

Status of Human Rights in Morocco for the 41st Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Kingdom of Morocco (Morocco) for the 41st session of the Universal Periodic Review (UPR).

Background

2. Morocco is a country located in northern Africa with an estimated population of 26.5 million people¹. It is a predominately Muslim country with 99% of the country identifying as Sunni Muslim². The remaining 1% identify as Christians, Jews, or Baha'i³. In its 2022 World Watch List, the human rights watchdog organisation, Open Doors, listed Morocco as the 27th worst place for Christians to live, citing “Islamic oppression” and laws criminalising acts which “shake the faith of a Muslim”⁴.

3. Morocco’s previous UPR was held on 2 May 2017⁵. As a result of the review, Morocco received 247 recommendations, 194 of which Morocco supported⁶. One of the recommendations, which Morocco only noted, was that the government “[r]emove restrictive practices against Christians and other minorities, including limitations on religious activities, freedom of thought and conscience, in according with international law”⁷.

Legal Framework

4. Under Article 3 of the Constitution of Morocco, “Islam is the religion of the State, which guarantees to all the free exercise of beliefs [cultes]”⁸. Furthermore, Article 41 establishes that the King is the “Commander of the Faithful” and that “He is the Guarantor of the free exercise of beliefs [cultes]”⁹. This article also states that he presides over the Superior Council of Ulema, which is the highest religious authority in the country:

He presides over the Superior Council of the Ulema [Conseil superieur des Oulema], charged with the study of questions that He submits to it.

The Council is the sole instance enabled [habilitée] to comment [prononcer] on the religious consultations (Fatwas) before being officially agreed to, on the questions to which it has been referred [saisi] and this, on the basis of the tolerant principles, precepts and designs of Islam.

The attributions, the composition and the modalities of functioning of the Council are established by Dahir [Royal Decree].

The King exercises by Dahirs the religious prerogatives inherent in the institution of the Emirate of the Faithful [Imarat Al Mouminine] which are conferred on Him in exclusive manner by this Article¹⁰.

5. Because Islam is the religion of the State, the penal code criminalises proselytisation and acts that “shake the faith of a Muslim”. Under Article 220 of the Moroccan Penal Code:

Anyone who, through violence or threat, restrains or prevents one or several persons from worshiping or attending worship, is punishable by imprisonment for six months to three years and by a fine of 200 to 500 dirham.

Anyone who employs incitement to shake the faith of a Muslim or to convert them to another religion, by exploiting their weakness or needs, or by using educational or health institutions, asylum or orphanages for such purposes incurs the same sentence. In the case of conviction, the closure of the institution that served to commit the offence may be ordered, either definitively or for a duration that may not exceed three years¹¹.

6. While the Criminal Code of Morocco does not contain any provisions that make apostasy illegal, the fatwas (Islamic religious rulings) of the Superior Council of the Ulema carry great weight within Morocco. In 2012, the Superior Council “released a book . . . where it articulated its position on apostasy and argued that a Muslim who changes his or her religion should be punished with death, drawing on a widespread jurisprudence tradition”¹². Furthermore, the blasphemy laws have been used broadly in ways to punish “apostates”. The Superior Council’s fatwa was not retracted until 2017, when the Superior Council of Ulema clarified that a more accurate reading of Islamic law applies to the death sentence only to those who commit high treason, not to those who change their religion¹³. According to the Council’s ruling, “The most correct understanding of the apostasy issue resides in the spirit of tradition and of Prophet’s biography, who by **apostate** means **the traitor of the group** ((khā’in al-jamā’), the one who reveals its secrets and hurts it with help of its opponents, what is equivalent to high treason under international law”¹⁴. Under this new ruling, merely changing ones faith should no longer be interpreted as deserving the death penalty¹⁵.

7. The Moroccan Family Code of 5 February 2004, Law no. 70.03 (“Moudanwana”), applies to “[a]ll Moroccans, including those with another nationality . . . [and to] [r]elationships between two Moroccans, one of whom is Muslim”¹⁶. Moreover, the law prevents the “marriage of a Muslim woman to a non-Muslim man, and the marriage of a Muslim man to a non-Muslim woman unless she is of the Christian or Jewish faith”¹⁷. Finally, Article 50 of the law states that “[w]hen the marriage contract meets all the legal requirements, and there are no impediments to the marriage, the marriage is considered a valid one, *and leads to the full implication of rights and duties that the Sharia (religious law) establishes between the husband and wife . . .*”¹⁸. Thus, it appears that the law seeks to govern *all* marriages according to Sharia law – religious law to which Christians do not adhere. Effectively, Christian marriages are not recognised under Moroccan law.

8. Morocco’s ban on proselytisation and other laws that prohibit the completely free exercise and choice of religion as well as its laws that grant rights only to one religion clearly violate the international covenants to which Morocco is a party, particularly the International

Covenant on Civil and Political Rights (ICCPR), Article 18 of which provides that:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice¹⁹.

9. Additionally, Article 27 further provides protections for religious minorities:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language²⁰.

Religious Persecution

10. Morocco has found itself at a crossroad between trying to balance remaining strict on religious matters in accordance with the Maliki school of Islamic jurisprudence in order to appease the more conservative part of society, as well as being more progressive in order to project openness towards western countries²¹. As a result, and as stated below, Morocco has created two classes of Christians that are treated differently.

11. Within Morocco, Christians represent a very small fraction of the population and are essentially divided into two categories, Moroccan Christians and foreign Christians. There are approximately 40,000 foreign Christians with approximately 30,000 of them identifying as Roman Catholic and 10,000 as Protestant²². While the exact number of Moroccan Christians is unknown, the estimates vary widely from 5,000 to 50,000²³. This separate classification of Christians – foreign vs. Moroccan - was formally acknowledged by the King of Morocco, King Mohammed VI. In a 2019 speech, King Mohammad VI stated that “I protect Moroccan Jews as well as Christians from other countries”, thus specifically and intentionally excluding Moroccan Christians.²⁴

12. Although the Superior Council’s 2017 ruling reversed its 2012 position regarding apostasy, Moroccan Christians, especially those who converted from Islam, still face societal pressure and persecution from their family, friends, and even employers. In one example, a Christian, who converted from Islam, was threatened by his employer and had a gun waved in his face. When the Christian filed a report with the police they refused to investigate and instead told him to never speak of his religious conversion²⁵. Another Christian explains how he is treated and viewed by society saying “People look at me just like a criminal or an ‘infidel’ person”²⁶.

13. In July of 2018, a video surfaced of two hooded men invading the home of family who was accused of wanting to change their religion from Islam²⁷. The men made the reason for their attack clear as they proceeded to assault the family shouting “So you are planning to change your

religion? You want to change? We will show you now”²⁸.

14. We are also extremely concerned about the law criminalising proselytisation. This vague law, which prohibits “shaking the faith of a Muslim”, has been used in numerous Muslim majority countries to target Christian and other religious minorities. Under this law, those who profess belief in Jesus Christ as the Son of God can be accused of “shaking the faith of a Muslim”. This severely infringes on the ability of one to practice their religion because many faiths call upon their adherents to go out to unbelievers and spread their messages so that others may believe. In fact, simply giving someone a Bible or even telling a Muslim about the Christian faith can be interpreted as “shaking the faith of a Muslim”.

15. Furthermore, while foreign churches are able to operate within the country, the proselytisation law is used to discourage churches from welcoming Moroccan citizens²⁹. According to the President of the Moroccan Association of Rights and Religious Liberties, church leaders receive weekly warnings from authorities to not welcome in Moroccan’s or else they could be charged with proselytising³⁰.

16. Even though arrests rarely occur these days, Moroccan Christians still feel restricted from publicly attending church and participating in Christian rituals such as baptisms, weddings and funerals³¹. According to one report, “[i]f a Moroccan enters a church, one of two things can happen; either a policeman sitting in front of the church arrests him or her, or the cleric in charge of the church asks the person to leave . . .”³². One Moroccan Christian noted that “We have our own Moroccan rites. I have no interest in praying in another language or other programs. In my own country, I don’t want to be a guest in a church”³³. Another Christian echoed that sentiment saying, “There is a legal issue. People who speak publicly are exceptions. I want to get married the way I want, and pray the way I want, as a Moroccan citizen”³⁴.

17. Morocco has also codified many principles of Sharia³⁵. As a result, non-Muslims are regarded as second class citizens who lack many of the rights and freedoms that their Muslim counterparts enjoy. For example, it is forbidden for non-Muslim man to marry a Muslim women³⁶. This means that in order to marry a Muslim woman, a non-Muslim must first convert to Islam. Additionally, only Muslims are allowed to adopt Moroccan children, this leaves many orphans without hope as it prevents Christians and other religious minorities from being able to adopt Moroccan children³⁷. Adoption, as it is traditionally understood, is not allowed according to Moroccan law. Instead, Morocco operates under “kafala,” which “is the Arabic term for sponsorship or guardianship”³⁸. In order to be granted kafala, “families must be lifelong practicing Sunni Muslims who regularly attend mosque,” and “the parents agree to raise the child as Sunni Muslim . . .”³⁹.

18. In March of 2019, Pope Francis visited Morocco giving hope to Morocco’s Christians, that they will be able to live out their faith in public⁴⁰. The Coordination of Moroccan Christians issued a statement about this momentous occasion saying, “We believe that any interreligious dialogue and any fight against extremism can succeed only on the basis of a total frankness on the issue of religious freedom for Moroccan citizens, including Christian Moroccans . . . We hope that the visit of the Holy Father will be a historic opportunity to move our country forward in this direction”⁴¹. Unfortunately, this hope has yet to be realised.

Conclusion

19. It is critical that Morocco's Constitution and laws are in line with international treaties, such as the ICCPR. Morocco must remove its ban on proselytisation within the criminal code so that all of its citizens can practice their religion peacefully and publicly. Morocco must also reform its laws to ensure that Moroccan Christians are granted the same rights and privileges as everyone else. Everyone should be permitted to worship in a church according to the tenets of their faith and not be restricted from marrying whom they wish or adopting regardless of religious affiliation. We also urge Morocco to utilize inter-faith dialogue and public government condemnation of societal harassment based on religion to put a stop to harassment of Moroccan Christians or any other religious minorities.

¹ Morocco, THE WORLD FACTBOOK, <https://www.cia.gov/the-world-factbook/countries/morocco/>.

² *Id.*

³ *Id.*

⁴ Morocco, OPEN DOORS, <https://www.opendoorsusa.org/christian-persecution/world-watch-list/morocco/>.

⁵ *Universal Periodic Review – Morocco*, UNHRC, <https://www.ohchr.org/EN/HRBodies/UPR/Pages/MAIndex.aspx>.

⁶ UPR of Morocco – Thematic List of Recommendations, OHCHR, https://lib.ohchr.org/HRBodies/UPR/Documents/Session27/MA/UPR27_Morocco_ThematicList_of_Recommendations_E.docx.

⁷ *Id.* at A/HRC/36/6/Add. 1 – Para. 23.

⁸ Constitution of Morocco art. 3, https://www.constituteproject.org/constitution/Morocco_2011.pdf.

⁹ *Id.* at art. 41.

¹⁰ *Id.*

¹¹ Penal Code of Morocco art. 220, <https://www.justice.gov/eoir/page/file/1069501/download> (unofficial translation).

¹² Ezzoubeir Jabrane, *Morocco's High Religious Committee Says Apostates Should Not Be Killed*, MOROCCO WORLD NEWS (6 Feb. 2017, 6:09 AM), <https://www.moroccoworldnews.com/2017/02/207505/moroccos-high-religious-committee-says-apostates-should-not-be-killed>.

¹³ Chiara Pellegrino, *Morocco: the Apostate no Longer Faces Death*, OASIS (2 Mar. 2017), <https://www.oasiscenter.eu/en/morocco-apostate-no-longer-faces-death>.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Moroccan Family Code of 5 February 2004, Law no. 70.03, art. 2, available at <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf> (unofficial translation).

¹⁷ *Id.* art. 3.

¹⁸ *Id.* art. 50.

¹⁹ International Covenant on Civil and Political Rights, Dec. 16, 1966 S. Treaty Doc. 95-20, 6 I.L.M. 368 (1976), 999 U.N.T.S. 171, art. 18.

²⁰ *Id.* at art. 27.

²¹ Bradley Davis, *Educator of the Faithful: The Power of Moroccan Islam*, HUDSON INSTITUTE (27 Jan. 2020), <https://www.hudson.org/research/15663-educator-of-the-faithful-the-power-of-moroccan-islam>.

²² *After Israel, Will Morocco Normalize with Christians*, CHRISTIANITY TODAY (8 Jan. 2020), <https://www.christianitytoday.com/news/2021/january/morocco-christians-israel-trump-peace-abraham-accords.html>.

²³ *Id.*

²⁴ “Please, no Proselytism”: Pope in Morocco Warns Catholics Off Converting Others, THE TIMES OF ISRAEL (31 Mar. 2019), <https://www.timesofisrael.com/please-no-proselytism-pope-in-morocco-warns-catholics-off-converting-others/>.

²⁵ *Moroccan Christians Repeatedly Arrested*, INDEPENDENT CATHOLIC NEWS (17 Jul. 2020), <https://www.indcatholicnews.com/news/40044>.

²⁶ Amal El Attaq, *Persecuted or Left Alone: The 2 Versions of Being a Moroccan Christian*, MOROCCO WORLD NEWS (18 Feb. 2019), <https://www.moroccoworldnews.com/2019/02/266079/moroccan-christian-islam-law>.

²⁷ Tamba Koundouno, *Video: Two Men Storm House of Moroccan Man for “Wanting to Change Religion”*,

MOROCCO WORLD NEWS, <https://www.morocoworldnews.com/2019/07/278582/video-two-men-storm-house-of-moroccan-man-for-wanting-to-change-religion>.

²⁸ *Id.*

²⁹ *Moroccan Christians Repeatedly Arrested*, INDEPENDENT CATHOLIC NEWS (17 Jul. 2020), <https://www.indcatholicnews.com/news/40044>.

³⁰ *Id.*

³¹ Aida Alami, *Pope Francis’ Visit to Morocco Raises Hopes for Its Christians*, THE NEW YORK TIMES (29 Mar. 2019), <https://www.nytimes.com/2019/03/29/world/africa/pope-francis-morocco-christians.html>.

³² *Christian Converts Face Discrimination in Morocco*, AID TO THE CHURCH IN NEED (22 Feb. 2021), <https://www.acnireland.org/journal/2021/2/22/christian-converts-face-discrimination-in-morocco>.

³³ *Id.*

³⁴ *Id.*

³⁵ *Morocco*, AID TO THE CHURCH IN NEED (2021), <https://acninternational.org/religiousfreedomreport/reports/ma/>.

³⁶ Morgan Hekking, *Mixed Marriages in Morocco: Everything You Need to Know*, MOROCCO WORLD NEWS (29 Sep. 2019), <https://www.morocoworldnews.com/2019/09/283642/mixed-marriages-morocco>.

³⁷ *In Morocco, Strict Adoption Rules Leave Many Orphans Without Hope*, PBS (27 May 2015), <https://www.pbs.org/newshour/show/strict-adoption-rules-morocco-leaves-orphans-without-hope>.

³⁸ *Adopting a Child from Morocco FAQs*, NEWBEGINNINGS.ORG, <https://www.new-beginnings.org/adopting-a-child-from-morocco-faqs/> (last visited 29 Mar. 2022).

³⁹ *Id.*

⁴⁰ Aida Alami, *Pope Francis’ Visit to Morocco Raises Hopes for Its Christians*, NEW YORK TIMES (29 Mar. 2019), <https://www.nytimes.com/2019/03/29/world/africa/pope-francis-morocco-christians.html>.

⁴¹ *Id.*