

Regulatory Policies and COVID-19: The Business Climate as a Matter of Consultation Between Interest Groups and the State

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Abstract: *Regulatory policy is considered one of the most relevant levers of public action, whether it concerns administrative procedures, investment, and more. Despite the existence of an elaborate legal framework (CNEA) that formalizes the participation of interest groups in the regulatory process, providing a platform for non-state actors to actively seek to influence regulatory policy, this study aims to examine how these groups seek to influence decisions related to the business climate and to what extent they influence the business environment in Morocco. This study analyzes how Morocco can achieve effective and timely responses to the post-COVID-19 situation through consultation between interest groups and government actors. To achieve this, the study reviews the post-COVID-19 measures taken by the state to improve the business climate in various sectors, adjust regulatory practices, and enhance governance mechanisms. The study also identifies current challenges related to the impact of the crisis on issues such as access to financing, investments, and administrative procedures.*

Keywords: *Business climate, Covid-19, CNEA, Regulatory policies, Interest groups*

1. Introduction

The participation of interest groups in the development of public policies has become a common practice. They contribute to the process of drafting laws related to economic public action, especially those pertaining to business climates. Regulatory policies govern how governments achieve the objectives of public policies through regulations, laws, and other standards aimed at promoting economic prosperity and improving the well-being of citizens and businesses. In this regard, the social formation of interest groups is a common phenomenon in contemporary societies. These groups, as entities representing the interests of a segment of the overall society in the public sphere, play a role in Moroccan governance. Private interest representation is thus found in public governance in Morocco, where economic interest groups not only participate in decision-making but also in the implementation of policies. In this context, interest groups take on the responsibility of ensuring that their members comply with public policies, assisting the state in overcoming the inherent limitations of legal regulation and direct intervention. Although there is an elaborate legal framework formalizing the participation of interest groups in the regulatory policy process (CNEA), providing a platform for non-state actors to actively seek to influence economic public decision-making.

Regulatory policy, in part, is linked to the reform of the business environment, where the CNEA has outlined a multi-year strategy for 2021-2025 with the aim of making this policy increasingly negotiated and coordinated between government actors and interest groups. In this context, to analyze how these groups seek to influence decisions regarding the business climate, we will examine their role within the CNEA and to what extent they influence the business environment in Morocco. This study analyzes

how Morocco can achieve effective and timely responses to the post-COVID-19 situation through consultation between interest groups and government actors.

In this regard, we analyze how interest groups have utilized the public policy development process to influence regulatory policy, through the CNEA. To achieve this, the study will utilize data compiled from official documents, complemented by data collected from media reports, primarily in economic newspapers. The objective is to link the efforts of interest groups to outcomes in the form of laws and assess whether these efforts have led to improvements in the business environment in Morocco.

2. Entrepreneurs as Leaders in Interest Representation

Interest representation is the work of entrepreneurs. Max Weber emphasized this endeavor, starting from a social relationship where everyone has different interests. To contemplate interest groups within the state is an invitation to discover the activities they develop and the actions they attempt to undertake.

3. Entrepreneurs as Instrumental Actors

"Compared to the political professionals defined by Weber, who are the professionals of interest representation? This concept, coined to understand established bodies, highlights that in this space, political parties cannot act exclusively. Furthermore, there is no leader." This process involves negotiation and consideration of numerous different interests, ultimately imbuing it with a political flavor. These political interactions occur within the network through which decisions are made, programs are formulated and implemented, and interdependencies and interorganizational interactions take place. Thus, "policy formulation" is not a simple, but rather a complex, dynamic process involving a variety of groups with various interests at different stages. It is important to note that policy formulation involves not only public officials as government actors; non-governmental actors play a very active role in the decision-making process. This public-private interaction constitutes the framework of the modern political system.

Indeed, holders of political positions are attentive to their counterparts in representing interests. This synergy is manifested through sociological characteristics; these "organizers," the "professionals," dominate the members (eliciting their obedience, as Weber puts it) and are one of the explanations for the omnipresence of interest groups: in politics, in the media, and in front of the courts. They act as "entrepreneurs" due to their ability to gather and allocate resources, as well as the control they exert over the division of labor and positions within the group. Together, they form an overqualified elite whose compensation ensures a lifestyle similar to that of the holders of power they associate with.

Within the framework of rational political choices in public policy, entrepreneurs are characterized as instrumental actors, pursuing actions "not for themselves but only to the extent that they achieve desired, generally private, objectives." In this case, public decision-making is linked to profit maximization. Rational entrepreneurs are those who, when faced with different courses of action or political options, choose the feasible course of action that is most likely to maximize their own utility. Rationality, therefore, stems from an actor's ability to calculate and link costs and benefits to the available political options and choose the course of action that optimizes their utility.

In fact, according to Elster, an action is rational if it fulfills three optimality conditions. Firstly, the action must be the best means to achieve the agent's objectives, given their beliefs about the relationship between ends and means and other factual matters. Secondly, these beliefs themselves must be

optimal, given the information available to the agent. In other words, the process of belief formation should not be distorted by "cold" errors in information processing or "hot" errors caused by motivational biases. Thirdly, the amount of information, or more precisely, the resources devoted to acquiring information, must itself be optimal, considering the agent's prior opinions about the costs and benefits of information acquisition and the importance of the decision to them.

Political actors are constructed as self-interested and autonomous instrumental actors, choosing how to act based on the consequences for their personal well-being (or that of their close family). As such, traditional rational choice lends itself well to explaining political outcomes based on the targeted actions of individuals, where the objectives, beliefs, and preferences of individual actors are identified as the causes of their actions. Of course, such rational behavior by professionals does not necessarily produce positive collective outcomes. Rational choice, in general, constructs its explanations of political outcomes based on the actions of entrepreneurs, emphasizing the role of actors beyond that of social structures. Social structures are not given any independent status apart from the individuals who constitute them. Only actors choose, prefer, believe, learn, etc.; society does not act independently of them. Social structures are thus conceptualized through the intentional behavior of individuals, interpreted as the overall result of the calculations and utility optimization strategies of individual actors, such that institutions become essential products used by individuals to maximize their respective utilities.

4. Factors of Influence and Forms of Collective Action

In order to promote their objectives, interest groups engage in a variety of activities, which is why there are two types of strategies: formal (internal and external) and informal strategies. In other words, there are several channels through which interest groups exert influence. In this regard, the formal strategy utilizes two main channels of influence: the dissemination of information, contributions, participation in meetings, public campaigns, conferences, etc. In other words, interest groups inform decision-makers, the public, and their members. The purpose of disseminating information is simply to inform and persuade policymakers of the legitimacy of the groups' positions. These interest groups serve as a source of information for policymakers. Contributions from interest groups in electoral campaigns can also provide access to information and credibility to influence political actors. In this context, the theory of interest groups has allowed for new ways to analyze the relationships between economics, politics, and societies. It represents an initial response to the challenges in researching the relationships between interest groups and the state. Indeed, some interest groups prove to be more influential and can gain control over a specific area of public policy. Large groups based on social classes tend to bureaucratize and develop more or less effective machinery and specialized knowledge in the policy areas that concern them. They also gain control over interests in these areas, acquiring de facto governance powers in these domains.

In examining the factors influencing the strategies of economic interest groups and their capacity to exert influence more broadly, financial resources play a crucial role. These resources can be used to finance awareness campaigns, events, and other lawful or unlawful initiatives that may sway a representative of public power in their favor. Conventional wisdom suggested that these groups wield substantial power in government decision-making. Indeed, assessing the impact of interest groups' actions on policies has never been an easy task. However, we can shed light on two different levels of analysis: a broad societal overview and medium-term research into relatively specific influence structures. Considering the impact at the level of individual lobbying efforts (informal strategy) is also possible, but in this case, even the best work largely relies on nuanced and individualistic explanations. Therefore, the landscape of interest representation has undergone significant transformations since the 1980s. These transformations can be analyzed at three levels: the repertoire of action

(strengthening the dimension of expertise), the level of intervention with public authorities (increasing prominence of supranational levels), and the type of interaction (greater autonomy). Indeed, the transformation of forms of collective action also highlights the importance for a group of choosing the mode of action with public authorities based on a highly diversified repertoire.

The table below allows us to demonstrate the importance of resources for each step of the decision-making process::

Table No. 1: The resources required for each action of interest groups at each stage of a public policy

Modes of Action	Key Resources	Public Policy Sequence Involved
Lobbying	Financial Policies Expertise	Problem Construction Agenda Setting Decision Implementation
Hearings and participation in expert forums	Political Institutional Expertise Political Institutional	Problem Construction Agenda Setting
Negotiation	Political Institutional Expertise Political Institutional	Decision Implementation
Legal action	Legal Expertise	Agenda Setting Implementation

Source: Jean-Patrick Brady and Stéphane Paquin, *Interest Groups and Social Movements*. PUL Editions, 2017. Page 20.

From this perspective, "the action of interest groups sometimes presupposes the existence of interpersonal or institutional links that fuel a de facto co-management of the economy." In relation to the resources of interest groups, the repertoire of action is a way to highlight them in order to influence political decisions.

5. The Action of CNEA for Improving the Business Climate in Morocco

The goal of reforming the business climate in Morocco is primarily to achieve a high ranking in the DB report, aiming to encourage investment. This entails the CNEA's participation in shaping regulatory policies, and for this purpose, it has established an action plan for business environment reform.

5.1 CNEA as an Instrument for Developing Regulatory Policies

An efficient business climate is essential for the economic and social development of Morocco. The country has been committed to reforms aimed at improving the business environment in which economic operators operate for over a decade. The impact has been notable in many areas but remains insufficient. Efforts must continue to make the economic and social benefits of business climate development reforms more visible. The OCDE's business climate development strategy allows Morocco to develop a roadmap for reforms.

The National Committee for Business Environment (CNEA), led by the Prime Minister (head of government according to the new constitution of 2011), was institutionalized by Decree No. 2-10-259

of October 29, 2010. The purpose of the Committee is to involve various stakeholders in the public decision-making process. It is composed of representatives from various government and private sector actors, including all ministries related to the business environment, the presidents of the General Confederation of Moroccan Enterprises (CGEM), the Professional Group of Moroccan Banks (GPBM), the Federation of Moroccan Chambers of Commerce, Industry, and Services (FCMCIS), the Central Anti-Corruption Authority (ICPC), the governor of the Bank Al-Maghrib (BAM), and representatives of the High Commission for Planning (HCP).

Established in December 2009, the CNEA aims to strengthen inter-ministerial coordination and public-private dialogue to establish strategic management of reforms and the implementation of public decisions. As part of the National Pact for Industrial Emergence, the CNEA's 2010 action plan is based on four strategic objectives: simplifying and enhancing the transparency of administrative procedures, modernizing business law, improving the resolution of commercial disputes, and enhancing consultation and communication on reforms.

Within the CNEA, there is the CGEM (General Confederation of Moroccan Enterprises), which includes several professional federations. The Business Committee was established as a common intermediary organization to lead constructive and formal engagement with the government on cross-cutting issues of interest to all its members. It serves as a platform for exchanging information and engaging in formal lobbying with the government and other stakeholders such as bilateral and multilateral organizations on matters related to business and commercial law to develop the private sector. With its federations, the CGEM can reorganize itself into a credible economic organization and engage in lobbying because it represents the private sector, which contributes to Morocco's investments with 16% of the GDP, equivalent to 50% of the country's investments. In this regard, the formal private sector employs 57.78% of the active population.

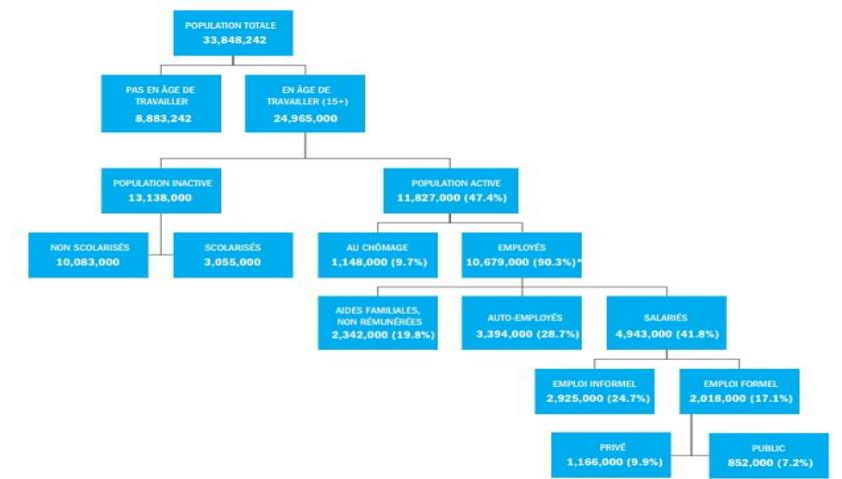


Figure No. 1: Employment Cascade in Morocco: Formal Employment Structure Source: World Bank Report

More than 9% of the active population holds a formal job in the private sector. In this context, the main concern of CGEM is to monitor progress within the framework of economic public policy. While interest groups can engage more effectively with the government on various issues, further organizational reforms are needed at this level. Currently, CGEM functions as a formal network - if one accepts the definition of HCP: "the network refers to a formal grouping of institutions in the form of unions, associations, or federations," with member federations authorized to lobby on sectoral and cross-cutting policy issues.

5.2 Actions of CNEA for Business Environment Reform, Post-Covid-19

From a global perspective, on the overall ranking of the 10 criteria monitored by the World Bank, Morocco was ranked 129th globally out of 189 countries before the establishment of the CNEA. Over the past ten years, the Kingdom has improved its ranking by 76 places, reaching the 53rd position. Morocco has undertaken 31 reforms related to the business environment and the streamlining of procedures for investors. For the CNEA, the evaluation conducted by the World Bank is becoming increasingly rigorous, incorporating new indicators each year, particularly focusing on quality, efficiency of service provided to businesses, and digitization of procedures.

"The importance of improving the DB ranking lies in the fact that it is widely publicized, and its results are often cited as a reference. Its notoriety is one of the reasons why its data is used by the majority of international investors and funders for arbitrage between countries in terms of choosing investment destinations and eligibility for receiving funding," explains the CNEA secretariat to *La Vie éco*. With this ranking, Morocco maintains its 1st place in the North African region and rises to the third position in the MENA region. In the African context, Morocco ranks 3rd. While this progress in international rankings is positive, it must be viewed in context. Relatively rapid gains have been achieved through reforms and systematic controls on certain indicators, as well as a more general policy of improving basic services for entrepreneurs.

Today, the challenge of improving the business climate in a post-Covid context, marked by a high level of uncertainty due to the conflict between Russia and Ukraine, is significant. To meet this challenge and achieve the development goals set by the CNEA, it is necessary to accelerate the implementation of regulatory policies, especially the most important ones (investment charter, simplification of administrative procedures, etc.):

- Simplification of administrative procedures:
 - Building permits: In 2020, the construction procedure simplified the authorizations and permits issued by administrations. This resulted in the elimination of 90% of authorizations, most of which were replaced by simple declarations to the relevant administration. In fact, the digitization of urban planning permits is widespread across the country, from submitting the authorization request to its electronic signature by the president of the relevant municipality.
 - Electrical connection: The digitization of electricity connection procedures has made significant progress. It is worth noting that the connection time for new subdivisions in the Casablanca-Settat region has been reduced to 30 days from 45 days previously. Similarly, the connection cost has been reduced by 13%, not to mention the number of procedures to be completed, which has also been reduced from 5 to 3.
 - Establishment of businesses process: single-window system of the CRI (Regional Investment Center), as well as Law 88-17 concerning the creation and support of businesses through electronic means.
 - Digitalization of the commercial registry: Decree No. 2-20-956 dated April 5, 2021, which digitizes the advertising in the commercial registry and the submission of financial statements of companies. The decree outlines the procedures for registering entries in the electronic commercial registry (REC) and the electronic submission of financial statements and documents of companies.

- Digitization of land conservation procedures: The digitized management of land conservation by ANCFCC, with conditions set by decree, aims to simplify procedures and ensure greater transparency in the receipt and processing of requests. However, Morocco has made property registration less transparent by not publishing statistics on the number of real estate transactions and land disputes.
- Digitization of construction procedures: These procedures facilitate the acquisition of three permits: renovation permit, demolition permit, and regulation permit. They can be initiated by individuals (natural or legal persons).
- Digitization of payment deadlines: Among CNEA's concerns is payment deadlines, which were modified by Law No. 49-15 amending and supplementing Law No. 15-95 establishing the Commercial Code. To enhance transparency in the management of public procurement, starting from June 9, 2020, the MEFRA launched an electronic invoice submission platform for State providers, excluding state-owned commercial enterprises. In April 2022, following recommendations from the Observatory of Payment Deadlines, a bill No. 69.21 strengthening sanctions for non-compliance with legal payment deadlines was prepared by the Ministry of Industry and Commerce.
- Investment Charter: The current version of Law No. 18-95 on the Investment Charter, promulgated on November 8, 1995, outlined a framework for the state's actions over ten years to develop and promote investments. Due to the lack of updating, most of its provisions have become obsolete. In fact, the new investment charter aligns with the axes of the new development model. It complements the tax framework law of July 26, 2021, developed in consultation with the CGEM, published two years after the 3rd Fiscal Forum in May 2019. On February 16, 2022, King Mohammed VI chaired a working session dedicated to the new investment charter, emphasizing the role that private operators should play in this project and urging the government to involve the private sector through CGEM and GPBM in the implementation of the charter. The objective of the new charter is to reverse the current situation where private investment accounts for nearly 50% of total investment and raise the share of private investment to two-thirds of total investment by 2035.

The reforms proposed by CNEA and adopted by the State have made business creation less costly by eliminating registration fees and stamp duties. Regarding property transfer, Morocco has facilitated property registration by increasing the transparency of the cadaster and simplifying property transfer procedures handled by land conservation authorities. Concerning cross-border trade, the Kingdom has streamlined export and import by implementing a paperless customs clearance system and digitizing procedures. Another major reform is insolvency regulation. Morocco has reformed its commercial code and made bankruptcy resolution easier by simplifying the initiation of proceedings, encouraging the continuation of the debtor's activities during insolvency, making the procedure more accessible to creditors, and allowing greater involvement from them. On the occasion of the 10th annual meeting of CNEA, the National Business Committee will launch a reflection in 2019 to develop a multi-year business environment improvement strategy for 2021-2025. The goal is to gain more points in the Kingdom's ranking in the Doing Business index (a reference from the World Bank on the business environment).

The first initiative is the implementation of the law on movable securities, which has already been published in the Official Gazette. The national register of pledges was officially launched in April 2021 through a dedicated website for this purpose (rnesm.justice.gov.ma/public). This initiative aims to improve access to financing for small and medium-sized enterprises (SMEs).

The second ongoing initiative of CNEA is the improvement of the automation and digitization of commercial courts. This is being achieved through platforms connecting lawyers and courts and by enhancing digital platforms for the publication of judgments. The improvement in the "Enforcement of Contracts" indicator, which assesses the cost and time to resolve commercial disputes in first-instance courts, is attributed to the efforts made by Morocco to enhance the electronic case management system at the Casablanca Commercial Court, as recognized by the World Bank's "Doing Business" experts.

The third initiative is the online company registration: According to CNEA, the project to develop online company registration solutions aims to provide a roadmap for the development of a fully digital platform for online company registration covering the entire administrative process, from issuing the negative certificate to publishing the legal notice.

The fourth initiative is the establishment of the Business Barometer and the public-private dialogue platform: This project involves the creation of two diagnostic and periodic updating tools for collecting grievances and observations from businesses in the field, namely, a barometer to measure business leaders' perception of the business environment. It will provide reliable information on the business climate, facilitating the development of a relevant national strategy. The CNEA will publish its business environment barometer starting from the next year, as well as an electronic platform for interaction with business leaders.

Finally, the last initiative pertains to public procurement procedures. Mr. Mourchid asserts that the Doing Business 2021 report will include a new "Public Procurement" indicator that will be integrated into the ranking calculation for economies in the report. This indicator measures the procedures and time required to win a public contract, based on a standardized case study focused on the infrastructure sector. It also evaluates the regulatory compliance with international best practices. CNEA is already making preparations to ensure a good score in this critical indicator for investors.

6. Conclusion

The integration of organized groups into liberal democracy and the market economy reached its peak in several European countries after World War II. In essence, interests in these countries were formed by groups regulated by the state. With neo-corporatism, attention is therefore focused on both the interaction between interest groups and the interaction between groups and the state. Thus, the study of decision-making as an analysis of how actors make their public policy choices is of great magnitude; actors do not make individual choices, especially policy choices. There are strong expectations from citizens that public policies are formulated to advance the public interest, not just the individual interests of the decision-maker. The desire to apply rationality to public decision-making is a modern desire, linked to other principles of modernity. These include the belief that humanity makes qualitative progress, that there is a definable "public good," that the actions of groups and individuals matter, and that human ingenuity creates more good things than bad.

However, political actors are not completely rational. They do not make decisions with complete information and do not weigh the pros and cons of all possible alternatives before making a decision. As Herbert Simon established more than fifty years ago, political actors, whether high-level officials or politico-economic elites, are constrained by their degree of rationality. Decision-makers rely on cues, heuristics, the institutional context, and what is "appropriate" to make public decisions. Simon's early work on bounded rationality spawned a whole subfield of public policy based on incrementalism that provides insight into how policymakers deal with complex political issues. Given that our article on interest groups has focused not only on how they operate but also on what they can achieve to improve the business environment post-Covid-19, it is important to note that regulatory policies in

Morocco have not always been consistent because they advance on multiple axes for improving and developing various economic sectors.

In summary, regulatory policies in Morocco have not always been consistent, as they advance on multiple axes for improving and developing various economic sectors. What could lead policymakers to disregard their own interests in favor of public policy? The answer lies in institutions. Institutional rules shape political decisions and can resolve collective action dilemmas arising from a rational choice framework. If public actors produce ineffective policies, the solution is to reconsider the design of the institution. Ultimately, it is neither non-state actors nor institutions that shape regulatory policies. Both dictate decision-making in the public action process.

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