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Commission de l'immigration
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Morocco: The situation of people who abjure Islam (who apostatize), including their treatment by society and by the authorities; the repercussions of a fatwa of the High Council of Ulemas condemning apostates to death, including the reaction of the government (2016-April 2018)

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24 April 2018

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Morocco: The situation of people who abjure Islam (who apostatize), including their treatment by society and by the authorities; the repercussions of a fatwa of the High Council of Ulemas condemning apostates to death, including the reaction of the government (2016-April 2018)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Legislation

Sources report that apostasy is not prohibited by law in Morocco (BBC 27 July 2017; *La Croix* 24 Feb. 2017; IHEU 28 Oct. 2016). According to sources, Morocco does not impose the death penalty against apostates

under the provisions of its Penal Code (US May 2014 [updated 30 June 2015], 11; Islamologist 15 Apr. 2018). In an article published on 23 February 2017, the Agenzia Nazionale Stampa Associata (ANSA), an Italian news agency, states that the Moroccan Ambassador to Rome, Hassan Abouyoub, declared at an ANSA forum that "[a]postasy has never been included in Morocco's criminal code and so Muslims who choose to convert to another faith have never risked the death penalty" (ANSA 23 Feb. 2017). However, in correspondence sent to the Research Directorate, the Council of Ex-Muslims of Britain (CEMB) stated that in Morocco, "[apostates] are put to death, through the use of Islamic jurisprudence" (CEMB 16 Apr. 2018). That same source stated that, since Morocco is an Islamic country, the input of religious bodies is considered when making changes to policies and laws (CEMB 16 Apr. 2018). For his part, the Moroccan Ambassador to Rome stated, according to ANSA, that "[i]n Morocco, the law is the constitutional monopoly of parliament" and "[t]he Higher Council of Ulema, the most important religious authority in the country, 'is a consultative body'" (ANSA 23 Feb. 2017).

Articles 220 and 222 of the Moroccan Penal Code provide as follows:

[translation]

Article 220

Anyone who, through violence or threat, restrains or prevents one or several persons from worshipping or attending worship, is punishable by imprisonment for six months to three years and by a fine of 200 to 500 dirham [about \$C28 to \$C70].

Anyone who employs incitement to shake the faith of a Muslim or to convert them to another religion, by exploiting their weaknesses or needs, or by using educational or health institutions, asylum or orphanages for such purposes incurs the same sentence. In the case of conviction, the closure of the institution that served to commit the offence may be ordered, either definitively or for a duration that may not exceed three years.

...

Article 222

Anyone who, commonly known to belong to the Muslim religion, violates the fast in a public place during Ramadan, without having one of the justifications allowed by that religion, is punishable by imprisonment for one to six months and by a fine of 12 to 120 dirham [about \$C2 to \$C17]. (Morocco 1962)

2. Fatwa Ordering the Death of Apostates

According to sources, in 2013, the High Council of Ulemas published a fatwa declaring that Muslims who abandon their faith would receive the death penalty (IHEU 28 Oct. 2016; Middle East Online 18 Apr. 2013). For further information on the High Council of Ulemas and the issuance of this fatwa, consult Response to Information Request MAR104932 of August 2014.

Sources report that in February 2017, the High Council of Ulemas retracted its ruling that apostasy is punishable by death (Christian Today 6 Feb. 2017; MWN 6 Feb. 2017; IHEU 28 Oct. 2016). Similarly, in correspondence sent to the Research Directorate, anIslamologist, who is a Ph.D candidate and who has been working on the issue of apostasy in the Muslim and Western worlds for the last five years, indicated that the High Council of Ulemas had "'theologically' reviewed the death penalty stated in Muslim legislation" (Islamologist 15 Apr. 2018).

A February 2017 article published on the website of Morocco World News (MWN) reports that the High Council of Ulemas recently published a text titled "The Way of the Scholars [*Sabil al-Oulémas*]," in which apostasy is redefined as a political stand rather than a religious issue and that it aligned with "high treason" (MWN 6 Feb. 2017). However, the Moroccan news portal Yabiladi reports on 9 February 2017 that the High Council of Ulemas did not change its position on apostasy, and that a source within Rabita Mohamadia des oulémas [1] [translation] "highlights the absence of any notice or new fatwa on this issue," adding that it was instead "the opinion of five Ulemas within the Council" (Yabiladi 9 Feb. 2017). The Moroccan economic news portal Médias24 explains that the document that reports [translation] "the need to cancel the death

penalty in the case of apostasy" was "an internal document of the High Council of Ulemas" and that, according to a source close to the High Council of Ulemas and the Ministry of Habous, "[f]or now, there has been no change..., and this is not a fatwa of the Council" (Médias24 10 Feb. 2017).

On the same topic, the Islamologist stated that [translation] "these are only discussions between 'Ulemas.' The death penalty is, in any case not applied and is not indicated in Moroccan penal legislation" (Islamologist 15 Apr. 2018). Similarly, the article published by Médias24 states that according to Mountassir Hamada, a writer and researcher at the Moroccan Centre for Maghreb Studies and Research (CNEM), the fatwa [translation] "was never applied in Morocco" (Médias24 10 Feb. 2017).

3. Treatment of Apostates by the Authorities

The International Humanist and Ethical Union (IHEU) [2] states in a 2016 report on freedom of thought that the non-religious are shaping up to be a "seriously persecuted" group in Morocco, "since the campaign against fasting laws in 2009 [3], and the publication of a fatwa calling for the murder or execution of apostates" (IHEU 28 Oct. 2016). The same source states the following about Morocco:

- Government figures or state agencies "marginalize, harass, or incite hatred or violence" against the non-religious;
- The non-religious are barred from some government offices (including posts reserved for particular religions or sects);
- Religious instruction is mandatory in all or most state-funded schools with no secular or humanist alternative;
- "Systemic religious privilege" results in significant social discrimination;
- Prohibitive interreligious social control is in effect (including interreligious marriage bans);
- Expression of core humanist principles on democracy, freedom and human rights is severely restricted;
- "Discriminatory prominence" is given to religious bodies, traditions or leaders (IHEU 28 Oct. 2016).

That same report states the following:

While the new constitution guarantees for all "the free exercise of beliefs" (Article 3) and "the freedoms of thought, of opinion and of expression under all their forms" (Article 25), in practice there are significant limitations, such as persecution of the Baha'is since the 1960s, and more recently Christians, and Shiites, as well as the non-religious. Baha'ism is traditionally seen as a heretical deviation from Islam and its members are considered "apostates." These minorities are subject to harassment, investigations and detentions by authorities, interrupting and arresting them during their private religious meetings and rituals. (IHEU 28 Oct. 2016)

The *International Religious Freedom Report for 2016* of the United States (US) Department of State reports the following:

The government reportedly arrested, detained, and questioned local Christians about their beliefs. [...] Some local Christians reported authorities pressured converts to renounce their faith. The government monitored, and in some cases restricted, religious activities of Muslims and non-Muslims. It continued to restrict the distribution of non-Islamic religious materials, as well as some Islamic materials it deemed inconsistent with the Maliki-Ashari school of Sunni Islam [majority rite in Morocco]. (US 15 Aug. 2017, 6)

That same source reports that according to the National Federation of Amazigh Associations (Fédération nationale des associations amazighes, FNAA), an Amazigh (Berber) rights group in Morocco, two Christians were arrested, detained and interrogated about their beliefs by the Royal Gendarmerie in Morocco; one stated that the police accused him of apostasy and said that they would reconvert him to Islam (US 15 Aug. 2017, 6). According to that same source, the two individuals submitted a complaint to the minister of justice, but as of the end of the year, no investigation had been opened (US 15 Aug. 2017, 6). IHEU reports also that some Christians had been arrested and accused of proselytizing, and that some Christian converts reported that authorities had pressured them to renounce their faith by informing their friends, relatives and employers of the conversion (IHEU 28 Oct. 2016).

Sources state that some individuals were arrested and sentenced by the authorities for eating or smoking [in public] during Ramadan (US 15 Aug. 2017, 6; IHEU 28 Oct. 2016). According to IHEU, even if fasting laws are not strictly enforced, they continue to threaten the non-religious in Morocco (IHEU 28 Oct. 2016). The *Country Reports on Human Rights Practices for 2016* of the US Department of State reports that in June 2016, the Ministry of Interior granted permission for a group of atheist and non-Muslim citizens to protest against an article in the penal code relating to fasting during Ramadan, and that the protest "was not dispersed" (US 3 Mar. 2017, 19).

The Islamologist explained that the Moroccan Penal Code is, in his opinion, [translation] "intentionally" abstract in order to be able to limit (through prison sentences and fines) the actions of apostate advocates who "disturb" (Islamologist 15 Apr. 2018). An article published by the French news magazine *Le Point* states the following: [translation] "According to the Moroccan Penal Code, anyone who 'shakes the faith,' a term that is vague and subject to widespread interpretation, may be sent to prison" (*Le Point* 4 Jan. 2018). According to the Islamologist, [translation] "[a]s a general rule, if the apostate does not carry out activism and publicity, they will not be bothered. They may live their life as an apostate quietly and privately (they may consume alcohol and transgress all social prohibitions, but only in private)" (Islamologist 15 Apr. 2018). In his statement presented during the Universal Periodic Review of Morocco by the United Nations Human Rights Council in September, a representative of IHEU deplores the blasphemy laws that threaten apostates in Morocco and states that, "[i]n the past year, the government has reportedly arrested, detained and questioned local non-Muslims about their beliefs" (IHEU 21 Sept. 2017).

4. Treatment of Apostates by Society

International Religious Freedom Report for 2016 reports the following incidents in Morocco:

- Two groups of people attacked two men, in Marrakech and in Rabat, for smoking in public during Ramadan;
- A woman posted a video online in which she identifies herself as a Christian and explained that, despite her not sharing the Muslim faith, she was no less Moroccan—this sparked a debate on the status of Christians; positive and negative comments were made and some encouraged her to leave the country;
- Moroccan Christians reported pressure from non-Christian family and friends to convert to Islam or renounce their Christian faith, that young Christians who still lived with their Muslim families hid their faith for fear of being expelled from their homes, and that the government did not respond to their complaints about the societal harassment they faced;
- Members of non-recognized religious minorities stated they practiced their faiths discretely for fear of societal harassment, "ostracism," ridicule, employment "discrimination" and violence by "extremists";
- Members of the Bahai faith stated they were open about their faith with family, friends and neighbours, but feared extremist elements, leading them to ask for local police protection at their gatherings (US 15 Aug. 2017, 10).

The IHEU reports that non-religious activists suffer from "stigmatisation" and that there have been "many cases of violence by family members, [...] and general difficulties in educational, professional and social life" (IHEU 28 Oct. 2016). That same source adds that they receive little support and mostly rejection from local human rights groups (IHEU 28 Oct. 2016). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to CEMB,

[a]postates in Morocco are ostraci[z]ed by family and/or their community at the least and put to death at worst. [...] If it were as minimal as not finding a job, housing or education, that would be something that we could work with to support them, however, in most of our Moroccan cases, they have to leave to stay alive. (CEMB 16 Apr. 2018)

The Islamologist stated the following:

[translation]

The consequences of an act of apostasy in Morocco are primarily social. An apostate in Morocco may certainly be subject to social rejection or rejection from their close family. However, many apostates live their situation in hiding, out of fear of reprisals. [...]

That said, an apostate who remains discrete is, in the eyes of society, a Muslim. Therefore, they will not face difficulties. However, upon mentioning their apostasy, they automatically become an activist who could face some social difficulties: for example, rejection from their family, relatives, and friends, and even violence when recognized in the street. However, with respect to education, I do not think this can be included, because education in Morocco is open to everyone and religious membership is not questioned when enrolling in school; furthermore, school (primary, college, lycée) concerns an age group that has generally not had the opportunity to engage in activist activities. In all cases, there has never been discrimination in this sense. The same can be said about finding lodging—I do not think there has been discrimination in this sense because the owner, even in Morocco, is normally more attentive to the solvency of their renter than to their religiosity. (Islamologist 15 Apr. 2018)

An article published by the Journal du Cameroun, a Cameroonian news website, states that, according to Agence France-Presse (AFP), in April 2017, a 46-year-old Moroccan man who converted to Christianity in 1994 was rejected by those around him when he posted on the Internet a video in which he spoke about his conversion, after having [translation] "lived his faith secretly up until a year and a half ago" (Journal du Cameroun 30 Apr. 2017). The man declared the following to the AFP: "[t]hose around me turned their backs to me, I was pushed to the side at work. My children were harassed at school" (Journal du Cameroun 30 Apr. 2017). According to that same source, [translation] "for Moroccans, who are automatically considered Muslim when they are not of the Jewish minority, apostasy is disapproved by society" (Journal du Cameroun 30 Apr. 2017). The same article reports the statements of another Moroccan, who converted to Christianity: [translation] "the lines are moving: 'arrests have almost stopped—that is a big step! Acts of harassment have become rare and all that remains is society'" (Journal du Cameroun 30 Apr. 2017). According to the article, this convert [translation] "came out of hiding" and "lives his religion normally in a popular neighbourhood in full view of his Muslim neighbours" (Journal du Cameroun 30 Apr. 2017).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] Rabita Mohamadia des oulémas is an association that publicizes and disseminates Islamic Sharia, stimulates scientific and cultural life in Islamic studies, and reinforces cooperation between the Ulemas, intellectuals, associations, scientific agencies and cultural establishments (Morocco 9 Dec. 2015).

[2] IHEU presents itself as "the global representative body of the humanist movement, uniting a diversity of non-religious organisations and individuals," an NGO founded in 1952 and headquartered in London, and with representation on various United Nations committees and other international bodies (IHEU N.d.).

[3] In September 2009, a group called the Alternative Movement for Individual Freedoms (Mouvement alternatif pour les libertés individuelles, MALI) was [translation] "arrested for trying to hold a picnic in the woods to protest a law forbidding Muslims from eating publicly during Ramadan fasting hours" (Human Rights Watch 19 Sept. 2009).

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Oral sources: Anthropologist, whose research concerns Islam and Maghreb; Association marocaine des droits humains; Director of social science studies, focussing on anthropology and Islam; Assistant professor of social sciences, whose research focusses on North Africa; Assistant professor of sociology, whose research focusses on gender, Islam and the Middle East; Professor of sociology, focussing on the development of religious identities and Africa.

Internet sites, including: Amnesty International; Conseil des ex-musulmans du Maroc; ecoi.net; Fédération internationale des ligues des droits de l'homme; Freedom House; Radio France internationale; United Nations – Refworld.

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