

UPR of Morocco – 41st session – November 2022

Fact sheet on the situation of minorities and indigenous peoples in Morocco

1. INTRODUCTION

The Preamble of Morocco's 2011 Constitution proclaims the Kingdom's commitment "to preserve, in its plenitude and its diversity, its one and indivisible national identity". This new Constitution admittedly marked a significant advancement in the state's commitment to protect and promote human rights. 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 and indigenous peoples, including the Amazigh, Sahrawis, Black Moroccans and Black sub-Saharan migrants and refugees.

I. Rights of the Amazigh Peoples

1.1 Language Rights

According to a 2016 official census, 28% of Morocco's total population of 37 million were Tamazight speakers. However, Amazigh rights activists claim that the real figure is closer to 65-70%, underscoring that, owing to a long oral tradition, many Moroccans speak Tamazight without necessarily reading or writing its Tifinagh characters. Article 5 of the 2011 Constitution recognises Tamazight as 'an' official language of the State, alongside Arabic. A law was adopted in 2019 (organic law 26-16) providing for the integration of Tamazight in the education system, in legislation, in parliamentary and local authorities' work, media and communication, culture and art, administration and public services, in public space, and in the justice system. However, this law suffers from a number of shortcomings in its content and implementation: Article 31 provides that provisions of the law will come into force after a delay of 5 to 15 years; law 04-20 on the Electronic National Identity Card (CINE) (adopted in July 2020) fails to allow the use of Tamazight and its Tifinagh alphabet, despite Article 21 of the organic law 26-16 that provides that Tamazight should be incorporated in official documents.

First introduced into the education system in 2003, Tamazight teaching continues to be largely marginalised and inadequate. It remains optional across primary schools across Morocco, despite its status as an official language which prescribes that it should be guaranteed as a language of instruction on an equal footing with Arabic. Article 4 of organic law 26-16 prescribes that Tamazight should be taught progressively at various levels of education. While

estimates indicate that 100 000 teachers would be required to cover these needs, the Minister of Education announced in 2021 an increase of 400 trained teachers per year, raising serious questions about the government's political will to uphold its constitutional commitment.

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') 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.
- ◇ Revise law 04-20 to include Tamazight in its Tifinagh characters on the Electronic National Identity Card.

1.2 Land Rights

Amazigh were dispossessed of their lands during the French Protectorate period by colonial laws (Laws of 1916 and 1919), which have not been repealed or substantively amended since independence. These laws enable the ongoing dispossession of indigenous peoples' lands on the part of the Moroccan government, and in contravention to the principle of free, prior, and informed consent.

In 2019, three laws were introduced which grant full power to the Ministry of Interior to determine the boundaries of Amazigh collective lands, without consultation or cooperation with the Amazigh peoples. Further, these laws give the Ministry of Interior the ability to sell, transfer, or lease millions of hectares of Amazigh ancestral land to foreign or national investors, private and public extractive companies, and others provided that a "community representative", appointment by the government and not the community itself, signs an agreement.

RECOMMENDATIONS

- ◇ Repeal all legislation that permit expropriation and exploitation of Amazigh lands, territories and natural resources and restitute confiscated lands or, when this is not possible, agree on just, fair and equitable (land or monetary) compensation for the harm caused.
- ◇ 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.

2. Anti-Black racism

Notwithstanding Article 23 of the Constitution which prohibits “all incitement to racism, hatred and violence”; Article 30 which protects the rights of non-citizens; Article 431-1 to 431-5 and 308-5 of the Penal Code which together define and prohibit certain manifestations of racial discrimination, Black Moroccans as well as Black sub-Saharan African migrants and refugees continue to suffer from discrimination and violence on the basis of their skin colour, national origin, nationality or lack thereof, and/or immigration status. This is on account of systemic and structural racism pervading Moroccan society and institutions.

Black Moroccans mostly live in the southern part of the country. Owing to the lack of official statistical data disaggregated by race or ethnicity, their exact number is unknown, but estimates indicate that they could represent 10% of the country’s total population. Often subjected to racial slurs like “Abd” (slave), “Khadam” (servant), “Azzi” (derogative term for “black”), they suffer from social stigma and marginalisation. Moroccan society and media often perpetuates racist and xenophobic stereotypes casting Black sub-Saharan African migrants as slaves, or dangerous criminals, “prostitutes”, drug dealers, and disease-ridden — the latter particularly echoing Covid-19 narratives. Moreover, reports of discrimination in access to services, education, employment, housing, and of physical violence, are commonplace.

Raising the treatment of Black Moroccans as second-class citizens remains largely taboo in the country, which officially claims to be a society of equals. Tellingly, in 2012 authorities denied an application to form an association to combat anti-Black racism on the ground that race was deemed irrelevant to the Moroccan context.

RECOMMENDATIONS

- ◇ 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 into 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 and systematically hold perpetrators to account.

II. Right to Freedom of Religion or Belief

While Article 1 and Article 3 of the 2011 Constitution establish Islam as the State religion, freedom of worship is also guaranteed under Article 3. Further, Article 41 establishes the King as the “guarantor of free exercise worships”. The preamble of the Constitution states that the Kingdom is committed to combat all types of discrimination, including on the basis of belief, while Article 431-1 and Article 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.

However, Article 220 of the Penal Code criminalises incitements to “shake the faith of a Muslim or to convert them to another religion”, while Article 267-5, added in 2016, 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.

Non-Muslims, in particular Moroccan Christian converts, continue to suffer from restrictions arbitrarily imposed on their right to freely practice their religious rites and beliefs. In her 2018 country visit report, the Special Rapporteur on contemporary forms of racism stated that registration requests of certain minority religious groups, particularly Moroccan Christians and Baha’is, were reportedly being rejected by government and judicial authorities, invoking “infringement on the Muslim religion”. Unable to operate legally under the law on associations, members of these religious groups were prevented from attending church ceremonies or from gathering publicly for religious purposes.

Moroccan Christians, and converts in particular, remain vulnerable to state-inflicted and societal harassment, being regularly arrested, interrogated and intimidated by the police, but also subjected to employment discrimination. Furthermore, the criminalisation of proselytism under Article 220 of the Penal Code, which can be broadly interpreted, exposes Christians to the risk of prosecution and arrest solely for discussing their faith with Muslims. Hence, the fear of both state surveillance and social stigma reportedly forces many to conceal their religious faith and practice.

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.
- ◇ 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.