

Religious Persecution in Mauritania

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and protecting human rights around the world. The ECLJ holds Special Consultative Status before the United Nations Economic and Social Council. The purpose of this report is to raise concerns regarding religious persecution in Mauritania for the 2020 Universal Periodic Review (UPR).

Background

2. Mauritania is home to over 4.5 million people, and is a majority Muslim country with “[o]fficial numbers say[ing] that 100% of the population is Muslim”¹. However, “it is known that there are small pockets of Christians and Jews throughout the country”². According to a human rights watch group, Mauritania is ranked as the 24th worst place to live for Christians³. This is in large part due to the fact that Islam is the only recognized religion, and that apostasy and blasphemy are punishable by the death penalty⁴.

3. During the previous UPR, cycle numerous countries raised concerns about Mauritania’s lack of protections for religious freedom. Multiple countries asked Mauritania to “[r]evise the legislation linked to apostasy and blasphemy to ensure its conformity with international obligations related to freedom of religion or belief”⁵.

Constitutional and Legal Framework

4. Mauritania’s Constitution establishes Mauritania as “an Islamic, indivisible, democratic, and social Republic”⁶. As a result of the lack of protection for non-Muslim religions, the government has passed laws targeting other religious groups and restricts the ability for them to worship freely. Additionally, while the Constitution does not provide protections based religion, Article 1 states that “[t]he Republic assures to all citizens without distinction of origin, of race, of sex, or of social condition, equality before the law”⁷.

5. Moreover, Mauritania has ratified the International Covenant on Civil and Political Rights (ICCPR) with a reservation to Article 18, which establishes freedom of religion and thought, stating that “[t]he Mauritanian Government, while accepting the provisions set out in article 18 concerning freedom of thought, conscience, and religion, declares that their application shall be without prejudice to Islamic Sharia”⁸. Given that the Mauritanian Constitution only recognises Islam, this effectively nullifies any responsibility that Mauritania has to provide for freedom of religion. It is critical that Mauritania work to remove its reservation to this Article and immediately begin to adhere to its principles. Article 18 of the ICCPR states:

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 choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others⁹.

6. While Mauritania pays lip service to Article 18 of the ICCPR, it is clear from recent action that the government of Mauritania does not value freedom of religion by any means. In fact, in 2018, the National Assembly voted to amend the penal code to mandate the death penalty in cases of apostasy and blasphemy¹⁰. It is deeply concerning that the death penalty has the great potential to be misused to target innocent people who are merely exercising their fundamental human right of religious freedom¹¹.

Criminalising Apostasy and Blasphemy

7. Under the previous penal code, those convicted of apostasy or blasphemy could have faced time in prison if the offender recanted of his acts within three days. Clearly, even under the previous penal code religious liberty was eviscerated, as one had to recant a conversion from Islam, or a statement against Islam in order to alleviate punishment. However, the revised penal code makes Mauritania's complete disregard for religious liberty even worse, as it removed the ability for courts to commute a sentence if they found that the person had recanted of his acts in a timely fashion, meaning that courts are now required under law to administer the death penalty in crimes of apostasy and blasphemy¹².

8. By way of illustration, in 2014 a Mauritanian blogger was sentenced to death after he posted statements critical of Mohammad on social media¹³. In November 2017 an appeals court commuted his death penalty to prison time finding that he had sufficiently recanted for his acts in a timely fashion¹⁴. Sadly, he still had to endure almost 2 years in prison for simply invoking his right to freedom of expression¹⁵. However, had he been arrested after the 2018 penal code was passed, he would have received the death penalty whether or not he recanted.

9. A joint statement issued by the Special Rapporteur on the promotion and protection of the right to freedom and opinion of expression, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on freedom of religion or belief, and the Special Rapporteur in the field of cultural rights highlighted just how problematic this law is.

We are outraged that, while international law prohibits the criminalization of apostasy or blasphemy, Mauritanian authorities have decided to enshrine the death penalty for those who express their rights to freedom of expression, religion and belief . . .

This revision will further muzzle the right to freedom of expression in Mauritania and set the stage for incitement to discrimination, hostility or violence against persons the basis of religion or belief. There is an additional risk that article 306 will be applied in a discriminatory manner to different faiths. Moreover, the revised article advances a fundamentalist agenda which puts human rights gravely at risk and encourages extremists¹⁶.

10. The mandatory death sentence for apostasy and blasphemy is extremely concerning and greatly inhibits the ability of minority religions, including Christians, to freely exercise their religious beliefs. Under the penal code, Christians may face the death penalty simply for sharing that their belief in Jesus as the Son of the one and only true God. Such a statement

could be seen as blasphemy since it directly contradicts and goes against the teachings of Islam. And anyone who chooses to believe that statement and become a Christian also faces the death penalty for apostasy.

Conclusion

11. In order for the Mauritanian government to allow for people of all faiths to worship as they see fit, many steps must be taken. One important step is for Mauritania to remove its reservation to Article 18 of the ICCPR and ensure that people of all faiths are able to freely exercise their religion. Additionally, Mauritania needs to revise its Constitution to guarantee protections for religious expression. Finally, Mauritania should show its commitment to protecting freedom of religion by not only removing the mandatory death sentence for apostasy and blasphemy, but by removing apostasy and blasphemy altogether from its criminal code.

¹ *World Population Review: Mauritania Population 2020*, <https://worldpopulationreview.com/countries/mauritania-population/> (last visited 12 Mar. 2020).

² *Id.*

³ *World Watch List: Mauritania*, OPEN DOORS, <https://www.opendoorsusa.org/christian-persecution/world-watch-list/mauritania/>.

⁴ BUREAU OF DEMOCRACY, H.R. AND LAB., U.S. DEP'T OF STATE, MAURITANIA, 2018 INTERNATIONAL RELIGIOUS FREEDOM REPORT MAURITANIA (2018) [hereinafter MAURITANIA REPORT].

⁵ *Database of Recommendations*, UPR-INFO, https://www.upr-info.org/database/index.php?limit=0&f_SUR=9&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly (last visited 19 Mar. 2020).

⁶ CONSTITUTION OF MAURITANIA 1991, art.1, available at https://www.constituteproject.org/constitution/Mauritania_2012.pdf?lang=en.

⁶ *Id.*

⁷ *Id.*

⁸ Reservation to International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, art. 18.

⁹ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, art. 7.

¹⁰ MAURITANIA REPORT.

¹¹ Compilation Prepared by the Office of the United Nations High Commissioner for Human Rights in Accordance with Paragraph 15 (b) of the Annex to Council Resolution 16/21. Mauritania.

¹² Penal Code of Mauritania, art. 306.

¹³ MAURITANIA REPORT.

¹⁴ BUREAU OF DEMOCRACY, H.R. AND LAB., U.S. DEP'T OF STATE, MAURITANIA, 2018 INTERNATIONAL RELIGIOUS FREEDOM REPORT MAURITANIA (2016).

¹⁵ *Mauritania: Blogger in "Blasphemy" Case Freed After 5 Years*, HUMAN RIGHTS WATCH (30 July 2019, 12:00 AM), <https://www.hrw.org/news/2019/07/30/mauritania-blogger-blasphemy-case-freed-after-5-years#>.

¹⁶ *Death Penalty: UN Experts Urge Mauritania to Repeal Anti-Blasphemy Law*, OHCHR (7 Jun. 2018), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23186&LangID=E>.