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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This report focuses on the situation of freedom of religion or belief and expression in Morocco, highlighting the urgent need for measures to ensure their full and effective protection, including particularly for persons belonging to religious minorities.

(a) Freedom of Religion or Belief

Background

3. Article 3 of the Constitution of the Kingdom of Morocco of 2011 (hereinafter, the “Constitution”) proclaims that, “Islam is the religion of the State, which guarantees to all the free exercise of beliefs [*cultes*].”¹ The Constitution prohibits any discrimination based on belief, committing the State 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.”²
4. Its Preamble claims full compatibility of the state religion of Islam with values of openness and intercultural tolerance: “The pre-eminence accorded to the Muslim religion in the national reference is consistent [*va de pair*] with 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.”³
5. The situation of freedom of religion or belief in Morocco was addressed during the country’s third cycle Universal Periodic Review. In particular, Morocco had received a recommendation from Kenya to “Remove restrictive practices against Christians and other minorities, including limitations on religious activities, freedom of thought and conscience, in accordance with international law.”⁴ The recommendation was partially rejected by Morocco, on grounds that the Kingdom “guarantees to all residents, regardless of their nationalities and beliefs, the freedom to practise their religious rites and beliefs.”⁵
6. Over the reporting period, the outstanding concerns pertaining to the protection of freedom of religion or belief in the country have remained largely unaddressed, both in law and in practice.

Restrictions on Religious Conversion

¹ Id., art. 3.

² Morocco’s Constitution of 2011, preamble.

³ Id., preamble.

⁴ Human Rights Council ‘Report of the Working Group on the Universal Periodic Review – Morocco’ (13 July 2017) A/HRC/36/6, 144.111.

⁵ Human Rights Council ‘Report of the Working Group on the Universal Periodic Review – Morocco, Addendum’ (5 September 2017) A/HRC/36/6/Add.1, 21.

7. Article 220 of the Penal Code punishes “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.”⁶ Due to the objective uncertainty as to what constitutes a “means of seduction”, this provision has been misused to prosecute good-faith, non-coercive conduct, thereby resulting in a violation of both the right to propagate one’s religion, and the right to replace one’s current religion or belief with another or none – two essential aspects of freedom of religion or belief as recognized under international human rights law. Article 220 also undermines freedom of expression by discouraging open discussions involving religious issues among individuals.
8. In April 2018, a Moroccan Christian was detained for 24 hours for allegedly possessing proselytizing material when police officers found him with biblical literature and four Christian books in his backpack. He was ultimately released without charges.⁷
9. In February 2019, Abdelmouttalib Ghaffar, a Muslim convert to Christianity, reported that, as a result of his conversion, the authorities confiscated his identity card and driver’s license. His attempts to get new documents were in vain, and he could not afford a lawyer to defend him.⁸
10. In an interview from March 2019, ‘Emmanuel,’ a Moroccan Christian, went to a church to declare his faith, but was prohibited from doing so on the grounds that it was against Moroccan law.⁹
11. In October 2019, Rachid Souss, a Muslim convert to Christianity and Christian teacher, was forced to move after his house was marked with the Arabic letter Nun—a symbol that has become associated with Christians after it was used as a death threat when written by Islamic State militants on Christian homes in Syria and Iraq. Because of the nature of the incident, it is no longer safe for Souss to host church gatherings in his home.¹⁰
12. In July 2020, Jawad Elhamidy, president of the Moroccan Association of Rights and Religious Liberties, reported the account of Mohamed Al Moghany, a Muslim convert to Christianity. Upon finding out about Al Moghany’s conversion, his employer waved a gun at him and threatened to kill him. The man reported the incident to the police but was told to not speak about it. The police reportedly made further threats against Al Moghany’s family. Six months later, after an argument

⁶ Ibid., art. 220.

⁷ Morning Star News ‘Security Agents in Morocco Reportedly Detain Christian for 24 Hours’ (20 April 2018) <https://morningstarnews.org/2018/04/security-agents-in-morocco-reportedly-detain-christian-for-24-hours/>.

⁸ A. El Attaq ‘Persecuted or Left Alone: The 2 Versions of Being a Moroccan Christian’ (18 February 2019) Morocco World News, <https://www.moroccoworldnews.com/2019/02/266079/moroccan-christian-islam-law>.

⁹ A. Eljehtimi ‘Morocco’s Hidden Christians See Pope Trip as Chance To Push for Freedom’ (22 March 2019) Reuters, <https://www.reuters.com/article/us-pope-morocco/moroccos-hidden-christians-see-pope-trip-as-chance-to-push-for-freedom-idUSKCN1R31R5>.

¹⁰ V. Rossato ‘The House of a Moroccan Christian Is Marked with Arabic Letter Nun’ (18 October 2018) Evangelical Focus, <https://evangelicalfocus.com/print/3923/The-house-of-a-Moroccan-Christian-is-marked-with-Arabic-letter-Nun>.

arose between the employer and Al Moghany, Al Moghany was arrested and sentenced to six months in prison.¹¹

Freedom of Religion or Belief in International Law

13. Morocco ratified the International Covenant on Civil and Political Rights (ICCPR) on 3 May 1979. Article 18 of the ICCPR guarantees the right to freedom of religion or belief, including the right to manifest one's religion or belief in private as well as in public settings.¹² While freedom of religion or belief includes the right to be free from "coercion which would impair his freedom to have or to adopt a religion or belief of his choice," it also includes the right to non-coercively persuade others to do so. This right is also implicitly protected by the right to free expression under Article 19.¹³
14. Morocco's legal restrictions on the equal right of everyone to freely profess and practise their faith further violate Articles 2 and 26 of the ICCPR, which guarantee the equal protection of rights and the freedom from discrimination, including on the basis of religion, as well as Article 27 on the rights of persons belonging to religious minorities to profess and practise their religion.¹⁴
15. The Human Rights Committee's General Comment No. 22 on Article 18 of the ICCPR notes that, "The fact that a religion is recognized as a State religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents of other religions or non-believers."¹⁵ Morocco's recognition of Islam as the state religion cannot be relied on to justify restricting in any way the rights of persons to practice their faith, especially those belonging to religious minorities.

(b) Freedom of Expression

Background

16. Article 25 of the Constitution recognizes that, "The freedoms of thought, of opinion and of expression under all their forms are guaranteed."¹⁶ Furthermore, Article 28, which also enshrines freedom of the press, clarifies that all have the right to express and to disseminate information, ideas and opinions freely, "within the sole

¹¹ J. Lee 'Morocco's Christian Converts Face Arrest and Harassment' (20 July 2020) Christianity Today, <https://www.christiantoday.com/article/moroccos-christian-converts-face-arrest-and-harassment/135225.htm>;

E. Magdy; J. Newton 'Moroccan Christians Repeatedly Arrested' (17 July 2020) Independent Catholic News, <https://www.indcatholicnews.com/news/40044>.

¹² International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 18.

¹³ H. Bielefeld 'Elimination of all forms of religious intolerance' (13 August 2012) UN Docs A/67/303, 26.

¹⁴ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), arts. 2, 26, 27.

¹⁵ UN Human Rights Committee 'General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)' (30 July 1993) CCPR/C/21/Rev.1/Add.4, 9.

¹⁶ Morocco's Constitution of 2011, art. 25.

limits expressly provided by the law.”¹⁷

17. Several provisions of the Constitution appear to restrict free expression to protect Muslim religious sentiments. Article 7 asserts that political parties “may not have for [an] objective [...], infringement to the Muslim religion,” alongside transgressions toward the monarchy, constitution or the fundamental values of the State.¹⁸ Furthermore, Article 64 provides immunity of members of the Parliament for opinions expressed in the exercise of their functions, “except in case where the opinion expressed challenges the monarchic form of the State, *the Muslim religion* [emphasis added] or constitutes an infringement of the due respect for the King.”¹⁹

Criminalization of Blasphemy

18. According to various provisions of the Penal Code, offending royalty, offending officials, undermining Morocco’s territorial integrity, and undermining Islam all carry punishments of imprisonment for individuals.²⁰ In particular, Article 267(5) criminalizes offending the Islamic religion and imposes a maximum prison sentence of five years.²¹
19. In May 2020, a Moroccan actor was charged under Article 267(5) after a video of him emerged in which he criticized Islam’s prohibition against alcohol.²²
20. In July 2020, a Moroccan Court upheld the six-month prison sentence and \$327 fine of a man who posted a caricature of Mohammed on Facebook under Article 276(5).²³
21. In June 2021, a Moroccan woman was sentenced to three-and-a-half years in prison and fined nearly 6,000 US dollars for insulting Islam in violation of Article 267(5) of the Penal Code. While studying law in France, the 23-year-old woman posted parodied verses of the Quran referencing the consumption of alcohol on Facebook. When she returned to Morocco, she was promptly arrested on arrival at the airport.²⁴
22. Laws punishing alleged offenses against religion represent an egregious violation of the right to freedom of expression, which includes the right to “scrutinize, debate openly, make statements that offend, shock and disturb, and criticize belief systems, opinions and institutions, including religious ones.”²⁵ The freedom to hold

¹⁷ Ibid., art. 28.

¹⁸ Id., art. 7.

¹⁹ Id., art. 64.

²⁰ Ibid., art. 179, 263, 267(5).

²¹ Morocco’s Constitution of 2011, Article 267(5).

²² Middle East Online ‘Morocco Actor Prosecuted over ‘Blasphemy’ Remarks Against Islam’ (28 May 2020) <https://middle-east-online.com/en/morocco-actor-prosecuted-over-blasphemy-remarks-against-islam>.

²³ End Blasphemy Laws ‘Moroccan Authorities Should Quash the Conviction of Man Charged with Insulting Islam’ (14 July 2020) <https://end-blasphemy-laws.org/2020/07/moroccan-authorities-should-quash-the-conviction-of-man-charged-with-insulting-islam/>.

²⁴ S. Goff ‘Moroccan Courts Convicts Woman for ‘Publicly Insulting Islam,’ (30 June 2021) Morocco World News, <https://www.moroccoworldnews.com/2021/06/343170/moroccan-court-convicts-woman-for-publicly-insulting-islam>.

²⁵ F. La Rue ‘Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression’ (7 September 2012) UN Docs A/67/357, 53.

opinions without governmental interference, and to express them, is fundamental to the operation and maintenance of an open and pluralistic society. In this regard, speech that is simply unpopular or perceived as offensive against religion does in no way reach the threshold of impermissible expression under international law. In order to comply with its human rights obligations, it is therefore imperative that Morocco repeals its anti-blasphemy provisions.

Freedom of Expression Under International Law

23. The right to freedom of expression is articulated in Article 19 of the ICCPR. Article 19(2) affirms that, “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”²⁶
24. The broad prohibition of offenses against Islam imposed by these provisions does not constitute a proportionate limitation on the exercise of freedom of expression, as Article 19(3) only allows such restrictions as necessary “for the respect of the rights and reputations of others” or “for the protection of national security, public order or public health or morals.”²⁷ Accordingly, restrictions must serve as a necessary protection of persons, not of religions as such.
25. The Human Rights Committee, in its General Comment on No. 34 on ICCPR Article 19, clarified that, “Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant.”²⁸ Article 20(2) of the ICCPR calls for the prohibition of “advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.”²⁹ Once again, the permitted prohibition is aimed at the protection of persons, not the religion as such.
26. During the previous UPR cycle, Morocco received a number of recommendations calling for full respect for freedom of expression.³⁰ Morocco accepted some of these while rejecting others, on grounds that respect for freedom of expression is already guaranteed under the law.³¹ In order to meet its international obligations in this regard, however, Morocco should undertake the necessary legal reforms to ensure that everyone is able to speak freely and without fear.

(c) Recommendations

27. In view of the above, ADF International recommends the following:

²⁶ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 19.

²⁷ *Id.*

²⁸ UN Human Rights Committee ‘CCPR General Comment No. 34’ (12 September 2011), UN Docs CCPR/C/GC/3, 48.

²⁹ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 20.

³⁰ Human Rights Council ‘Report of the Working Group on the Universal Periodic Review – Morocco’ (13 July 2017) A/HRC/36/6, 144.113-120.

³¹ Human Rights Council ‘Report of the Working Group on the Universal Periodic Review – Morocco, Addendum’ (5 September 2017) A/HRC/36/6/Add.1, 26.

- a. Ensure full respect for the rights to freedom of religion or belief and freedom of expression, in accordance with international human rights law;
- b. Strengthen the legal protection of freedom of religion or belief for all individuals, without discrimination of any kind;
- c. Repeal or review all legal provisions that violate freedom of religion or discriminate based on religious affiliation;
- d. Ensure the prompt investigation and prosecution of cases of discrimination, harassment or violence against persons belonging to religious minorities;
- e. Revise Article 220 of the Penal Code to ensure full respect for the right to freedom of religion, including the right to non-coercively persuade others of one's beliefs,
- f. Repeal Article 267(5) of the Penal Code criminalizing blasphemy.



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