



BY HON. THOMAS J. WALSH

Morocco:

A Wisconsin Judge's Perspective



Now that most pandemic-related restrictions have been lifted, travel outside the U.S. is once again a possibility, including, for lawyers, trips with a continuing legal education component. Here are highlights of one Wisconsin judge's recent trip to Morocco.

Hassan II Mosque in Casablanca. Photos: Thomas Walsh





Morocco¹ was one of the first nations to recognize the United States of America as an independent country, opening its ports to American ships by decree of Sultan Mohammed III in 1777.² Morocco formally recognized the U.S. by signing a treaty of peace and friendship in 1786, and this agreement remains the longest unbroken relationship in U.S. diplomatic history. Since these early ties, the U.S. and Morocco have developed a long tradition of working together on various issues.

In February 2023, I had the privilege of participating in the CLE Abroad trip to Morocco. This trip was conducted in cooperation with the State Bar of Wisconsin and included members of the Indiana, Nebraska, and Pennsylvania bar associations. It was an amazing experience for the Wisconsin delegation. The program was organized by Dani Perez, who previously worked with the State Bar of Wisconsin in organizing a trip to Cuba in February 2019. Perez accompanied us on the trip to Morocco, but the trip was led by two local guides – one from Fez and one from Marrakesh.

Brief History of Morocco

The recorded history of Morocco³ begins with Phoenicians arriving on the Moroccan coast between the eighth and sixth century B.C.E. However, there were indigenous people, known as Berbers or Amazigh people, living there before that time. In the fifth century B.C.E. the Carthaginians occupied the coastal areas. Eventually, the Carthaginians were supplanted by Romans, who controlled the area for many centuries. Various tribes took control of the region after the fall of the Roman Empire, but the Byzantines took control in the sixth century. The area was conquered by Muslims in the eighth century C.E. Various royal dynasties ruled Morocco and the surrounding region until the Alaouite dynasty came to power in 1667. That royal family has ruled in Morocco until the present day.

In the early 20th century, France and Spain established control in Morocco, although they did so without deposing the Moroccan king. Following World War II, the move by nationalists for Moroccan independence gained momentum. King Mohammed V, part of the Alaouite

royal family, vigorously supported these calls for independence and was subsequently exiled to Madagascar in 1953. This enraged nationalists even further, such that opposition to French control grew more fierce. As a result of this increased opposition as well as the unification of the Moroccan people behind Mohammed V, France returned the king from Madagascar and began negotiations for Moroccan independence. In 1956, France relinquished its protectorate and Morocco became independent.

The situation with Spain was slightly different. Spain relinquished portions of its Moroccan holdings, but it did not release all of them. Spain still retained control over the territory known generally as Western Sahara and by the Moroccans as Moroccan Sahara. (For purposes of this article and to distinguish the Moroccan-claimed portion of the Sahara from the rest of the Sahara desert, I use the term Moroccan Sahara.)

In 1966, a United Nations resolution called for a referendum on the future status of Moroccan Sahara. Morocco opposed this referendum because of its perceived historical ties with the people of the territory. They believed the territory should become part of Morocco. In 1976, Spain ceded the administration of the territory to Morocco and Mauritania. Morocco assumed control over the northern two-thirds of the territory and Mauritania the southern one-third.

In the meantime, an independence-minded rebel group formed and became known as the Polisario. This group was supported by Algeria. After fighting continued between the Polisario on one side and Morocco-Mauritania on the other side, Mauritania pulled out of Moroccan Sahara. Mauritania signed a peace treaty with the Polisario and ceded its territory to Morocco. That left the Polisario, with the support of Algeria, confronting Morocco, and that is where the matter stands today. Morocco controls most of Moroccan Sahara, and relations between Morocco and Algeria could be characterized as “strained” at best.

The Morocco of the Present Day

Freedom of Speech. Because this trip involved speaking with and obtaining information from many Moroccan residents, freedom of speech was a concern. One Moroccan attorney we

SUMMARY

In February 2023, Judge Thomas Walsh, who sits on the Brown County Circuit Court, participated in the CLE Abroad trip to Morocco. The trip was conducted in cooperation with the State Bar of Wisconsin and included members of the Indiana, Nebraska, and Pennsylvania bar associations.

The trip participants met with members of the local bar associations, members of local government, business owners, representatives from the U.S. Department of State, and religious leaders. This article describes some of the highlights of the experience.



spoke with suggested that freedom of speech exists in Morocco except for three areas: personal criticism of the king, criticism of Islam, and opposition to the official government position on Moroccan Sahara. On these topics, it was suggested, freedom of speech can be problematic and punishment could be arbitrary. While all members of the delegation kept this in mind as we listened to our hosts, we heard some criticism on each of these topics as we openly discussed issues with our hosts.

Religion in Morocco. More than 90% of Moroccan residents are Muslim: followers of Islam. People who identify as Christian or as Jewish make up sizable, distinct minorities. Many Americans have a view of Islam that ties it closely with terrorism and mistreatment of women. This article is far too limited to address all the reasons that lead to those perceptions, yet it takes little reflection to realize that terrorism and mistreatment of women have occurred across cultures for centuries. Choosing to overlook the vast majority of very good people who practice Islam and labeling them with these very negative concepts is more of an indictment of the people who apply the labels than of Islam.

One of the most memorable aspects of the trip was learning about Islam in Morocco. A visit to the Hassan II Mosque in Casablanca with a local guide was very enlightening. It is in the top 10 of the largest mosques in the world and has the tallest minaret in the world. There is no doubt that the mosque represents the commitment the country has to its Muslim identity. Especially



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striking to all participants in the delegation was hearing the muezzin call the faithful to prayer throughout the day in every community we visited.

A Constitutional Monarchy.

Morocco's form of government is constitutional monarchy, similar to that of the United Kingdom. The king, Mohammed VI, gains much of his legitimacy from the fact that he claims to be descended from the prophet Mohammed. There is much less commitment to the rule of law and many fewer restrictions on royal power in Morocco than in the UK. The delegation and people we met discussed corruption in the government, the judiciary, and other aspects of Moroccan life. Responses varied depending on the source, but invariably the people with whom we spoke had favorable views of the king. While everyone seemed to recognize the existence of corruption, most people seemed to think the country was improving in terms of recognition of individual rights and redress of certain grievances with the government. Nonetheless, it was clear that there is still a long way to go.

One of the most memorable aspects of the trip dealt with our experience learning about Islam in Morocco.

Treatment of Women. Another topic that came up when we met with members of the legal community was the treatment of women in Morocco. As an extension of this conversation, the delegates were also interested in how Islam affects perceptions of women. This was an area wherein some of the claims of egalitarianism started to wear thin. Discussions about women's rights varied from women in business, politics, and religious life. However, such conversations always seemed to end up with a discussion of the treatment of women under the family law code.

The Moroccan parliament passed a new family code, called the Moudawana, in February 2004. This law was seen as a landmark in reform regarding the status

of women. It ostensibly placed women on an equal basis with men in family law issues, including divorce. Nonetheless, while passing a new law is significant, ensuring that judges enforce it is just as important and this has been a problem – particularly for women in rural areas.

From my perspective of being a judge, I was interested in the performance of my judicial colleagues in Morocco. There are some women judges in the Moroccan legal system, which is a very positive aspect of the justice system. However, women's rights must further evolve in Morocco before women are equal with men, and members of the judiciary have work to do in enforcing the equality of women under the Moudawana.

A Sense of Optimism. It is very important to note, however, that despite some corruption and a self-recognition that much work remains to be done, our group observed a sense of optimism in many of the Moroccan people with whom we spoke. Even many of those who mentioned women's rights and issues of corruption and the need for further work expressed a sense of opti-

mism for the future and a commitment to fight for justice, equality, rule of law, and clean government.

It was especially refreshing to hear this sense of optimism from the legal community, a profession dedicated to the survival of individual rights. Most members of the legal community expressed an understanding of some of the shortcomings in their society, but they also suggested that things will get better. Members of the Moroccan legal community continue, just like their American counterparts, to fight against efforts to pull society back to times when justice was lacking.

Moroccan Family Life. The delegation had an opportunity to discuss Moroccan family life with presenters and with

Moroccan families as we spent time in their homes. As with families in the U.S., the interactions vary from household to household, but those families very much reflect the culture in which they live. Morocco is no different. There was clearly love and respect in the families whom we visited, between spouses and between parents and children. This varied from home to home because the extent to which families are religiously active affects the conduct of the family.

Diplomacy and the Moroccan Sahara.

Morocco is also dealing with an issue of international dimensions with respect to the territory of Moroccan Sahara. As noted above, this issue is a remnant of the end of colonialism in Africa. The United Nations resolution calling for a referendum in Moroccan Sahara seems unlikely to be enforced, and the issue has become a litmus test for good relations with the Moroccan government. That is, if another nation supports Morocco's

position on Moroccan Sahara, that nation is likely to have warm diplomatic relations with Morocco. If another nation supports the United Nations' position on this issue, that nation is unlikely to have warm relations with Morocco.

During the Trump administration, the position of the United States changed from supporting the United Nations resolution calling for a referendum to one in which the U.S. supports

economic cooperation between the two countries. While currently the European Union is the largest trading partner of Morocco, the trading relationship with the United States is growing.

The Travel Experience – CLE Abroad

The Wisconsin delegation to Morocco visited the cities of Casablanca, Fez, Rabat (the capital), and Marrakesh, and some participants took excursions to

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Morocco's claim to Moroccan Sahara. Although some people in the U.S. government have called on President Biden to reverse course on that decision, he has not done so. This position on Moroccan Sahara has improved U.S. ties with Morocco and helped spur further

the desert. We also visited the site of the ancient Roman city of Volubilis, which was remarkably preserved from its status as the southernmost border city in the Roman Empire.

Besides meeting with members of the local bar associations in the cities we

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visited, we met with members of local government, business owners, representatives from the U.S. Department of State, and religious leaders. We visited leather manufacturers, Moroccan rug manufacturers, and other members of Moroccan domestic and export businesses. We visited a ceramics manufacturer, where each bar association was presented with a customized ceramic bowl with the association's respective bar symbol embossed prominently.

We also traversed the medinas and visited the souks where local residents sell their goods and serve delicious foods. Finally, the delegation was divided into small groups to have meals with local families in their homes. These experiences gave participants a full flavor of Moroccan family life and culture.

Conclusion

As many travelers do, we went to Rick's Cafe because in Casablanca "everyone goes to Rick's!" But the Moroccan culture cannot be deeply revealed by watching the 1940s classic movie *Casablanca* nor by visiting the café. Moroccans are not living in a perfect society, yet they do not lay claim to that. Women's rights are not where they should be – especially in rural areas. Morocco is a very diverse culture where religion plays a big role, but the concept that religion and government need to be separate is starting to germinate. Many of the people and members of the legal community we met (most of whom were in urban areas) seem to be optimistic for the future of their country.

For those interested in combining continuing legal education and travel outside the U.S., I encourage you to



Wisconsin delegation at Rick's Cafe in Casablanca (From Left: Charlie Skendziel, Attorney Nicole Rizzo (from Pleasant Prairie and spouse of Charlie), Attorney Tiffany Highstrom (from Madison), Judge Thomas Walsh, William Schwartz, Attorney Cassel Villareal (from Beaver Dam and spouse of William))

explore future opportunities with CLE Abroad. To learn more about what an experience like this involves, please see Joe Forward's article titled *Cuba: A Perspective from Wisconsin*.⁴ It outlines

the experience of the State Bar delegation to Cuba, referenced above, in 2019.

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ENDNOTES

¹This trip occurred and this article was written before the magnitude 6.8 earthquake with epicenter just south of Marrakesh on Sept. 8, 2023. Therefore, the writing of this article is dedicated to our two Moroccan guides, Hicham Chakir and Mohamed Taha Mahmoudi, who survived this tragedy as well as to the people of Morocco who fight on in the face of devastation.

²U.S. Dep't of State, *U.S. Relations With Morocco* (June 6, 2022), <https://www.state.gov/u-s-relations-with-morocco/>.

³Much of the information related in this section was derived from information shared by our local guides and speakers; the notes of these conversations are on file with the author. For additional discussion of the history of Morocco, see BBC News, *Morocco Country Profile* (updated June 20, 2023), <https://www.bbc.com/news/world-africa-14121438.amp>.

⁴Joe Forward, *Cuba: A Perspective from Wisconsin*, 92 Wis. Law. 24 (April 2019). **WL**