

Upgrading the Political Representation of Women in Maghreb Countries

“Between Ambition and Reality”

A Comparative Approach between Constitutional Texts and Political Practice

Dr. BENZAGHOU Naziha

Lecturer A, Faculty of Law, University of Algiers 1

Dr. BENMAMMAR Sofiane

Lecturer A, Faculty of Law, University of Tizi Ouzou

Submission Date: 03 Mar 2025 **Approval Date:** 05 Jun 2025 **Release Date:** 12 Nov 2025

Abstract:

The political representation of women constitutes one of the most prominent focal points of intellectual, jurisprudential, and constitutional debate in contemporary Islamic societies, particularly in its Maghreb context, which combines the specificity of the Islamic frame of reference with a relative openness to international human rights standards, in a socio-cultural context that still vacillates between inherited traditions and the requirements of democratic modernity. Hence, women's political representation emerges not merely as a technical or procedural issue from a legal-constitutional perspective, but as a profound theoretical question at the intersection of political philosophy, Islamic jurisprudence, and constitutional law. Strengthening and upgrading women's representation in political life has become one of the most important indicators of democratic transformation in the Maghreb states, where women's participation has turned into a central topic in constitutional and political reforms over the last decades.

Keywords: political representation, constitution text ,woman, Maghreb countries, approach.

Introduction:

In light of the political and social transformations that political systems have witnessed since the beginning of the twenty-first century, the issue of women's participation in public life has emerged as one of the core indicators for measuring the degree of democratic progress and the maturity of political culture. In the Maghreb context in particular – which includes Tunisia, Morocco, and Algeria , the question of women's political representation is pulled between the state's desire to open up to international human rights

standards and the weight of the cultural and religious heritage that still constitutes an obstacle to integrating women as effective partners in political decision-making.

In practice, Maghreb countries have followed different paths in addressing this issue. Some of them have adopted strict legal mechanisms, while others have sought to embody a delicate balance between modernity and identity. Nevertheless, the numerical representation of women in legislative and executive institutions does not necessarily reflect genuine empowerment, as this representation remains threatened by symbolic exclusion or a merely formal function without any real impact.

During the last decades, the Maghreb states have undergone profound constitutional transformations aimed at restructuring the political system and consolidating the principles of equality and citizenship. One of the most visible manifestations of this process has been the effort to empower women in the public sphere. The constitutional amendments enacted in Algeria (2016 and 2020), Morocco (2011), and Tunisia (2022) constituted decisive milestones in enshrining women's political rights, both at the level of legal texts and practical implementation. However, the gap between constitutional provisions and political practice has persisted in several respects, which has caused women's participation in political life to vacillate between ambition and reality.

From this perspective, research on “upgrading the political representation of women in Maghreb countries” takes on considerable importance, not only from the angle of political sociology or constitutional law, but also from the perspective of Islamic political jurisprudence, which is supposed to serve as a guiding frame of reference for public policies in these majority-Muslim states whose constitutions stipulate that Islam is the official religion of the state.

This study starts from the hypothesis that “upgrading women's political representation in the Maghreb space cannot be sustainably achieved without the convergence of three dimensions: the legislative, the cultural, and the jurisprudential.” Accordingly, the subject will be approached through three main sections: the first focuses on the constitutional and legal framework of women's representation; the second analyzes the cultural, social, and religious constraints that hinder their participation; and the third outlines legal and institutional solutions and proposes an integrated reformist vision.

In light of what has been presented, the importance of this topic stems from the fact that it brings together the legal and political dimensions. Modern constitutions have sought to translate these objectives into legal texts that guarantee equality and citizenship without discrimination. This study thus raises the following central problem: **To what extent have Maghreb constitutions contributed to strengthening and upgrading the political representation of women and achieving actual equality in decision-making positions?**

To answer this problem, we have relied on two basic sections:

Section One: The constitutional and international framework for upgrading women's political representation in Maghreb constitutions.

Section Two: Women's political representation in Maghreb states "between legal issues and practical challenges".

Section One: The constitutional and international framework for upgrading women's political representation in Maghreb constitutions.

A woman's right to political participation falls within the concept of full citizenship, which presupposes equality in rights and duties regardless of sex. This concept took shape in modern liberal thought and was later adopted by international instruments, especially the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966), both of which affirm the right of every individual – male or female – to participate in the conduct of public affairs. However, translating this universal principle into an institutional reality in Maghreb countries has not followed a linear path; rather, it has been marked by tension between Islamic civilizational affiliation and integration into the international human rights system (First Subsection).

The constitutions of Algeria, Morocco, and Tunisia have enshrined the principle of equality and non-discrimination and have launched legislative mechanisms to activate women's presence in elected institutions. Yet these efforts, despite their importance, continue to collide with sociological, cultural, and legal obstacles, as well as with a partisan reality that does not enable women to reach effective decision-making positions. This makes the upgrading of women's political representation an issue linked to a structural transformation of political culture, not to legal texts alone (Second Subsection).

First Subsection – The international and regional framework of women's political representation in Maghreb countries.

Women's political representation is a fundamental pillar of democracy and the achievement of gender equality. The international framework for this representation has formed an integrated system of conventions, treaties, and recommendations issued by the United Nations and regional bodies, all of which affirm women's right to full and equal participation in political and public life. At the forefront of these instruments stands the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), under which States Parties have committed themselves to taking effective measures to ensure women's representation at all leadership, legislative, and executive levels (First Branch). This framework aims to break down the structural and cultural barriers that limit women's access to decision-making positions and reinforces equality as an indispensable universal value for building more just and inclusive societies (Second Branch).

First Branch – International and regional references for upgrading women’s political representation.

UN conventions, foremost among them the 1979 Convention on the Elimination of All Forms of Discrimination against Women,¹ have recognized women’s right to participate in public life. Maghreb countries have integrated these commitments into their constitutions and national policies, and regional obligations have also been adopted through the Arab Maghreb Union and the Arab Women Organization to strengthen women’s representation in parliaments and local councils. This has produced legislative trends allowing for the allocation of specific quotas in favor of women.

The Convention on the Elimination of All Forms of Discrimination against Women (1979) is considered a reference point in promoting women’s political participation, and Maghreb countries have committed to it, though with some reservations linked to Islamic Sharia. The modern Maghreb constitutions reflect this orientation by stipulating the principles of equality, non-discrimination, and equal opportunity. This was part of the broader process of political reform in the Maghreb region, which sought to modernize constitutional systems and make them more responsive to the values of citizenship and democracy.

Women’s political representation constitutes a central axis in states’ commitments to achieving gender equality and promoting democracy. International and regional organizations have established a series of legal and political commitments that require states to adopt effective measures to ensure women’s participation in decision-making at all levels. These references may be divided into a general international framework and a specific regional framework, particularly in the Arab, European, and African contexts.

Article 21 of the Universal Declaration of Human Rights (1948) stipulates that: “Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.” The Human Rights Committee has affirmed that this right applies equally to women and men.²

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW – 1979) is regarded as “the core international document for women’s rights.” Article 7 thereof provides that: “States Parties shall take all appropriate measures to eliminate

¹ - Convention on the Elimination of All Forms of Discrimination against Women, 1979, <https://www.ohchr.org/ar/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

² - Universal Declaration of Human Rights, 1948, Article 21. <https://www.un.org/ar/universal-declaration-human-rights/>

discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:³

- To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies.
- To participate in the formulation of government policy and the implementation thereof and to hold public office at all levels.” Article 8 further affirms women’s right to “represent their governments at the international level.”

UN Security Council Resolution 1325 of 2000, on “Women, Peace and Security,” called for “increasing the representation of women at all decision-making levels in national, regional and international institutions, in particular in mechanisms for the prevention, management and resolution of conflict.” The United Nations’ 2015 Sustainable Development Programme seeks to “ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life.”⁴

The European Union adopted the Gender Equality Strategy (2020–2025), which emphasizes “promoting women’s participation in political and leadership positions and achieving a balanced representation in all decision-making bodies.” The African Union adopted the African Charter on Human and Peoples’ Rights (1981) and signed the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (2003), known as the “Maputo Protocol,” whose Article 9 stipulates: “States Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their countries, through ensuring that women are represented equally at all levels of decision-making.”

In the Arab context, the League of Arab States adopted the Strategy for Gender Equality in the Arab Region (2018–2030), which called for “enhancing women’s participation in political life and increasing their representation in parliaments and governments.” Many Arab countries have also ratified the Cairo Declaration (2015) on the Empowerment of Arab

³ - Convention on the Elimination of All Forms of Discrimination against Women, New York, United Nations, 1981, pp. 3–4.

<https://www.un.org/womenwatch/daw/cedaw/text/arabic/cedaw.htm>

⁴ - Security Council Resolution 1325, United Nations, 31 October 2000, para. (13).

<https://undocs.org/ar/S/RES/1325>

Women and pledged to redouble their efforts to raise women's representation in decision-making positions.⁵

On this basis, these international and regional references constitute a binding legal and legislative framework for states to strengthen women's participation in political life, not only as a human right but also as a necessity for building democratic and inclusive societies. Although states' compliance with these standards varies in practice, the existence of these instruments provides monitoring tools and civil and international pressure to ensure their implementation.⁶

Second Branch – Women's political representation in the Maghreb context: "Intertwining references between Islamic jurisprudence, the constitution, and international standards".

Women's political rights constitute one of the central issues in contemporary political debate and jurisprudential controversy, particularly in the Maghreb context, which combines the specificity of the Islamic frame of reference and a flexible attempt to open up to international human rights standards, all within a socially and culturally conservative context. Thus, women's political representation emerges as a political, legal, and jurisprudential issue at the same time. Can women's right to political representation be grounded within the Islamic jurisprudential system itself? How does this frame of reference interact with constitutional and international obligations? And what is the position of the Maghreb woman within this tripartite framework?

First – Women's political representation in Islamic jurisprudence "between text and ijtihad".

Classical jurisprudence did not theorize the modern concept of "political representation" as such, but it did address the issue of "women's guardianship (wilaya)" and their participation in "consultation (shura)" and "public authority (wilayat al-umour al-'amma)." The prevailing view among the majority of jurists is that women are not eligible for the highest office (the headship of state). However, this opinion was not absolute, as some jurists allowed women to

⁵ - Global Goals of the Sustainable Development Programme, Goal 5, United Nations, 2015. .
<https://sdgs.un.org/goals/goal5>

⁶ - European Commission, Gender Equality Strategy 2020–2025, Brussels, 5 March 2020, p. 12.
https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-equality-strategy-ar_en

assume judicial office in matters other than hudud and qisas (fixed and retaliatory punishments).⁷

Certain religious texts are sometimes used to justify women's absence from the political sphere, especially the concept of "qiwama" (guardianship) in the verse: "Men are guardians over women" (Qur'an, al-Nisa', 4:34). Yet this understanding neglects the historical and purposive context. The Tunisian jurist Muhammad al-Tahir Ibn 'Ashur argues that "guardianship is not superiority but a responsibility entrusted to men in a specific social context, and it does not extend to public authority." Likewise, Imam al-Shatibi affirms that "the higher objectives (maqasid) of the Sharia – such as justice, freedom, and public interest – require the participation of all members of society in decision-making."⁸ From this perspective, excluding women from the political sphere is a departure from the objectives of Sharia, not a fulfillment of it.

In fact, Islamic political jurisprudence is one of the key pillars that can be used to support women's political participation, provided that literalist readings are surpassed in favor of purposive (maqasidi) readings. The five higher objectives of Sharia – preservation of religion, life, intellect, progeny, and property – cannot be achieved without the inclusion of women, particularly in the preservation of life, intellect, and progeny.

In the contemporary context, jurisprudence has revisited this issue in light of current transformations. Some scholars have concluded that the prohibition was tied to a specific historical context and cannot be generalized to all forms of leadership. The Supreme Islamic Council in Algeria, for instance, issued a fatwa in 2012 stating that "a woman's holding office in parliament, the government, or the municipality does not contradict Sharia," since such positions are "administrative/managerial forms of authority (wilayat tadbir) rather than foundational authority (wilayat ta'asis)."⁹

Second – The comparative constitutional framework: from textual equality to effective representation.

Contemporary Maghreb constitutions have incorporated the principle of "equality between the sexes," but with varying degrees of depth and binding force. Article 19 of the Moroccan

⁷ - Muhammad al-Tahir Ibn 'Ashur, *Maqasid al-Shari'a al-Islamiyya*, Tunis: al-Dar al-Tunisiyya lil-Nashr, 1999, p. 187.

⁸ - Abu Ishaq al-Shatibi, *al-Muwafaqat fi Maqasid al-Shari'a* (ed. 'Abd Allah Daraz), Dar al-Ma'rifa, vol. 2, Beirut, 1997, p. 12.

⁹ - Fatwa No. 07/2012, Supreme Islamic Council, Algeria, p. 4.

Constitution (2011) stipulates that “men and women enjoy, in equality, the rights and freedoms of a civil, political, economic, social, cultural, and environmental character,” while obligating the state to “work towards the realization of parity between men and women.” The Tunisian Constitution of 2014 went further, as Article 46 provides that “the state shall work to ensure the appropriate representation of women in elected councils.” By contrast, the amended Algerian Constitution of 2020 contented itself with a general reference to “equality of opportunities” (Article 49), without linking this to binding mechanisms, which facilitated the subsequent repeal of electoral quotas in 2021.

Third – Interaction with international standards: between commitment and reservation.

Maghreb states have acceded to CEDAW with partial reservations, or in some cases without reservations at all. Tunisia and Morocco ratified the convention without reservations, whereas Algeria maintained a reservation concerning Article 16 (on the family), though this reservation did not extend to political life. General Recommendation No. 28 under CEDAW states that “discrimination against women includes the denial of participation in political life,” which obliges states to adopt “special temporary measures” (such as quotas) to correct this imbalance.

Morocco has explicitly adopted this approach: Executive Decree No. 2.21.440 of 2021 provides for the “need to achieve gender balance in all electoral bodies,” based on Morocco’s international commitments.¹⁰ In contrast, Algeria justified the repeal of quotas on the grounds of having achieved “actual equality,” an argument that contradicts the spirit of CEDAW, which views quotas as an indispensable “transitional instrument.”

Second Subsection – The constitutional and legislative framework of women’s political representation in Maghreb countries.

The constitutional and legislative framework constitutes the primary foundation for organizing women’s participation in political life in the Maghreb states. Over the past two decades, most of these states have sought to harmonize their legislation with international commitments on gender equality, particularly CEDAW, the Beijing Platform for Action, and the Sustainable Development Goals. This effort has taken the form of incorporating the principles of equality and equal opportunity into national constitutions and adopting concrete legislative mechanisms – such as electoral quotas or gender-based parity – to strengthen women’s presence in decision-making institutions.

During the last three decades, especially following the Arab Spring waves, Maghreb countries have experienced a significant shift towards entrenching gender equality in

¹⁰ - Moroccan Official Gazette, No. 7002, 15 September 2021, p. 5872.

constitutional texts. The Tunisian Constitution of 2022, the Moroccan Constitution of 2011, and the Algerian Constitution after its 2020 amendment all affirm – to varying degrees – women’s right to political representation and equal opportunities. This constitutional orientation has been translated into legislative mechanisms such as quota systems and “alternating lists,” which aimed to redress the historical imbalance in women’s representation. However, a gap persists between text and implementation and between numerical representation and genuine empowerment.

First Branch – Tunisia: “A pioneer in women-related legislation in the Maghreb”.

Tunisia is considered a leading model in the field of women’s rights in the Arab world, thanks to its reformist legacy dating back to independence. This legacy was consolidated in the 2022 Constitution, one of the most progressive in the region. Article 21 stipulates that “male and female citizens are equal in rights and duties and are equal before the law without any discrimination.” Article 51 provides that “the state commits itself to protecting the acquired rights of women and to supporting and developing them. The state guarantees equal opportunities between men and women in assuming various responsibilities in all domains. The state seeks to achieve parity between men and women in elected councils. The state shall take the necessary measures to eliminate violence against women.”¹¹

This constitutional principle was translated into legislative reality through Electoral Law No. 16 of 2014, which imposed the “alternating list” system between men and women in party lists. This system led to the election of 68 women to the Assembly of the Representatives of the People out of 217 deputies, i.e., 31.3% in the 2019 elections (High Independent Authority for Elections, 2019). This figure places Tunisia at the forefront of Arab countries in terms of women’s parliamentary representation.

At the level of the Tunisian parliament, after the early legislative elections of December 2022, women’s representation in the Assembly of the Representatives of the People dropped from 31.9% (2019) to only 17.2% (26 female deputies out of 161). At the level of the government (2021–2023), women comprised 30%, but this fell in the 2023–2025 government to 18.8% (6 female ministers out of 32). At the municipal level, according to Ministry of Interior data (2024), only 37 women out of 350 held the position of mayor (10.6%).¹²

Observers attribute this contraction to the decline in parties’ commitment to balanced lists after the prior dissolution of the Constitutional Court (2021), the shift towards a presidential

¹¹ - Constitution of the Republic of Tunisia, 2022.

¹² - For further details, see: Inter-Parliamentary Union (IPU), Women in National Parliaments – Tunisia, October 2025; Tunisian Forum for Economic and Social Rights (2024), Report on Women’s Participation in Local Governance; High Independent Authority for Elections (Tunisia), Reports on the 2022 Legislative Elections.

system, political instability, and the impact of conservative rhetoric on women's image in the public sphere.

Second Branch – Morocco: between quotas and gradual reform.

In Morocco, the 2011 Constitution marked a qualitative leap in the field of women's rights. Article 19 stipulates that “men and women enjoy, in equality, civil, political, economic, social, and cultural rights and freedoms” and obligates the state to “work towards the elimination of all forms of discrimination against women.” This commitment was translated into Electoral Law No. 57-11, which imposed a “women's quota” of 30% in national lists. As a result, 81 women were elected to the House of Representatives (22.5%) after the 2021 elections (Moroccan Ministry of Interior, 2021).

Nevertheless, some researchers criticize this system as a form of “symbolic representation,” since the women elected often belong to pro-government parties and do not necessarily constitute critical or independent voices.

In the Moroccan parliament (House of Representatives), there are 92 women out of 395 members (23.3%), including 90 from national lists and 2 from local lists. In the government (2021–2025), there are 8 female ministers out of 24 (33.3%). At the level of territorial collectivities, according to the Ministry of Interior (2024), women constitute 15.8% of municipal council members and 12.3% of mayors (21 women out of 171 large urban/rural municipalities).¹³

Observers point out that political and social challenges have led to the contraction of women's political representation. The most important of these challenges are the dominance of national lists over women's representation – which weakens their chances of direct election – and cultural and economic barriers that hinder women's candidacy in local constituencies.

Third Branch – Algeria: the volatility of political will.

Algeria adopted a women's quota system of 30% in the 2012 elections, which resulted in 145 women entering parliament (31%), a record in the country's history. Yet this system was repealed in the 2021 electoral amendment, leading to a sharp decline in women's representation to just 8% in 2022. This reflects the absence of genuine political will and the subordination of gender policies to the whims of the ruling elite.

In the People's National Assembly, following the June 2021 elections, women's representation dropped from 26% (2017) to 8.2% (27 women out of 407 members). In the

¹³ - For further details, see: Moroccan Ministry of Interior, Report on the 2021–2022 Communal and Legislative Elections, Moroccan Ministry of Interior; Inter-Parliamentary Union (IPU), Morocco – Women in Parliament, October 2025; National Human Rights Council (Morocco), Report on Gender Equality, 2024.

government (2023–2025), there are 4 female ministers out of 38 (10.5%). At the municipal level, according to the Ministry of Interior (2022), only 22 women headed municipalities out of 1,541 (1.4%).¹⁴

Observers note several legal, political, and social obstacles behind the contraction of women’s political representation. Chief among them is the repeal of quotas without the presence of a supportive political and social environment, which led to a marked decline, as well as the absence of effective mechanisms to hold parties accountable for their commitment to equality.

In addition to legislation, Maghreb states established national bodies to promote equality. Morocco created the “National Authority for Equality and Equal Opportunities and Gender Approach” in 2005; Tunisia established the “National Authority for Combating Violence against Women” in 2017; and Algeria created the “National Human Rights Observatory,” which includes a committee for women. However, according to studies and observers, these institutions suffer from limited powers, lack of independence, and insufficient financial resources, which restrict their capacity to influence policymaking.

Section Two – Women’s political representation in Maghreb states between legal issues and practical challenges.

Women’s political representation constitutes a core axis in the paths of democratic transformation in the Maghreb region, not merely as an indicator of states’ commitment to the principles of equality and human rights, but also as a measure of the political systems’ ability to accommodate social diversity and strengthen their legitimacy through broad-based participation. Although Algeria, Tunisia, and Morocco have achieved notable legislative progress over the last two decades via modern constitutions and electoral laws that encourage women’s participation the gap between the legal framework and on-the-ground reality remains wide and is even growing in some contexts (First Subsection).

Despite the significant legislative progress in some of these countries, the gap between text and implementation remains large. Women’s political participation faces structural impediments such as patriarchal culture, misunderstanding of the religious frame of reference, limited resources, declining partisan commitment, and even contradictions between constitutional rhetoric and actual political decisions. Thus, analyzing the constitutional and legislative framework is not merely a description of texts but a key to understanding the political and social dynamics that determine or facilitate women’s empowerment in the

¹⁴ - Algerian Ministry of Interior, Official Results of the 2021 Legislative Elections; Inter-Parliamentary Union (IPU), Algeria – Women in Parliament, October 2025; Center for Studies and Statistics Documentation CREDIF, Comparative Report on Women in Maghreb Parliaments, Tunis, 2024.

Maghreb political arena and represents an attempt to outline prospects for overcoming this dilemma (Second Subsection).

First Subsection – The gap between constitutional texts and practical implementation.

Despite the legal gains achieved in Algeria, Tunisia, and Morocco, the translation of constitutional provisions into actual reality is still hindered by multiple factors, most notably patriarchal culture, weak political awareness among women, and the dominance of political parties over nomination mechanisms, which tend to favor men in electoral lists. Women in elected positions also face institutional challenges related to societal trust and exclusion from top decision-making centers (First Branch). From this standpoint, it becomes necessary to understand women's political representation in the Maghreb space through an integrated epistemic triangle: the theoretical frame of human rights, the renewed Islamic jurisprudential framework, and the modern constitutional structure. Each of these three sides provides the others with legitimacy and effectiveness, and none of them can be separated from the others without weakening the overall project. Accordingly, this research starts from a firm conviction that upgrading women's political representation is not a matter of "Westernization" or "imitation," but a response to the requirements of justice, a realization of the principle of consultation (shura), and a practical translation of the concept of citizenship in a state of law and institutions (Second Branch).

First Branch – Constitutional and legislative divergences "between progress and regression".

Constitutional provisions and electoral legislation constitute the core institutional foundation for guaranteeing women's participation in political life, not merely as an individual right but as a condition for building a democratic, pluralistic state that recognizes social diversity and seeks to achieve representational justice. In the Maghreb context – characterized by a shared Islamic civilizational identity, divergent transition paths, and relative openness to international human rights standards – the significant differences in constitutional and legal approaches to women's political representation clearly reflect differing priorities of political systems and their strategies for addressing gender issues.¹⁵

While countries such as Morocco and Tunisia have followed a progressive legislative path since the beginning of the twenty-first century through new constitutions (2011, 2014, and 2022) that established the principle of "appropriate representation" or "equal opportunities," and through the adoption of concrete mechanisms such as electoral quotas and vertical

¹⁵ - Muhammad al-Tahir Ibn 'Ashur, *Maqasid al-Shari'a al-Islamiyya*, Tunis: al-Dar al-Tunisiyya lil-Nashr, 1999, p. 187.

balance in lists – Algeria has undergone a contrary transformation, namely the repeal of the quota system in 2021, after having been one of its most prominent pioneers in the region.

This divergence not only reflects contingent political differences but also embodies a deep-seated struggle between two currents: a reformist current that regards women’s representation as a democratic and ethical necessity, and a conservative current that links political authority to the masculine identity of the state and re-deploys religious or cultural discourse to resist what it considers “excessive Western imitation.” Hence, these divergences are not simply technical differences in legal drafting but symbolic struggles over the nature of the modern state in the Arab-Islamic world.

What further complicates the picture is that some forms of “legal progress” have not been translated into sustainable political realities, as in Tunisia after 2021, where women’s parliamentary representation decreased despite the presence of a previously progressive electoral law. Conversely, “legal regressions,” such as those in Algeria, led to a rapid collapse in actual representation. This raises a crucial question: Can any legislative progress endure without institutional and cultural support? Are quotas a temporary solution or an indispensable necessity in societies whose structures still discriminate against women?

From this vantage point, studying these constitutional and legislative divergences has both theoretical and practical importance. It helps us understand how legal texts interact with political dynamics, reveals the limits of legislative intent in the face of social structures, and provides clear indicators regarding the future of democracy in the region. Women’s representation is not an end in itself; it is a measure of the health of the entire political system.

In Tunisia (a progressive constitution in a troubled political context), the 2014 Constitution, in Article 46, stipulated “adequate representation” of women and this was implemented through an electoral law requiring “vertical and horizontal parity” in lists (Electoral Law No. 16/2014, Article 14). However, the 2022 Constitution, despite reaffirming equality in Article 33, omitted any reference to “adequate representation,” thereby freeing parties from the obligation of balanced lists. The result was a decline in women’s parliamentary representation from 31.9% in 2019 to 17.2% in 2022.¹⁶

In Morocco (the quota system as an “institutional compromise solution”), the 2011 Constitution enshrined the principle of equality in Article 19 and translated this into a national women’s list, expanded from 60 to 90 seats in the 2021 elections. Additionally, a

¹⁶ - Annual Report of the High Independent Authority for Elections, 2023, p. 45.

50% women's representation on local lists was required. The outcome was that 23.3% of parliamentary seats were held by women.¹⁷

As for Algeria (quota repeal as a source of regression), Law 12-01 (2012) introduced a 30% quota, raising women's representation to 26% in the 2017 parliament. Yet Presidential Decree No. 21-101 (2021) abolished the quota on the pretext of having achieved "parity," causing representation to drop to 8.2%.¹⁸

Second Branch – Jurisprudential, intellectual, and cultural obstacles to women's political representation.

Some conservative currents use traditional interpretations of religious texts to restrict women's public roles. However, Islamic political jurisprudence affirms that participation does not contradict religious fundamentals; rather, it is an embodiment of the principles of justice and consultation. Renewing religious discourse is thus essential to remove the confusion between the sacred text and its culturally conditioned misinterpretation.

Upgrading women's political representation in the Maghreb states is a democratic and developmental necessity. Societies that exclude half of their population from decision-making weaken their capacity for innovation and undermine their ethical and political legitimacy. While constitutional legislation has made important strides, the real challenge lies in translating these gains into tangible reality by dismantling the cultural and religious structures that legitimize exclusion.

From this perspective, Islamic political jurisprudence if treated through a purposive methodology – can be a strategic ally in the struggle for women's empowerment, rather than an obstacle to it. In its essence, Islamic Sharia is a religion of justice and mercy and cannot approve the exclusion of half the umma from performing its role in cultivating the earth and achieving the public good.

In conclusion, the future of democracy in the Maghreb is organically linked to these societies' ability to liberate women's potential and enable them to play their full role as active citizens, not merely as symbols or statistics in representation tables.

Despite legislative progress, political culture in many Maghreb societies still regards women as "secondary actors" in the public sphere. This is due to the persistence of traditional gender roles that exclude women from decision-making centers and prioritize their familial and social roles. A survey conducted by the Pew Research Center (2022) indicates that 42% of

¹⁷ - Organic Law No. 57.11, Official Gazette, No. 6997, 2021, p. 5721.

¹⁸ - Inter-Parliamentary Union, Women in Parliament, October 2025.

Moroccans and 38% of Algerians believe that “a woman’s primary role is in the home,” which translates into low levels of popular trust in female leaders.

An analysis of women’s political representation in Algeria, Tunisia, and Morocco reveals that the contradiction between “text and reality” is not due merely to insufficient legislative will, but to a disconnect between the legal structure and the social structure. Electoral quotas, however effective, remain transitional mechanisms that will not work without a supportive political and cultural environment. Perhaps the most important lesson is that genuine representation is not measured solely by the percentage of seats but by the quality of participation and the effectiveness of influence.

Hence the need arises for a distinctive Maghreb model that combines:

- A reconciliatory jurisprudential grounding of equality,
- Constitutional modernization that ensures the continuity of positive mechanisms,
- And a societal bet on gradual cultural change.

Betting on women in the political sphere is not a democratic luxury; it is a condition for the survival of any serious national project of justice and development.

Second Subsection – Towards an integrated Maghreb legislative model for women’s political empowerment.

An appropriate methodological approach to the issue of upgrading women’s political representation in Maghreb constitutions should rest on a comparative analysis of constitutional texts and electoral legislation,¹⁹ field inference through statistical indicators and official reports, and reference to international and regional jurisprudential and legal sources, with the aim of building a balanced critical vision that moves beyond mechanical dichotomies (discrimination/empowerment) towards a dynamic understanding of the relationship between the legal structure and the socio-political reality (First Branch). To achieve genuine empowerment, it is not enough to rely on quotas or formal legislation; rather, an integrated strategy is required (Second Branch).

First Branch – The nature of legal and social obstacles and the challenges of the constitutional bet.

Despite constitutional gains, the Maghreb woman continues to face economic and cultural challenges that limit her effective political participation. Traditional social factors and male

¹⁹ - Bilal La’isani, “The Role of Cultural and Religious Heritage in the Weak Political Participation of Women in Maghreb States,” Journal of Legal and Political Research, 2016.

dominance within parties reduce women's opportunities in decision-making positions, and weak political education among women deepens the gap between legal texts and practice.²⁰

Although the percentage of women's representation has risen in some Maghreb parliaments, studies indicate that many elected women occupy primarily symbolic roles and do not effectively participate in decision-making or in shaping legislative agendas. Women's quotas, despite their symbolic importance, may be used as a tool to absorb international pressure without bringing about a fundamental change in the patriarchal structure of political elites.²¹

In light of the above, it has been necessary to amend constitutions to incorporate concepts such as "effective equality" (as in the South African Constitution), rather than merely formal equality. In this context, quotas should be reintroduced in Algeria, not as a "privilege" but as a temporary corrective for a structural imbalance, coupled with the establishment of effective constitutional oversight over electoral lists, as was practiced in Tunisia before 2021. Conversely, Morocco appears poised to generalize the "regional women's lists" in the 2026 elections, which may enhance local representation.²²

On the societal front, the challenge lies in building a shared political culture based on reforming educational curricula to include concepts of citizenship and equality from childhood, and on supporting local female leadership through sustainable training programs. To construct a unified Maghreb system, it is also necessary to adopt a Maghreb charter on women's political representation, akin to the African "Maputo Protocol."

In reality, women's political representation in the Maghreb states particularly in Algeria, Tunisia, and Morocco – is a matter that reflects tensions between constitutional texts and international commitments, on the one hand, and the socio-political reality, on the other. Despite the ostensible progress in drafting constitutions that affirm equality and equal opportunity, women remain far from actual access to decision-making positions, not only

²⁰ - Houria Khalifa al-Tarmal, "The Political Rights of the Arab Woman in Islamic Jurisprudence," Journal of North Africa for Scientific Publishing, 2024.

²¹ - Karima Ben Goumar, Women's Political Representation in Maghreb States: A Crisis of Social Recognition, Journal of Political Studies, 2016.

²² - Women and Democracy in Islamic Political Jurisprudence, Higher Institute of Islamic Thought, 2014. <https://iiit.org/ar> "How the Qur'an and the Sunnah Dealt with Women's Political Participation," Al-Jazeera Net website, 2020. aljazeera. Net.

because of the absence of enforcement mechanisms but also due to structural legal obstacles, deep-seated social barriers, and constitutional bets whose seriousness is questionable.²³

The degree of constitutional progress varies among the three countries, yet they all share a weak link between the constitutional principle and binding legislative measures, as previously noted. At the same time, women's political representation cannot be separated from the social context that perpetuates stereotypical images of women's "natural" role in the family, while restricting politics to men. According to a UN Women report, 72% of men in the Arab region believe that men are "better at politics" than women. In Morocco, Tunisia, and Algeria, female candidates face smear campaigns, family pressure, and threats of violence, especially in rural areas.

The legal and social obstacles that confront women's political representation in Algeria, Tunisia, and Morocco are interlinked rather than isolated. A weak or fluctuating constitutional framework undermines the legitimacy of reforms, while the social structure reproduces discrimination despite progressive texts. Thus, the real constitutional bet is not on drafting elegant provisions but on building an institutional system capable of transforming principles into concrete realities through binding mechanisms, societal oversight, and long-term investment in women's leadership.

Second Branch – Towards a holistic approach to strengthening women's political representation in Maghreb constitutions.

Talking about women's political empowerment in Maghreb states cannot be separated from building a comprehensive approach that goes beyond formal constitutional texts to effective institutional mechanisms, sustainable social transformation, and long-term educational and cultural strategies. The Moroccan (2011), Tunisian (2014), and Algerian (2020) constitutions all recognize the principle of equality or equal opportunity between the sexes. Nonetheless, the significant gap between "text" and "reality" shows that empowerment is not achieved by constitutional acknowledgment alone; it requires an integrated system of public policies, oversight mechanisms, and genuine political will.

First: The need to move from formal equality to effective equality.

The Moroccan, Tunisian, and Algerian constitutions have halted at the proclamation of general principles such as "equal opportunity" (Morocco – Article 19; Algeria – Article 49) or "adequate representation" (Tunisia – Article 46). While these formulations constitute a progressive step, they remain non-binding unless accompanied by clear enforcement mechanisms. The constitution cannot serve as a genuine guarantee as long as organic laws

²³ - 'Aliya Laamara and Amira Sharif, The Political Empowerment of the Maghreb Woman: A Case Study of Algeria and Tunisia, Journal of Arab Democracy, 2021.

can be repealed without accountability, as happened in Algeria with the abolition of the 30% quota in 2021, or as long as implementation remains selective, as in Tunisia after 2022.

Thus emerges the need to “re-found the constitutional concept of equality,” not merely as non-discrimination, but as a corrective duty addressing a long history of exclusion. The constitution must evolve from being a document of political balance to an instrument for redistributing social justice, including restoring gender balance within the power structure.²⁴ This calls for amending constitutions to include provisions that oblige the state to ensure “fair representation” of women in all elected bodies and to impose penalties on parties that fail to adhere to balanced lists.

Second: Building a supportive institutional system

Political empowerment cannot be built on a single constitution; it requires a network of independent institutions capable of monitoring implementation and holding violators accountable. In this context, the Moroccan experience represents a partial model: the “National Authority for the Prevention of Discrimination and its Combating,” established in 2018, whose mandate can be expanded to include monitoring electoral discrimination against women. In Tunisia, the High Independent Authority for Elections played an important oversight role prior to 2021, but its marginalization undermined preventive mechanisms. Hence, there is a pressing need to establish a “National Authority for Gender Equality” in each Maghreb country, empowered to review electoral laws, issue periodic reports, and bring cases before constitutional courts.

Third: Investing in women’s human and cultural capital.

While legislation opens doors to participation, cultural and cognitive barriers remain the biggest obstacle to genuine empowerment. In many rural areas in Morocco, Algeria, and Tunisia, the female politician is viewed as “violating customs,” exposing her to harassment and threats. A study by the Center for Studies and Research on Development and Innovation (CERDI) showed that 64% of women in Djelfa (Algeria) reject the idea of women running for parliament for religious and social reasons. This reality calls for a “long-term educational approach,” beginning in schools through the inclusion of citizenship and equality programs in curricula and continuing through the media and party training programs.²⁵

²⁴ - Muhammad Hammou, *The Constitutional State and Citizenship*, al-Markaz al-Thaqafi al-‘Arabi, Rabat, 2020, p. 187.

²⁵ - (CERDI), *Women and Political Participation in Southern Algeria*, Oran, 2023, p. 41.

Fourth: The regional bet – towards a Maghreb charter for political equality.

Given the considerable differences among Maghreb countries, there is an urgent need for “regional coordination” that creates a shared dynamic toward empowerment. The Arab Maghreb Union can play a pivotal role by adopting a “Maghreb Charter for Women’s Political Equality” that binds member states to achieving a minimum of 30% female representation in parliaments and local governments, exchanging experiences, and unifying monitoring mechanisms. This proposal was put forward by Professor Ahmed al-Raysouni at an international conference in 2023, where he emphasized that “Maghreb unity will not be built on the economy alone, but on shared values, foremost among them gender justice.”²⁶

Empowering women’s political representation in the Maghreb states cannot rest on a single constitution or electoral law; it requires a “holistic approach” that combines “deep constitutional reform,” “independent institutional building,” “systematic cultural transformation,” and “effective regional solidarity.” Women are not “beneficiaries” of patronage; they are “full partners in building the democratic state.” Delaying the establishment of this approach is not only a loss for women; it is a loss for democracy itself.²⁷

Upgrading women’s political representation in Maghreb states is not merely a human rights issue; it is a matter of national development and social stability. Societies that exclude half of their population from decision-making weaken their capacity for innovation, justice, and cohesion. While constitutional reforms have made important strides, the real challenge lies in translating these gains into a tangible reality by dismantling the cultural and religious structures that legitimize exclusion. Here, Islamic political jurisprudence plays a crucial role in providing a new understanding of women as partners in civilizational construction, not merely subjects of care or protection. From this perspective, the future of democracy in the Maghreb is organically linked to these societies’ ability to liberate women’s potential and enable them to perform their full role as active citizens.

In reality, political empowerment cannot be separated from the economic and social domains. Studies confirm that women’s presence in parliament does not necessarily translate into real influence on decision-making unless accompanied by genuine institutional empowerment. Regional conferences held in Nouakchott (2025) recommend integrating women’s issues into legislation and public policies to ensure sustainable and inclusive representation. Cooperation among Maghreb states through the exchange of experiences in applying quotas and parity

²⁶ - Ahmed al-Raysouni, Islamic Unity and Contemporary Challenges, Journal of al-Qarawiyyin University, special issue, 2023, p. 67.

²⁷ - Lounasi Jajiga, “The Impact of Constitutional Amendments on the Legal Status of the Maghreb Woman,” Conference, University of Tizi Ouzou, 2016; Carnegie Center, “Upgrading Women’s Political Representation in Maghreb States,” 2020.

systems also represents a promising pathway for consolidating gender justice in the political scene.²⁸

Fundamental questions are being raised today about the nature of the “constitutional bet” on women’s political empowerment. Is the constitution merely a symbolic document expressing international commitments, or is it a practical tool for structural transformation? The reality indicates that Maghreb constitutions, despite some progress, still fall short of the required level in translating equality into an institutional reality.

To overcome these problems, the following is proposed:

- Moving from quotas to the principle of actual parity, by amending electoral laws to ensure equal opportunities not only in candidacy but also in winning.
- Strengthening civic and political education for women, especially in rural areas, through national programs supported by the ministries responsible for education and women’s affairs.
- Activating the role of religious institutions in promoting a renewed jurisprudential discourse that supports women’s participation, based on a purposive (maqasidi) approach.
- Encouraging political parties to adopt gender-sensitive programs by linking public funding to tangible indicators of women’s representation and empowerment.

Conclusion:

Recent decades have witnessed fundamental transformations in the concept of citizenship and political participation, particularly in the Maghreb context, where gender equality has emerged as one of the central themes of political and social reform. Although the Maghreb states Morocco, Algeria, and Tunisia have followed different paths in addressing women’s political representation, they share structural challenges related to political culture, religious references, and institutional frameworks. This study thus sought to understand the revisions and mechanisms adopted by these countries to upgrade women’s presence in the political arena and to analyze their effectiveness in confronting social, cultural, and religious constraints, while addressing the key question: Do these legal revisions and mechanisms represent a genuine step toward women’s empowerment or do they remain within the realm of symbolic politics without real impact?

²⁸ - ‘Abd Allah Hajjaj, The Legal Framework Supporting Women’s Political Participation in Maghreb States, Journal of Law and Politics, 2020.

The study shows that constitutional amendments in Algeria, Morocco, and Tunisia have laid solid legal foundations for women's political empowerment by entrenching principles of equality, parity, and differentiated participation mechanisms. However, weak practical implementation and the persistence of cultural and institutional barriers have limited the achievement of genuine participation.

Achieving political equality in the Maghreb states requires moving from texts to practice through sustainable public policies that include rights-based education, party support, and the activation of constitutional oversight mechanisms. This empowerment also calls for a renewed reading of Islamic political jurisprudence that highlights justice and participation as neither legal concessions nor discretionary favors, but as religious obligations and public interests.

The comparative analysis of the Maghreb experiences under study reveals that constitutional and legal provisions have helped increase the quantitative presence of women in political life, but the primary challenge remains achieving qualitative representation that influences public policies. Upgrading women's political representation is not only about formal equality; it goes to the heart of social justice and sustainable development. The required future framework should therefore rest on party and educational reforms that turn the principle of parity into lived reality and support women's leadership in the political field, thereby moving beyond a purely symbolic view of women's representation.

On the basis of the foregoing, and within the context of building a "Maghreb constitutional jurisprudence" for women's representation, this analysis clarifies that women's political representation in the Maghreb cannot be understood without deconstructing a tripartite reference framework: renewed jurisprudential *ijtihad*, progressive constitutional interpretation, and genuine engagement with international standards. The Maghreb woman is not alien to her religion, her constitution, or her humanity; she is at the heart of the struggle over the interpretation of her political identity. While jurisprudence has started to reinterpret the texts of guardianship in light of the objectives of justice and equality, the constitution remains the most effective space for translating this reinterpretation into an institutional reality. The objective, therefore, is not merely "to raise quotas," but to build a "Maghreb constitutional jurisprudence" that makes women's representation a litmus test for the sincerity of democratic transition, not a mere decorative façade.

References:

Books:

- Abu Ishaq al-Shatibi, *al-Muwafaqat fi Maqasid al-Shari'a*, ed. 'Abd Allah Daraz, Dar al-Ma'rifa, vol. 2, Beirut, 1997.
- Muhammad al-Tahir Ibn 'Ashur, *Maqasid al-Shari'a al-Islamiyya*, Tunis: al-Dar al-Tunisiyya lil-Nashr, 1999.

- Muhammad Hammou, *The Constitutional State and Citizenship*, al-Markaz al-Thaqafi al-‘Arabi, Rabat, 2020.
- UN Women, *Progress of the World’s Women*, 2023–2024.

Laws:

- Constitution of the People’s Democratic Republic of Algeria, 2020.
- Constitution of the Kingdom of Morocco, 2011.
- Constitutions of the Republic of Tunisia, 2014 and 2022.
- Electoral laws of Algeria, Tunisia, and Morocco.
- Organic Law No. 57.11, *Official Gazette*, No. 6997, 2021.
- Draft Law on Regional Elections, Morocco, 2024.

Articles:

- Ahmed al-Raysouni, “Islamic Unity and Contemporary Challenges,” *Journal of al-Qarawiyyin University*, special issue, 2023.
- Bilal La‘isani, “The Role of Cultural and Religious Heritage in the Weak Political Participation of Women in Maghreb States,” *Journal of Legal and Political Research*, 2016.
- Houria Khalifa al-Tarmal, “The Political Rights of the Arab Woman in Islamic Jurisprudence,” *Journal of North Africa for Scientific Publishing*, 2024.
- ‘Aliya Laamara and Amira Sharif, “The Political Empowerment of Maghreb Women: A Case Study of Algeria and Tunisia,” *Journal of Arab Democracy*, 2021.
- ‘Abd Allah Hajjaj, “The Legal Framework Supporting Women’s Political Participation in Maghreb States,” *Journal of Law and Politics*, 2020.
- Karima Ben Goumar, “Women’s Political Representation in Maghreb States: A Crisis of Social Recognition,” *Journal of Political Studies*, 2016.
- Lounasi Jajiga, “The Impact of Constitutional Amendments on the Legal Status of the Maghreb Woman,” *Conference, University of Tizi Ouzou*, 2016.

Websites:

- Official results of the 2021 legislative elections, Algerian Ministry of Interior.
- Report on the 2021–2022 communal and legislative elections, Moroccan Ministry of Interior.
- National Human Rights Council (Morocco), *Report on Gender Equality*, 2024.
- Center for Studies and Statistics Documentation CREDIF, *Comparative Report on Women in Maghreb Parliaments*, Tunis, 2024.
- Annual Report of the High Independent Authority for Elections, Tunisia, 2023.
- Inter-Parliamentary Union, *Women in Parliament*, October 2025.
- Inter-Parliamentary Union (IPU), “Women in National Parliaments – Tunisia,” October 2025.
- Tunisian Forum for Economic and Social Rights (2024), *Report on Women’s Participation in Local Governance*.
- UNESCO Recommendation, *Global Education Monitoring Report*, 2025.

- Convention on the Elimination of All Forms of Discrimination against Women, 1979,
<https://www.ohchr.org/ar/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>
- (CERDI), “Women and Political Participation in Southern Algeria,” Oran, 2023.
- Universal Declaration of Human Rights, 1948, Article 21,
<https://www.un.org/ar/universal-declaration-human-rights/>
- Convention on the Elimination of All Forms of Discrimination against Women, New York, United Nations, 1981, pp. 3–4,
<https://www.un.org/womenwatch/daw/cedaw/text/arabic/cedaw.htm>
- Security Council Resolution 1325, United Nations, 31 October 2000, para. 13,
<https://undocs.org/ar/S/RES/1325>
- Global Goals of the Sustainable Development Programme, Goal 5, United Nations, 2015,
<https://sdgs.un.org/goals/goal5>
- European Commission, Gender Equality Strategy 2020–2025, Brussels, 5 March 2020,
https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-equality-strategy-ar_en
- African Union, Maputo Protocol on the Rights of Women, 2003, Article 9,
<https://au.int/ar/treaties/>
- Strategy for Gender Equality in the Arab Region, 2018, General Secretariat of the League of Arab States,
<https://www.lasportal.org/ar/publications/strategy-gender-equality-arab-region>
- Carnegie Center, “Upgrading Women’s Political Representation in Maghreb States,” 2020,
<https://carnegieendowment.org/middle-east?lang=ar>
- International Institute of Islamic Thought, “Women and Democracy in Islamic Political Jurisprudence,” 2014,
<https://iiit.org/ar>
- Al-Jazeera Net, “How the Qur’an and the Sunnah Dealt with Women’s Political Participation,” 2020,
aljazeera.net
- Fatwa No. 07/2012, Supreme Islamic Council, Algeria,
www.elmadjlis-hci.dz