



ADF INTERNATIONAL

ECOSOC Special Consultative Status (2010)

UNIVERSAL PERIODIC REVIEW – THIRD CYCLE

**Submission to the 27th session of the
Human Rights Council's Universal Periodic Review Working Group**

April-May 2017, Geneva, Switzerland

MOROCCO

Submission by:

Ewelina Ochab
ADF International
28, Ch. du Petit Saconnex
1209 Geneva, Switzerland

Web: www.adfinternational.org
Email: eochar@adfinternational.org

Introduction

1. ADF International is a global alliance-building legal organization that advocates for religious freedom, life, and marriage and family before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name 'Alliance Defending Freedom'), ADF International has accreditation with the European Commission and Parliament, the Organization for Security and Co-operation in Europe, and the Organization of American States, and is a participant in the FRA Fundamental Rights Platform.
2. This report focuses on the right to freedom of thought, conscience, and religion, and Morocco's efforts in promoting and defending this right.

(a) Right to Freedom of Religion or Belief

Background

3. The Constitution of the Kingdom of Morocco of 2011 (the Constitution) prohibits any discrimination based on religion, stating:

To ban and combat all discrimination whenever it encounters it, for reason of sex, or colour, of beliefs, of culture, of social or regional origin, of language, of handicap or whatever personal circumstance that may be.
4. However, the Constitution is lacking clear provisions protecting the right to freedom of thought, conscience, and religion in accordance with international law and the provision in the Preamble of the Constitution cannot be perceived as such.

Limitations on Freedom of Thought, Conscience and Religion

5. Furthermore, the Constitution incorporates provisions that may be read as restricting this right, or at least hindering it.
6. The Preamble to the Constitution emphasises the values of openness and dialogue between cultures:

The pre-eminence accorded to the Muslim religion in the national reference is consistent with [*va de pair*] the attachment of the Moroccan people to the values of openness, of moderation, of tolerance and of dialog for mutual understanding between all the cultures and the civilizations of the world.
7. Nonetheless, this provision places the Muslim religion above other religions, opening the doors to discrimination against other religions.
8. The Constitution in Article 41 states:

The King, Commander of the Faithful, sees to the respect for Islam. He is the Guarantor of the free exercise of beliefs. He presides over the Superior Council of the Ulemas, charged with the study of questions that He submits to it. The Council is the sole instance enabled to comment on the religious consultations (Fatwas) before being officially agreed to, on the questions to which it has been referred 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 which are conferred on Him in exclusive manner by this Article.

9. Despite the reference to the free exercise of beliefs, the provision is predominately focused on Islam. Therefore, it may be argued that the provision allows only the free exercise of belief, so long as it is Islamic belief.
10. Article 3 states, 'Islam is the religion of the State, which guarantees to all the free exercise of beliefs.' This suggests that Islam guarantees religious freedom, when it should be the state that is guaranteeing it, regardless of what the state religion is.
11. The Constitution includes many provisions prohibiting activities or expressing opinions that would 'challenge' Islam. Article 7 of the Constitution indicates that '[political parties] may not have for [an] objective [but], infringement to the Muslim religion, to the monarchical regime, to the constitutional principles, to the democratic foundations or to the national unity and territorial integrity of the Kingdom.'
12. Similarly, Article 64 of the Constitution prohibits members of the Parliament from expressing opinions challenging Islam, stating:

No member of the Parliament may be prosecuted or investigated, arrested, detained or judged on the occasion of an opinion or of a vote emitted by him in the exercise of his functions, except in case where the opinion expressed challenges the monarchic form of the State, the Muslim religion or constitutes an infringement of the due respect for the King.

13. Furthermore, in accordance with Article 175 of the Constitution, any future changes to the Constitution may not infringe any provisions relating to Islam:

No revision may infringe the provisions relative to the Muslim religion, on the monarchic form of the State, on the democratic choice of the Nation or on [those] acquired in matters of [the] freedoms and of fundamental rights inscribed in this Constitution.

14. Apart from the clear constitutional limitation of the right to freedom of thought, conscience, and religion (other than Islam), this right is further limited by domestic provisions. There are strict punishments for incitement to convert. According to Article 220 of the Penal Code:

Whoever, by violence or threats, forced or prevented one or more people from practicing a religion, or to attend the exercise of this worship is punishable by a imprisonment of six months to three years and a fine of 200 [49] 500 dirhams.

Is punished with the same penalty, anyone using means of seduction in order to shake the faith of a Muslim or to convert to another religion, either by exploiting his weakness or his needs, or using for these purposes education, health institutions, asylums and orphanages. If convicted, the closure of the establishment which was used to commit the offense may be ordered, either permanently or for a period not exceeding three years.¹

¹ Article 220: Quiconque, par des violences ou des menaces, a contraint ou empêché une ou plusieurs personnes d'exercer un culte, ou d'assister à l'exercice de ce culte, est puni d'un emprisonnement de six mois à trois ans et d'une amende de 200[49] à 500 dirhams. Est puni de la même peine, quiconque emploie des moyens de séduction dans le but d'ébranler la foi d'un musulman ou de le convertir à une autre religion, soit en exploitant sa faiblesse ou ses besoins, soit

15. The incitement to conversion can often be very broadly interpreted, posing danger to individuals of different faiths.

Violations of Freedom of Thought, Conscience, and Religion

16. Morocco is a predominantly Muslim country. Christians and other religious groups constitute less than 1% of the population. It was reported that there are approximately 5,000 foreign resident Christians (Roman Catholic and Protestant) in Morocco. However, other reports suggest that there may be as many as 25,000 Christians in Morocco.² There are also between 4,000 and 8,000 Christian citizens.³
17. Although freedom of thought, conscience, and religion is recognized under the Constitution (albeit narrowly), Christians and other religious minorities in Morocco face discrimination and persecution.
18. There are reports of limitations on the right to freedom of religion in areas where this freedom involves freedom of expression or freedom of association. It was reported that the Moroccan government has the right to criminalize debates or presentations questioning the legitimacy of Islam.⁴ This includes cultural events. Some NGOs considered to be advocating against Islam as a state religion were denied official recognition as NGOs by the government.⁵ However, university campuses are treated with more leniency.⁶
19. In 2010, 150 Christian foreign residents of Morocco were expelled or declared *persona non grata* by the government without any due process. The Christians were accused of proselytizing.⁷ Subsequently, meetings of Christians were raided by police.⁸ Reports of government harassment became more frequent. In February 2014, US citizens were arrested on allegations of proselytizing.⁹ It was reported that Christians rarely attend their churches out of fear of accusations of proselytizing, or out of fear of surveillance.¹⁰ Muslim converts to Christianity are often pressured to denounce their faith.¹¹
20. The government further discourages conversion from Islam.¹² It was reported that the government places various restrictions on non-Islamic religions, including monitoring of meetings of non-Muslim religious groups and monitoring of individuals and organizations suspected of religious and political activism. The government further restricts the distribution of religious materials on non-Islamic religions.¹³

en utilisant à ces fins des établissements d'enseignement, de santé, des asiles ou des orphelinats. En cas de condamnation, la fermeture de l'établissement qui a servi à commettre le délit peut être ordonnée, soit définitivement, soit pour une durée qui ne peut excéder trois années.

² U.S. Bureau of Democracy, Human Rights, and Labour, International Religious Report on Morocco 2014, available at: <http://www.state.gov/documents/organization/238682.pdf>.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

Freedom of Thought, Conscience and Religion under International Law

21. Morocco ratified the International Covenant on Civil and Political Rights (ICCPR) on 3 August 1979. The right to freedom of thought, conscience, and religion is affirmed in Article 18 of the ICCPR, and the Human Rights Committee confirmed in its General Comment No.22:

The right to freedom of thought, conscience and religion (which includes the freedom to hold beliefs) in article 18.1 is far-reaching and profound; it encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others. The Committee draws the attention of States parties to the fact that the freedom of thought and the freedom of conscience are protected equally with the freedom of religion and belief.¹⁴

22. The Constitution does not guarantee or protect the right to thought, conscience, and religion in line with Article 18 of the ICCPR. The constitutional provisions are much narrower. Furthermore, some of the government's practices prevent people from professing and practising their faith freely, as guaranteed under international law. This further violates Articles 2 and 26 of the ICCPR, namely, the guarantee of equal rights and freedom from discrimination on the basis of religion, and Article 27, guaranteeing the rights of religious minorities to profess and practise their faith.
23. Morocco must ensure that government practice does not limit the scope of the right to thought, conscience, and religion and that the right is aligned with international standards. Morocco must ensure that Christians and other religious minorities can freely exercise their right to freedom of thought, conscience, and religion, in their worship, observance, practice, and teaching.
24. Morocco must ensure that all allegations of violations of domestic criminal law are duly investigated and prosecuted in accordance with due process. Morocco must protect Christians and other religious minorities from persecution. Morocco must take steps to combat the Islamic extremism on its soil.

(b) Recommendations

25. In view of the above, ADF International recommends the following:
- Take steps to recognize and follow international obligations to protect the right to freedom of thought, conscience, and religion;
 - Ensure that domestic protections of the right to freedom of thought, conscience, and religion meet international law standards in Article 18 of the ICCPR;
 - Ensure that the right to freedom of thought, conscience, and religion is duly protected and guaranteed;
 - Ensure that all cases of alleged criminal behaviour are investigated and prosecuted in accordance with due process and the rule of law;

¹⁴ UN Human Rights Committee, CCPR General Comment No. 22. 1, available at: <http://www.refworld.org/docid/453883fb22.html>.

- Take steps to combat Islamic extremism;
- Take steps to ensure that religious minorities are protected from persecution and discrimination on religious grounds;
- Take steps to accommodate interreligious dialogue.