

**UNIVERSAL PERIODIC REVIEW (UPR) STAKEHOLDER
SUBMISSIONS**

MINORITY RIGHTS GROUP INTERNATIONAL

Submission to the United Nations Universal Periodic Review of

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Minority Rights Group International (MRG) is an international non-governmental organisation working to secure the rights of ethnic, religious and linguistic minorities and indigenous peoples worldwide, and to promote cooperation and understanding between communities. MRG works with over 150 organisations in nearly 50 countries. MRG has consultative status with the United Nations Economic and Social Council, observer status with the African Commission on Human and Peoples' Rights and is a civil society organisation registered with the Organization of American States.



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I. Background Information and Focus of Submission

1. Morocco is a multi-ethnic and multicultural society. The Preamble of its 2011 Constitution proclaims the Kingdom's commitment "to preserve, in its plenitude and its diversity, its one and indivisible national identity".¹ This new Constitution admittedly marked a significant advancement in the state's commitment to protect and promote human rights.² However, despite a number of legislative reforms undertaken since 2011 to strengthen Morocco's institutional and legal human rights frameworks, racial and religious discrimination continues to pervade the country's social fabric, particularly targeting persons belonging to minorities, namely the indigenous Amazigh, Sahrawis, Black Moroccans and Black sub-Saharan African migrants and refugees.
2. Accordingly, the present submission addresses specific human rights violations experienced by some of these groups in relation to the right to equality and non-discrimination; right to freedom of religion or belief; and the rights to freedom of expression, association and peaceful assembly. The submission also includes MRG's recommendations as to how reviewing states should encourage the government of Morocco to address these issues in order to combat and eliminate all forms of racial and religious discrimination.

I. Previous UPR Cycle's Recommendations

3. Morocco received 244 recommendations during the third cycle of its UPR in 2017. It accepted 191 and noted 53.³
4. Only four of these 244 recommendations addressed the rights of the indigenous Amazigh.⁴ While accepted by Morocco, MRG remains concerned that the long-standing marginalisation and discrimination of this group in the country is not receiving sufficient attention in international fora. Consequently, the rights of indigenous Amazigh will be central to this submission.

II. Right to Equality and Non-Discrimination

A. Amazigh Peoples

Language Rights

5. A 2016 official census estimated that 28% of Morocco's total population of 37 million were Tamazight speakers.⁵ However, Amazigh rights activists claim that the real figure is closer to 65-70%,⁶ underscoring that, owing to a long oral tradition, many Moroccans speak Tamazight without necessarily reading or writing its Tifinagh characters.⁷
6. Article 5 of the 2011 Constitution recognises Tamazight as '*an*' official language of the State, alongside Arabic, although the latter confusingly remains '*the*' official language of the State.⁸ Article 5 further stipulates that "an organic law defines the process of implementation of [the] official character [of Tamazight], as well as the modalities of its integration in education and in the priority domains of public life". Only adopted in 2019 — a delay which speaks volume about the lack of political will to address and redress the marginalisation of the Tamazight language and Amazigh people in both law and practice — organic law 26-16 provides for the integration of Tamazight in the education system, in legislation, in parliamentary and local authorities' work,⁹ media and communication, culture and art, administration and public services, in the public space, and in the justice system.¹⁰
7. While MRG welcomes the adoption of law 26-16, which implements several recommendations previously made to Morocco by UN human rights bodies in this regard,¹¹ we nonetheless deplore serious shortcomings in the law.¹² Most notably article 31, which provides for delays of up to 5 to 15 years before the coming into force of the law's provisions, from the date of its promulgation.¹³
8. In this regard, while article 21 provides that Tamazight must be incorporated in official documents, alongside Arabic, several civil society organisations have denounced the absence of any mention of Tamazight and its Tifinagh alphabet¹⁴ in the draft law 04-20 on the Electronic National Identity Card (CINE), adopted in July 2020.¹⁵ They thus highlight yet another missed opportunity for the Government to uphold its political commitment to ending the marginalisation of Tamazight.¹⁶

9. Furthermore, Law 04-16, adopted in February 2020, provides for the creation of the National Council for Languages and Moroccan Culture (CNLCM).¹⁷ This new institution is mandated to protect and develop the two official languages, Arabic and Tamazight, as well as the Hassaniya language and the diverse Moroccan cultural and linguistic expressions.¹⁸ It succeeds to the Royal Institute for Amazigh Culture (IRCAM), established in 2001 specifically to promote the Amazigh language and culture.¹⁹ Law 04-16 provides for the future dissolution of IRCAM and the “absorption” of its mandate and resources by the CNLCM.²⁰ This point is of great concern to Amazigh rights activists who remain doubtful that what was not achieved by the Royal Institute over the years will be effectively achieved by the CNLCM, despite its blended and more bureaucratic mandate, thus potentially marking a significant setback for the protection and promotion of Tamazight-speakers’ language rights.²¹

10. Indeed, first introduced into the education system in 2003,²² Tamazight teaching continues to be largely marginalised, inadequate as well as still optional across primary schools in Morocco,²³ although its status of official language prescribes that it should be guaranteed as language of instruction on an equal footing with Arabic. In 2018, only 498 specialised teachers were providing Tamazight classes to more than 600,000 pupils, or just over 13% of the 4.5 million students enrolled in primary schools in Morocco,²⁴ representing a clear failure of the Government to uphold the mandatory character of Tamazight teaching at all levels of the primary school cycle.²⁵ While estimates indicate that 100,000 teachers would be required to cover these needs,²⁶ the Minister of Education announced in 2021 an increase of 400 trained teachers per year,²⁷ raising serious questions about the government’s political will to uphold its constitutional commitment.

11. Indeed, notwithstanding the already precarious status of Tamazight, Article 4 of Organic Law 26-16 provides for the gradual roll-out of Tamazight teaching to all levels — primary, secondary and university education — over a period of 15 years.²⁸ Hence, in light of the detrimental impact of the Covid-19 pandemic on Tamazight language acquisition, not considered an “essential” subject by authorities,²⁹ the government’s claim that law 26-16 is proof that the Kingdom is taking steps to deliver on its constitutional commitments,³⁰ rings particularly hollow.

12. Recommendations:

- Intensify efforts to implement the provisions of organic law 26-16 without delays, notably by ensuring that necessary funding is allocated through the Yearly State Budget ('Loi de Finances')³¹ for the training and hiring of a sufficient number of Tamazight teachers to guarantee the teaching *in* Tamazight to all primary school pupils, as well as to secondary and university students.³² Pending effective application of the law's provisions, take interim measures to prevent and mitigate all forms of linguistic and cultural discrimination of Amazigh in all spheres.
- Revise law 04-20 to include Tamazight in its Tifinagh characters on the Electronic National Identity Card as warranted by the official status of Tamazight.

Land Rights

13. The question of land rights is central to the rights of indigenous Amazigh, who were dispossessed of their lands during the French Protectorate period by virtue of colonial laws (Laws of 1916 and 1919) neither repealed nor substantively amended since independence.³³ These laws allow the Moroccan Government to perpetuate illegal land grabbing in total disregard for the rights of indigenous peoples and the principle of free, prior and informed consent.³⁴
14. Of further concern are three laws adopted in 2019.³⁵ They grant full power to the Ministry of Interior to demarcate collective lands, without consultation or cooperation with the Amazigh peoples,³⁶ and to sell, transfer or lease millions of hectares of Amazigh land to foreign or national investors, individuals as well as private and public extractive companies, provided signature of a so-called community representative ('Nouab') actually appointed by local authorities, at the expense of indigenous peoples' socio-economic rights and interests.³⁷
15. The Amazigh identity is indissociable from the cultural and spiritual relationship binding Amazigh peoples to their land, which constitutes the backbone of their existence, resistance and survival.³⁸ Unfortunately, notwithstanding the Government's commitment

to protect Morocco's biodiversity³⁹ and reduce inequalities,⁴⁰ the dispossession and intensive exploitation of Amazigh's ancestral lands and natural resources, for profit purposes, causes irreparable short and long-term ecological harms, as well as poverty and destitution, resulting in the forced displacement of indigenous Amazigh.⁴¹ Illegally dispossessed, deprived of their collective and individual rights, Amazigh are left with few recourses other than relocation to urban centers or onward migration, including on the dangerous Mediterranean route to Europe.⁴²

16. Recommendations:

- **Repeal all legislation that permit expropriation and exploitation of Amazigh lands, territories and natural resources, and constitutionally recognise and protect the inalienable rights of the Amazigh to their ancestral lands, territories and natural resources, including the right to natural resources of the soil and subsoil.**
- **Take administrative and legislative measures to ensure the effective consultation and participation of the Amazigh peoples, through their own representative institutions, at all levels of decision-making in all areas that affect them, including land, territories and natural resources, upholding the principle of free, prior and informed consent.**
- **Restitute confiscated lands or, when this is not possible, agree on just, fair and equitable (land or monetary) compensation for the prejudice caused.**

B. Anti-Black Racism

17. Notwithstanding article 23 of the Constitution which prohibits “all incitement to racism, hatred and violence”; article 30 which protects the rights of non-citizens; articles 431-1 to 431-5 and 308-5 of the Penal Code which together define and prohibit certain manifestations of racial discrimination,⁴³ MRG deplores that Black Moroccans as well as Black sub-Saharan African migrants and refugees continue to suffer from discriminatory treatment and abuse on the basis of their skin colour, national origin, nationality, or lack

thereof, or immigration status, as a result of systemic and structural racism pervading Moroccan society and institutions.⁴⁴

18. Indigenous Black Moroccans mostly live in the southern part of the country.⁴⁵ Owing to the lack of official statistical data disaggregated by race or ethnicity,⁴⁶ their exact number is unknown, but estimates indicate that they could represent 10% of the country's total population.⁴⁷ Often subjected to racial slurs like “*Abd*” (slave), “*Khadam*” (servant), “*Azzizi*” (nigger),⁴⁸ they suffer from social stigma and marginalisation.⁴⁹
19. Similarly, the perpetuation in Moroccan society and media⁵⁰ of racist and xenophobic stereotyping casting Black sub-Saharan African migrants as slaves, or dangerous criminals,⁵¹ “prostitutes”, drug dealers, and disease-ridden⁵² —the latter particularly echoing Covid-19 narratives⁵³— is of great concern to MRG. Indeed, reports of discrimination in access to services, education, employment, housing,⁵⁴ and of physical violence,⁵⁵ are commonplace. Yet, endemic racism and the absence of laws specifically prohibiting racial discrimination in Morocco implies that complaints are rarely investigated.⁵⁶
20. Furthermore, the interaction of gender with other forms of discrimination renders Black sub-Saharan migrant women and girls, especially those with an irregular migration status, highly vulnerable to discriminatory treatment, stigmatisation, abuse and exploitation.⁵⁷ A report co-signed by 13 civil society organisations in Morocco in 2018 notably mentions difficulties in registering the birth of their children, or issuance of birth certificates made conditional upon payment of hospitalisation fees,⁵⁸ but also schools refusing to enroll black migrant children.⁵⁹
21. While the Government of Morocco commonly refers to the principle of equality enshrined in the Kingdom's Constitution to deny the existence and prevalence of racial discrimination in the country,⁶⁰ MRG recalls the words of the Special Rapporteur on contemporary forms of racism, that “[e]quality in law alone does not ensure equality in fact.”⁶¹

22. Accordingly, MRG urges Moroccan authorities to:

- **Adopt a comprehensive anti-discrimination law specifically prohibiting racial discrimination;**

- **Revise article 431-1 of the Penal Code to bring the definition and prohibition of discrimination contained therein in full compliance with Morocco’s international obligations under article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD);**
- **Investigate all allegations of racially-motivated acts of discrimination and violence, against nationals and non-nationals alike, systematically prosecute and punish perpetrators so as to guarantee racial equality and the right of all persons to be free from racial discrimination and racist violence.⁶²**

III. Rights to Freedom of Expression, Association and Peaceful Assembly

23. Under the guise of an egalitarian society, the treatment of Black Moroccans as second-class citizens remains largely taboo in Morocco.⁶³ Tellingly, in 2012 authorities reportedly denied an application to form an association to combat anti-Black racism on the ground that race was deemed irrelevant to the Moroccan context.⁶⁴

24. In April 2019, the Casablanca appellate court dissolved the non-profit cultural organisation ‘Racines’ for allegedly engaging in “political activity that ran contrary to the association’s statutes”,⁶⁵ in application of article 36 of the Law on Associations.⁶⁶ This decision, preceded by the refusal of authorities to issue the association’s registration receipt,⁶⁷ follows from a popular show hosted by Racines,⁶⁸ during which critics of King Mohammed VI’s speeches and policies were formulated by certain guests, that were later described by the Court as “clear offenses towards institutions”.⁶⁹

25. Both decisions constitute a blatant violation of the rights to freedom of opinion and expression, of peaceful assembly and of association, guaranteed under national and international law.⁷⁰

26. Recommendation:

- **Amend the Law on Associations to 1) remove any provision granting discretion to authorities to prevent the registration of an organisation, in line with international standards, and 2) prevent arbitrary dissolution of**

associations, including when these are deemed critical of the government's policies, actions or inactions, and ensure that any such refusal is accompanied by a substantive and legally-grounded justification.

IV. Right to Freedom of Religion or Belief

27. While Articles 1 and 3 of the 2011 Constitution together establish Islam as the State religion, freedom of worship for all is nonetheless guaranteed under article 3. Article 41 establishes the King as the “Guarantor of the free exercise of worships”.⁷¹ Furthermore, the preamble of the Constitution – of a legally binding nature⁷² — states that the Kingdom is committed to combat all types of discrimination, including on the basis of beliefs, while article 431-1 and 431-2 of the Penal Code prohibit discrimination on religious grounds. Finally, article 220 of the Penal Code makes it an offense punishable with up to 3 years’ imprisonment and a fine to prevent anyone from worshipping or attending a religious service.⁷³
28. However, article 220 of the Penal Code also criminalises incitements to “shake the faith of a Muslim or to convert them to another religion”,⁷⁴ while article 267-5, added in 2016,⁷⁵ states that anyone "who offends the Islamic religion or the monarchy, or incites against territorial integrity" incurs a sentence of six months to two years’ imprisonment and/or a fine.⁷⁶
29. During its third UPR cycle, Morocco noted recommendation 144.111 urging the Kingdom to “[r]emove restrictive practices against Christians and other minorities, including limitations on religious activities, freedom of thought and conscience, in accordance with international law [...]”.⁷⁷ In response, Morocco referred to its Constitution to deny the existence of religiously-motivated discrimination in either law or practice in the country.⁷⁸
30. Yet, non-Muslims, in particular Moroccan Christian converts, continue to suffer from restrictions unduly imposed on their right to freely practice their religious rites and beliefs.⁷⁹ In her 2018 country visit report, the Special Rapporteur on contemporary forms of racism notably stated that registration requests of certain minority religious groups were reportedly being rejected by government and judicial authorities, invoking “infringement on the Muslim religion”.⁸⁰ Unable to operate legally under the law on associations,⁸¹

members of these religious groups were prevented from attending church ceremonies or from gathering publicly for religious purposes.⁸²

31. In its 2020 Annual Report on Religious Freedoms, the US Department of State recalled that Sunni Muslims represent 99% of the Moroccan population, while Shia Muslims, Christians, Jews, Baha'is and other religious or belief minorities represent the remaining 1%, of which an estimated 4,000-8,000 are Moroccan Christian converts,⁸³ although estimates vary according to sources.⁸⁴
32. While in both law and practice Moroccan Jews enjoy a special status⁸⁵ that guarantees them unrestricted religious freedoms across the country,⁸⁶ Moroccan Christians, on the other hand, and converts in particular, remain vulnerable to state-inflicted and societal harassment, being regularly arrested, interrogated and intimidated by the police,⁸⁷ but also subjected to employment discrimination.⁸⁸ Furthermore, the criminalisation of proselytism under article 220, which can be broadly interpreted, exposes Christians to the risk of prosecution and arrest solely for discussing their faith with Muslims.⁸⁹ Hence, the fear of both state surveillance⁹⁰ and social stigma reportedly forces many to conceal their religious faith and practice.⁹¹
33. On the occasion of the Pope's visit to Morocco in March 2019, the Coordination of Moroccan Christians (CCM) notably called on national authorities to guarantee "freedom of worship in churches, the right to Christian or civil marriage, to Christian funerals rites, the dispensation of [Christian] children from the compulsory teaching of Sunni Islam in public schools, and the right to give [Christian] children biblical names".⁹²

34. Recommendations:

- **Eliminate any legislative provision and discriminatory practice that violate the right to freedom of religion or belief, including the right to abandon one's religion and convert to another. In particular, abolish the criminalisation of proselytism under article 220 of the Penal Code and repeal all blasphemy laws, notably article 267-5 of the Penal Code.**⁹³

- **Immediately cease the harassment and intimidation of Moroccan Christians, and allow them to freely perform their religious rites and beliefs in public and in churches.**

Endnotes

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² UN Doc A/HRC/41/54/Add.1, Human Rights Council, 'Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance' (28 May 2019), para 14, available at https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/54/Add.1.

³ UN DOC A/HRC/36/6/Add.1, Human Rights Council, 'Report of the Working Group on the Universal Periodic Review Morocco, Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review' (5 September 2017), paras 3-6, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/259/65/PDF/G1725965.pdf?OpenElement>.

⁴ UN Doc A/HRC/36/6, Human Rights Council, Report of the Working Group on the Universal Periodic Review of Morocco, 3rd cycle, 13 July 2017, Recommendations 144.232 (Bangladesh); 144.233 (Burundi); 144.235 (Mexico); 144.236 (Sierra Leone).

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⁸ Silvia Gagliardi (2019), 'Indigenous peoples' rights in Morocco: subaltern narratives by Amazigh women', *The International Journal of Human Rights*, Vol 23(1-2), p. 287, available at https://docs.euromedwomen.foundation/files/ermwf-documents/8646_subalternnarrativesbyamazighwomen.pdf.

⁹ Bladi.net., 'Maroc : bientôt l'usage officiel de l'amazigh au parlement' (18 November 2021), available at <https://www.bladi.net/maroc-amazigh-parlement.88183.html>.

¹⁰ Dahir n° 1-19-121 du 12 moharrem 1441 (12 septembre 2019) portant promulgation de la loi organique n° 26-16 fixant les étapes de la mise en œuvre du caractère officiel de la langue amazighe et les modalités de son intégration dans l'enseignement et dans les différents secteurs prioritaires de la vie publique, available at http://www.sgg.gov.ma/Portals/0/BO/2021/BO_7000_Fr.pdf?ver=2021-07-16-140932-390 (pp.1020-1024); See also UN Doc CERD/C/MAR/19-21, Comité pour l'élimination de la discrimination raciale, 'Rapport valant dix-neuvième à vingt et unième rapports périodiques soumis par le Maroc en application de l'article 9 de la Convention, attendu en 2014' (16 December 2021), para 63, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FMAR%2F19-21&Lang=en.

¹¹ UN Doc A/HRC/41/54/Add.1, Human Rights Council, 'Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance' (28 May 2019), para 78, available at https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/54/Add.1; See also UN Doc CCPR/C/MAR/CO/6, Human Rights Committee, 'Concluding observations on the sixth periodic report of Morocco' (1 December 2016), para 50, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/264/99/PDF/G1626499.pdf?OpenElement>.

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¹⁴ Communiqué des Associations des Droits de l'Homme en date du 24/06/20 suite à l'exclusion de la langue Amazigh du projet de loi n° 04.20 relatif à la carte nationale d'identité électronique (CIDE), (29 June 2020), *Monde Amazigh*, available at <https://amadalamazigh.press.ma/fr/communiqu%C3%A9-des-associations-des-droits-de-lhomme-en-date-du-24-06-2020-suite-%C3%A0-l-exclusion-de-la-langue-amazighe-du-projet-de-loi-n-04-20-relatif-%C3%A0-la-carte-nationale-d-identit%C3%A9-%C3%A9lectronique/>; See also Sara Ibriz, 'Nouvelle CNIE: La polémique sur l'intégration de l'Amazigh portée au parlement' (16 June 2020), *Medias 24*, available at <https://medias24.com/2020/06/16/nouvelle-cn%C3%A9-la-polemique-sur-l%C3%A9-int%C3%A9gration-de-lamazigh-port%C3%A9e-au-parlement/>; and The International Work Group for Indigenous Affairs (IWGIA), Indigenous World 2021: Morocco (18 March 2021), available at <https://www.iwgia.org/en/morocco/4233-iw-2021-morocco.html>; and Bladi.net, 'Où sont les caractères amazighs sur la nouvelle carte d'identité?', (6 October 2019), available at <https://www.bladi.net/carte-identite-maroc-amazigh,60110.html>.

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¹⁶ Mohamed Nait Youssef, 'Des acteurs et associations amazighs contestent la nouvelle CNIE', (15 June 2020), *Al Bayane*, available at <http://albayane.press.ma/des-acteurs-et-associations-amazighs-contestent-la-nouvelle-cn%C3%A9.html>; See also UN Doc CERD/C/MAR/19-21, Comité pour l'élimination de la discrimination raciale, 'Rapport valant dix-neuvième à vingt et unième rapports périodiques soumis par le Maroc en application de l'article 9 de la Convention, attendu en 2014' (16 December 2021), para 65, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FMR%2F19-21&Lang=en.

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¹⁸ Chambre des Représentants, 'Le Conseil national des langues et de la culture marocaines, un mécanisme de protection du pluralisme linguistique et culturel du Royaume' (16 January 2018), available at <https://www.chambredesrepresentants.ma/fr/actualites/le-conseil-national-des-langues-et-de-la-culture-marocaines-un-m%C3%A9canisme-de-protection-du-pluralisme-linguistique-et-culturel-du-royaume>; See also Salima Guisser, 'Conseil national des langues et de la culture marocaine – C'est fait ! Les attributions et missions publiées au BO' (13 April 2020) *Aujourd'hui Le Maroc*, available at <https://aujourd'hui.ma/culture/conseil-national-des-langues-et-de-la-culture-marocaine-cest-fait-les-attributions-et-missions-publiees-au-bo>; and UN Doc A/HRC/41/54/Add.1, Human Rights Council, 'Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance' (28 May 2019), para 33, available at https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/54/Add.1.

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