

The Motion of Censure and the Vote of Confidence as Mechanisms of Parliamentary Oversight over the Executive Under the Algerian and Moroccan Constitutions

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Received: 11/02/2026; Accepted: 19/09/2026; Published: 04/10/2026

Abstract

The Algerian Constitution as amended in 2016 and the Moroccan Constitution of 2011 both embrace the principle of a flexible separation of powers, a principle reflected in numerous manifestations, among them legislative oversight of the executive power. Such oversight takes two forms: parliamentary oversight that does not engage the government's political responsibility, and parliamentary oversight that does. Among the oversight mechanisms used by parliament to bring pressure to bear on the government, and potentially to drive it toward resignation, are the motion of censure and the vote of confidence. Owing to their gravity and to the serious legal consequences they entail, these two mechanisms have been made subject to a defined set of procedures. A comparison of the two constitutions' oversight mechanisms reveals both similarities and differences; in both systems, however, these mechanisms prove to be instruments of limited rather than genuine effectiveness, owing to the executive's dominance over every other branch of government.

Keywords: political responsibility, resignation, motion of censure, vote of confidence, legal consequences.

Introduction

It is widely recognized that the political systems of the world fall into two broad categories: dictatorial systems, in which all powers are concentrated in the hands of a single authority or body, and democratic systems, in which the power of the state is distributed among separate authorities or bodies. This distribution is made possible only by virtue of a constitutional principle known as the separation of powers, first advanced by the French thinker and scholar Montesquieu. Among the states that have enshrined this principle in their constitutions is Algeria, which espouses the republican system through its Constitution as amended in 2016, as well as Morocco. This principle does not, however, preclude the emergence of relationships between the branches of government, particularly between the executive and the legislature. Among these relationships is the oversight relationship, which finds expression in numerous forms, including the motion of censure and the vote of confidence — two mechanisms through which the legislative power seeks to influence the executive. As my contribution is centered on this very subject, I propose the following problematic:

Main Research Question: How have the Algerian and Moroccan legislatures regulated the motion of censure and the vote of confidence as oversight mechanisms through which parliament brings pressure to bear on government?

Sub-Questions:

- What procedures govern the motion of censure and the vote of confidence as oversight mechanisms for the legislative power's influence over the executive power under the Algerian and Moroccan constitutions?
- What legal consequences flow from the motion of censure and the vote of confidence under the Algerian and Moroccan constitutions?
- How effective, in practice, are the motion of censure and the vote of confidence under the Algerian and Moroccan constitutions?

Part One: The Motion of Censure and the Vote of Confidence under the Current Algerian Constitution as Amended in 2016

Among the manifestations of the flexible separation between the legislative and executive powers are the motion of censure and the vote of confidence, both of which stand as mechanisms used by parliament to oversee, and to bring influence to bear on, the government.

I. The Motion of Censure under the Algerian Constitution as Amended in 2016

The relationship between parliament and government does not come to an end with the adoption of the government's plan of action — formerly termed the government's work programme under Article 80 of the 1996 Constitution as amended in 2008.¹ Parliament continues to oversee the government's performance and the degree to which it honors its commitments, through debate on the government's general policy statement. During this debate, proceedings may conclude either with a resolution or with a vote by the National People's Assembly on a motion of censure — a serious and weighty procedure, given the legal consequences it carries, namely the resignation of the government. The motion of censure may be defined as a resolution signed by a group of deputies with the aim of directing criticism at the government or at the course it is pursuing; it thus constitutes a constitutional instrument allowing the government's responsibility, in the implementation of its programme, to be engaged before parliament.² It is an oversight mechanism exercised solely by the National People's Assembly, to the exclusion of the Council of the Nation: the latter has the right to adopt a resolution during the debate on the government's general policy statement, but has no power to vote on a motion of censure.³ Owing to the gravity of this instrument, the constitutional legislator in Algeria has bound it to a particular set of procedures, given the severe legal consequences it entails; its effectiveness, moreover, remains relative rather than absolute, for a number of reasons.

¹Article 80 of the Constitution of the People's Democratic Republic of Algeria, promulgated 28 November 1996, published in the *Official Gazette of the People's Democratic Republic of Algeria*, No. 76, 8 December 1996, as amended and supplemented by Law No. 08-19 of 15 November 2008, published in the *Official Gazette*, No. 63, 16 November 2008.

²Ammar Abbas, *Parliamentary Oversight of Government Action under the Algerian Constitutional System* (Algiers: Dar El Khaldounia, 2006), 270.

³Article 98, paragraph 4, of the constitutional amendment of 6 March 2016, published in the *Official Gazette*, No. 14, 7 March 2016.

First: The Procedures Governing the Motion of Censure

The procedures governing the motion of censure are as follows:

1. The Signature Quorum for the Motion of Censure and Its Conditions

Every constitution of Algeria's Second Republic — the Constitution of 1989, the Constitution of 1996 as amended in 2008, and most recently the Constitution of 2016 — has provided that a proposed motion of censure shall not be admissible unless signed by at least seven deputies, in accordance with Article 133 of the 1996 Constitution as amended in 2008⁴ and Article 153 of the most recent constitutional amendment of 2016.⁵ This signature quorum has likewise been confirmed by the internal rules of procedure governing the two chambers of parliament and the relationship between them, whether under the earlier internal rules, pursuant to Article 84 of the 1989 Rules of Procedure,⁶ and Article 58 of Organic Law 99-02,⁷ or under the current rules, pursuant to Article 58 of Organic Law 16-12.⁸ The signature quorum for the motion of censure is likewise subject to certain conditions: no deputy in parliament may sign more than one motion of censure at a time, so as to prevent fraud and forgery and to ensure integrity and transparency — a rule laid down in Article 59 of Organic Law 16-12.⁹

2. The Filing and Distribution of the Motion of Censure

Among the most important procedures relating to the motion of censure is its filing, by the delegate of its initiators, with the Bureau of the National People's Assembly — a requirement set out in Article 60 of Organic Law 16-12. This procedure may be carried out only by the delegate of the initiators; should any other person undertake it, the procedure is rendered void for breach of the rules of competence. Once filed with the Bureau of the National People's Assembly, the motion is distributed to all deputies, in accordance with Article 60 of Organic Law 16-12,¹⁰ though without specifying who is responsible for distributing it to all members, the time limit for distribution, or the legal consequences that would follow should this procedure not be carried out.

3. The Publication of, and Debate on, the Motion of Censure

The procedures governing the motion of censure do not come to an end with its filing and distribution; it is also published and posted in the Official Bulletin of the Proceedings of the National People's Assembly, again without any time limit for publication being specified, nor any penalty for failure to comply with this requirement — a matter addressed by Article 60 of

⁴See Article 133 of the 1996 Constitution, as amended and supplemented in 2008.

⁵See Article 153 of the 2016 constitutional amendment.

⁶Article 84 of the Internal Rules of Procedure of the National People's Assembly, No. 89-16, of 13 Jumada al-Awwal 1410 corresponding to 11 December 1989, concerning the organization and functioning of the National People's Assembly, published in the *Official Gazette of the People's Democratic Republic of Algeria*, No. 52.

⁷Article 58 of Organic Law No. 99-02 of 20 Dhul-Qi'dah 1419 corresponding to 8 March 1999, determining the organization of the National People's Assembly and the Council of the Nation, as well as the functional relations between them and the government, published in the *Official Gazette*, No. 15.

⁸See Article 58 of Organic Law No. 99-02.

⁹Article 59 of Organic Law No. 16-12 of 22 Dhul-Qi'dah 1437 corresponding to 25 August 2016, determining the organization and functioning of the National People's Assembly and the Council of the Nation, as well as the functional relations between them and the government.

¹⁰See Article 60 of Organic Law No. 16-12.

Organic Law 16-12.¹¹ The purpose of publishing the motion of censure in the Official Bulletin is to allow public opinion to take note of it and to become aware of the criticisms directed at the government by parliament concerning the conduct of its affairs and its management of public business.

4. The Debate on the Motion of Censure

The debate stage is among the most important stages through which the motion of censure must pass, given that it bears directly on whether the motion is accepted and carried. Returning to the 1989 Internal Rules of Procedure governing the two branches of government and the relationship between them, Article 86 grants the right to take part in the debate only to the government, to the delegate of the motion's initiators, and to any deputy wishing to speak in opposition to the motion — without extending this right to a deputy wishing to speak in its support.¹² Organic Laws 99-02 and 16-12, however, extended the right to intervene in support of the motion of censure to deputies wishing to do so, in addition to those already granted this right under the 1989 Internal Rules of Procedure, pursuant to Article 60 of Organic Law 99-02¹³ and Article 61 of Organic Law 16-12.¹⁴ This is the better approach taken by the two organic laws mentioned above, for it would be illogical to grant a deputy opposed to the motion of censure the right to intervene in the debate while denying that same right to a deputy who supports it. Moreover, allowing both the government and a deputy opposed to the motion to intervene in the debate works in the government's favor, since it may thereby win over votes and cause the motion of censure to fail.¹⁵

5. The Voting Quorum for the Motion of Censure and Its Time Limits

Every constitution of Algeria's Second Republic has agreed on the voting quorum required for the motion of censure, namely two-thirds of the deputies, as set out in Article 128 of the 1989 Constitution,¹⁶ Article 134 of the 1996 Constitution as amended in 2008,¹⁷ and, finally, Article 154 of the most recent constitutional amendment of 2016.¹⁸ This quorum is, in our view, difficult to achieve — indeed, we would venture to call it practically impossible in the presence of a pluralist assembly. A further constraint concerns the time limit for the vote, agreed upon in every constitution of the Second Republic as three days from the date the motion is filed, pursuant to Article 127(2) of the 1989 Constitution, Article 134 of the 1996 Constitution as amended in 2008, and Article 154 of the most recent constitutional amendment of 2016: “The vote shall not take place until three days have elapsed from the date the motion of censure was filed.”¹⁹ The purpose of granting this time limit for the vote on the motion of censure is to give the deputies voting in its favor time to persuade other deputies to join them in voting to

¹¹See Article 60 of Organic Law No. 16-12.

¹²See Article 86 of the Internal Rules of Procedure of the National People's Assembly, No. 89-16.

¹³See Article 60 of Organic Law No. 99-02.

¹⁴See Article 61 of Organic Law No. 16-12.

¹⁵Ammar Abbas, *Parliamentary Oversight of Government Action under the Algerian Constitutional System*, 274.

¹⁶Article 127 of the Constitution of 23 February 1989, published in the *Official Gazette of the People's Democratic Republic of Algeria*, No. 9, 24 March 1989.

¹⁷See Article 134 of the 1996 Constitution, as amended and supplemented in 2008.

¹⁸See Article 154 of the 2016 constitutional amendment.

¹⁹See Article 154 of the 2016 constitutional amendment.

bring down the government, while at the same time giving the government time to mount its defense.²⁰

Second: The Legal Consequences of the Motion of Censure

Once the motion of censure has been voted upon and has satisfied every legal condition and procedure, it produces legal consequences — namely, the resignation of the government. This is made clear in the very definition of this oversight mechanism: “It is the means by which deputies may bring about a vote of the Assembly withdrawing confidence from the government, in which case, should the vote be carried, the government is required to resign.”²¹ This is likewise confirmed by Article 155 of the most recent constitutional amendment of 2016: “Should the National People’s Assembly adopt the motion of censure, the Prime Minister shall tender the government’s resignation to the President of the Republic.”²² It is the President of the Republic who appoints the Prime Minister, pursuant to Article 91 of the most recent constitutional amendment of 2016,²³ and it is accordingly the President who accepts his resignation, by application of the rule of parallelism of forms.

Third: The Relative Effectiveness of the Motion of Censure

The effectiveness of the motion of censure is not absolute but relative — or, more precisely, it cannot be regarded as an effective oversight mechanism capable of genuinely controlling or influencing the government, owing to the dominance of the executive over every other branch of government. The reasons for the motion’s relative effectiveness are as follows:

1. The Numerous Conditions and Procedures Restricting the Motion of Censure

The motion of censure is bound by numerous conditions and procedures: it cannot be carried unless signed by at least seven deputies, and deputies are themselves restricted at the signature stage, each having the right to sign only a single motion. Should fewer than seven deputies sign, the legal effects of the motion are void; and should a deputy sign more than once, that additional signature is deemed null and without effect.²⁴ Nor is the motion restricted only at the signature stage: the voting stage, too, requires respect for the legally prescribed quorum — two-thirds of the deputies — for the motion of censure to be carried, a quorum that is, in practical terms, exceedingly difficult, and in most cases altogether impossible, to achieve.²⁵ In addition, the motion is bound by numerous further procedures relating to the debate, filing, publication, and distribution stages, in accordance with Articles 59, 60, and 61 of Organic Law 16-12 governing the two chambers of parliament.²⁶

²⁰Mohamed Hamli, *The Dominance of the Executive over the Legislative Power in the Algerian Constitutional System: A Comparative Study with the Egyptian and French Constitutional Systems* (Cairo: Dar Al-Jami’a Al-Jadida, 2014), 180.

²¹Riadh Dnesh, “The Political and Criminal Responsibility of the Executive under the 1996 Constitutional Amendment,” *Journal of Judicial Jurisprudence*, no. 4, 389.

²²See Article 155 of the 2016 constitutional amendment.

²³See Article 91 of the 2016 constitutional amendment.

²⁴Miloud Kheirja, *Mechanisms of Legislative Oversight: A Comparative Study*, master’s thesis, 1st ed. (Algiers: Dar Al-Fikr wal-Qanoun, 2011), 91.

²⁵Souad Ben Seria, *The Status of the President of the Republic in the Algerian Political System after the Latest Constitutional Amendment under Law 08-19: A Comparative Study* (master’s dissertation, Doctoral School, Public Law Branch, Administration and Finance specialization, 2009–2010), 130.

²⁶See Articles 59, 60, and 61 of Organic Law No. 16-12.

2. The Failure, in Practice, to Satisfy the Conditions and Procedures for the Motion of Censure

It is a well-known principle that law is one thing and reality another, and there are numerous examples bearing this out, among them, in the field of constitutional law, the motion of censure as a constitutional mechanism by which parliament seeks to influence the government. Returning to the constitutional and legal provisions, we find the motion bound by a set of conditions and procedures that are nonetheless not realized in practice, owing to the executive's domination of parliament and to the President of the State's control over the various fields and domains of public life.²⁷

3. The Government's Participation in the Debate on the Motion of Censure

The debate stands as one of the most important procedures through which the motion of censure must pass, since a number of actors are entitled to take part and to make their views known, among them the government, which has the right to participate in the debate and to state its position — though this very fact bears on the motion's prospects and its likelihood of being carried. While the government must certainly be granted the right to defend itself, its intervention ought not to be allowed to affect the outcome of the vote on the motion of censure.²⁸

4. The Subordination of Members of Parliament to the Executive Power

Among the reasons for the motion of censure's relative effectiveness is that members of parliament remain subordinate to the executive power, and more precisely to the President of the Republic, who enjoys broad authority over them, including the right to dissolve the National People's Assembly. This may take the form of automatic dissolution — first introduced in the 1963 Algerian Constitution, to apply where the National People's Assembly rejects the government's plan of action for a second time —²⁹ or discretionary dissolution, which the President of the Republic holds with respect to the legislative power and which ranks among the most dangerous means of influencing parliament, since it is not bound by any constitutional or legal conditions but rests entirely within the discretionary power of the Head of State; although subject to certain constitutional procedures, its gravity nonetheless remains considerable.³⁰

II. The Vote of Confidence under the Algerian Constitution as Amended in 2016

The motion of censure is not the only constitutional instrument capable of engaging the government's political responsibility; another such mechanism is the vote of confidence. Under Article 98 of the Algerian Constitution as amended in 2016 — corresponding to Article 84 of the 1996 Constitution as amended in 2008 — the Prime Minister may request a vote of

²⁷Aqila Kharbachi, "The Mechanism of Interpellation in the Parliamentary Oversight Process," *Journal of Parliamentary Thought*, no. 25 (April 2010): 125.

²⁸Djamel Abdennasser Mane, "Parliamentary Oversight of Government in the Countries of the Arab Maghreb," *Journal of Judicial Jurisprudence*, no. 4, 35.

²⁹See Aqila Kharbachi, "The Mechanism of Interpellation in the Parliamentary Oversight Process," 119.

³⁰Abdallah Boukfa, *Mechanisms for Organizing Power in the Algerian Political System: A Comparative Study*, n.e. (Algiers: Dar Houma, 2005), 250.

confidence from the National People's Assembly.³¹ The National People's Assembly may either vote in favor by way of a resolution, or decline to vote on it, in which case confidence is deemed to have been granted. This, too, is a serious and important instrument capable of affecting the government, and for this reason the Algerian legislator and the constitutional founder have bound it to a defined set of procedures. Once satisfied, it produces legal consequences bearing on the government's position; nevertheless, its effectiveness, too, remains relative rather than absolute.

First: The Procedures Governing the Vote of Confidence

As an oversight mechanism by which parliament brings pressure to bear on the government, the vote of confidence is bound by a set of procedures in order to produce its legal effects. Chief among these is that only the Prime Minister — formerly titled the Head of Government — may request a vote of confidence, under every constitution of the Second Republic: Article 80(4) of the 1989 Constitution so provided, as did the 1996 Constitution, and, finally, Article 98 of the most recent constitutional amendment of 2016. Returning, however, to the internal rules of procedure and the organic laws governing the two chambers of parliament, we find additional procedures set out there. Article 88 of the 1989 Internal Rules of Procedure concerning the organization of the National People's Assembly provided for the procedures governing the vote of confidence, requiring that the vote of confidence in favor of the government be placed on the agenda by law, following a request from the Head of Government; Article 89 likewise set out the parties entitled to take part in the debate on the vote of confidence, namely, in addition to the government, a deputy in favor of the vote of confidence and a deputy opposed to it.³² These are the same procedures set out in Organic Law 99/02, pursuant to Articles 62 and 63,³³ and in Organic Law 16/12, pursuant to Articles 63 and 64.³⁴ It may nonetheless be observed that the vote of confidence is not bound by nearly as many procedures as the motion of censure: it is not, for instance, subject to any particular decision-making procedure within the Council of Ministers or the Council of the Nation, nor does it require the approval of the National People's Assembly.

Second: The Legal Consequences of the Vote of Confidence

When the Prime Minister requests a vote of confidence from parliament, parliament either grants it or withholds it; a number of legal consequences then follow, as set out below:

1. The Legal Consequences Affecting the Government

Should parliament decline to grant the vote of confidence, legal consequences follow for the government, namely that the Prime Minister tenders his government's resignation to the President of the Republic, as set out in Article 98 of the most recent constitutional amendment of 2016.³⁵ He submits his resignation to the President of the Republic because it is the President who appointed him, and it is accordingly the President who removes him, by application of the rule of parallelism of forms.

³¹Issa Taibi, "The Nature of the Prime Minister's Political Responsibility in Algeria in Light of the 2008 Constitutional Amendment," *Algerian Journal of Legal, Economic, and Political Sciences*, no. 4 (2010): 17.

³²See Articles 88 and 89 of the Internal Rules of Procedure of the National People's Assembly of 1989.

³³See Articles 62 and 63 of Organic Law No. 99-02.

³⁴See Articles 63 and 64 of Organic Law No. 16-12.

³⁵See Article 98 of the 2016 constitutional amendment.

2. The Legal Consequences Affecting Parliament

Should parliament decline to grant the vote of confidence, legal consequences follow not only for the government but for parliament as well: the President of the Republic may, in these circumstances, dissolve the National People's Assembly. Dissolution in such circumstances is discretionary rather than mandatory; this does not mean, however, that it is free of procedure, for a number of constitutional requirements must be observed, namely consultation with the President of the Council of the Nation, the President of the National People's Assembly, the President of the Constitutional Council, and the Prime Minister, pursuant to Article 147 of the most recent constitutional amendment of 2016.³⁶

Third: The Relative Effectiveness of the Vote of Confidence

The vote of confidence is likewise of relative rather than absolute effectiveness, for the following reasons:

1. The Algerian Legislator and Constitutional Founder Have Bound the Vote of Confidence to Legal Procedures

Although the vote of confidence lies in the hands of parliament, it is nonetheless bound by a number of procedures, some set out in the Constitution itself — such as the requirement that the request for a vote of confidence be made by the Prime Minister, under Article 98 of the most recent constitutional amendment of 2016³⁷ — and others set out in legislation, pursuant to Articles 63 and 64 of Organic Law 16/12.³⁸

2. The Scarcity of Practical Applications of This Oversight Instrument

Among the well-known principles of legal scholarship is that law is one thing and reality another — a principle that applies equally to the vote of confidence. Returning to the legislation and the Constitution, this instrument appears effective, stringent, and readily achievable in practice; in truth, however, this is not the case, for it has in practice scarcely materialized, owing to the executive's dominance over the legislative power.

3. The Possibility That the President of the Republic May Dissolve Parliament following the Vote of Confidence

Likewise reflecting this relative, rather than absolute, effectiveness is the fact that when parliament withholds confidence from the government, the President of the Republic retains the right to dissolve the National People's Assembly; parliament thus finds itself under threat, in that withholding confidence may in turn lead to its own dissolution — a matter addressed by Article 98 of the 2016 constitutional amendment and by Article 147 of that same amendment.

Part Two: The Motion of Censure and the Vote of Confidence under the Moroccan Constitution of 2011

Morocco, too, as a state that espouses the monarchical system, has adopted the principle of a flexible separation of powers, as evidenced by the two oversight mechanisms of the motion of censure and the vote of confidence, both of which have been regulated by a set of legal and constitutional procedures so as to produce their legal consequences. These mechanisms,

³⁶See Article 147 of the 2016 constitutional amendment.

³⁷See Article 98 of the 2016 constitutional amendment.

³⁸See Articles 63 and 64 of Organic Law No. 16-12.

nonetheless, remain of relative rather than absolute effectiveness, owing to the dominance of the executive power over the other branches of government, the legislature included.

I. The Motion of Censure under the Moroccan Constitution of 2011

The relationship between the government and parliament in Morocco does not come to an end with the Head of Government's presentation to parliament of a progress report on government action, pursuant to Article 101 of the 2011 Moroccan Constitution.³⁹ The relationship persists, as evidenced by the vote of the House of Representatives and the House of Councillors on the motion of censure, pursuant to Articles 105 and 106.⁴⁰

First: The Procedures Governing the Motion of Censure

In order to take effect and produce its legal consequences, the motion of censure under the 2011 Moroccan Constitution passes through the following procedures:

The members entitled to vote on the motion of censure are the deputies of the two chambers of the Moroccan Parliament — the House of Representatives and the House of Councillors — though the applicable procedures are in some respects alike and in others different.

As regards signature, the House of Representatives will not accept a motion of censure unless signed by one-fifth of its members, under Article 105 of the Moroccan Constitution;⁴¹ the House of Councillors, for its part, requires that a motion of censure be signed by one-fifth of its own members for it to be admissible — the same quorum as in the House of Representatives — pursuant to Article 106 of the Moroccan Constitution.⁴² This differs from the Algerian Constitution, under which the signature quorum for the motion of censure is seven members of the National People's Assembly.

As regards the vote, the quorum before the House of Representatives is an absolute majority of its members, the same quorum applying before the House of Councillors — likewise an absolute majority of its members — under Articles 105 and 106 of the Moroccan Constitution,⁴³ whereas the Algerian Constitution requires a different quorum for the vote, namely a two-thirds (2/3) majority of deputies. As for the timing of the vote, before the House of Representatives it may take place only after three full days have elapsed since the filing of the motion, the same rule applying before the House of Councillors, under Articles 105 and 106 of the Moroccan Constitution; the same time limit likewise applies under the current Algerian Constitution.

Each chamber is, in addition, subject to certain procedures specific to it with respect to the motion of censure: should the House of Representatives vote on a motion of censure, no further motion of censure may be submitted to it for a full year; the House of Councillors, for its part, must have its President immediately transmit the text of the motion of interpellation to

³⁹Article 101 of Dahir Sharif No. 1.11.91 of 27 Sha'ban 1432, corresponding to 29 July 2011 [promulgating the Constitution of the Kingdom of Morocco].

⁴⁰See Articles 105 and 106 of the 2011 Moroccan Constitution.

⁴¹See Article 105 of the 2011 Moroccan Constitution.

⁴²See Article 106 of the 2011 Moroccan Constitution.

⁴³See Articles 105 and 106 of the 2011 Moroccan Constitution.

the Head of Government, who then has six days within which to present the government's response before that chamber, under Articles 105 and 106 of the Moroccan Constitution.⁴⁴

Second: The Legal Consequences of the Motion of Censure

The legal consequences that follow from the motion of censure here are the same as those under the Algerian Constitution as amended in 2016, namely the resignation of the government — or, more precisely, the Head of Government's tendering of his resignation, as provided under Article 105. Returning to that article, however, one finds that these legal consequences are not set out expressly but only implicitly.

Third: The Relative Effectiveness of the Motion of Censure

Likewise, the motion of censure under the 2011 Moroccan Constitution does not constitute an absolutely effective oversight instrument, but rather one of relative effectiveness, owing to the numerous procedures and conditions to which it is bound. Comparing the procedures and conditions governing the motion of censure under the Moroccan and Algerian constitutions, we find them more restrictive under the Moroccan Constitution, particularly as regards the signing of, and voting on, the motion.

II. The Vote of Confidence under the Moroccan Constitution of 2011

The second oversight mechanism relied upon by the Moroccan Parliament to bring influence to bear on the government is the vote of confidence. This, too, must pass through a set of procedures and satisfy a set of conditions in order to produce its legal consequences, and it, too, is of relative rather than absolute effectiveness.

First: The Procedures Governing the Vote of Confidence

For the vote of confidence under the 2011 Moroccan Constitution to be legally and constitutionally valid, and to produce its legal consequences, it must pass through a set of procedures. The right to request a vote of confidence belongs to the Head of Government; the subject matter of the request for confidence must consist either of a statement on general policy or of a particular text for which approval is sought. The vote must be carried by an absolute majority of the members composing the House of Representatives, and the vote itself may take place only after three full days have elapsed from the date the question of confidence was raised, under Article 103.⁴⁵ Returning to the 2016 Algerian Constitution, we find it less restrictive in its procedures governing the vote of confidence.

Second: The Legal Consequences of the Vote of Confidence

The vote of confidence under the 2011 Moroccan Constitution likewise produces the same legal consequences as the vote of confidence under the Algerian Constitution, and indeed the same consequences that flow from the motion of censure under both constitutions, namely the resignation of the government in its entirety, under Article 103 of the Moroccan Constitution.⁴⁶

⁴⁴See Articles 105 and 106 of the 2011 Moroccan Constitution.

⁴⁵See Article 103 of the 2011 Moroccan Constitution.

⁴⁶See Article 103 of the 2011 Moroccan Constitution.

Third: The Relative Effectiveness of the Vote of Confidence

Here too, the vote of confidence is of highly relative effectiveness, given that it is bound by even more procedures and conditions, making it difficult — one might even say, strictly speaking, impossible — to achieve in practice.

Conclusion

From the foregoing, we may conclude that the two oversight mechanisms examined here the motion of censure and the vote of confidence — are, under both constitutions, of relative rather than absolute effectiveness, owing to the dominance of the executive power over the other branches of government. The most recent constitutional amendments in both Morocco and Algeria have accordingly not moved toward a genuine balance of powers, but have instead preserved the continued dominance of the executive.

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