



SUBMISSION

TO THE 144th SESSION OF THE HUMAN RIGHTS COMMITTEE

For the List of Issues Prior to Reporting (LOIPR)

MOROCCO
(Kingdom of Morocco)

Conscientious objection to military service

1

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Content Index

- **Introduction**
- **Historical background**
- **Previous consideration of the issue in the context of ICCPR**
- **Re-introduction of compulsory military service (2019)**
- **Main minimum international standards concerning the right to conscientious objection to military service**
- **Suggested questions**

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INTRODUCTION

This submission focuses on the right to conscientious objection to military service. This issue has been a concern for the Committee in the past, but it has acquired particular importance in recent years, following the re-introduction of compulsory military service in the country.

HISTORICAL BACKGROUND

War Resisters' International reported in **1998**:

“Conscription was introduced in 1966. Art. 16 of the 10 March 1972 Constitution (reviewed in 1992) states that "all citizens shall participate in the defence of the fatherland." [...] All men aged 18 to 30 are liable for military service. Military service lasts for 18 months. Reservists' obligations lasts until the age of 50. [...]

Students who have graduated may apply to perform 'civilian service' for two years. This means they are employed by various (semi)government departments. Every year approximately 4,000 are allowed to perform such service. [...]

The right to conscientious objection is not legally recognised. In a letter written in 1992, with regard to an asylum case, the Moroccan government stated that "the concept of conscientious objection is incompatible with the principles upon which Morocco is founded as a nation and a state".

However, in the past some persons have reportedly been allowed to work in underdeveloped parts of the country instead of performing military service.

Graduated students may apply for 'civilian service' (see: military service), but evidently a transfer to 'civilian service' is not a right to which conscientious objectors may apply. [...]

Draft evasion and desertion are punishable under the 1958 Code of Military Justice (Code de Justice Militaire).

Failure to perform military service is punishable by a month's to a year's imprisonment in peacetime; two to ten years' in wartime.

Desertion is punishable by six months' to three years' imprisonment in peacetime; five to twenty years' in wartime. 'Desertion with conspiracy' - which is considered to be any case of desertion involving two or more soldiers - may in some circumstances be punishable with the death penalty.

practice

As the armed forces are able to recruit enough 'volunteer' conscripts, it does not seem draft evaders are being searched for.

When a Moroccan applies for a passport, his military situation is checked. Those who have not performed military service will have difficulty obtaining a passport. Likewise, if they apply for a job in government departments, they are only admitted after the Ministry of Internal Affairs has given a statement of exemption from military service.

About desertion not much information is available. In 1991 it was reported that five officers of the Moroccan army, who were part of 2,250 soldiers deserting on 4 February 1991, had been executed at Tazmamart.”¹

PREVIOUS CONSIDERATION OF THE ISSUE IN THE CONTEXT OF ICCPR

In **2004**, in its Concluding Observations for the State party's 5th periodic report, the Human Rights Committee stated:

“22. The Committee notes that, according to the information supplied by the State party, compulsory military service is a fallback applicable only when not enough professional soldiers can be recruited, while at the same time the State party does not recognize the right to conscientious objection.

The State party should fully recognize the right to conscientious objection in times of compulsory

¹ War Resisters' International, "Country report and updates: Morocco", Last revision: 23 June 1998.

https://wri-irg.org/en/programmes/world_survey/country_report/en/Morocco

military service and should establish an alternative form of service, the terms of which should be non-discriminatory (Covenant, arts. 18 and 26).”²

Reports indicate that conscription was abolished around **2006**.

In **2015**, in its 6th periodic report, the State party stated:
“Article 18 Freedom of thought, conscience and religion

[...]

2. Military conscientious objection

208. The issue of conscientious objection to military service has yet to arise in Morocco. As the Committee noted, since compulsory military service is simply a fallback option, the fact that Morocco does not recognize the right to conscientious objection has no practical impact. In addition, the military authorities have yet to record an instance of conscientious objection.

209. Since the issue of conscientious objection is raised by the Committee only as a matter of principle, the Moroccan State, which is bound by its unreserved ratification of the International Covenant on Civil and Political Rights, takes the view that its position of principle on the matter is consistent with the Covenant and will formalize it in legislation at the appropriate juncture.”³

Unfortunately, the issue has not been included in the List of Issues and the Concluding Observations concerning the 6th periodic report, despite the concerning statement of the State party.

Concerning aspects:

- 1) Even when there is no compulsory military service, the issue is not only “a matter of principle”. According to international human rights law and standards [see relevant part], the right to conscientious objection to military service does not apply only to conscripts in occasions of compulsory military service, but applies in any kind of military service, and to anybody affected, including reservists and volunteers / professional members of the armed forces.
- 2) The statements “The issue of conscientious objection to military service has yet to arise in Morocco” and “the military authorities have yet to record an instance of conscientious objection” do not preclude the existence of conscientious objectors to military service (conscripts, reservists or professional members of the armed forces), in the State party. The lack of legislative provisions protecting the right to conscientious objection to military service, and possible punishment for draft evasion, desertion or other relevant offences, could possibly discourage conscientious objectors from claiming publicly or to the authorities such status, and could lead them to try other ways to avoid or to cease military service, which nevertheless could affect their civil and political, as well as social and economic rights. Furthermore, as it has been observed in other States, sometimes conscientious objectors to military service prefer to appear as “common” draft evaders, deserters or disobedient persons, than claiming publicly or to the authorities that they are in fact conscientious objectors to military service, i.e. that they oppose military service (or its continuation) on grounds of conscience, out of fear that the punishment or even the social stigma could be worse in that case.
- 3) Broader restrictions to the right to freedom of religion or belief, which have been highlighted throughout the years, *inter alia*, by the Committee,⁴ could also affect or even prevent public or official declarations of conscientious objection to military service, especially on religious grounds.

² UN Human Rights Committee, “Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee, Morocco”, (CCPR/CO/82/MAR), 1 December 2004, para. 22. <https://docs.un.org/en/CCPR/CO/82/MAR>

³ UN Human Rights Committee, “Consideration of reports submitted by States parties under article 40 of the Covenant, Sixth periodic reports of States parties due in 2008, Morocco”, (CCPR/C/MAR/6), 31 August 2015, p. 30. <https://undocs.org/en/CCPR/C/MAR/6>

⁴ E.g. CCPR/C/MAR/CO/6, paras. 39-40; CCPR/CO/82/MAR, para. 21; CCPR/C/79/Add.113, para. 22; CCPR/C/79/Add.44, paras. 14 and 22; A/47/40(SUPP) paras. 65-67.

- 4) In certain cases, some conscientious objectors do not object to joining armed forces, but rather to bearing or using arms or taking direct participation in hostilities. Such cases may go unreported, especially if there is not awareness that they are also conscientious objectors.

In any case, the State party's statement in 2015 is nowadays obsolete, in view of the re-introduction of compulsory military service. This represents not only an "appropriate juncture" but rather an absolute necessity to address the issue.

RE-INTRODUCTION OF COMPULSORY MILITARY SERVICE (2019)

According to various reports, compulsory military service has been re-introduced in **2019**.⁵

As it has been reported by War Resisters' International:

"Compulsory military service has officially been reinstated in Morocco 12 years after it was abolished. The proposal to instate conscription, which was met with opposition by many young Moroccans inside and outside the country, was unveiled in August 2018. On Thursday, 7th February, it was announced that the decree, reintroducing military conscription was adopted by the Council of Ministers.

A cabinet statement said King Mohammed VI gave "instructions that 10,000 conscripts be called to military service in the current year, before bringing this figure to 15,000 in the next year."

According to the new law, men aged between 19 and 25 will be called up to serve in the military for a period of one year. Government spokesman Mustapha Khalfi said the first conscripts will be enrolled in Autumn 2019. The draft will not cover women and dual nationals but they will be able to serve on a voluntary basis.

Draft dodgers will face penalties ranging from one month to a year in prison. The new law does not recognise right to conscientious objection but only exemptions; for those who do not meet physical standards, who need to support their families, who continue their higher education, and who have a brother in service as a conscript or have brothers that can be called up simultaneously for military service."⁶

It is very relevant that the lack of provisions for conscientious objection to military service has been highlighted not only in articles,⁷ but also, reportedly, by the Moroccan Human Rights Association (AMDH):

"The Moroccan Human Rights Association (AMDH) considered that its contents "are contrary to freedom of thought and conscience" and called for the 'recognition of the right to conscientious objection to military service' in Moroccan law, as well as providing the legislative protection of conscientious objectors, based on doctrinal or humanitarian beliefs'.^{8,9}

MAIN MINIMUM INTERNATIONAL STANDARDS CONCERNING THE RIGHT TO CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

All states must respect, protect and fulfil the right to conscientious objection to military service.

According to the Committee, "The right to conscientious objection to military service inheres in the right

⁵ E.g. The New Arab, "Morocco to conscript 10,000 young people under renewed military service", 8 February 2019.

<https://www.newarab.com/news/morocco-officially-reinstates-conscription>

Arab News, "Morocco officially restarts compulsory military service", 8 February 2019. <https://www.arabnews.com/node/1449076/world>

Smail Hamoudi, "Morocco's Return to Compulsory Military Service: Reasons and Challenges", 11/02/2019. <https://mipa.institute/en/6451>

⁶ War Resisters' International, "Morocco: Conscription reintroduced", 11 February 2019.

<https://wri-irg.org/en/story/2019/morocco-conscription-reintroduced>

⁷ E.g. Smail Hamoudi, "Morocco's Return to Compulsory Military Service: Reasons and Challenges", 11/02/2019. <https://mipa.institute/en/6451>

⁸ Yusuf Lakhdar (editor), An Association calling for recognition of the right to refuse conscription, 14 September 2018, at the following link: <https://www.hespress.com/societe/405339.html>

⁹ Smail Hamoudi, "Morocco's Return to Compulsory Military Service: Reasons and Challenges", 11/02/2019. <https://mipa.institute/en/6451>

to freedom of thought, conscience and religion. It entitles any individual to an exemption from compulsory military service if this cannot be reconciled with that individual's religion or beliefs. The right must not be impaired by coercion. A State may, if it wishes, compel the objector to undertake a civilian alternative to military service, outside the military sphere and not under military command. The alternative service must not be of a punitive nature. It must be a real service to the community and compatible with respect for human rights.”¹⁰

In 2019, the OHCHR compiled the minimum standards and criteria in order for a State to comply with international human rights law and standards as far as it concerns conscientious objection to military service:

“60. There are different approaches and human rights challenges with regard to application procedures for obtaining the status of conscientious objector to military service. To be in line with international human rights norms and standards, such application procedures should comply, as a minimum, with the criteria given below.

(a) Availability of information

All persons affected by military service should have access to information about the right to conscientious objection and the means of acquiring objector status.

(b) Cost-free access to application procedures

The process for applying for status as a conscientious objector should be free, and there should be no charge for any part of the whole procedure.

(c) Availability of the application procedure to all persons affected by military service

The right to conscientious objection should be recognized for conscripts, for professional members of the armed forces and for reservists.

5

(d) Recognition of selective conscientious objection

The right to object also applies to selective objectors who believe that the use of force is justified in some circumstances but not in others.

(e) Non-discrimination on the basis of the grounds for conscientious objection and between groups

Alternative service arrangements should be accessible to all conscientious objectors without discrimination as to the nature of their religious or non-religious beliefs; there should be no discrimination between groups of conscientious objectors.

(f) No time limit on applications

No time limit should be applicable for the submission of a request to be recognized as a conscientious objector. Conscripts and volunteers should be able to object before the commencement of military service, or at any stage during or after military service.

(g) Independence and impartiality of the decision-making process

Independent and impartial decision-making bodies should determine whether a conscientious objection to military service is genuinely held in a specific case. Such bodies should be placed under the full control of civilian authorities.

(h) Good faith determination process

Application procedures should be based on reasonable and relevant criteria, and should avoid the imposition of any conditions that would result in the automatic disqualification of applicants.

¹⁰ See, *Min-Kyu Jeong et al. v. Republic of Korea* (CCPR/C/101/D/1642-1741/2007), para. 7.3. <https://undocs.org/CCPR/C/101/D/1642-1741/2007>
See also: *Jong-nam Kim et al. v. Republic of Korea*, para. 7.4; *Abdullayev v. Turkmenistan*, para. 7.7; *Mahmud Hidaybergenov v. Turkmenistan*, para. 7.5; *Ahmet Hidaybergenov v. Turkmenistan*, para. 7.5; *Sunnet Japparow v. Turkmenistan*, para. 7.6; *Akmurad Nurjanov v. Turkmenistan*, para. 9.3; *Shadurdy Uchetov v. Turkmenistan*, para. 7.6; *Dawletov v. Turkmenistan*, para. 6.3 and others.

(i) Timeliness of decision-making and status pending determination

The process for consideration of any claim of conscientious objection should be timely so that applicants are not left waiting for an unreasonable length of time for a decision. As matter of good practice, all duties involving the bearing of arms should be suspended pending the decision.

(j) Right to appeal

After any decision on conscientious objector status, there should always be a right to appeal to an independent civilian judicial body.

(k) Compatibility of alternative service with the reasons for conscientious objection

Alternative service, whether of a non-combatant or civilian character, should be compatible with the reasons for conscientious objection.

(l) Non-punitive conditions and duration of alternative service

The conditions for alternative service should be neither punitive nor have a deterrent effect. Any duration longer than that of military service is permissible only if the additional time for alternative service is based on reasonable and objective criteria. Equalizing the duration of alternative service with military service should be considered a good practice.

(m) Freedom of expression for conscientious objectors and those supporting them

The personal information of conscientious objectors should not be disclosed publicly by the State, and their criminal records should be expunged. States should neither discriminate against conscientious objectors in relation to their civil, cultural, economic, political or social rights nor stigmatize them as “traitors”. Those who support conscientious objectors or who support the right of conscientious objection to military service should fully enjoy their freedom of expression.”¹¹

In 2022, the OHCHR reiterated the above standards, adding, *inter alia*, that:

“No inquiry process is required by international law and consideration should be given to accepting claims of conscientious objection to military service as valid without such a process.”¹²

In 2024, the OHCHR further elaborated:

“54. States should give recognition to the right to conscientious objection to military service in their domestic legal systems. In accordance with international human rights law, the domestic legal basis should be:

- (a) General, recognizing all forms of thought, conscience and religion protected under international human rights law;
- (b) Applicable to all forms of military service, including voluntary service and service in military reserve forces, as thought, conscience and religion may change over time;
- (c) Applicable in all contexts, including situations of armed conflict and during mobilization;
- (d) Unconditional on the further implementation laws;
- (e) Justiciable.

55. The procedure allowing for the recognition of conscientious objection should be aimed at facilitating the exercise of the right. To this end, States should implement the recommendations contained in previous reports.¹³ In addition:

- (a) States should consider accepting claims of conscientious objection without inquiry; or, in the alternative;
- (b) States retaining a system of inquiry of claims for conscientious objection should review their procedures to ensure that they preserve respect for the dignity of individuals, are conducive to protecting the right to conscientious objection to military service, are limited to identifying relevant information

¹¹ UN Human Rights Council, Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, Report of the Office of the United Nations High Commissioner for Human Rights, (A/HRC/41/23), 24 May 2019, para. 60. <https://undocs.org/A/HRC/41/23>

¹² UN Human Rights Council, Conscientious objection to military service, Analytical report of the Office of the United Nations High Commissioner for Human Rights, (A/HRC/50/43), 11 May 2022, para. 57. See particularly sub-paragraph (h). <https://undocs.org/A/HRC/50/43>

¹³ A/HRC/41/23 and A/HRC/50/43.

without arbitrary interference in the privacy of those concerned and are under civilian control.

56. In order to facilitate respect for the right to conscientious objection, States should consider removing compulsory alternative service for individuals exempted from military service. Should States choose to maintain alternative compulsory service, such compulsory service should:

- (a) Be compatible with the reasons for conscientious objection;
- (b) Serve the public interest. In particular, States should consider specifying the public interest purpose to be promoted by alternatives to military service in law;
- (c) Encompass a variety of alternatives spanning various sectors, and States should consider including alternatives outside the public sector, as appropriate. States should also consider how to take into account the preferences of conscientious objectors for placement in alternative services;
- (d) Not be punitive or discriminatory.

57. States should also take other measures to respect and ensure the right to conscientious objection to military service. To this end, States should:

- (a) Refrain from unduly restricting the rights of those advocating for the rights of conscientious objection to military service or conscientious objectors;
- (b) Implement appropriate measures, including education and training, to foster a culture of respect for conscientious objection to military service within relevant parts of the public administration and in the broader society;
- (c) Implement a participatory approach in the development and review of laws and policies related to conscientious objection to military service with the involvement of affected stakeholders.

58. States should respect and protect the rights of conscientious objectors arriving from third States, including through adherence to the principle of non-refoulement and international human rights and refugee law and the implementation and dissemination of guidance on the interpretation of applicable international law, such as the UNHCR guidelines on international protection on claims to refugee status related to military service.”¹⁴

SUGGESTED QUESTIONS

- Please, provide details about the contemporary system of compulsory military service, as well as about the system for volunteers / professional members of the armed forces.
- Please, provide details, as for the legislation and practice concerning draft evasion and desertion or other similar or relevant offences (e.g. disobedience to orders), which could affect, *inter alia*, conscientious objectors to military service. Please, also provide statistics on such offences.
- Please, cite any legislative provisions concerning the right to conscientious objection to military service for any person affected by any kind of military service, including conscripts, reservists, and volunteers / professional members of any kind of armed forces. If there aren't any such provisions, please, provide details for any plans to introduce such legislation.

¹⁴ UN Human Rights Council, Conscientious objection to military service, Report of the Office of the United Nations High Commissioner for Human Rights, (A/HRC/56/30), 23 April 2024, paras. 54-58. <https://undocs.org/A/HRC/56/30>