

Testimony Concerning the International Law of Religious Freedom, International and Moroccan Law on Proselytism, and the Expulsion of Foreign Nationals from the Kingdom of Morocco from March 2010-June 2010

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I. International Law Pertaining to the Freedom of Thought, Conscience, and Religion

There are three major Documents in International Law concerning the fundamental human right of freedom of thought, conscience, and religion: The 1948 Universal Declaration of Human Rights (Article 18), the 1966 International Covenant on Civil and Political Rights (Article 18) and the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. All three documents, including the ICCPR Treaty, and the two Declarations, which are considered by legal experts to be embodiments of customary international law, govern freedom of thought, conscience and religion. Morocco is a State Party to the ICCPR, which it ratified March 27, 1979, and is of course bound by the 1948 UNDHR and 1981 Declaration.

When considering the legal content of freedom of thought, conscience and religion, Resolutions of the former Commission on Human Rights, Human Rights Council, General Assembly, and Economic and Social Council should be examined, along with General Comments, concluding observations and jurisprudence of treaty bodies, and relevant provisions of international humanitarian law.¹

Article 18 of the ICCPR (which for the sake of examination, is separated into four dimensions) states:

- 1) Everyone shall have the right to freedom of thought, conscience, and religion.
- 2) This right shall include the freedom to change their religion,
- 3) And freedom, either alone or in community with others and in public or private,
- 4) To manifest his religion or belief in worship, observance, practice, and teaching.

II. The International Legal Position As Regards Proselytism

As the charges levelled against those Americans and Foreign Nationals expelled, denied re-entry, or refused extension of their residency permits all involve allegations of “illegal proselytism,” this is the main focus of my testimony concerning the international legal position.

¹ Other International Documents which should be taken into consideration when considering questions of freedom of thought, conscience, and religion include: The International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention relating to the Status of Refugees.

Some light is shed on the concept of proselytism by examining its common variations, etymology, and definitions:

Proselyte: One who has come over from one opinion, belief, creed, or party to another: a convert.²

In other words, a proselyte is someone who has exercised their international right to freedom of thought, conscience, and belief under those international law provisions in 1) and 2) above under Article 18 of the ICCPR by changing their religion.

Proselytism: The practice of proselytizing;³ The state of being a proselyte.⁴

Proselytize: To make proselytes. To convert from one belief to another.⁵

It is intriguing that both of the **above definitions presuppose two sides to both proselytism and proselytize: both the action of making proselytes, and the action of becoming a proselyte are covered by the definitions.** *In other words, both the person manifesting their religion under 3) and 4) of the international right to freedom of thought, conscience, and belief, and the person exercising their right to such freedom and to change their religion under 1) and 2) of the international right are deemed to be covered by both definitions of “proselytism” and “proselytize” above.*

The etymology of the word comes from the Greek prefix 'πρός' (toward) and the verb 'έρχομαι' (I come). These etymological definitions presuppose that both the disseminator of their religious beliefs, and the recipient of this dissemination are engaged in “proselytism.” **Note that there is no indication in the common definition of “proselytism” of force, violence, coercion, bribery, undue influence, duress, or any other unsavory act to effect a conversion.**

What does international law say about “proselytism?” Is it legal? The short answer is “yes,” under the definitions above, and within the parameters of Article 18. According to a UN Special Rapporteur for Freedom of Religion and Belief, after 20+ years of reporting under that Mandate (1986-present):

The Special Rapporteur notes that **proselytism is itself inherent in religion**, which explains its legal status in international instruments and in the 1981 Declaration.⁶ The Special Rapporteur considers...**constitutional provisions prohibiting proselytism to be inconsistent with the 1981 Declaration** and stresses the **need for greater respect for internationally recognized human rights norms, including**

² *Shorter Oxford English Dictionary*, Volume II (OUP:1986) at 1690.

³ *The American Heritage Dictionary*, (Houghton Mifflin:1976) at 994.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ A/51/542/Add.1, b) Proselytism, paras. 12 and 134 (country visit to Greece).

⁷ *Ibid.* Para. 134. This comment was pertaining to the proselytism law in Greece.

freedom to convert and freedom to manifest one's religion or belief, either individually or in community with others, and in public or private.⁷

Part of the difficulty with current “proselytism” laws, such as the one in Morocco, the Greek law referred to above, the Anti-Conversion laws in India, and proposed similar legislation in Sri Lanka, is the fact that the *word “proselytism,” defined by its ordinary meaning has been altered to carry a pejorative connotation that implies not only illegality, but criminality.* This confuses the legal right to proselytize under religious freedom law with a completely different phenomenon: illegal and even criminal activity.

So, **what proselytizing activities are legal and permissive under international law** generally, and Article 18 specifically, as they relate to sharing one’s religious beliefs with others of differing religious beliefs?

- 1) Clearly, Human Rights instruments, such as Article 1 of the 1981 Declaration and article 18, paragraph 1, of ICCPR **explicitly provide for the right "in public or private, to manifest [one's] religion or belief in worship, observance, practice and teaching."**
- 2) This **includes carrying out actions to persuade others to believe in a certain religion.**⁸
- 3) States are urged "To ensure, in particular, **the right of all persons to write, issue and disseminate relevant publications.**"⁹
- 4) “The **practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs,**” General Comment No. 22 (1993), Human Rights Committee, which held also included was "the **freedom to prepare and distribute religious texts or publications.**" (para. 4).¹⁰

⁸ Article 6 (d) of the 1981 Declaration, which is customary international law.

⁹ Resolution 2005/40 of the Commission on Human Rights.

¹⁰ See footnote 6, *supra*, A/60/399, paras. 59-68:" (b) Missionary activities and propagation of one's religion.

¹¹ E.g, Manfred Nowak, *UN Covenant on Civil and Political Rights: CCPR Commentary* (2nd revised ed.), 2005, pp. 450-452.

- 5) ICCPR Article 19 concerning freedom of expression has also been cited by international human rights bodies such as the Human Rights Committee to provide **a legal right to share information, including religious ideas and beliefs with others freely:**

[T]his 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 [one's] choice."¹¹

The **Moroccan Law on Proselytism**, which the Moroccan Government has claimed is its sole reason for the recent expulsions, denials of re-entry, and failure to renew residency permits without opportunity to appeal (claiming national security reasons), states:

Article 220: Whoever by **violence or threats keeps or impedes someone from worshipping or attending worship** is punished by imprisonment of six months to three years and a fine of 100 to 500 dirham. The same punishment is set for whoever employs **means of seduction** in the **purpose of shaking the faith of a Muslim or to convert him to another religion**, either **by exploiting his weakness or his needs or by using for such a purpose** institutions of **education, health, shelter or orphanages**. In case of conviction, the closure of the institution which served to commit the offense may be closed, either definitively, or for a length which will not exceed three years.

What is clear from an examination of this law is that **the way “proselytism” is defined encompasses certain illegal acts which would be outside the protection of international law according to the list of permissible activities above, e.g.:**

- 1) **Using violence or threats** to stop someone exercising their religious freedom.
- 2) Employing **“seduction,” or “exploitation”** to **“shake the faith of a Muslim” or “to convert him.”** These terms are not well-defined, but suffice it to say, international law does not protect actions of undue influence, duress, or coercion when exercising the fundamental right of religious freedom.

The **difficulty with this law**, is that on its face, without further definition, and particularly by citing institutions which provide humanitarian aid, healthcare, education, etc. along with the terms “exploiting his weakness or his needs” and “in the purpose of shaking the faith of a Muslim or to convert him to another religion,” **an assumption is created that the very fact that an institution as described meets a person’s needs, along with sharing their faith, should it be other than Islam, could easily be construed as “seduction,” “exploitation,” and “shaking the faith of a Muslim.”** The law is then **on its face vague and capable of placing every aid worker in Morocco who is not a Muslim and who exercises their right to share their beliefs with others squarely in the category of a criminal, simply by the legislations’ tautological assumption.**

In fact, this is exactly what has happened with the recent expulsions. Foreigners who had self-identified as Christians or non-Muslims, and who fit into one of the above categories:

providing care for orphans, educational, health, and shelter needs were automatically deemed “religious terrorists,” and “criminals.” This includes many businessmen who do not fit into these categories. Regardless, all were summarily removed from Morocco without due process of law and deemed a threat to national security.

It is **instructive to examine the Greek Proselytism law** which was examined by the European Court of Human Rights in *Kokkinakis v. Greece*.¹²

Greek Proselytism Law: Section 4 of Law no. 1363/1938 provides that it is a criminal offence to engage in proselytism, by which is meant, “in particular, any direct or indirect **attempt to intrude** on the religious beliefs of a person of a different religious persuasion, with the aim of undermining those beliefs, either by any kind of **inducement or promise of an inducement or moral support or material assistance**, or by **fraudulent means** or by **taking advantage** of the other person's inexperience, trust, need, low intellect or naivety.”

Like the Moroccan Proselytism law, the Greek law outlines several acts which it deems illegal, and then calls them “proselytism.” ***This is highly problematic, since at international law, proselytism is legal.*** It is when sharing one’s faith, as defined in paras. 1-5 *supra*, which is allowed under international law, in a manner that is not protected that conduct becomes illegal. **Thus, the term “proselytism” should not be used to describe illegal activities which are also illegal under international law and not defined as “proselytism,” but rather coercion, violence, undue influence, duress, etc.**

It is instructive that the ECHR did not find the Greek law problematic on its face, but rather in its application. “Intrusion,” “inducement,” “fraudulent means,” “taking advantage,” all indicated deliberate illegal actions. However, in the *Kokkinakis* case, the Court found there was no such illegal act when a Jehovah's Witnesses visited a neighbour to discuss religious issues with her since “bearing Christian witness” was perfectly legal under Article 9 of the European Convention on Human Rights and was therefore protected. Judge Pettiti, made this clear:

Freedom of religion and conscience certainly entail accepting proselytism, even where it is not respectable. ***Believers and agnostic philosophers have a right to expound their beliefs, to try to get other people to share them and even to try to convert those whom they are addressing.***

As often repeated, the European Convention on Human Rights, Article 9, is a mirror of international law, and is not only a binding treaty for Europe, but a reflection of the 1981 Declaration on Elimination of All Forms of Intolerance and Discrimination based on Religion or Belief and of course the Universal Declaration, Article 18, and ICCPR Article 18 as well.

Therefore, whereas the scope of freedom afforded to persons for the practice of their religion or belief by sharing their beliefs, trying to convert others, producing and distributing information about their religion or belief, and other actions are covered by the legal right to proselytize, **certain limitations can be imposed in accordance with article 18, paragraphs 2 and 3, of the ICCPR:**

¹² App. No. 14307/88, 17 Eur. H.R. Rep. 397(1994)

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 others.**¹³

However, it should be noted that **this article allows for restrictions only in very exceptional cases.** In particular the fact that it mentions the protection of "fundamental rights and freedoms" of others as a ground for restriction indicates a stronger protection than for some other rights whose limitation clauses refer simply to the "rights and freedoms of others" (e.g. article 12, 21 and 22). It could indeed be argued that the freedom of religion or belief of others can be regarded as such a fundamental right and freedom and would justify limitations on proselytism, but the as *freedom of religion and belief basically is a question of individual choice*, any generalized State limitation (e.g. by law) conceived to protect "others" freedom of religion and belief by limiting the right of individuals to conduct proselytism should be avoided according to the United Nations Special Rapporteur for Freedom of Religion or Belief.

The test for legality of a prohibition of any act motivated by belief or religion is therefore extremely strict. Within any legislation attempting to criminalize "proselytism" (which, as is discussed above, is extremely problematic, since proselytism in its true sense is a legal right under the international law of religious freedom) **the law on its face needs to provide clear guidance concerning the distinction between permissible religious persuasion, on the one hand, and illegal coercion on the other.** It is doubtful that the Moroccan law of "proselytism" does so, given the extremely elastic and broad terminology utilized to describe "criminal" acts. The UN Special Rapporteur states:

It would not be advisable to criminalize non-violent acts performed in the context of manifestation of one's religion, in particular the propagation of religion, because that might criminalize acts that would, in another context, not raise a concern of the criminal law and may pave the way for persecution of religious minorities. *Moreover, since the right to change or maintain a religion is in essence a subjective right, any concern raised with regard to certain conversions or how they might be accomplished should primarily be raised by the alleged victim.*¹⁴

Those expelled from Morocco have not been given the right to defend the charges of "proselytism" against them, nor have any alleged victims come forward. Furthermore, Christians in Morocco make up .001% of the population, so they are indeed the smallest minority religion imaginable! In fact, in many cases, the Muslim community has rallied around the alleged "criminals," writing letters, visiting Mayors, and stating that in fact, those expelled permitted them to bring prayer mats to their institutions, pray five times a day, and exercise their Muslim faith openly and at all times. Moroccan business associates have come to the defence of their foreign partners, and every Moroccan lawyer (almost without exception, of the Sunni Muslim faith) I have consulted has stated that no written evidence has

¹³ The European Convention mirrors this exactly in Article 9(2).

¹⁴ A/51/542/Add.1, b) Proselytism, para. 65.

been filed, nor have charges been made in Court, nor has the Moroccan government provided documentary evidence of the alleged “proselytism” as defined by Moroccan law.

Clearly, **international law, as discussed above, does not allow the commission of illegal or criminal acts under the guise of religious freedom.** A distinction needs to be drawn, however, between actions which are protected under human rights law, and those that constitute criminal acts. Such acts should be classified under the Criminal Law of the State concerned as such, not under the guise of “proselytism,” which confuses the legal right to manifest one’s religion or belief, and the legal right to change one’s religion or belief with illegal behaviour. Even if Moroccan Article 202 were acceptable on its face, which is highly doubtful, the application of this Article to the vast majority of those expelled was done so in a summary manner, without the presentation of evidence or documented allegations by the supposed victims as required under international law. As discussed in Appendix I concerning the law of deportation and expulsion, only a substantiated claim that those affected were a threat to national security would support Moroccan government actions; such evidence has never been produced, nor have those accused been presented with an opportunity to answer such allegations.

III. Moroccan Law Provisions Affirming Commitment to International Organizations and Human Rights

The Moroccan Preamble to the Constitution expressly provides that:

An Islamic and fully sovereign state whose official language is Arabic, the Kingdom of Morocco constitutes a part of the Great Arab Maghreb. As an African state, it has, among its objectives, the realisation of African unity. **Aware of the need of incorporating its work within the frame of the international organisations of which it has become an active and dynamic member, the Kingdom of Morocco fully adheres to the principles, rights and obligations arising from the charters of such organisations, as it reaffirms its determination to abide by the universally recognised human rights.** Likewise, it reaffirms its determination to continue its steady endeavours towards the safeguard of peace and security in the world.

In addition to its commitment to international law and human rights, Morocco also has a Bilateral Investment Agreement with the USA, a Free Trade Agreement with Morocco and the USA, and Moroccan law on supremacy of international conventions is abundant, as demonstrated by the Preamble to its Constitution, *supra*. Many of those Americans deported had invested in Morocco or taken advantage of the Free Trade Agreement and Investment Agreement between the countries.

IV. CONCLUSION AND POLICY RECOMMENDATIONS

Concerning the events of the past three and a half months, the summary expulsion, denial of re-entry, deportation, and refusal to renew Residency Visas for both Americans and other Foreign Nationals by the Moroccan Government under the allegations of “proselytism” and even “threats to national security,” are disturbing due to the fact that provisions for due process under both Moroccan Law and International law have been ignored. Evidence has not been forthcoming. Documentation has not been provided to ensure the right to appeal in a Court of Law.

Perhaps even more disturbing than this is the fact that the Moroccan criminal law on “proselytism,” Article 202, is vague on its face and overly broad in its potential application. **Morocco has often cited its respect for the international human right of religious freedom** which is encapsulated in its fullest legal sense under the Universal Declaration, International Covenant on Civil and Political Rights, 1981 Declaration, and, given Morocco’s interest in becoming a Member of the European Union, the European Convention on Human Rights and Fundamental Freedoms. **Such a fundamental human right permits proselytizing and the right to convert to any religion or no religion—it is every individual’s prerogative.** Human rights are individual rights. The entire reason for their construction and promulgation was in the aftermath of World War II, when a powerful majority in Germany was able to murder 6 million Jews and 5 million Christians and others who did not agree with Nazi ideology—the need to value each and every human being in their human dignity and to protect the minority from the abuses and domination of the majority became blatantly apparent.

It is not in accordance with human rights law to force individuals to think a particular way, adhere to another’s conscience, or adopt the majority’s belief system due to arguments of “culture,” “history,” and “identity.” True tolerance is universal—it does not categorize those for whom tolerance is given. It is precisely due to the fact that individuals have freedom of thought, conscience, and belief that they may choose not to adopt the majority position. It is not in accordance with human rights law to protect only one belief system and punish those who do not adhere to that belief system, even to the extent of criminalizing at a national level what a Nation has committed to protect as a human right at the international level.

Apart from obvious attempts to stamp out violence and intolerance in the name of religion, the Moroccan law on proselytism has also been employed to criminalize Muslim behaviour which is not in accordance with a particular brand of Sunni Islam. In this way, one Muslim may be accused criminally of “shaking the faith” of another Muslim who happens to be from a minority Muslim group in Morocco. Who will decide which Muslim speaks for Islam? Sunni? Shi’a? Sufi? Salafi? Wahabbi? Ammadiyyah? Baha’i? All claim Islam. The Government states that it protects “Moroccan Islam, founded upon values of openness, tolerance, and moderation.” How are peaceful Muslims who differ theologically from the majority tolerated? What status in the law do minority faiths other than the three recognized Abrahamic faiths have in Morocco? What status do Christians who are not Anglican, Catholic, or Orthodox have under the law? What happens if an individual in Morocco decides not to adhere to any faith at all? What is their status?

Morocco has committed itself to international human rights standard, and has embraced in public statements international religious freedom. Recent actions have muddied the water and caused untold harm to orphaned children, disabled people, illiterate and poor women who wish to be trained for jobs, those who need instruction on how to grow their own food or start a business, American businessmen who have invested their money, talent, and lives in Morocco, and many more. If individuals have committed the heinous criminal acts of which they have been accused, bring forward the evidence publically and thoroughly. If individuals have suddenly become, after decades of living in Morocco, a threat to national security, bring forward such evidence so they may answer such allegations.

POLICY RECOMMENDATIONS FOR THE COMMITTEE

The above-noted witness respectfully requests that the Committee act upon the following policy recommendations:

1. **A Request for Evidence** by US Officials at the Highest Level of Alleged Criminal Actions by American Citizens who were Expelled, Deported, Denied Entry or Refused Residency Visa extensions.
2. **Immediate Engagement** of US Officials at the Highest Possible Levels with the Moroccan Government to Review the Evidence Against Americans, and particularly evidence relating to allegations that American Citizens presented threats to Moroccan national security.
3. **Request by US Officials that Written Expulsion, Deportation, or other Residency Orders relating to US Citizens be delivered to them by the Moroccan Government**, so that they may have the opportunity to appeal such orders and answer any charges levelled against them. As the British and Canadian Ambassadors have released the Diplomatic Notes with lists of people and their alleged illegal acts to their citizens, the Committee should request the US Ambassador to also release the Diplomatic Note that directly affects the ability of US Citizens to appeal their expulsions. If he does not feel able to do so by Diplomatic Protocol, the Committee should request the Moroccan Government provides this document.
4. **Engagement should be encouraged at the Highest Possible Levels Between US and Moroccan Governments to discuss International Religious Freedom, the Moroccan Proselytism law, and Constructive Solutions** to promote the fundamental human right of religious freedom under international law conventions and custom, (Which is also required by the US Department of State under the International Religious Freedom Act of 1998), with legitimate concerns by Moroccan Authorities of Criminal Activities which truly threaten public order and national security.
5. **A Return to the Status Quo Ante for those which a Court of Law determines have not violated international law** by committing criminal or illegal acts prescribed by the same.

The United States of America has had the longest-standing relationship with Morocco of any American ally since its inception. Recent events have been deeply upsetting and unsettling considering Morocco's continual public affirmation of its commitment to

religious freedom and human rights, and the commitment, sacrifice, and dedication of American citizens who have worked in humanitarian and business endeavours for decades in Morocco. From their perspective, they have done nothing wrong, illegal, or criminal; they have simply been expelled because they are all Christians. Moroccan laws concerning residency provide notice and an opportunity to be heard in these cases. If national security has been threatened, the United States government needs to understand the nature of such charges, and US citizens need to be afforded the ability to refute such allegations.

Above all, the undersigned recommends immediate engagement from the United States Government at the highest possible levels in order to alleviate concerns that Morocco may have changed its position on affirming international human rights including freedom of thought, conscience, and belief, or its commitment to due process of law for Americans (and for that matter, all Foreign nationals) who reside in the Kingdom. This is crucial for continuing friendly diplomatic, trade, strategic, and all other relationships between our nations.

Appendix I: Legal Assessment of the Expulsions, Deportations, Denials of Re-Entry/Renewal of Residency Concerning Americans and other Foreign Citizens Previously Resident in Morocco

- (1) As demonstrated below, **Moroccan Immigration Law (Article 1) defers to International Law**, particularly the provisions of the **International Covenant on Civil and Political Rights**, which Morocco ratified in 1979. Article 13 provides that **no expulsion of a foreigner can be carried out without notice and an opportunity to be heard, unless that person is a threat to national security**. There is little indication or evidence that any of the persons expelled from Morocco were a threat to national security.
- (2) In the case of the Americans and other foreigners who were expelled from Morocco, according to several Moroccan legal experts, and the laws cited verbatim herein, **the Moroccan government should have provided a document of expulsion in writing, with substantiated legal grounds for the deportation**.
- (3) In most cases, those who were deported had been in the country for many years, some for decades, and **Moroccan law provides them a right to appeal the order of deportation/expulsion**. However, nearly all of the deportees were ordered out of the country without such documentation, and without ample time to file an appeal. Such an appeal would have provided an Administrative Judge with the opportunity to examine the expulsion order, and the summary of charges against the foreign national, in order to make its decision.
- (4) **Moroccan legislation requires the Administration to justify all their decisions**. If the Administration has acted improperly and without evidence of wrongdoing, the judge would cancel the order, unless it was proven that the allegations made were true based on submitted evidence, or were taken for reasons of imperative needs of state security or public safety. **Unfortunately, as most of the deportees were shepherded out of the country within a matter of hours, they were given no opportunity to appeal the matter in Court**. Nor were they able to take a

subsequent appeal to the Minister of the Interior to review the decision and allow the person to enter the country, provided the Court Decision was specious. If the Minister was not inclined to do so, the foreign national could then have used his refusal, express or implied, as the legal basis of a further appeal within two months.

- (5) Of course, for **those few Americans who filed an appeal in Rabat before leaving the country, they were faced with a Court that asked them for the Administration's Expulsion Order, which they did not have, because the only notice they had of the Moroccan Government's decision to expel them came from the US Embassy. The US Embassy notified scores of Americans that they were "on a list" of those either to be deported, or not to be granted re-entry. However, the document, a Diplomatic Note from the Moroccan Government to the US Embassy, was deemed "Private Between Governments," so was not released, in spite of multiple requests, to the American citizens who needed documentary proof of their expulsions in order to file a Court action. So, in spite of the British Government and Canadian Government handing over similar Diplomatic Notes to their citizens so they could appeal their deportations, the US Government refused, and its citizens' Court cases were dismissed.**

- (6) **Some cases that were filed without documentary evidence of expulsion have been rescheduled or transferred between Courts and are pending. In another case, an American citizen who was ordered out of Morocco was told he was a threat to National Security, and due to this, the evidence could not be revealed, as it would compromise National Security to reveal the evidence against him. He worked at a Secondary School.**

In fact, the threat to public order and national security allegations as they relate to foster parents of orphans, businessmen, charitable organizations who aided the disabled, those who taught the poor to grow their own food, operated business training and microfinance, helped illiterate women, etc. are highly questionable. The vast majority of those deported have lived and worked in Morocco for decades. If they were indeed a threat to public order and national security, the evidence of such allegedly heinous activities should be

brought forward in a Court of Law and those who stand accused should be given the right to defend themselves.

Below are the provisions of Moroccan Immigration Law which apply to those American and other foreign citizens who were either deported, expelled, denied re-entry, or had their residency visas cancelled/not renewed.

International Law: Article 1 of Moroccan Immigration Law Subjects the Law to the ICCPR and Other International Conventions:

The International Covenant on Civil and Political Rights of 16 December 1966 which Morocco ratified March 27, 1979 and published in the Official Gazette stipulates in Article 13 that:

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision under the Act and, unless compelling reasons of national security otherwise object, it must have the opportunity to submit reasons against his expulsion and to have his case reviewed by the competent authority or by a person or persons especially designated by the authority, and be represented for this purpose.

**The Act of November 11, 2003, Dahir No. 1-03-196 of (November 11, 2003)
Promulgating Law No. 02-03 on the Entry and Stay of Foreigners in the Kingdom of Morocco**

Applicable Provisions Relating to Moroccan Immigration Law: Residency, Deportation, and Expulsion (English Translation from the French)

Article 1: Subject to the effect of international conventions duly published, the entry and stay of foreigners in the Kingdom of Morocco are governed by the provisions of this Act.

The term "foreigners" within the meaning of this law, persons who are not nationals of Morocco, with no known nationality or whose nationality could not be determined.

Article 10: A registration card grants you permission to stay for a period of 1 to more than 10 years, renewable for the same period, according to the reasons given by the foreigner to justify his stay in Morocco at Moroccan Administration discretion. Aliens must declare to the Moroccan authorities any change of place of residence within the time and ways established by regulations.

Article 11: When the registration card is denied or revoked, the alien concerned must leave the Moroccan territory within 15 days from the date of notification of refusal or withdrawal by the Administration.

Article 12: The alien must leave the territory of Morocco upon expiration of the validity of his registration card, unless it gets renewed or he is granted a residence permit.

Section III: The refusal of issuance or renewal of a residence permit

Article 19: Issuing a residence permit is denied to the alien who does not fulfill the conditions to which the provisions of this Act make the issuance of residence permits subject to, or who, seeking the issuance of a registration card pursuant to the exercise of a profession, is not allowed to exercise it.

The residence permit may be revoked if:

- The alien does not provide the documents and evidence provided by regulation;
- The holder of the title is the subject of deportation or a decision banning him/her from the Moroccan territory.

In the cases mentioned in the two preceding paragraphs, the person must leave the territory of Morocco.

Article 20: The alien whose application for the grant or renewal of a residence permit was refused or withdrawn, may make an appeal to the president of the tribunal as a judge of referral within fifteen (15) days after the date of notification of the decision of refusal or withdrawal.

The action in the first paragraph above shall not prevent a decision of deportation or expulsion in accordance with Chapters III, IV and V of Title I of this Act.

Chapter III: Deportation

Article 21: The deportation may be ordered by the Administration, by reasoned decision, in the following cases:

- 1 - if the alien cannot prove that he/she legally entered the territory of Morocco, unless the situation has been corrected after their entry;
- 2 - if the alien has remained in Moroccan territory beyond the validity of his/her visa or, if not subject to visa requirements, the expiration of three months after their entry into Moroccan territory, without holding a registration card duly issued;
- 3 - when abroad, in which the issuance or renewal of a residence permit has been refused or withdrawn, has remained on Moroccan territory beyond the period of 15 days from the date of notification of refusal or withdrawal;
- 4 - if the alien has applied for renewal of his residence and stayed in Moroccan territory beyond the period of 15 days after the expiration of the residence permit;
- 5 - if the alien has been convicted for counterfeiting, forgery, or establishment under a name other than his, or for lack of residence;
- 6 - if the receipt of the request for registration card that was issued abroad has been withdrawn;

7 - if the alien has been subject to a withdrawal of his/her registration card or residence, or refusal to issue or renew one of these two documents, where the withdrawal or refusal were issued, under the laws and regulations in force as a threat to public order.

Article 22: The decision of deportation may, because of the seriousness of the conduct justifying, and taking into account the personal circumstances of the individual, be accompanied by a decision to be banned from the territory for a maximum of one year from the execution of the deportation.

The decision of a ban from Moroccan territory is a decision separate from deportation. The Administration is motivated and can intervene only after the person has submitted its comments. It includes full deportation of the foreigner.

Article 23: An alien who is the subject of a decision of deportation, may, within forty-eight hours after notification, request the annulment of that decision to the president of the tribunal, as the presiding judge in chambers.

The president or his representative shall act within 4 clear days after the referral. He can move the case to the nearest court of the place where the foreigner resides, if he is detained under section 34 of this Act.

The alien may request the President of the tribunal or the designated judge for the assistance of an interpreter and the file containing the documents on which the contested decision was based.

The hearing is public and takes place in the presence of the person concerned, unless the duly summoned person fails to appear at the hearing.

The foreigner is assisted by his lawyer if he has one. He may ask the President or his delegated official appointment for counsel.

Article 24: The provisions of Article 34 of this Act may be applied upon adoption of the decision of deportation. This decision cannot be executed before the expiration of forty-eight hours after notification or if the president of the tribunal is seized, before he ruled.

If the decision of deportation is annulled, there is an immediate end to the surveillance measures provided for in Article 34 below, and the alien is provided with a temporary residence permit until a final decision on his status is again considered by the administration.

The decision of the President of the tribunal may be appealed before the Administrative Chamber of the Supreme Court within one month from the date of notification. This appeal is not final.

Upon notification of the decision of deportation, the alien is immediately able to inform a lawyer, consulate of his country or a person of his choice.

Chapter IV: Expulsion

Article 25: Expulsion may be imposed by the administration if the presence of a foreigner in the territory of Morocco is a serious threat to the public subject to the provisions of Article 26 below.

The expulsion decision may at any time be repealed or revoked.

Article 26: The following shall not be subject to expulsion:

- 1 - the alien who proves by any means he/she has been an ordinarily resident in Morocco since reaching than the age of six years;
- 2 - Aliens who can prove by any means that they have been ordinarily residents in Morocco for over fifteen years;
- 3 - the foreigner who has resided lawfully in the territory of Morocco for ten years unless he/she has been a student during this period;
- 4 – Aliens abroad, married for at least a year, with a Moroccan spouse;
- 5 - the alien who is a father or mother of a child staying in Morocco, Moroccan nationality having been acquired by the benefit of the law, under the provisions of Article 9 of the Dahir No. 1 of -58-250 21 Safar 1378 (September 6, 1958) above, provided that he/she actually exercises legal guardianship in respect of the child and provides for his/her needs;
- 6 - an alien lawfully resident in Morocco under the guise of a residence under this law or international conventions, which has not been finally sentenced to a term of at least one year of imprisonment without suspension;
- 7 – A foreign woman who is pregnant;
- 8 - the alien who is a minor.

No time is required for expulsion if the conviction for a violation relating to a company in connection with terrorism, molestation or drugs.

Article 27: When expulsion is an urgent need for state security or public safety, it can be ordered by derogation from Article 26 of this Act.

Chapter V: Provisions common to deportation and expulsion

Article 28: A decision that the deportation of an alien can be performed automatically by the directors. A decision of deportation will also apply when it has not been challenged before the president of the tribunal or its delegate in his capacity as President of the Court within the period provided for in Article 23 of this Act, or one which has not been canceled at trial or on appeal, under the conditions laid down in that Article.

Article 29: An alien who is the subject of an expulsion or to be deported, is removed:

- a) to the country of his nationality, unless refugee status has been acknowledged or there is not yet a ruling on his application for asylum;
- b) to the country that issued him a valid travel document;
- c) flight to another country, in which it is legally permissible.

No foreign woman who is pregnant and no foreign minor can be removed. Similarly, no foreigner may be expelled for going to a country if he proves that his life or freedom are threatened or there is exposure to inhuman, cruel or degrading treatment.

Article 30: The decision on the country of reference is separate from the decision of expulsion itself.

An appeal against this decision has no suspending effect in accordance with Article 24 if the person did not appeal under section 28 above against the expulsion or renewal pronounced against him.

Article 31: An alien who is subject to expulsion or deportation that proves that he/she is unable to leave the territory of Morocco by showing that he/she can return to his country of origin or to another country, for the reasons given in the last paragraph of Article 29, may, notwithstanding section 34 below, be required to reside in places that are assigned by the administration. He must report periodically to the police or those of the Royal Gendarmerie.

The same measure may, in case of urgent necessity, be applied to aliens who are subject to an expulsion proposal from the administration. In this case, the measure can not exceed a month. The decision is taken, in the case of expulsion, by the administration.

Article 32: A foreigner may not be granted an application to lift a ban from the territory or repeal of an expulsion or deportation order made after the expiration of the administrative appeal if the foreign national is living outside of Morocco. However, this provision does not apply during the period when the foreign national in Morocco is in custody serving a sentence or is the subject of under house arrest under Article 31.

Article 33: A foreigner, who was the subject of an administrative measure of deportation and retains the president of the tribunal, in his capacity as President of the Court, can also appeal for suspension of execution.

Appendix II:

A. Moroccan Proselytism Law

Article 220: Quiconque, par des violences ou des menaces, a contraint ou empêché une ou plusieurs personnes d'exercer un culte, ou d'assister à l'exercice de ce culte, est puni d'un emprisonnement de six mois à trois ans et d'une amende de 100 à 500 dirhams. Est puni de la même peine, quiconque emploie des moyens de séduction dans le but d'ébranler la foi d'un musulman ou de le convertir à une autre religion, soit en exploitant sa faiblesse ou ses besoins, soit en utilisant à ces fins des établissements d'enseignement, de santé, des asiles ou des orphelinats. En cas de condamnation, la fermeture de l'établissement qui a servi à commettre le délit peut être ordonnée, soit définitivement, soit pour une durée qui ne peut excéder trois années.

English Translation:

Article 220: Whoever by **violence or threats keeps or impedes someone from worshipping or attending worship** is punished by imprisonment of six months to three years and a fine of 100 to 500 dirhams. The same punishment is set for whoever employs **means of seduction** in the **purpose of shaking the faith of a Muslim or to convert him to another religion**, either **by exploiting his weakness or his needs or by using for such a purpose** institutions of **education, health, shelter or orphanages**. In case of conviction, the closure of the institution which served to commit the offense may be closed, either definitively, or for a length which will not exceed three years.

It is NOT illegal for someone to convert to another religion, including Christianity under this law. The offense lies with the person who tries to convert another person by the stated means, not with the person converted.

B. Moroccan Kafala Law (Guardianship of Children)

Section Première: Les conditions de la kafala d'un enfant abandonné

Article 9 : La kafala des enfants déclarés abandonnés par jugement est confiée aux personnes et aux organismes ci-après désignés :

1 - Les époux musulmans remplissant les conditions suivantes:

- a) avoir atteint l'âge de la majorité légale, être moralement et socialement aptes à assurer la kafala de l'enfant et disposer de moyens matériels suffisants pour subvenir à ses besoins;
- b) n'avoir pas fait l'objet, conjointement ou séparément, de condamnation pour infraction portant atteinte à la morale ou commise à l'encontre des enfants;
- c) ne pas être atteints de maladies contagieuses ou les rendant incapables d'assumer leur responsabilité;
- d) ne pas être opposés à l'enfant dont ils demandent la kafala ou à ses parents par un contentieux soumis à la justice ou par un différend familial qui comporte des craintes pour l'intérêt de l'enfant.

2 - La femme musulmane remplissant les quatre conditions visées au paragraphe I du présent article.

3 - Les établissements publics chargés de la protection de l'enfance ainsi que les organismes, organisations et associations à caractère social reconnus d'utilité publique et disposant des moyens matériels, des ressources et des compétences humaines aptes à assurer la protection des enfants, à leur donner une bonne éducation et à les élever conformément à l'Islam.

English Translation:

The guardianship of children declared by law to be abandoned can be accorded to the following persons and institutions:

1) A Muslim married couple of legal age:

- a) who are morally and socially capable of assuring legal guardianship and who have the material means to attend to his/her needs;
- b) who have never been convicted, individually or together, of a crime threatening the morale and well being of a child or a crime against a child;

c) who do not have contagious diseases or medical conditions which might render them incapable of fulfilling their obligation;

d) is somehow opposed to the child or the family of the child for which they demand guardianship, involved in a legal dispute with his family, which raises fears for the wellbeing of the child.

2) A Muslim woman fitting the four conditions listed above.

3) Public establishments charged with child protection or charitable institutions, organizations or associations recognized by public authorities and having adequate material means, resources, and human resources to assure the protection of children and to give them a good education and raise them in accordance with Islam.

Village of Hope fell under Category 3.

Nonetheless, it is this law that the Ministers of the Interior and Justice have cited in saying they were out of compliance.