on employee union membership or action.
3. Women's right, regardless of marital status, to join a trade union and participate in its management and administration.

However, Morocco still lags behind on gender in general and in the private sector in particular. It does not live up to the aspirations of women's and human rights organizations. The employment rate of women is in constant decline (less than 19% in 2020, compared to 68% for men, according to the High Commission for Planning). Women's representation in decision-making positions in the private sector is also weak. Furthermore, the underrepresentation of women in the economy is reinforced by one of the characteristics revealed by a survey conducted by the High Commission for Planning, which is the weak rate of women's representation in management positions in Moroccan companies. In 2019 the rate of feminization in decision-making positions was 8% in large companies and 13% in small companies.

As for social communication and transparency, and contrary to countries like France, which forces companies of more than 300 workers to issue a

«social bulletin» measuring progress on the social level (employment, continuous training, wages equal wages, protection from work accidents), the issue remains optional in Morocco. The Labor Code only imposes announcing the number of the workers.

Moroccan companies are also required to meet some standards and certificates, either to deal with partners or enter a foreign market, including:

- SA8000, the international social accountability standard entailing the development of work programs or policies taking into account social responsibility inside the company.
- ISO14001 (Environmental Management) stipulates that certified organizations should take into consideration the environmental aspects of their activities, which contributes to making a good impression on the various partners.

While these certificates expose companies to accountability, it remains within the framework of purely commercial interests by their foreign clients and by auditing and rating agencies and does not entail any state intervention in free and competitive sectors.

Morocco has also developed several laws related to environmental protection, including:

- Decree No. 2-04-553 issued on January 24, 2005 related to pouring, flowing, throwing, and direct or indirect deposit in surface or groundwater.
- Royal Decree No. 1-03-60 issued on May 12, 2003 implementing Law No. 12-03 related to environmental impact studies.
- Royal Decree No. 1-03-59 issued on May 12, 2003 implementing Law No. 11-03 related to environmental protection and restoration.
- Royal Decree No. 1-03-61 issued on May 12, 2003 implementing Law No. 13.03 related to combating air pollution.

- Decree No. 286-09-2 of December 8, 2009 specifying air quality standards and methods for setting up safeguard networks.
- Decree No. 631.09.2 issued on July 6, 2010 specifying the maximum limits for the release and emission of pollutants into the air from fixed sources of pollution and the modalities of controlling these emissions.
- Royal Decree No. 1-06-153 issued on November 22, 2006 implementing Law No. 00.28 related to waste management and disposal.
- Decree No. 253.07.2 dated July 18, 2008 regarding the classification of waste and the identification of the list of hazardous waste.
- Decree No. 2-08-243 dated March 17, 2010 establishing the PCB Committee.
- Decree No. 2-09-538 dated March 22, 2010 specifying the modalities for preparing the national management plan for hazardous waste.
- Decree No. 683.09.2 issued on July 6, 2010 specifying the modalities for the preparation of the regional directorate plan for the management of non-hazardous industrial, medical, and pharmaceutical waste, final waste, agricultural, and inert waste, and the procedure for organizing public research related to the plan.

All private sector enterprises are required to respect the above laws, each in its relevant field.

The Environmental Police, established in 2017, is responsible for the monitoring, inspection, research, and investigation of violations and issuing fines stipulated in the provisions of environmental laws. However, its capacities are still limited. It has few employees who lack training and are required to intervene on multiple levels. Thus, it remains unable to fulfil its duties despite the enormity of the challenges, such as waterway and air pollution, looting of sand, cutting down trees, dumping chemical and industrial waste in nature, uncontrolled landfills, and poaching.

Law 31.08 sets consumer protection measures against unfair conditions and certain commercial practices, by providing for additional provisions related to contractual guarantees, after-sales services, and excessive indebtedness. It also empowers recognized consumer protection associations of public interest to pursue establishments and defend consumer rights, while playing an important role in raising awareness and protecting consumers. To facilitate matters, the electronic consumer service portal provides all the information related to the various consumer protection associations present in the Kingdom.



Morocco still lags behind on gender in general and in the private sector in particular. It does not live up to the aspirations of women's and human rights organizations.

4. Corporate Social Responsibility

The concept of social proximity applies when a company adopts policies that are close and pay attention to its social environment (internal and external), in addition to contributing to the development of radical solutions to environmental problems (air pollution and excessive exploitation of resources) and community issues (social, cultural, and economic differences).

Since 2003, around 48 Casablanca companies have been participating in a social initiative assisted by the General Confederation of Moroccan Enterprises. They initially targeted the residents of adjacent marginalized neighborhoods, especially youth. A meeting was organized with the contractors at the time, in addition to retirees and the general public. The initiative prompted the Administrative Council of the General Confederation of Moroccan Enterprises to establish a committee in 2006 aiming to create a corporate social responsibility label, as a form of recognition for services and social initiatives.

It was based on the ISO 26000 standard, holding companies to ethical practices towards the various groups in their surroundings, whether on the social or environmental level. Nevertheless, the impact of this brand remains limited, first because it is not recognized internationally and second since companies have not been heavily involved, not even professional or sectoral organizations. The General Confederation of Moroccan Enterprises is positively engaged with the UN Global Compact of 2012, which has the 10 following principles:

1. Support and respect the protection of internationally proclaimed human rights.
2. Make sure that they are not complicit in human rights abuses.
3. Uphold the freedom of association and the effective recognition of the right to collective

bargaining.

4. Eliminate all forms of forced and compulsory labor.
5. Effectively abolish child labor.
6. Eliminate discrimination in respect of employment and occupation.
7. Support a precautionary approach to environmental challenges.
8. Undertake initiatives to promote greater environmental responsibility.
9. Encourage the development and diffusion of environmentally friendly technologies.
10. Work against corruption in all its forms, including extortion and bribery.

The Moroccan Coordination of Human Rights Organizations, in partnership with various NGOs, presented a detailed report on these principles to ensure that the various rights in question are guaranteed. The Labor Code also seeks to frame and enact penalties in cases of breach. However, the government is yet to legislate this collective initiative, which remains in the drawers of government cabinets and various ministries (Foreign Affairs, Industry and Trade, and Labor).

In general, the private sector's social responsibilities are not set in a binding legislative framework and successive governments tended to avoid the issue for many reasons, mainly:

1. Fear that any mandatory framework would lead to thwarting local and foreign investment.
2. The lack of means to track and monitor these obligations, knowing that the labor inspectorate has barely about 300 inspectors throughout the country.
3. The need for a qualitative development in the culture of employers, especially SMEs, to change their stereotyped images of their relations with workers and build on the foundations of a contemporary management of human capital.

On the other hand, some positive aspects include increased interest in training institutes and academic research, enabling businesses willing to plan and implement a committed social responsibility policy to recruit competencies capable of carrying out such tasks.

5. Business and the Regulated Sectors

While investment in private productive sectors (agriculture, industry, services) does not raise eyebrows about its legitimacy, that is, its legitimate right to exploit resources for profit, the same does not apply to social sectors. The Moroccan government handed several public services to the private sector, within the framework of a regulatory policy intended to preserve public interest and social responsibility. Following are some of the most prominent examples:

Water and Electricity Distribution

National agencies and offices to provide drinking water have existed in major cities since the Mandate. After independence in 1956, water distribution was handed over to municipal agencies or directly to municipal councils. The only exception is the transfer of water from Oum Er-Rbia River to Casablanca, which remains controlled by the Moroccan Company for Water, Gas, and Electricity Distribution.

In a span of 6 years (1997 - 2002), water and electricity distribution services were delegated to 17 offices (13 independent local agencies and 4 private companies). They covered around 50% of water distribution in major cities and made an estimated 8 billion dirhams in 2005, just for the cities of Casablanca, Rabat-Salé, Tangiers, and Tetouan, which is between 2% and 2.5% of the country's GDP. The delegated companies contributed two billion dirhams

in capital and invested 32.3 billion dirhams until 2013. Their profits amounted to 10.8 billion dirhams in 2013 (almost a third of the total profits for the distribution of water and a quarter of electricity). These companies employ 7,270 people, 4,965 of whom were recruited from previous independent agencies.

The presence of private companies in the sector is regulated by several laws, including:

- Law No.48.15 on regulating the electricity sector and establishing the National Authority for Electricity Regulation.
- Royal Decree No.154.95.1, issued on 18 Rabi' al-Awwal 1416 on the implementation of Law No.1.

Water and sanitation is jointly controlled by the Ministry of Energy, Mining, and Environment, in charge of managing water resources and dams, and the Ministry of the Interior, through two departments. The first in charge of independent agencies and licensed services and the second answers to the Directorate of Water and Sanitation.



The Moroccan government handed several public services to the private sector, within the framework of a regulatory policy intended to preserve public interest and social responsibility.

The latter accompanies municipalities in various relevant activities and plays an important role in planning infrastructure. These establishments are accountable for their technical and environmental achievements to local authorities and constituencies through the delegation contracts signed with city councils. Moreover, the Ministry of Interior appoints monitoring bodies to oversee their work and ensure the contract is respected in terms of investment, billing, accounting records, consumer protection, and state interests.

The dominant companies in this field are Lydec (Casablanca-Mohammedia), Redal (Rabat-Salé-Temara), and Amendis (Tanger-Tétouan). The three companies have developed different social responsibility policies and have been awarded the CSR label by the General Confederation of Moroccan Enterprises. Their efforts range between social functions in coordination with charities and establishing their own organizations (such as Lydec). However, all those programs remain voluntary and meant to improve the companies' image, despite being the most highly unionized sector.

Nevertheless, these companies face many criticisms, especially for their tariff policies and the high water and electricity bills for low income families. This situation has led to social unrest, most notably in Tangiers in 2018. However, regulatory authorities were able to react to the situation through renegotiating contracts at term end. CSOs are also involved in pressuring the actors in the sector in terms of delivering water and electricity to marginal neighborhoods, sanitation, and fighting pollution.

Telecommunications

Morocco decided to liberalize the telecommunications sector in 1997. The sector had been monopolized by the Ministry of Posts and Telecommunications until 1984, when a distinction was made between politics and administration by establishing the National Office of Posts and Telecommunications. The year 1997 also witnessed the implementation of Law No.24-96 related to the post and communications, promulgated by Royal Decree 1.97.162 on Rabi' al-Thani 2, 1418 (August 7, 1997). Organizational tasks were handed over to the National Agency for Telecommunications Regulation (ANRT) and Maroc Telecom became the first private company in this field, after the Vivendi Group acquired a 35% stake in it in 2000. Medi Telecom entered the market in the same year.

Today, three telecom companies operate in Morocco. The oldest is Maroc Telecom. It faces competition from Medi Telecom (Meditel), which became a subsidiary of the Orange group and Wana company, which was founded in 2006 to be rebranded as Inwi.

To ensure fair and honest competition as well as customer protection, ANRT cooperates with the state to manage the legislative and regulatory framework for the coordinated, permanent, and continuous development of the sector. It also monitors the application of the conditions and laws stipulated to maintain fair competition. In partnership with the National Commission for the Protection of Personal Data, it imposes rules to protect consumer rights against the illegal exploitation of their personal data. The three companies have been competing to improve their image as operators, especially to attract talent in the field of communications, due to the scarcity of engineers and the brain drain. Maroc Telecom obtained the Certificate of Merit for Social Responsibility from VIGEO in accordance with the international standard ISO26000 in 2016. ORANGE Morocco has been elected «Best Operator in Morocco and Africa» several times. The

certificate recognizes best practices and human resource conditions for employee development. It is granted in an association framework concerned with the management of human resources. On the other hand, INWI focused more on contributing to field development and supporting youth on the associative, cultural, sports, and environmental levels. However, all of these operations remain voluntary and are not imposed by the ANRT or any other official body.

Audiovisual Sector

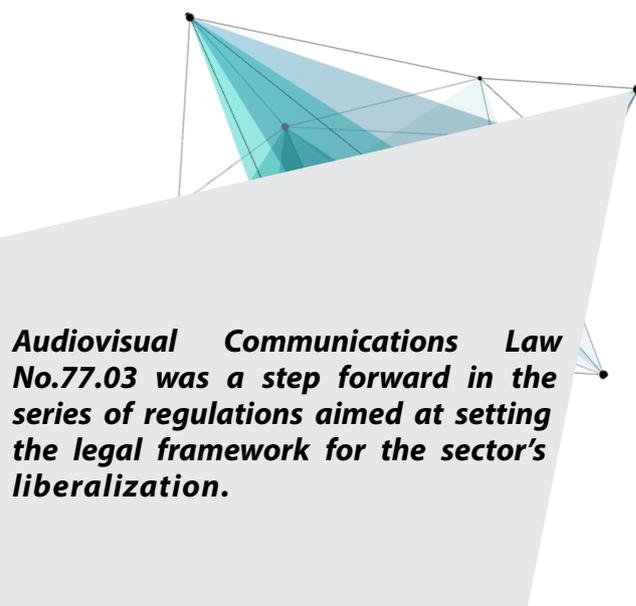
Audiovisual Communications Law No.77.03 was a step forward in the series of regulations aimed at setting the legal framework for the sector's liberalization, which began with the issuance of Royal Decree No.212-02-1 on 22 Jumada Al-Thani 1423 (31 August 2002), establishing the Higher Authority for Audiovisual Communications (HACA), and Legislative Decree No.663.02.2 on 2 Rajab 1423, ending state monopoly over radio and television broadcasting, opening the way for free initiative, and, thus, creating competition. Since 2006, HACA has issued many licences to radio and television channels. It also protects citizens' rights related to the sector by monitoring broadcast specifications and commitment to the rules and regulations. Thus, companies are required to respect cultural and political diversity, the portrayal of women, and children's safety. They are accountable to HACA, which also reviews complaints by individuals or legal persons who may consider that a particular channel did not respect such controls.

An important step took place during COP23, when 30 media actors signed on the National Charter for Media, Environment, and Sustainable Development. Signatories included ministerial departments, regional authorities, private sector companies, training and academic research institutes, CSOs, audiovisual media organizations, the press, and a group of experts. The Charter urges national media to address environmental challenges, in line with the principles of sustainable development. It aims to

«find a principled, moral, and ethical agreement between partners with a shared preoccupation with the environmental challenges with which they interact in terms of their societal tasks and functions, and a special awareness of a universal given represented in the renewed and strategic roles of the media in facing those challenges.» However, some associations say that implementing the Charter was not treated as a priority. According to the document of the public dialogue organized by the Environment Club of the Rabat Al-Fath Association for Sustainable Development, in cooperation with the Moroccan Coalition for Climate and Sustainable Development in 2019, they are:

- The significant delay in implementing the charter
- Insufficient use of communications tools to lead change and implement the country's environmental policy
- The rising economic and social costs of environmental degradation.

Although HACA, which supervised the drafting, has the authority to intervene and impose measures against violators of audiovisual media regulations, the Charter remains non-binding.



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6. Case Study: Basic and Higher Education

Basic and higher education are characterized by the coexistence of the private, free sector and the public sector. In 1963, immediately after independence, a policy of compulsory education was adopted for children between 6 and 13. The need for educational institutions grew in all Moroccan cities. Existing national schools (today named free or private schools) and public schools were emerging but lacked the capacity to receive all children. The private sector grew to compensate for the shortage in the public sector.

In the early 1960s, profit-making private schools were popular among the urban bourgeoisie, especially since they are the only one providing daycare and kindergartens. Primary and secondary education was Arabized in the late 1970s. However, the private sector recorded high profits and grew significantly, encouraged by the state.

Thirty years after its inception, pedagogical reforms were carried out after a report issued by the World Bank in 1995. Consequently, King

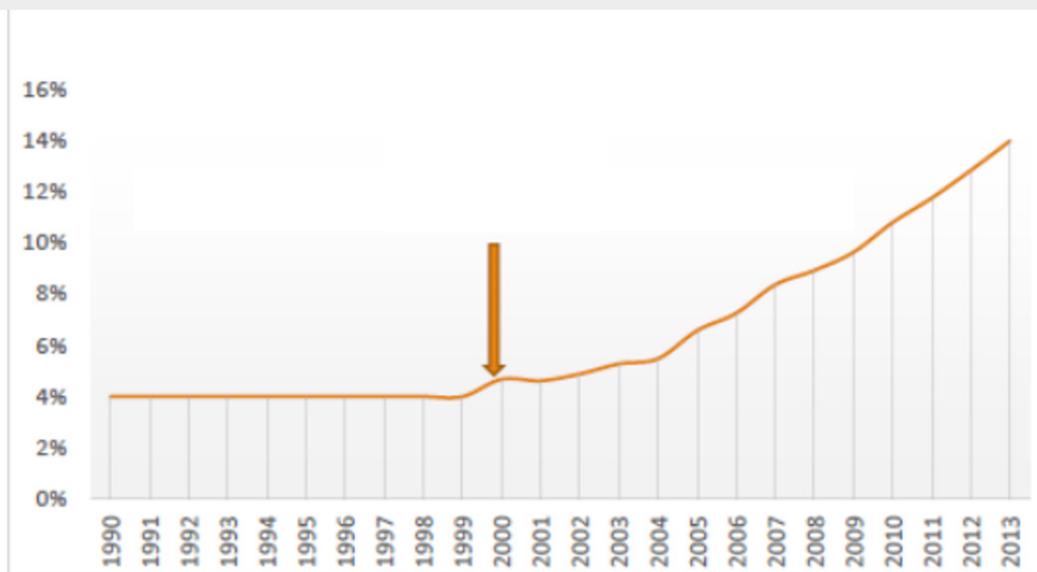
Hassan II directed an evaluation process that led to the establishment of the National Charter for Education and Training. Prices and profits also rose significantly, which cemented the image of a greedy sector among a large segment of the population.

In 2000, the National Charter for Education and Training was officially adopted. It stipulated the need for quality education from an early age by providing support at the pedagogical and financial levels. On the other hand, it highlighted the importance of PPPs and the private sector in promoting education and training. As indicated in the figure below, the free sector's share of students rose significantly following the Charter's adoption.

The charter states that "the education and training private sector is an essential partner of the government in the task of improving the education and training system, as well as expanding its scope and continuous improvement of its quality.» Since then, the private sector has been in continuous development thanks to the facilities provided by the Moroccan state.

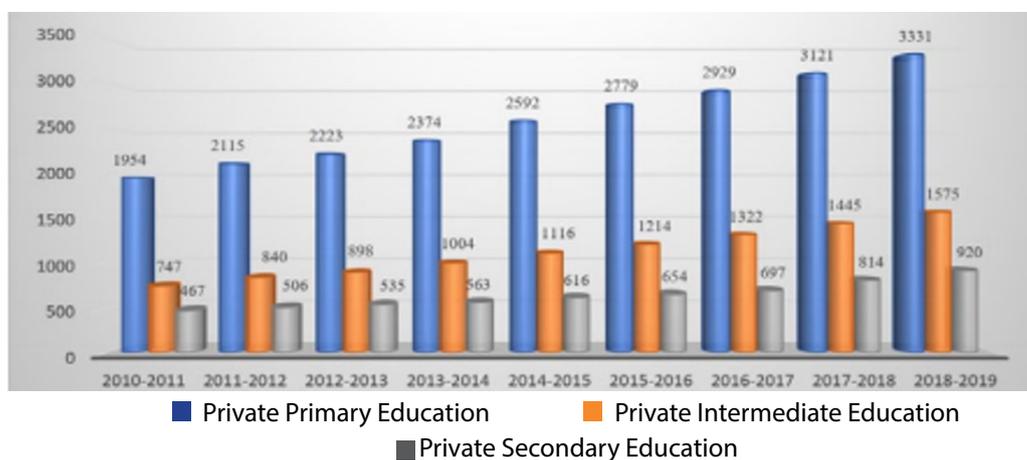
In 2020, private higher education included 152 institutions and 5 universities.¹¹

Figure 4: Percentage of Primary Education Students in the Private Sector



Source: The National Charter for Education and Training

Figure 5: Private Educational Institutions in Morocco (2010-2019)



Source: Ministry of Education Data (2018-2019)

An Encouraging Business Environment¹²

Although the state considers the private sector to be a partner in spreading education and achieving equality, equal opportunity in access has not been achieved.

In basic education, the private sector has some kind of monopoly over kindergartens and primary schools in large urban areas. Primary, intermediate, and secondary public schools were gradually abandoned in some rich and middle class neighborhoods, where parents prefer to send their children to the private sector that provides more suitable conditions.

In 2001, the state issued Law No.00.06 approved by Royal Decree. It became the first law to organize private schools in Morocco and set conditions for starting, expanding, or modifying private educational institutions, especially in terms of respecting curricula and standards and adopting an internal insurance system for all students (Ministry of Education, 2011).

The Ministry prioritized the promotion of privatized national education by providing several facilities for natural or legal persons wishing to invest in the sector. However, standards and requirements are considered minimal, especially in relation to kindergartens and primary education. It remains possible to establish a school over an area of just 100 square meters. Thus, in seeking to increase the number of private institutions, the state neglects the issue of quality.

The government also established a fund to promote private education, providing loans to investors at a preferential interest rates of 2% and 2.5%. Investors are also free to determine their tuition fees. The issue created many conflicts between parents and free schools, as revealed by the Covid-19 crisis.

In higher education, foreign investments increased in the past years, hoping to achieve major profits while serving the national market and as a hun in North Africa. They were allowed to issue degrees equivalent to public institutions in return for adhering to several logistical and pedagogical standards.

Private Investment in Basic and Higher Education

The following private investment forms are present:

- Full or partial national private investment involving Moroccan individuals or legal persons: In the past years, several important financial conglomerates appeared. One example is the Sana' schools, targeting upper and middle class families. Sana' Education was established in 2015 after a merger between the Siham Group, owned by the current Minister of Industry, Trade, Investment, and Digital Economy, Hafeez Elalamy, and Tana Africa Capital, an African investor. Another example is the Bilia group affiliated to the Moroccan-UAE development company.
- Foreign Private Investment: This type of investment involves foreign countries establishing institutions subject to their private educational system. For example, the Lyuty High School in Casablanca is affiliated with the French Education Missions Abroad, which in turn is under the tutelage of the French Ministry of Foreign Affairs and follows the French curriculum. Prices are determined on an annual basis and vary according to the academic level and the nationality of the student. French students pay less compared to Moroccan students, who in turn pay less

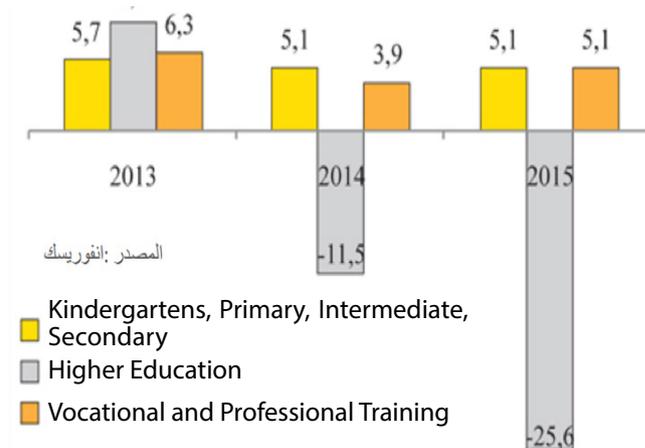
than students of other nationalities. However, the prices remain very high, ranging between 30 and 60 thousand dirhams. Similarly, there are other foreign schools from countries such as the US, Spain, the UK, Italy, and Belgium that follow their country's curricula, charge exorbitant fees, and only target wealthy families.

- Public-Private Partnerships:¹³ PPPs have recently become popular in financing sustainable development and as a pillar of participatory governance in social and economic sectors. Several PPPs exist in higher education and scientific research. They are considered a main component of the custodian ministry's policies, aiming to strengthen the relationship between academia and the business community and to determine the appropriate conditions for the continuity and success of the relationship between the two sectors. The ministry aims to support a win-win partnership for both parties, which is at the same time renewable, synergistic, creating wealth and job opportunities, and contributing to sustainable development. The International University of Rabat is the first public-private partnership pilot project in this sector. It is the fruit of a partnership between the state on the one hand and a group of economic actors and institutions on the other. The number of schools and universities established in this framework has continued to increase, as the table below shows:

Table 2: Size of the Private Sector in Basic and Higher Education¹⁴

Type	2017 - 2018	2018 - 2019
Public Universities	126	129
Public Vocational Training	71	73
PPPs	28	31
Private Higher Education	171	163
Total	396	396

Figure 6: Growth of private businesses in national and higher education



In terms of school enrolment in 2019/2020, the total number of registered students and trainees was around 9.898 million, including 8.208 million school students (14% registered in the private sector), 1.01 million university students (around 51,000 enrolled in private higher education institutions or no more than 5% of the total). In terms of human resources, there were 263,335 school teachers, 20,829 university lecturers, and 21,380 vocational trainers.

Despite the difficult economic situation, the educational sector seems to be unscathed. In 2015, the sector's total turnover amounted to 4.5 billion dirhams, rising from 4.1 billion in 2014 and 3.7 billion in 2013. However, growth varies according to level and field of study. Vocational training centers are the most profitable, recording 2.4 billion dirhams and an average growth rate of 7.8% between 2013 and 2015.

In 2015, schools made around 1.8 billion dirhams and had an average growth rate of 13.8% between 2013 and 2015. In higher education, however, the figure in 2015 was around 258 million dirhams, with a slight increase of 0.8% during the same period. Nevertheless, all the above data is five years old as updated data is not available. However, two general trends are expected to have an impact, growing investment in private higher education, on the one hand, and the more recent Covid-19 crisis, on the other.

The Private Sector's Shortcomings in Education

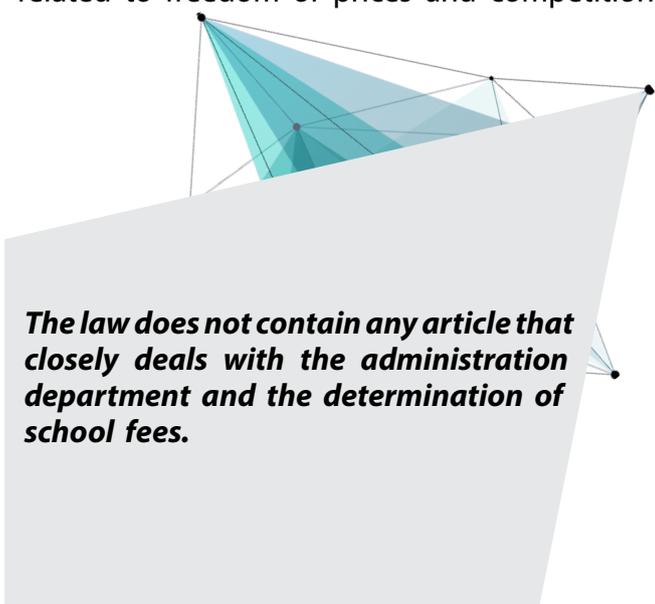
Despite the above figure, many political forces, associations, and unions have identified the following flaws in the private sector's involvement in education:

- Tax evasion is practiced through declaring bankruptcy at the end of each year.
- Tuition fee policies are harsh, untransparent, and indifferent to social hardship (such as during Covid-19); the high rates are contrary to the principle of accessibility required of all educational institutions.
- Maximum flexibility in contracts, weak wages, and several cases of failure to declare workers in the social security system during the Covid-19 crisis.
- There are many cases of arbitrary dismissal in the sector, including those resulting from unionization attempts.
- The complete absence of unions and the fight against their presence in the private sector.
- Weak efforts to rehabilitate workers in the sector, especially educational staff, at the pedagogical, psychological, and even purely cognitive levels.

- Lack of evaluation of quality standards in the sector, whether pedagogical, educational, relational, logistical, or organizational.
- There is an observed deficit in the role of education and training in general in improving the level of integration into society and economic, cultural and social activities. However, the private sector in particular has failed to show the expected efficiency, despite its capacities.

Lack of Accountability

Law No.06 of 2000, which set the basic system for private education, replaced Royal Decree No.049.59.1 issued on 24 Dhu al-Qi'dah (June 1, 1959) and Law No.15.86 of 1991. According to the law, private institutions must offer programs compatible with the general trends of the educational system, subject to pedagogical and administrative control by the Regional Academy of Education and Training. The law does not contain any article that closely deals with the administration department and the determination of school fees. However, private institutions are considered service-providing contractors and are therefore subject to Law No.06.99 by Royal Decree No.1.09.237 of 2 Rabi'Al-Awwal 1421 (June 5, 2000) related to freedom of prices and competition.



The law does not contain any article that closely deals with the administration department and the determination of school fees.

Protection of students/ customers

Although the Covid-19 health crisis highlighted several neglected priorities by the government, including high private education fees due to lack of price regulations, the question was raised repeatedly in the past years. School fees in the private sector have always been free. In September 2017, former Minister Mohammed Hassan stated that the «Ministry does not interfere in setting fees; its role is merely pedagogical and administrative supervision.»¹⁵

The Moroccan Consumer Rights Association also believes that the sector should be regulated although it is of commercial nature. It explained that freedom to set fees should not mean chaos and lack of clarity regarding bills. In this context, it proposed various measures that the government can take into account in regulating the sector, including:

- Establishing a fixed price list for each academic or university level.
- Giving parents a view of costs spanning a few years.
- Setting the relationship between parents and institutions through a contract.
- Establishing a classification for institutions within a specific price range for each category.

According to a newspaper article:¹⁶ «In applying the law, the education and training framework is at the top of the ministry's concerns, along with the need to resolve the issue of setting school prices in the private sector. It should be remembered that the issue has been raised insistently during the past years, and it has been raised several times at the level of the legislative institution. The ministry was unable to address the issue before the law's adoption - the framework related to education and training, because it had to be amended. Years have passed since this goal was set by the relevant ministry department, which is still awaiting legislative amendments.»

To protect parents and children as customers of private institutions, it is necessary to start organizing and setting prices, in addition to setting up special systems in exceptional cases (the health emergency related to Covid-19, for example). Thus, the Ministry must reconsider Law No.06.00, amend the imbalances, and draft new decrees to regulate and set a price ceiling, in line with the law. However, this remains an elusive goal, and it takes time for accurate texts to be issued.

Specific frameworks regarding social responsibility towards wage earners working in the private educational sector are still absent. Excessive use of flexibility (fixed-term contracts, shift system) weakens teachers and administrators. Even if some charters set a threshold for the number of permanent employees (also for private universities), these standards are rarely respected. Moreover, the sector is hardly covered by the Labor Inspectorate, despite all the known transgressions.

The absence of regulations in the sector creates confusion that serves private sector stakeholders vis-à-vis the other concerned parties. In the absence of any serious project or even just a conscious rhetoric on the part of the government, the state seems to have decided to make children, parents, and those working in the private education sector vulnerable to abuse and without the slightest protection. Regardless of intentions, there seems to be a crisis of trust between citizens, the private sector, and the state. The national meeting to discuss the draft of this report recommended that CSOs and unions must advocate for legal and institutional mechanisms to regulate the private educational sector in Morocco. Interventions pointed to the need to reconsider all aspects of educational governance, including the public sector. This is in addition to combating bribery, mismatch of responsibility, idleness, and the spread of private lessons. The higher body that will be formed to legalize the sector should allow the representation of all concerned parties, especially representatives of parents, unions, and CSOs.



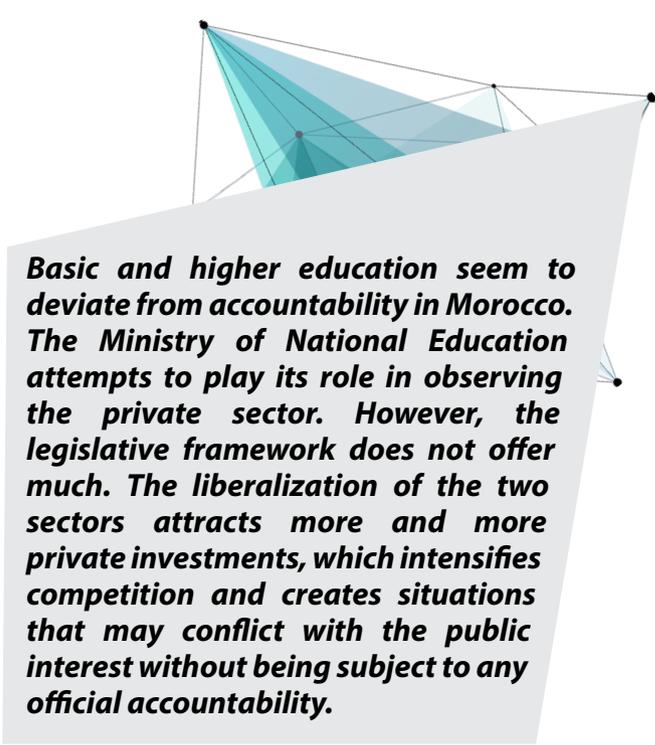
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7. Conclusion

Strategic sectors are usually regulated and made accountable to independent agencies established for the purpose, based on the World Bank's general orientation in the 1980 to privatize public sectors. The liberal doctrine acknowledges the selfish opportunism of the private sector and advises the state to enact regulations instead of nationalization or monopoly. The above is evident in the dual requirements for the sector's effectiveness (thanks to the competitiveness of the private sector and its ability to create added value and wealth more than others) and defending collective interests (through regulatory mechanisms that protect the environment, consumers, workers, and other stakeholders).

Morocco has followed the same approach in several sectors considered strategic and established several critical regulatory agencies: the National Agency for Telecommunications Regulation, the High Authority for Audiovisual Communication, the National Ports Agency, and the Insurance Control Authority and Social Reserve, which led to economic dynamism in the relevant sector. These agencies could play a positive role in obliging economic actors to respect some of their social, environmental, and cultural responsibilities, in the event of a binding legal framework. They are able to define strict rules related to social, environmental, and economic responsibility in activities, while ensuring the competencies of representatives of the sector and the protection of consumers and customers. As these same services were considered public services in the past, the state aspires to reconcile the economic competitive dynamic with the public interest.

However, two sectors seem to deviate from that framework, basic and higher education. The Ministry of National Education attempts to play its role in observing the private sector. However, the legislative framework does not offer much, and there are no guarantees for students, parents, or other interested parties. The liberalization of the two sectors attracts more and more private investments, which intensifies competition and creates situations that may conflict with the public interest without being subject to any official accountability. It has become urgent to provide the educational system with a neutral and effective framework to guarantee citizens' basic rights in sustainable development. This may enable the creation of conditions for rebuilding trust among all the actors in the sector, especially between parents, private investors, and the state.



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References and Endnotes

- 1 The World Bank Group, Creating Markets in Morocco: A second generation of reforms: Boosting Private Sector Growth, Job Creation and Skills Upgrading, Country Private Sector Diagnostic, World Bank, October 2019, <https://www.ifc.org/wps/wcm/connect/d0c0f18c-26b7-4861-b4c5-14896aaba7f1/201910-CPSD-Morocco-EN.pdf?MOD=AJPERES&CVID=m-LGA3X>.
- 2 Higher Commission for Planning, 2018 Annual Report, <https://www.hcp.ma/>.
- 3 Ibid.
- 4 CONJONCTURE (Le mensuel des décideurs), CFCIM, numéro 998, http://www.cfcim.org/wp-content/uploads/2018/02/Zoom_998_decembre2017.pdf.
- 5 United Nations, Investment Guide to Morocco [in French], <https://www.theiguides.org/guides/3237-moroc-web-small.pdf>.
- 6 Law No.15.90, executed by Royal Decree 01.0..1 on 9 Safar 1431 h. (1/2/2010), Official Gazette Issue 5841, on 5 Jumada II 1431 (3/5/2010).
- 7 Article 7.1 of the Financial Law 12/98.
- 8 Article 17 & 19 of the Framework Law No.18/95.
- 9 Financial Law 2008.
- 10 https://www.rmb.co.za/files/pdf/Where_to_Invest_in_Africa_2020.pdf
11. https://www.enssup.gov.ma/sites/default/files/ETABLISSEMENT-SUP/125/Liste_etablissements_privés_autorises-et-fonctionnels_2019-2020_V4.pdf
- 12 https://issuu.com/educationinternational/docs/2020_eiresearch_morocco_final_fr
- 13 <https://www.enssup.gov.ma/fr/Page/458-partenariat-public-priv%C3%A9.html>
- 14 Ministry of National Education and Higher Education
- 15 <https://leseco.ma/faut-il-fixer-les-tarifs-des-ecoles-privees/>
- 16 <https://leseco.ma/enseignement-privé-les-tarifs-bientôt-régulés-au-maroc/>