

**INTERNATIONAL
CONVENTION
ON THE ELIMINATION
OF ALL FORMS OF
RACIAL DISCRIMINATION**



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COMMITTEE ON THE ELIMINATION OF
RACIAL DISCRIMINATION

Twenty-seventh session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

Sixth periodic reports of States Parties due in 1982

Addendum

MOROCCO 1/

[29 October 1982]

Two years after the Kingdom of Morocco ratified the International Convention on the Elimination of All Forms of Racial Discrimination in 1972, it was requested to submit a report on the legislative, judicial and administrative or other measures which it had adopted and which gave effect to the provisions of the Convention. On that occasion, and every two years thereafter, Morocco complied with this request by submitting reports in which it demonstrated the importance of the measures taken in the field of human rights and the important place accorded by the legislator to human rights in the Moroccan legal system, in total conformity with the provisions of the International Convention concerned and with those of several other international legal instruments on human rights which have been adopted by the United Nations and the specialized agencies and ratified by Morocco.

1/ For previous reports submitted by the Government of Morocco, and for the summary records of meetings of the Committee at which these reports were considered, see:

- (1) Initial report - CERD/C/R.33/Add.1 (CERD/C/SR.111-112);
- (2) Second periodic report - CERD/C/R.65/Add.1 (CERD/C/SR.188);
- (3) Third periodic report - CERD/C/R.88/Add.6 (CERD/C/SR.327-328);
- (4) Fourth periodic report - CERD/C/18/Add.1 (CERD/C/SR.370);
- (5) Fifth periodic report - CERD/C/65/Add.1 (CERD/C/SR.481).

In these reports, the Kingdom of Morocco stressed many times that racial discrimination in any form is both in theory and in practice non-existent in its territory, since it is incompatible with the precepts and teachings of Islam which constitute the very foundations of Moroccan positive law.

It should be noted in this respect that Islam - the State religion in accordance with article 6 of the Moroccan Constitution - enjoins its followers to respect the physical and moral integrity of human beings; and, in the scale of values governing human conduct, it assigns a pre-eminent place to mutual tolerance and co-existence between human beings irrespective of their political allegiance, religious belief, colour or ethnic origin. Islam teaches and recommends not only that human beings and human rights should be respected, but also that they should be defended and protected from any affront or prejudice from whatever quarter it may come. */ This is the very foundation of the philosophy of Islam and of its Holy Book - the Koran - which many thinkers rightly regard as the first declaration of human rights, and of which the Universal Declaration of 1948 is merely an expressive but not an exhaustive synthesis.

As a result of its attachment to Islam, the Kingdom of Morocco has throughout its history developed a long tradition of guaranteeing and respecting the fundamental rights of the human person. Political life in Morocco has always been based on these rights.

Accordingly, the Kingdom of Morocco is able to state once again that no practice of discrimination, either in fact or in law, is known in its territory, and that no violation of the International Convention which is the subject of this report has up to now been noted in Morocco.

In the circumstances, the present report will consist only of replies to each of the questions asked by members of the Committee on the Elimination of Racial Discrimination during the meeting at which the fifth periodic report from the Kingdom of Morocco was considered.

Information on refugees and their status

In the first place, on 6 November 1956 Morocco notified its succession to the Geneva Convention of 28 July 1951 Relating to the Status of Refugees, and on 20 April 1971 it acceded to the Protocol Relating to the Status of Refugees adopted in New York on 31 January 1967.

Procedures for the application of the above-mentioned Convention were established by the Dahir of 26 August 1957 and the Decrees of 29 August 1957 and 8 October 1970.

The Decree of 29 August 1957 provides that judicial and administrative protection of the persons referred to in the Convention shall be provided by the Refugees and Stateless Persons Office, which shall be placed under the authority of the Minister of State for Foreign Affairs (article 1). This Office awards the status of refugee to all persons who come within the mandate of the United Nations High Commissioner or who satisfy the conditions specified in the Convention. It issues these persons with the documents necessary to enable them either to perform the various civil acts or to avail themselves of the provisions of Moroccan law or of international agreements relating to their protection. Also, it legalizes the acts and documents produced (article 2).

*/ "Religion is, first and foremost, human relations", according to the famous hadith of the Prophet.

Final rulings on appeals against adverse decisions by the Office, and on the application of the measures prescribed in articles 31, 32 and 33 of the 1951 Convention, are given by a Recourse Committee presided over by the Minister of Justice assisted by a representative of the Ministry of State for Foreign Affairs and a representative of the Moroccan Office of UNHCR.

Thus, refugees and stateless persons can settle in Morocco, provided of course that they do not engage in any political activities from Moroccan territory.

Permits for refugees or stateless persons to settle in Morocco are issued by the Directorate-General of the Sureté Nationale in collaboration with the Refugees and Stateless Persons Office of the Ministry of State for Foreign Affairs. Such persons may, on obtaining prior authorization, exercise any artistic, intellectual, scientific and professional activity of their choice without limitation. With respect to rights accorded, refugees and stateless persons enjoy especially favourable treatment by comparison with other aliens.

As a result of these special measures, viewed in the context of the 1951 Convention, it may now be considered that in Moroccan territory persons in this category enjoy all the protection which refugee status requires. In addition, on 16 July 1974, the Kingdom of Morocco acceded to the OAU Convention of 1969 governing the Specific Aspects of Refugee Problems in Africa; and it is one of the 16 African countries which have to date signed and ratified this Convention.

Also, on 6 January 1960, the Kingdom of Morocco ratified the Agreement relating to Refugee Seamen signed at The Hague on 23 November 1957, and on 18 September 1974 it deposited its instruments of acceptance of the Protocol relating to Refugee Seamen signed at The Hague also on 12 June 1973.

Information on the requirements to be satisfied for acquiring Moroccan nationality

The question of Moroccan nationality is governed by the Dahir-Law of 21 Safar 1378 (6 September 1958), known as the Moroccan Nationality Code.

This Code establishes the conditions for granting, acquiring and losing Moroccan nationality. It mentions two sources of law in this context - one internal source, i.e. the national law, and one international source, i.e. the international treaties or agreements to which Morocco is a party. In the case of incompatibility, the provisions of international treaties and agreements take precedence over those of internal law (article 1, paragraph 2, of the Moroccan Nationality Code).

In reply to the question raised by certain members of the Committee concerning the acquisition of nationality, the following explanations must be given:

Moroccan nationality may, on the one hand, be attributed to an individual at the time of birth, without any manifestation of the wish to acquire it. This is what is known as attributed nationality or nationality by birth. On the other hand, it may be acquired later in life as the result of a change in family situation or if the person concerned expresses the wish to acquire it.

With regard to nationality by birth, articles 6 and 7 of the above-mentioned Code contain the following provisions:

"Article 6:

"The following persons are Moroccan nationals:

"The child of a Moroccan father;

"The child of a Moroccan mother and an unknown father."

"Article 7:

"The following persons are also Moroccan nationals:

"A child born in Morocco of a Moroccan mother and a stateless father;

"A child born in Morocco of unknown parents

"However, a child born in Morocco of unknown parents shall be deemed never to have been Moroccan if, during his minority, filiation is proved to exist with respect to an alien and if, under such alien's national law, the child possesses the alien's nationality;

"A new-born child found in Morocco shall until the contrary is proved, be presumed to have been born in Morocco."

The Moroccan Nationality Code also provides for the possibility of acquiring nationality in later life - by the operation of the law (articles 9 and 10) or by naturalization (articles 11 to 15).

A. Acquisition by the operation of the law (article 9):

(a) By birth and residence:

"A child born in Morocco of a Moroccan mother and an alien father, provided that he is habitually and regularly residing in Morocco;

"A child born in Morocco of alien parents who have themselves been born in Morocco subsequent to the entry into force of this Code".

In both cases, the declaration opting for Moroccan nationality must be made during the two years preceding the attainment of majority. The Minister of Justice may object to the application within six months of its being made; if he has not expressed any objection before the expiry of this time-limit, he shall be deemed to have given his assent to the application (article 27).

In the absence of objection from the Minister of Justice within the time-limit mentioned above, persons may declare that they opt for Moroccan nationality if they are born in Morocco of an alien father who has himself been born in Morocco, if the said father is the national of a country of which the greater part of the population consists of an Arabic-speaking community or a community of the Islamic faith and if he himself belongs to this community (article 9, last paragraph).

(b) By marriage:

A woman of foreign nationality who has married a Moroccan national may opt for Moroccan nationality after the couple has habitually and regularly resided in Morocco for at least two years. Moroccan nationality is acquired if, within six months from the date of the declaration opting for Moroccan nationality, the Minister of Justice has not expressed any objection (article 10).

B. Acquisition by naturalization (articles 11 to 15):

"For the acquisition of Moroccan nationality by naturalization, the following requirements must be satisfied:

- "(a) Residence in Morocco at the time of signature of the instrument of naturalization;
- "(b) Habitual and regular residence in Morocco for five years prior to the submission of the application;
- "(c) The applicant must have attained majority;
- "(d) The applicant must be sound in body and mind;
- "(e) The applicant must be of good moral character, and must not have been convicted of a crime or sentenced to deprivation of liberty for an offence punishable by loss of civil rights, unless such sentences have been quashed by subsequent rehabilitation;
- "(f) The applicant must provide proof of an adequate knowledge of the Arabic language;
- "(g) The applicant must provide proof of adequate means of subsistence."
(article 11)

Requirement (d) is waived if the applicant has a disability or an illness which has been contracted in the service or in the interests of Morocco.

Requirements (b), (d) (f) and (g) are waived also if the alien has rendered outstanding services to Morocco or if his naturalization is of special importance to the country (article 12).

"Naturalization shall be accorded by Dahir in the cases provided for in article 12. It shall be accorded by Government Council decree in all other cases.

"In the instruments of naturalization, the last name and forenames of persons naturalized may, if they so request, be changed.

"On production of the instrument of naturalization by the person naturalized, the Civil Registrar shall amend, in his registers, the entries concerning the instrument or instruments of naturalization and, where appropriate, the last name and forenames of the person naturalized" (article 13).

The instrument of naturalization may grant Moroccan nationality to the unmarried minor children of a naturalized alien. Minor children who were at least 16 years of age at the time of naturalization are at liberty to renounce Moroccan nationality between their 18th and 21st birthdays (article 18).

Also, minor children of persons who acquire Moroccan nationality under the provisions of article 9 become Moroccans at the same time as their parents.

Regime applicable to aliens in Morocco

Since independence, aliens have been subject exclusively to Moroccan national law, which defines the rights and obligations of aliens in Morocco (application of the principle of the territoriality of the law). However, their personal status is still subject to the principle of the personality of the law.

In Morocco, as in most other countries, the ordinary law regime gives aliens certain internationally recognized advantages which are listed below.

(1) The regime applicable to aliens from the standpoint of public law

A number of rights and freedoms are accorded to aliens, provided that they respect public order and national sovereignty.

A. Rights and freedoms accorded to aliens

Political rights: aliens are of course excluded from the rights and obligations reserved by their very nature for Moroccan nationals. For example, under the Constitution, they cannot participate in the political life of the Moroccan State and cannot vote or stand as candidates in political elections.

On the other hand, aliens may belong to trade unions of their choice, although, under the terms of the Dahirs of 29 October 1962 and 17 January 1977, only persons of Moroccan nationality may be elected as staff representatives in trade union elections.

On the other hand, with regard to institutions in their countries of origin, aliens have every possibility of exercising their political rights from Morocco.

Political activities: aliens have an obligation not to interfere in the political affairs of the Moroccan State and not to express any value judgements on any national political event.

The civil service: the Dahir of 24 February 1958, promulgating the General Statutes of the civil service in Morocco, provides in its article 21 that "persons who do not possess Moroccan nationality may not be appointed to established posts in the civil service with all the advantages attaining thereto, such as pension rights." However, aliens may be employed in a government department in Morocco, as officials recruited on a contractual basis who will not hold established posts in the service or receive the corresponding salary and allowances.

Judicial functions and activities of a legal nature: this heading includes the magistrature and the professions of attorney, notary, legal counsel, tax adviser, accountant, court officer, recognized expert, etc.

The magistrature: foreign magistrates attached to courts in the Kingdom of Morocco have the status of "technical assistants" employed on a contractual basis. They enjoy the same protection as Moroccan magistrates, with the following limitations:

They do not sit as members of any court, and do not participate in private sittings or in the pronouncement of sentences.

They may not engage in political activities of any kind whatsoever in Moroccan territory.

The profession of attorney: the exercise of this profession by aliens is governed by two regimes, one defined in international treaties and the other in internal law (ordinary law regime).

International conventions provide for reciprocity, equality and non-discrimination between the nationals of contracting States. The ordinary law regime, on the other hand, applies to nationals of States which do not have treaty relationships on the subject with Morocco; and it stipulates that the Arabic language shall be used in counsel's pleadings to a court and in court proceedings in general.

Attorneys of foreign nationality who do not speak Arabic must have their pleadings translated into Arabic and must, for oral addresses to the court, be replaced by a colleague who does speak Arabic.

The profession of notary is governed by the Dahir of 20 May 1925, which is now being revised.

The professions of legal counsel, tax adviser, accountant, court officer, recognized expert, etc.: the exercise of these professions by aliens is subject to an administrative authorization from the Ministry of Justice.

Public freedoms

Access to Moroccan territory is unrestricted. An alien arriving at a seaport or airport in the Kingdom is obliged only to produce to the police authorities evidence of his identity, his previous place of domicile, his means of subsistence and his reasons for visiting Morocco. He must have a valid passport with a visa, unless this formality is waived under the terms of an agreement concluded with his country of origin.

Aliens wishing to settle in Morocco are free to select and decide on their place of domicile. They are obliged only to make a declaration of residence to the police authorities; and, if they change their residence, they are required to make further declarations to the police stations in the place which they are leaving and in the new place where they intend to settle.

The conditions to be observed by aliens who wish to reside and work in Morocco are set forth in the Dahir of 7 Shaaban 1353 (15 November 1934) on immigration.

Failure to comply with the rules governing entry, residence and establishment is punishable by administrative penalties (refoulement, expulsion or confinement to residence) and by penal sanctions.

Expulsion of aliens is regulated by the Dahir of 7 Shaaban 1353 (15 November 1934) on immigration. This measure is pronounced by decree in respect of immigrants unlawfully present in Morocco; and it is applied by officers of the Sûreté Nationale. Article 12 of the above-mentioned Dahir provides inter alia that:

"Any person who has entered Morocco by illicit means or fails to fulfil the requirements specified in this Dahir shall be expelled. An immigrant who has exercised a professional activity in a region or town other than that for which the permit provided for in article 3 has been issued to him may also be expelled.

"Expulsion is pronounced by a decree issued either by the regional authority of the place of entry of the immigrant, or by the regional authority of his place of residence."

However, persons against whom this measure has been ordered may lodge an appeal, in the form of an application for review of the case, with the Directorate General of the Sûreté Nationale, which has a special department dealing with these matters. The application for review is submitted to the Director-General of the Sûreté Nationale, who may then either revoke the expulsion order or confirm it, if it is essential for reasons of national security.

When the expulsion measure results from a court decision, the person to whom it is applicable may contest the decision in an ordinary or special appeal to a higher court, within the time-limit prescribed by law.

Under the laws and regulations of the Kingdom of Morocco, aliens also enjoy the freedoms of association, press and assembly.

With regard to freedom of association, aliens may establish associations merely by making a declaration to the headquarters of the local administrative authority and to the Parquet of the court of first instance in the district where they live. An association so established may sue in a civil action, acquire property for payment, own and administer premises and the equipment therein, solicit contributions from its members, etc.

With regard to freedom of the press, a distinction must be made between papers published in Morocco and papers published abroad. In the first case, a paper published by aliens in Morocco must have a senior editor domiciled in Morocco who has never been deprived of his civil rights and never sentenced to deprivation of liberty. Persons publishing such papers must file, with the Parquet of the court of first instance, a statement containing information regarding the journal; and they must also obtain a permit to publish.

Papers published abroad and introduced into Morocco are prohibited if they are prejudicial to public order and the national interest.

Public meetings are free. No prior authorization is needed for holding them. A declaration stating the date, time, place and purpose of the meeting is enough. This declaration is filed with the local administrative authority. Legally constituted associations formed to undertake cultural, artistic, sporting or charitable activities are exempted from this formality. Persons carrying weapons or explosive devices are prohibited from attending public meetings.

Under the terms of the Constitution and the laws and regulations of the Kingdom of Morocco, aliens enjoy freedom of conscience and religion, inviolability of domicile, secrecy of correspondence, personal safety and respect for human dignity.

The only restriction on the personal freedom of the alien is the extradition procedure, which is regulated by the Dahir of 3 November 1958. Extradition is a special measure, pronounced by decree of the Prime Minister on the advice of the Supreme Court. This measure is applied only in cases where a convention on judicial matters providing for automatic extradition has been concluded between Morocco and the applicant State.

Aliens and the Moroccan Investment Codes of 13 August 1973

These are the Codes which encourage investment in industry, handicrafts, maritime transport, tourism and mines, and investment by industries or associations of craftsmen which produce for export.

Under the terms of these Codes, preferential treatment is awarded to Moroccan individuals or bodies corporate within the meaning of the 1973 Dahir on Moroccanization (exemption from a number of taxes and dues), and also to foreign companies (repatriation of the product of liquidation up to the total amount of the capital invested by an alien, and unrestricted transfer of net-of-tax dividends distributed to non-residents). In addition to the advantages accorded by the 1973 Code (exemption from import duties, exemption from the taxes on products and capital goods, exemption from the licence requirement for five years, and exemption from the tax on professional profits for 10 years), the new draft Investment Code adopted by the Chamber of Representatives at its last session in spring 1982 also contains a number of new articles providing inter alia that firms producing for export shall be exempt from registration and stamp duties and shall be entitled to reimbursement of the special tax.

These fiscal advantages accorded by the new Code are accompanied by a number of financial advantages and some additional advantages which are granted under a contractual system.

The new Code introduces two new financial advantages, in addition to the refund of interest provided for in the 1973 Code, which is now transformed into a bonus.

The first is the direct payment of a bonus to small and medium-sized industries when they create stable jobs;

The second is the payment of part of the cost - varying from 25 to 50 per cent depending on the number of stable jobs created - of plots of land in industrial zones.

The contractual system has been improved, and now enables firms whose investment exceeds 50 million dirhams to obtain a number of advantages in addition to those provided for by law under the normal regime. This is an improvement on the terms of the 1973 Code which, under the same contractual system, provided only for the automatic granting of all the advantages of the normal regime. In addition, in the context of the contractual system, the new Code provides for the payment of bonuses to enterprises which have invested money in measures to save energy or water or to protect the environment.

The new Investment Code, which will be published very shortly, has also abolished all nationality-of-capital requirements for obtaining the above-mentioned advantages.

This evident liberalization is in fact nothing more than a reflection, in clear and unambiguous terms, of the present situation as governed by the 1973 Code.

B. Limitations imposed by the economic and social development of Morocco on certain rights and freedoms

The Moroccanization of certain activities has restricted the freedom of trade and industry for aliens.

As might be expected, the laws drafted during the colonial period gave a privileged status to aliens established in Morocco. For example, they had access to the best posts and jobs. Some liberal professions, such as the profession of notary, were exercised only by aliens or Moroccan Jews.

The same situation existed with regard to ownership of farm land. For instance, towards the end of the Protectorate, the amount of farm land owned by aliens had increased to 730,000 hectares, while the official "settlers' allotments" totalled 290,000 hectares. Under the logic of the colonial system, this situation was quite normal.

However, since Morocco's return to independence, a number of legislative texts have been enacted on the recovery of land owned by aliens and on the ownership of farm land or land suitable for farming. (These include the Dahir of 17 November 1959 which provides that a permit is required for any purchase of real estate by a foreigner; the Dahir of 26 September 1963, amending the Dahir of 1959 on real estate operations by foreigners; the Dahir of 26 September 1963 on the recovery by the Moroccan State of the official settlers' allotments; the Dahir of 2 March 1973 on the transfer of foreign-owned farm land or land suitable for farming; and the Dahir of 23 April 1975 prohibiting aliens from acquiring farm land, or land suitable for farming, outside city boundaries). Lastly, a Dahir on the exercise of certain activities in Morocco (the so-called "Moroccanization Dahir") was promulgated on 2 March 1973.

Under the terms of this "Moroccanization Dahir" of 2 March 1973, an individual of foreign nationality owning a business can either sell his business to a Moroccan, or terminate his activities, or enter into partnership with one or more Moroccans who will hold at least half of the capital.

Foreign companies are obliged to "Moroccanize" themselves - i.e. redistribute their share capital and senior posts so that the latter are taken over by individuals of Moroccan nationality.

At the present time, activities reserved for Moroccans are enumerated in two lists published respectively on 30 September 1974 and 31 May 1975. Aliens may participate in these activities in two cases:

In the case of a limited partnership company (société en commandite), provided that all the partners are individuals of Moroccan nationality and that they hold more than 50 per cent of the share capital;

In the case of a joint stock company (société anonyme), provided that half of the share capital is held by Moroccan individuals or bodies corporate.

In limited liability companies (SARL) or private companies, the partners must be individuals of Moroccan nationality and aliens cannot therefore form such companies.

Other societies - i.e. foreign oil companies - have been Moroccanized by direct negotiations with the Moroccan State.

Moroccanization excludes any type of compensation, since it does not involve expropriation. On the other hand, the Dahir of 2 March 1973 on the recovery of land provides that compensation is payable to the former land-owners of foreign nationality.

Recovery of land belonging to aliens

The Dahir of 2 March 1973 provided for the recovery of farm land, or land suitable for farming, owned by individuals or bodies corporate of foreign nationality.

This Dahir states that ownership of any farm land or land suitable for farming which is located wholly or partly outside city boundaries and is owned by foreign individuals or bodies corporate shall be transferred to the Moroccan State.

The Dahir also provides that compensation shall be payable to expropriated foreigners but that the latter shall manage the land with all due prudence until the State takes possession of it.

(2) The regime applicable to aliens from the standpoint of private law

A. Property rights and rights other than property rights

(a) Rights other than property rights

1. Article 3 of the 1913 Dahir on the Civil Status of Aliens provides that "the civil status and capacity of aliens shall be governed by their national law". The Supreme Court has supervisory powers in respect of "violations of a foreign personal status law". However, there is a slight derogation from this rule in the case of refugees, aliens with no nationality (Stateless persons) or aliens having more than one nationality.

With regard to his civil status and capacity, a refugee or Stateless person is subject to Moroccan law, in which due account is taken of the faith to which he belongs.

In the case of aliens having more than one nationality, the Moroccan courts have the right to determine the personal status applicable to them.

2. Marriage: article 8 of the 1913 Dahir on the Civil Status of Aliens provides that "the right to contract a marriage shall be governed by the national law of each of the future spouses".

The marriage may be contracted in the presence of the consul who is territorially competent or of the Moroccan registrar if the two alien spouses are of the same nationality. If they are not of the same nationality, a double ceremony is required to comply with each of the two different national laws.

In the case of mixed marriages between Moroccans and aliens, questions of age, capacity, consent, permission and impediments are duly taken into account in accordance with the national law of each of the future spouses.

3. Divorce and judicial separation: Aliens have the right to apply for divorce or judicial separation in accordance with their national law. The Moroccan court applies the national law with respect to questions of substance, and the Dahir on Civil Procedure with respect to questions of form.

For Moroccan husbands married to alien wives, the applicable law is different in different cases. If a Moroccan husband and his alien wife are both of the Moslem faith, the divorce is pronounced in the Islamic form before the Cadi (judge in matters of personal status). If the husband is Moroccan and the wife is alien but not of the Moslem faith, the law applicable to the divorce shall be determined by the law under which the marriage was contracted and by the nationality of the spouses.

If the Moroccan husband is a Jew married to an alien wife who has been converted to Judaism, the law applicable to the divorce shall be the Hebraic law in force in Morocco.

If the Moroccan husband is a Christian and the wife is an alien, the divorce must be pronounced by a law court after an attempt at reconciliation has failed and after the grounds for the petition have been duly examined. In the case of a conflict of laws, the law of the husband shall prevail (article 3 of the Moroccan Nationality Code).

The procedural law applicable is the Dahir on Civil Procedure; and it is the court and not the Cadi which is competent. Any conflict of law must be referred to the Supreme Court.

4. Domicile and the civil status of foreigners: even though domicile is not defined in Moroccan law, the question of domicile is decisive in determining the competence of a court, particularly in commercial cases - or cases involving bankruptcy, payment of alimony or damages for a tort - in which the court of the domicile of the defendant has jurisdiction. Domicile is also an important factor in acquiring Moroccan nationality.

For the registration of births and deaths, etc., the Kingdom of Morocco has a system which is accessible to aliens as well as Moroccans. Declarations of births, deaths and marriages of aliens are received by the City Governors in the case of Casablanca, Rabat and Tangiers, by the Pachas in other towns and by the Caids in the provinces.

(b) Property rights of aliens

1. The property regime applicable to aliens: the 1913 Dahir on the Civil Status of Aliens provides in its article 17 that "movable and immovable property situated in Morocco shall be governed by the provisions of local law", and the nationality of an alien has no effect on the law applicable to his property.

All real estate operations (sales, gifts or acquisition of real estate, transfers to companies, establishment of servitudes or rights in rem, leases for terms exceeding three years, and all conveyances of property) effected by a foreign State or public institution in respect of registered real estate, require prior authorization, in the absence of which they may be declared to be null and void.

The intellectual rights of aliens are protected, irrespective of their nationality. In Morocco, copyright constitutes a right to movable property which is transmissible in accordance with Moroccan civil law. Also, on 28 September 1969 Morocco ratified the Convention establishing the World Intellectual Property Organization, which was signed at Stockholm on 14 July 1967.

With regard to industrial or commercial property (patents for inventions, designs, models, etc. ...) The International Convention and Agreement for the Protection of Industrial Property, signed at the Hague on 6 September 1925, is applicable in Morocco. Also, the Dahir of 23 June 1916 concerning industrial property protects patents taken out by nationals of country signatories to the Paris Convention of 20 March 1883 for the Protection of Industrial Property, whether or not they are domiciled or established in Morocco.

2. Matrimonial regimes: these are sets of rules governing the property of the spouses during their marriage. A distinction is made between the so-called contractual regime and the legal regime, depending on whether the spouses have or have not concluded a marriage contract in respect of their property.

"In the absence of a contract, the effects of the marriage on the property of the spouses, both immovable and movable, shall be determined by the national law of the husband at the time when the marriage was contracted. A change in the nationality of the spouses, or of one of them, shall have no effect on the property regime" (article 15 of the 1913 Dahir on the Civil Status of Aliens).

"In cases where a marriage contract exists, this shall be valid with respect to its form if it has been concluded in accordance with the national law of each of the future spouses" (article 12 of the 1913 Dahir). With regard to the substantive terms, article 14 of the same Dahir states that: "The intrinsic validity of a marriage contract and the effects thereof shall be governed by the national law of the husband at the time when the marriage was contracted or, if the contract was concluded during the marriage, by the national law of the spouses at the time when it was concluded."

"The same law shall determine whether, and to what extent, the spouses are free to refer to another law. In cases where they have referred to another law, the said other law shall determine the effects of the marriage contract."

3. Estates of aliens: since the rules governing succession are related to personal status, inheritance of movable and immovable property is subject to the national law of the deceased. The same rule applies to the validity of wills.

In principle, estates of persons who die intestate with no next of kin revert to the Moroccan State. However, in cases where a regime of reciprocity exists or where this question is governed by the provisions of an international convention, estates of aliens who die intestate with no next of kin are left at the disposal of the consul concerned.

4. Obligations of aliens: according to the 1913 Dahir, "legal documents drawn up in Morocco are valid with respect to their form if they are drawn up in accordance with the provisions either of the national law of the parties or of Moroccan law; the peremptory rules of internal law must be respected in every case."

With regard to the substantive terms and effects of contracts, the 1913 Dahir says that these are determined by "the law to which the parties expressly intended to refer, without any restrictions other than those arising from internal provisions of public order."

"If in the absence of any statement of intention by the parties the law applicable cannot be determined from the nature of their contract, or from their relative statuses, or from the situation of the property, the court shall apply the law of the country in which they are both domiciled; or, if they are not both domiciled in the same country, the law of the country of which they are both nationals; or if they are not domiciled in the same country and do not have the same nationality, the law of the place where the contract was concluded".

Obligations arising from offences are misdemeanours are subject to Moroccan territorial law.

5. Regime applicable to legal documents and procedures for the enforcement of judgements: in Morocco, legal documents may be drawn up in accordance with three laws - the national law of the parties, Moroccan law, and local laws and usages.

Procedures for the enforcement of judgements may be specified in a convention on judicial matters concluded with a particular state ^{*}/, on conditions of reciprocity and with due regard for Moroccan public order and the principles of public law applicable in Morocco. Also, a judgement rendered abroad must not be contrary to a judgement rendered in Morocco.

In proceedings for enforcement of judgements relating to ordinary law offences, judgements rendered by foreign courts are enforceable in Morocco only after consideration of the merits of the case and in conformity with Moroccan law on the subject.

6. Arbitral awards: recognition and execution of foreign arbitral awards are governed in Morocco by the New York Convention which was adopted on 10 June 1958 by the General Assembly of the United Nations, and to which Morocco acceded without reservations on 12 February 1959. However, arbitral awards are not executed if they are likely to be prejudicial to public order or the sovereignty and security of the country.

B. The social rights of aliens

(a) The exercise of a lucrative activity by aliens:

Aliens can work in Morocco provided they conform to the regulations governing immigration (Dahir of 15 November 1934) and that they keep to the profession originally envisaged.

An immigrant who wishes to seek employment in Morocco for the first time, or after a 10-month absence outside Moroccan territory, can take a job only if he has a contract of employment or a prior authorization from the General Secretariat of the Government, which will enable him to obtain Ministry of Labour approval for a contract of employment.

^{*}/ The Kingdom of Morocco has signed and ratified conventions on judicial matters with the following countries: Algeria, Belgium, France, Italy, Libya, Mauritania, Poland, Romania, Senegal, Spain, Tunisia and the United Arab Emirates.

In the near future it is intending also to conclude conventions on mutual assistance in legal matters with Austria, Egypt, the Federal Republic of Germany and the Netherlands.

These contracts, which are also known as immigration contracts, must be established in conformity with the models specified in the Order of 23 April 1949. Any employer who secretly recruits an immigrant worker whose papers are not in order may be fined and even sentenced to imprisonment.

Moroccan law on the exercise of a lucrative activity by aliens differs, depending on whether the alien is employed in the public, private or semi-public sectors.

In the public sector, aliens are recruited as technical assistants.

In the private and semi-public sectors, aliens may accept employment after concluding with the employer an ordinary law contract which will be subject to approval by the Ministry of Labour.

With regard to the medical and related liberal professions, an alien must be in possession of a degree or a diploma entitling him to exercise the profession concerned. Authorization to practise is given by the General Secretariat of the Government on the advice of the Ministry of Public Health and an immigration commission.

With regard to the legal and related liberal professions, foreign attorneys who are members of the bar in their own countries may assist or represent parties in Moroccan courts, provided that reciprocal facilities are granted for Moroccan attorneys.

(b) Social advantages accorded to aliens

With regard to social advantages, aliens - like Moroccans - enjoy the advantages deriving from the ordinary law regime, i.e. all the traditional social rights (remuneration, weekly rest, paid holidays, exercise of the right to join trade unions, etc.).

It may be mentioned in this connection that on 13 December 1962 Morocco ratified Convention No. 111 concerning Discrimination in Respect of Employment and Occupation, adopted by the International Labour Organization on 25 June 1958.

Wage-earners and employers, regardless of their nationality, also have the right to conclude collective agreements and to refer disputes to the social sections of the courts of first instance.

Moroccan law also provides for health care at work: protection from occupational disease, industrial injury and other social risks; social security; mutual insurance, etc.

In general, aliens are admitted to Morocco without any discrimination.

Information on Moroccan Jews

With regard to the question of the Moroccan Jews who left Morocco of their accord to settle in certain foreign countries and then responded to the appeal by His Majesty the King of Morocco to return to their country, the most important point is not the exact number of persons who responded to this appeal but the fact that Morocco has always been ready to welcome them and has opened its doors to them so that they can return to the country of their birth where the relatives of many of them are still living and where they have always been considered as Moroccans with full citizenship enjoying all the rights accorded to Moroccan nationals.

Before replying to the second question concerning "laws" relating to Moroccan Jews, it is necessary to give a brief account of their history in Morocco.

The history of the Moroccan Jews extends very far back into the past. They arrived in the country in successive waves, beginning in the third century before Christ and continuing right up to modern times. The immigrants of olden times can be divided into two groups - the first which came from Palestine after the destruction of the temple of Solomon in the first century, and the second consisting of barbaric tribes which were converted to Judaism at the end of the Roman period under the Byzantine regime.

The more recent immigrants came from Spain, and also from France, Italy and other Latin countries, at the beginning of modern times. They lived in the large towns in northern Morocco, and, during the seventeenth and eighteenth centuries, they developed trade relations with all parts of the world.

In 1947 the number of Jews living in Morocco totalled 203,839, 80 per cent of them living in the large towns where they accounted for 9 per cent of the population.

About 45 per cent of the Jewish population of Marrakesh were of Arab-Berber origin; 13 per cent were of Aramaean-Hebraic origin; 17 per cent were descendants of immigrants from Spain and other Latin countries; and 4 per cent were the last immigrants from central Europe and Germany.

The political and administrative role of Moroccan Jews

Under the rule of the various dynasties which succeeded one another in Morocco, and particularly since the advent of the Alawite dynasty, many Moroccans of the Jewish faith were given important posts by the Makhzen (central Government). Under the Alawite sovereigns, Jews have constantly succeeded one another in the posts of customs directors, palace stewards, private doctors to the King and ambassadors; and in some cases these posts have passed from father to son.

After Morocco's return to independence, the participation of Jews in the public life of the country increased. Many of them occupied major posts in the Government apparatus.

When independent Morocco established its first Government, a Jewish citizen, Doctor Benzarquen, was appointed Minister of Postal Services and Telecommunications.

The Ministry for Foreign Affairs also recruited a large number of Jews as officials or as chiefs or members of trade and economic missions abroad.

In 1958, 15 per cent of the highest posts in the country were occupied by Jews, and five Jewish judges were members of courts which tried Jews and Moslems alike. At the present time, one member of the Constitutional Chamber of the Supreme Court is a Jew named Mr. Maxime Azoulay, who is also President of the Administrative Chamber of the same court.

In the first parliamentary election in 1960, the Jews of Casablanca supported the Union Nationale des Forces Populaires, which was to win 43 seats out of 51.

In the second general election, a Jewish candidate, Mr. Obadia, won a seat with 11,189 out of 19,000 votes; and half the voters were Moslem Moroccans. In the first elections to municipal and rural district councils, 15 Jewish candidates obtained seats in large towns. In the same year, 11 Jews were elected members of chambers of commerce and industry in towns, and most of the political parties in Morocco had Jewish members.

During the June 1967 war, the Jewish community in Morocco, which was the largest in the Arab world, had about 55,000 members; and in the course of the war, the Moroccan Government took many preventive measures to ensure the safety of this community.

In addition, a number of Moroccan Jewish intellectuals published a manifesto in which they affirmed that: "Zionism is not our doctrine. Palestine cannot be regarded as a national state for the Jews, or even as a second homeland ..."

This manifesto was signed by a large number of university professors, doctors, engineers and lawyers. It also stated that "... every self-respecting Moroccan Jew has a duty to support his people by every possible means, in order to combat the Zionist doctrine among the Jews and to revive Jewish national feeling."

In general, Moroccan Jews, as has been stated above, formed an integral part of the local population. They took part in the life of the community as a whole, speaking the same language, following the same rules and living in the same political, social and economic circumstances. Jews had never previously enjoyed such conditions in all their history; and at times when they were constantly subject to persecution in various countries (pressure by the Catholic Kings of Spain in 1492, the Nazi campaign during the Second World War, etc.), they were always able to seek and find refuge on Moroccan soil.

To give one example only, during the last World War, when the Nazis were persecuting Jews throughout Europe and the territories under their domination, Moroccan Jews were saved by the protection of the late King Mohammed V who followed the noble tradition of his ancestors */ by refusing to extend to Morocco the anti-Jewish laws adopted by the Vichy Government.

Mr. David Amar, Secretary-General of the Council of Jewish Communities in Morocco and President of the Jewish community in Casablanca, made the following comment in his introduction to the work by Leila and Mohammed Messaoudi entitled L'art de vivre Marocain (Editions EDDIF International, p.9):

"Our wise men have always said: 'Happy is the country in which Jews are living in peace; it is indeed blessed, thrice blessed!'

*/ In 1280, during the time of the Merinides, King Abu Yussef Yacub decided to place all Jewish communities in the Kingdom directly under royal protection. This tradition has been observed ever since, and the Jewish community in Morocco has thus enjoyed a privileged situation. It has been "under the dhimma" (i.e. under the care and protection) of the highest authority in the land.

"It is blessed not only because the Jews are living in peace within its borders, but because it is a country in which tolerance, respect for others and the freedom of the individual prevail.

"The people and the King of Morocco have always sincerely practised genuine tolerance and respected the individual and his freedom ..."

In reply to the question concerning measures which are said to have been taken by Morocco to amend the laws relating to the Jewish community, it must be stated that there never have been any laws relating specifically to the Jews. As has been stated above, Moroccan Jews are persons with full Moroccan citizenship and therefore have the same rights and obligations as Moroccan Moslems.

The adoption of laws in favour of, or to the detriment of, the Jews would constitute discrimination between Moroccans and hence a violation of the Convention on Racial Discrimination; and it would also be a very serious violation of the Constitutional principle of the equality of all before the law.

Thus, Moroccan Jews are governed by the same laws and regulations which are applicable to all Moroccan nationals, except with respect to questions relating to personal status and succession, which are governed by Hebraic religious law, in the local form of the Sephardic rite.

Information on progress made in regional development

Before discussing regional development, it is necessary first to make some comments on the subject of the "Berbers", since a question regarding the "number" of Berbers was raised during the Committee's consideration of the fifth report submitted by Morocco.

This question is obviously based on a misunderstanding, namely, the mistaken notion that the population of Morocco is so heterogeneous that the Berber component - which constitutes its substratum, so to speak - can still after thirteen centuries of national existence be separately identified.

It is true that the word "Berber" is now being used again with increasing frequency. It is in fact the term used by the champions of linguistic particularities to denote all those north African populations which express themselves locally in Tachalhit, Tamazhirt, Tarifit, Takbailite, Tamachikt and other non-Arabic languages which are spoken in this region, which extends eastward from the Atlantic to Egypt and southward from the Mediterranean to the Niger. All Maghrebis have been taught at school, and all the books on north African questions insist, that "the Berbers are the first inhabitants of North Africa". However, though ethnologists, geographers, and historians - including modern historians - may have popularized this word for purposes which everyone now knows, there are all the same some people who - without denying the cultural heritage to which the word refers - nevertheless reject the tendentious political connotations which have been given to it; and these people include some elements of the very populations which the word "Berber" is used to designate. Since the term is vague and oversimple from the historical as well as from the ethnological and sociological points of view, it is clear now beyond any doubt that it does not correspond to the actual situation of these populations within their national entity.

In the case of Morocco, it must be stressed that the Moroccan nation is an Arabized Berber nation, and also a Berberized Arab nation; the Berber culture is a common heritage of all Moroccans, just as the Arab culture is.

To ask how many "Berbers" live in Morocco is the same as asking how many Celts live in France, how many Latins live in Italy or even how many Anglo-Saxons live in England.

The Moroccan Jewish historian, Germain Ayache, has made the following comment on this subject in his work entitled Etudes d'histoire Marocaine: "Whether one likes it or not, the fact is that the Arabs influenced the Berber environment, which in turn converted all its Arabs into Moroccans -- first the conquerors, and then the immigrants. Throughout the history of Morocco, people who have ignored this two-way process have failed to appreciate the cohesion of the people in whose midst it has taken place." (G. Ayache, p.17).

As long ago as the fourteenth century Maghrebi historian and sociologist, Ibn Khaldoun, observed that: "The Arabs and the Berbers (...) have lived in the Maghreb so long that it is difficult to imagine that they ever lived anywhere else."

In fact, penetration of the Maghreb by Arabs coming from the east began in the year 642 and extended over about 50 years. But the real "opening" of north Africa to a population of Arab origin was achieved by Okba Ibn Nafi who, at the head of his 10,000 horsemen, founded Kairouan in Tunisia in 670 and drove on with his army right up to the Atlantic. At the end of the century another Arab general, Moussa Ben Nossair, entrusted the Spanish campaign to a Berber named Tarik Ibn Ziyad; and from that time onwards the Islamization of Morocco was effected by Berbers who were already converted. Their chiefs adopted Arabic as the administrative language; and the Arabization of the population, with all the demographic intermingling which gradually resulted from it over the centuries, led to the formation of the Moroccan people with its specifically "Moorish" characteristics, the word "Moorish" being defined in every language of course as "Arab-Berber".

Even before the European penetration of Morocco, the migrations of Moroccan tribes - Arab and Berber - as a result of wars, economic crises and epidemics had led to a perpetual mingling of populations. These internal population movements contributed to the fusion of races and to the emergence of a culture which was uniform in respect of its major components. It also helped to impart common characteristics to the different elements constituting the national community.

Mukhtar Assoussi, referring to the Arabic-speaking Houara of the Taroudant region, observed that: "What happened to them is the same as what happened to all the Moroccan tribes. If one attempts to trace a genealogy for all the groups in a single tribe, one finds very few elements which are really specific. Each group has been enlarged by additions from neighbouring groups which in fact belong to another tribe. This is true of the Berbers, just as it is of the Arabs. The alien elements in each tribe are very numerous" (Mukhtar Assoussi Jazula, vol. IV, pp. 98-99.)

Some observers have discovered, among the Seksaoua in the middle of the Haut-Atlas, certain elements of law and social organization which can be explained only by a migration from the Anti-Atlas. Others believe that the architecture of the Moyen-Atlas has a Saharan origin, etc.

The Moroccan sociologist, Abdella Laroui, has observed that:

"Whatever one may think of the divisions into small districts and of the fragmentation of economic circuits that occurred before the 19th century, the succession of migrations at regular intervals over a period of 60 years made the Moroccan population more mobile. Major population movements were nothing new in this part of Africa; they were rather the general rule. But on this occasion there was no exit route. Since all the movements took place within a limited area, the mingling of populations became permanent."

For the reasons described above, it is no longer possible now, after the various successive minglings of populations which have occurred over more than 1,000 years, to determine who is 100 per cent Arab and who is 100 per cent Berber. It is very difficult to distinguish between the Arab element and the Berber element in the Moroccan population, since the two have lived together since olden times in all parts of the Kingdom, and since they also speak the same language - if not the same dialects - and observe more or less the same customs and habits in their way of life.

"What used to be described as the 'Berber policy' under the Protectorate consisted precisely of trying to divide the country into two opposing blocks - the Bled El Makhzen (pacified territory) and the Bled es-Siba (rebel territory) ... Everyone knows the result. The occupier did indeed incite a siba (rebellion) but against himself and not against the Bled El Makhzen, as he had intended. In this unforeseen siba, people from the towns and the lowlands joined together with those from the mountains. Indeed, the idea that their unity was being threatened was the spur which drove the Moroccans on in the fight which ended with the departure of the foreigners. If all this is true, why go on, even today, rehashing the idea of two Moroccos which are irredeemably opposed to one another?" (G. Ayache, Etudes d'histoire Marocaine, p. 23).

This "divide and rule" policy of the colonizer was based sometimes on an alleged diversity of languages, or at least of dialects, and sometimes on an alleged ethnic or - faute de mieux, geographical - diversity. But on every occasion these foreign manoeuvres aimed at undermining the national unity of the Moroccan people were doomed to failure.

Throughout the history of Morocco, dangers from abroad have in fact helped to cement Moroccan national unity:

"Four centuries of national defence (from the 15th to the 19th centuries) against the same invaders (the Spaniards and the Portuguese) have helped to create the national and moral unity of the people and to maintain it even in the absence of the more modern factors which have played a role in the formation of nations" (Germain Ayache, "Le sentiment national dans le Maroc du 19e siècle", in Revue historique, 1968, p. 395).

In reply to the question asked on the subject of progress made in regional development, it may be stated that, in order to enable the whole population to enjoy as soon as possible the fruits of the return to independence, the Moroccan Government has since 1957 elaborated and put into effect a number of ambitious development plans covering practically all sectors of economic, social and cultural activity in all parts of the Kingdom.

For example, in the Saharan region, which was previously inhabited by nomads, the Moroccan Government has since the spring of 1976 been executing an emergency plan to provide the southern provinces with the same infrastructure as those in the north, and thus to facilitate the economic "take-off" of the south.

For this purpose a national loan for the development of the Sahara (amounting to 1 billion dirhams or nearly \$220 million) was launched in November 1976 on the first anniversary of the Marche Verte. This loan is in addition to the funds allocated by the Treasury and by specialized financial institutions for the execution of projects in all fields (agriculture, transport and telecommunications, water economy, fisheries, education, public health, social affairs, etc.).

However, the principal advances achieved in recent years in regional development are undoubtedly the arrangements made to enable the individual to participate directly in the development of his town or village, through the establishment of communal and provincial assemblies for the efficient and democratic organization and management of local life.

The Dahir of 5 Chaul 1396 (30 September 1976), which contains the Charter of the Communes, provides the commune - on "school for democracy", as the King of Morocco has often called it - with a suitable framework in which to assert itself not only as an administrative reality but also as a full partner in the economic, social and political development of the country.

Article 1 of the above-mentioned Dahir of 1976 provides that:

"Communes are territorial communities of public law, endowed with legal personality and financial autonomy. They are divided into urban and rural communes.

"Urban communes include municipalities and other centres endowed with legal personality and financial autonomy.

"The communes may be authorized to form an association.

"The affairs of a commune shall be managed by a Communal Council."

The members of the Communal Council, or Councillors, are elected for a period of six years by a relative majority in a single-round uninominal ballot, with universal and direct suffrage. The number of Councillors depends on the size of the population. It varies from nine members for communes with 7,500 inhabitants to 51 for those with more than 400,000 inhabitants.

With regard to the functions of the Communal Councils, article 30 of the 1976 Dahir provides that:

"The Council shall by its resolutions direct the affairs of the commune and shall to this end determine the measures to be taken to ensure the full economic, social and cultural development of the local community. The Council shall, in the performance of its task, be aided by the State and other public bodies.

"The Council shall inter alia perform the following functions:

"It shall approve the budget of the commune, and shall examine and approve the accounts for the previous financial year in accordance with the procedures and the conditions prescribed by the laws in force;

"It shall prepare the economic and social development plan of the commune, in accordance with the guidelines and objectives adopted in the national plan, and to this end:

"Within the limits of the commune's own resources and of those made available to it, it shall elaborate the community's investment programme;

"It shall propose to Government departments measures to be taken to promote the development of the community if it is not itself competent to take such measures or is unable to do so with its own resources or the resources made available to it;

"It shall establish conditions for engaging in development activities which are to be undertaken by the commune, with the agreement of Government departments or juridical persons of public law, in areas within their competence;

"It shall decide on the creation and organization of communal public services, and determine whether such services are to be managed by direct or autonomous administration, or whether concessions are to be granted for their management;

"It shall consider draft plans for the physical planning and development of the commune;

"It shall take decisions regarding the financial participation of the commune in mixed-economy enterprises of communal or inter-communal interest ..."

The Communal Councils discuss proposals on all these questions and take their substantive decisions by an absolute majority of members voting, in a public ballot. Its plenary meetings are open to the public.

The Communal Council, may also state its views on other matters, in cases where the laws and regulations require it to express an opinion or where the Government so requests. It may also at any time express its views on matters of local interest. Decisions by the Council are made effective in the form of orders issued by its Chairman.

The 1976 Charter of The Communes greatly increased the powers of the Chairman of the Communal Council by transferring to him, except as otherwise prescribed by law, the administrative police powers previously exercised by officials of the Ministry of the Interior, and also the special powers accorded to these officials by the laws or regulations in force (article 44 of the Dahir of 1976).

The Chairmen of the Communal Councils or the deputy Chairmen, if the Chairmen are absent or unable to act or if they designate the deputy chairmen to represent them, also perform the functions of registrar.

This experiment in the decentralization of decision-making power in public affairs is undoubtedly an original and promising one, since it helps not only to "give a new face to the village" and provide the commune with an economic and social policy in keeping with its needs, but also to encourage a multipolar development effort at the national level and above all to involve the individual fully in public life.

On the subject of the incorporation in Moroccan municipal law of the provisions of international legal instruments ratified by Morocco, it may be stated that, in the case of the Convention on the Elimination of All Forms of Racial Discrimination, incorporation of the provisions of the Convention in domestic law was effected by publishing the instrument of ratification in the Official Bulletin of the Kingdom, in pursuance of a Dahir giving the Convention the force of law.

Thus, any violation of the law is punished, in accordance with the nature of the violation (crime, offence or misdemeanour), under the Moroccan Criminal Code. In imposing penalties, the courts are guided by the provisions of the Constitution and the law, and by jurisprudence.
