

Religious Alignment and Criminal Justice Legitimacy in Morocco

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Abstract

This study examines perceptions of criminal justice legitimacy in the Kingdom of Morocco. Through qualitative interviews from thirty-six participants, data were collected over six months in Tangier, Morocco. The results reveal the underlying frameworks that participants utilized to conceptualize criminal justice legitimacy through religiously oriented critiques. The broad spectrum of experiences and perceptions on whether the criminal justice system aligned with participants' own moral/religious interpretations produced four categories: (1) the Moroccan criminal justice system as congruent with their religious interpretation and legitimate; (2) the system as deviant from its essence and can be legitimate only if it reforms to its pre-colonial Islamic origin; (3) the system as an illegitimate, alien, anti-Islamic institution that is irreconcilable with their religious interpretation; and (4) and finally, those that identify the criminal justice system to be a secular institution centering legitimacy in the realm of universal human and civil rights rather than religious beliefs. The overall results provide alternative insights into criminal justice legitimacy, address literature limitations with policy implications on southern criminology.

Keywords

Arab criminology, criminal justice legitimacy, Morocco, religion, North Africa

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INTRODUCTION

The research on criminal justice legitimacy has undergone several paradigm shifts in the last forty years. Before Tyler's *Why People Obey the Law* (1990), distributive justice dominated the discipline as Sarat contended back in 1977, "the perception of unequal treatment is the single most important source of popular dissatisfaction with the American legal system" (p. 434). Tyler's research rendered procedural justice the prominent theoretical approach to criminal justice legitimacy (Bottoms & Tankebe, 2012). The word legitimacy derives from the Medieval Latin word *legitimus* or lawful, which connotes legality, fairness, and justice. Legitimacy is defined as the "psychological property of an authority, institution, or social arrangement that leads those connected to it to believe that it is appropriate, proper, and just" (Tyler, 2006, p. 375). Tyler (2003) argues that the public will comply and cooperate with criminal justice actors when they perceive the system as legitimate; conversely, an illegitimate system would lead citizens to cynicism and criminal activity (as cited in Gau, 2015). Numerous studies substantiate Tyler's claim that fairness in the processes is of greater significance to legitimacy than outcomes (Tyler, 2000; Reisig & Chandek, 2001; Belvedere et al., 2005; Gau & Brunson, 2009; Walters & Bolger, 2019; Nagin & Telep, 2020). Increasingly, scholars have called for a disparate approach to legitimacy that moves beyond procedural justice (Smith, 2007; Tyler, 2007; Bottoms & Tankebe, 2012; Tyler & Jackson, 2013; Tankebe, 2013; Tankebe & Liebling, 2013; Sun et al., 2018; Nivette & Akoensi, 2019).

In the legitimacy research, the perception of whether the justice system represents the beliefs, values, and morals of its citizens is a concept of substantial interest to researchers (Beetham, 1991; Tamanaha, 2001; Coicaud, 2002; Bottoms & Tankebe, 2012; Tankebe, 2013; Cheng, 2018). Beetham (1991) argued that rules and laws are generally justified by the norms and values of the given society, indicating, "without a common framework of belief...the powerful can enjoy no moral authority for the exercise of their power, whatever its legal validity; and their requirements cannot be normatively binding, though they may be successfully enforced" (p. 69). Coicaud (2002) suggests, "the authority of the law . . . rests on the belief that legality is the expression of the values of the society" (p. 24-25). In liberal democratic governments, a system's values are morally aligned with the public as the legislature and criminal justice actors presumably serve on their behalf and reflect society's values. However, in many nations of the Global South whose criminal justice systems were transplanted by colonial

powers or ruled by an authoritarian government, the system tends not to reflect nor represent the governed. These governments produce alternative strategies toward trust, legitimacy, and collaboration that require further examination (Karstedt, 2013).

In the legitimacy literature, the comparative context remains abysmal, with imperative research needed to test the generalizability of Western approaches that have not been applied clearly to the Global South (Tyler, 2007; Smith, 2007; Tankebe, 2008; Bottoms & Tankebe, 2012; Tankebe & Liebling, 2013; Bradford et al., 2014; Jackson et al., 2014; Trinkner et al., 2020). Part of the effort in this study is to move beyond the frameworks set within Northern approaches that have dominated the discipline and expand research in the Global South through the analysis of dynamics that shape legitimacy (Carrington et al., 2016). Morocco is a country in a region with no previous studies regarding the legitimacy of the justice system. This paper will reveal the prominent role of religion in the perceptions of criminal justice legitimacy. Sunshine and Taylor (2003) contend that citizens will internalize the system if society's moral values align with criminal justice institutions.

The religious-based responses are unsurprising in a semi-authoritarian monarchy. In societies across the Global South, religion, spirituality, and the supernatural are critical factors that shape perceptions of crime (Cross, 2018; Seto & Said, 2022). For over a millennium, Moroccan sultans and monarchs legitimized their reigns and security apparatus through religion. The use of long-established religious approaches and a distinctive Moroccan/Islamic narrative has effectively justified the monarchy's domination of Morocco. The monarchy has formulated its legitimacy through the use of present-day Islamic rituals of power that include the *bay'a* (public oaths of allegiance practiced since the time of Prophet Mohammed), the King's *sharif* lineage (claim of being a direct descendant of Prophet Mohammed), the position of *Amir al Mu'mineen* (leader of the religious faithful), and mystical *baraka* (divine blessing) to reinforce the monarchy's hegemony and legitimacy (Daadaoui, 2010). Additionally, the current King has promoted an image abroad as the regional frontrunner of moderate Islam through its training of male and female imams (a leader of worship services) from several African and European countries. The monarchy's absolute oversight of every state institution and total control over the dissemination of information has conveniently yielded a monopoly over the narrative on religious/political legitimacy and the suppression of alternative versions.

Despite these authoritative strategies passed down from reign to reign, the contemporary expansion of civil society, new media, and the regional events of the last

two decades have exposed Moroccans to an array of ideas, political systems, and religious interpretations that were not readily accessible in the past. The events of the Arab Spring challenged the state's traditional narratives and are continuously reshaping Moroccan perceptions of state institutions, including that of the criminal justice system. The reforms presented by the Moroccan government after the Arab Spring were unsatisfactory in the perception of many citizens, and the state has used heavy-handed tactics against public dissent brought by the unequivocally critical Herak Rif movement, a protest movement that took place late 2016 through 2017 in the ethnically Berber-speaking Rif region of northern Morocco. Bottoms and Tankebe (2012) claimed that legitimacy is dialogic, where an authority has a dialogue with different audiences of claims about the authority's legitimacy. In Morocco, the dialogic claims of legitimacy by the powerholders are explicit. The monarchy continues to hold the ultimate authority over a hierarchical and centralized criminal justice system that has devised copious religious, political, and traditional legitimacy claims. The paper will present audience legitimacy; Moroccan perceptions, experiences, and responses to the state's claims of criminal justice legitimacy.

Several research questions guide this study on the perceptions, experiences, exercise, and formulation of criminal justice legitimacy in Morocco. Although procedural justice has dominated legitimacy research, many academics dispute the claim "that procedural fairness is the sole or central foundation of legitimacy in all societies at all stages of development" (Smith, 2007, p. 31-32). Legitimacy varies contextually, requiring an analysis of the unique relationship between a society and its authorities. This research presents evidence to support the challenges made by various scholars to the procedural justice literature by revealing how legitimacy is perceived in an unconventional non-Western/non-democratic context. This is the first study to examine and explore criminal justice legitimacy in Morocco utilizing the following research questions:

- How do Moroccans conceptualize criminal justice legitimacy and what are the factors that shape their perceptions?
- How is criminal justice legitimacy exercised in a semi-authoritarian monarchy? What factors explain the preservation of criminal justice legitimacy in Morocco despite the comparable development indicators to other nations in the region that were overthrown in the Arab Spring?
- What claims does the Moroccan state make towards criminal justice legitimacy and how does the monarchy maintain it amongst its citizens?

- Does the economic, political, cultural, and sociological context shape legitimacy; and does the state's legitimacy extend to the criminal justice system?
- What strategies does the criminal justice system employ to formulate legitimacy and what is the process in which legitimacy is produced and negotiated? Is the process effective or deleterious; and what steps can the criminal justice system take to enhance legitimacy?

CULTURAL CONTEXT: RELIGIOUS ALIGNMENT TO FRAGMENTATION

Monarchs, sultans, and emperors have held a monopoly over Morocco's religious discourse for over a millennium. The *Maliki* school of thought, an orthodox Sunni Islamic ideology, and adherence to Sufi brotherhoods have been the essence of Moroccan cultural, national, political, and social identity. Historically, the monarchy had to share its religious authority. The monarchy and military enforced the law, while religious interpretation was shared between the *'ulama* (Islamic scholars) and *zawaya* (religious schools and monasteries). The Islamic criminal justice system of the past was based on *shari'a*, a word that means "a path to be followed." The sources of criminal law include the 1) Quran (the primary religious text in Islam), 2) the Sunnah (the traditions and practices of the Prophet Mohammed), 3) *ijma'* (consensus from scholars), and 4) *qiyas al fuqaha* (analogical deduction by jurists) (Kamali, 2008). Punishable offenses were categorized into *huddud* (fixed punishments for offenses against God) *qisas* (violations against the rights of humans; *lex talionis*), and *ta'zir* (violations that are unspecified in the Quran and Sunnah that require judicial discretion). The *qadi* (judge) was at the helm of the court, and the *mufti* was the legal scholar advising the courts to ascertain the truth, determine responsibility, and interpret laws (Bassiouni, 1982).

After Morocco gained independence, the monarchy sought to dominate and marginalize all religious institutions. In ratifying Morocco's first constitution in 1962 and suspending it in 1965, King Hassan II (1961-1999) consolidated his power. The monarchy became a "sacred and inviolable" institution with the right to "deliver addresses to the nation and to the parliament and shall not be subject to any debate" (Geertz, 1968, p.88). This move allowed the King to seize complete control of the religious authority and align citizens under one narrative under his 38-year reign.

In the current reign of Mohammed VI (1999 to present), the internet, new/social media, and the rise of pan-Arabic satellite stations have provided alternatives to state-controlled information. Unlike the reign of Hassan II, Moroccans today openly discuss discordant Islamic paradigms, including those that challenge the state's monopoly on religious interpretation. The conditions have created a competitive market for interpretive pluralism that has enhanced the religious economy. As a result of the growth of civil society and new/social media, there has been a broader spectrum of promulgated Islamic movements that either support or challenge the official religious discourse. These movements have critical implications for the state as they not only influence the religious worldviews of its followers; they also shape perceptions of the government, its politics, and the criminal justice system for this study. As Finke and Stark (1988) conclude in their empirical article on religious participation, "a natural consequence of an open religious economy is a religious pluralism that forces each religious body to appeal successfully to some segment of the religious market, or to slide into oblivion" (p.47). The last two decades fragmented the state's domination of the religious sphere and provided Moroccans the opportunity to be consumers of transnational Islamic religious ideologies.

METHODS

In assessing the Moroccan criminal justice system, this study examines the factors that generate legitimacy and cynicism. For this project, data was collected from in-depth semi-structured interviews with a purposive sample of 36 participants for six months in Tangier, Morocco. Tangier is one of the largest and fastest-growing cities in Morocco. Marshall and Rossman's (2014, p. 55) criteria informed the selection of Tangier as the research site that incorporates: the possible entry into the site; the high probability that a rich mix of the processes and people that are part of the research questions will be present; the researcher's ability to maintain continuity of presence for as long as necessary; and finally making sure that the data quality and credibility are reasonably assured. More than any other city in Morocco, Tangier was most accessible due to the researcher's long-established relationships and rapport with various gatekeepers. The gatekeepers offered a variety of credible participants that provided quality data and fulfilled the criteria set for data collection. Participants met the researcher in one of four

neighborhoods in Tangier that include Beni Makada, Mershan, Boulevard Pasteur, and Grand/Petit Socco. Participants lived close to the areas or were required to be in the vicinity for other personal reasons. The city of Tangier was the most feasible location due to the familiarity with the numerous sites, the continued development of rapport, and the accessibility of prospective participants.

In selecting participants, the study sought a diverse sample of participants over the age of 18 that were Moroccan nationals and had extensive knowledge (post-graduate degree) and experiences working in or with the Moroccan criminal justice system. All participants were selected through non-random purposive sampling due to the techniques' high regard for and focus on an individual's subjective and unique perceptions. Purposive sampling is used in research to identify and select individuals that are knowledgeable or experienced for an effective use of limited resources (Patton, 2014; Creswell & Clark, 2017). The sampling size of 36 participants is modest. The participants for this study belonged to a broad range of demographic backgrounds. Out of the 36 participants, 28 males and only eight females were interviewed. Although male/female dynamics have progressed in Morocco, specific gender roles remain firmly fixed, and access to female participants proved challenging. Two of the eight females interviewed, for example, agreed to participate only if their spouses could sit in the interviews. For this study, the ethnicities included 23 self-identified Arab and 13 self-identified Amazigh. Many participants also identified themselves with a specific value system. Participants identified themselves as members of a particular political party, socialist, Islamist, leftists/former leftist, conservative, while the majority claimed no specific ideological, religious, or political affiliation. The participants' professional occupations varied, and each interview took place in a public setting.

The face-to-face interviews lasted between 60 to 90 minutes per meeting; however, four interviews continued for two hours. Twenty-seven participants participated in a second interview to discuss further, clarify, expand, and member check the material from the initial responses. The questions focused on the conceptualization of criminal justice legitimacy; the strategies, claims, manner, and processes the state produces and negotiates legitimacy; the factors that preserve criminal justice legitimacy; the factors that shape participants' perceptions; and the steps participants believed would enhance the criminal justice system's legitimacy. All interviews were audio-recorded except nine participants who felt more comfortable if the interview was documented by shorthand. The researcher received approval from the University's Institutional Review Board and followed all ethical guidelines including informed voluntary consent, the assignment of

aliases to protect the participants' confidentiality, a discussion on the risks and benefits, as well as the encryption of all data collected. The interviews were transcribed verbatim in Moroccan Arabic (*Darija*), translated into English, and coded for emergent and recurring themes. Thematic analysis with components of grounded theory (Glaser & Strauss, 2017) identified relevant themes embedded in the data. The study utilized a constant comparative method (Corbin & Strauss, 2014) to analyze the responses line by line and classify the codes from the data. The codes were reduced to categories of themes and subthemes, with all unused data reserved in separate categories. The themes identified in the interviews focused on how participants' conceptualized legitimacy through their perceptions of justice and morality in religious interpretive frames.

RESULTS

The Moroccan criminal justice system is legitimate and in alignment with their interpretation of Islam.

The first category of participants believes that the criminal justice system in Morocco is legitimate because of its alignment with their religious interpretations. These participants argue that criminal justice legitimacy is built on recognizing the monarchy's authority as *Amir al Mu'mineen* (leader of the religious faithful), the support by the nation's *ulema* (religious scholars), and the enforcement of the traditional values that they claim the majority of Moroccan society ascribes. Raheema (all names henceforth are pseudonyms) explained that:

The justice system symbolizes us and aligns with our religious principles. The King and the scholars we have in Morocco would not abandon them. We recognize that the system has flaws and we might not agree with everything within it but this is the system we have and I would disagree with those that claim it is illegitimate or un-Islamic. We can all work within it for its improvement that's what the parliament is for.

The participants in this category are loyal to the monarchy and unreservedly accept its narrative. Like Raheema, participants believe that the monarchy's legitimacy stems from his position as *Amir al Mu'mineen*, the protector of Islam and its values in society. The position held by the King ensures that the criminal justice system is following

Islamic/Moroccan values. Participants have also cited the role of the *ulema* as further substantiation in their function as the guardians of Morocco's religious and legal traditions. Some participants recognize their lack of independence from the state but still argue that their voice can be critical in censuring the criminal justice system if it chooses to do so. Other participants have also bolstered the criminal justice system's claims of legitimacy through the role of parliament. Although Morocco is not a Western style liberal democracy, there is a recognition that elected representatives have the power necessary to enable processes to deal with citizen grievances against the criminal justice system.

While accepting the authority of the Moroccan state, participants had expressed their perceptions of which moral values made the criminal justice system more legitimate while criticizing others that might argue for a more punitive religious interpretation. Mohammed commented,

Criminal justice legitimacy is enforcing rules and laws of the country that represent the people. For those that believe it is not representative of our values and morals run for office and try to change them. We all know that we are a moderate Muslim country that does not want the laws of Afghanistan or Saudi Arabia or criminal punishments of the past. We apply Islamic law as our modern scholars understand it for our time, for the benefit (*maslaha*) of our country and its citizens.

Participants in this category continuously felt the obligation to authenticate their interpretations that align with the state. They defended their position by presenting their views as moderate, progressive, and aligned with traditional Moroccan values. One of the keywords that participants used in their description of criminal justice legitimacy dealt with the concept of *maslaha*. The concept is of great significance and invokes setting rules based on whether it will serve the public interest or the common good, a utilitarian law perspective. This concept is in line with the famous scholar of Islamic jurisprudence, al-Shatibi, who argued that religion relates to the relationship between God and man while *maslaha* should focus on laws on the relationships between people and others like Mohammed 'Abduh, *maslaha* reconciles modern Western values with Islamic law (Ahmed et al., 2018). This approach was perceived to be progressive according to participants aware of this concept since it harmonizes religious principles with international standards. This balance by the criminal justice system between these various ideals was perceived to present the perceptions and values of most Moroccans and therefore increased its legitimacy.

Participants were also quite judgmental of others that questioned their perceptions of criminal justice legitimacy. The participants in this category kept asking rhetorically, “What does an Islamic criminal justice system mean?” Amine, one of the respondents from the participant majority that had no affiliation with any religious organization, remarked:

Is there such thing as an Islamic policing system? Or Islamic prisons? Do we really want religious police like those in Saudi Arabia that enforce their own interpretations of what society should be like? Our religious tradition as followed by our forefathers in Morocco is about choice. You can't force people to practice religion it goes against logic. People would just follow out of fear and not because of the spiritual obligations we have to God. It takes out sincerity from acts which is the most important concept behind deeds.

Cognizant of the criticism against their perceptions, participants repeatedly referred to fundamentalist Muslim majority countries like Iran, Saudi Arabia, and Afghanistan as examples that Morocco should never follow. Participants in this category criticized criminal justice in those countries and contended that there is no benefit in applying *huddud* (fixed punishments for offenses against God) punishments in Moroccan society. The system they believed should focus on the spirit and not the letter of Islamic principles. Amine, for example, had emphasized that the criminal justice system should be about the spirit of Islamic justice through the maintenance of security and the protection of society rather than the old-style punishments prescribed for certain crimes and practiced by some other Muslim majority countries.

Although participants perceived the system to be legitimate and in alignment with their religious interpretations, they also recognized the problems in the Moroccan criminal justice system. Chief among those identified were corruption, misconduct, and ineffectiveness. However, these issues were attributed to criminal justice actors rather than the legitimacy of the system as a whole. Abdelilah explained:

Look the problem with our system's legitimacy is not with the type of laws that are there. They represent us and what we believe. The problem is not with the system but with the people working in it. Every country has corruption at some level and Morocco is no exception. The problem we have is with those in the criminal justice system that are corrupt. We just need to implement the laws we have and those caught should be punished to deter others.

Corruption, misconduct, and ineffectiveness are a couple of the factors mentioned by participants that continue to pervade and contribute to the system's negative

perceptions. However, like Abdelilah, some participants in this category separated these negative factors from the system's legitimacy. The system was believed to have procedural laws to confront these problems and therefore blamed these deficiencies on individuals working in the system for not implementing the established rules. Participants understood that problems in criminal justice are universal but affirmed that officials in the system are to blame rather than the legitimacy of the system as a whole.

The Moroccan criminal justice system had deviated from its essence and can be legitimate only if it reforms to its Islamic origin.

The second category of participants believed that criminal justice has diverged from its Islamic core but could become legitimate if it reformed and re-aligned with their religious interpretation. The consensus amongst these participants was that the criminal justice system must enforce and implement Islamic values to be legitimate. These values vary, but most participants included the Quran, the Sunnah, *fiqh* (Islamic jurisprudence), and the concept of *maqasid* (later explained) as sources for the values enforced in the criminal justice system. Participants were also outspoken about characteristics of the criminal justice system they perceived to conflict with their religious values. The main characteristic raised was the discrepancies in the treatment of citizens based on social status in society that clashed with participants' religious values and sense of a legitimate system. Regardless of the list of inadequacies that delegitimized criminal justice, participants were confident that society could optimistically transform the system. Overall, the participants in the category perceive contemporary criminal justice as misguided and in dire need of reform.

When asked about what he meant by a legitimate system based on Islamic values, Anas explained:

Legitimacy of the criminal justice system should be based on the laws of God. The West might complain about the harsh punishments in the *Khaleej* (Arab Gulf states) but the people there support it. I am sure without a doubt that in the whole world the *Khaleej* (Arab Gulf states) has the lowest amount of crime. Where in this world can you find a country where if you forgot something you can find it if you return there hours later? Our criminal justice system is ineffective and based on a system that was designed by someone somewhere in Europe that doesn't know or care for our people here. The system has failed us that is why crime is uncontrollable.

The discussion on a legitimate criminal justice system grounded on Islamic values had a wide range of ideas and notions. Some participants considered the criminal justice systems in other Muslim countries as examples, while others gave their opinions on the role of the King, the state, and other political figures in an Islamic system. Fatima evoked an aversion to a hereditary monarchy and preference for “an Islamic republic that combines society’s spiritual and material needs” as a means to building a legitimate criminal justice system. All participants agreed that a legitimate system would use the Quran and Sunnah as the primary sources for the criminal justice system but even amongst scholars, the interpretations of these sources are often complicated and can vary depending on the context. The idea of Islamic justice, a similarly vague term, was also repeated quite often by these respondents. When asked to conceptualize the term, some participants pondered on their insights on Islamic jurisprudence and divine justice. When inquired on what makes a criminal justice system legitimate and Islamically just, Rachid answered:

When you asked me the question on criminal justice legitimacy and Islamic justice, I am reminded of what Si-Abdesalam said. He always said that if you want justice in society, in the criminal justice system, in the government then we are obligated to listen to the guidance of God in these matters. Si-Abdesalam said that we must ask what does God tell us about these topics and follow the concept of justice described to us in the Quran. What does God say regarding the rights of men and women, how we should deal with criminals and their victims, and what kind of person should be a judge, police officer, and work in the system. Because in order for us to have a stable system of government and healthy society the government is obligated to implement what God has revealed to us as the right way to govern. But I have to say that the general people also need to follow the Quran and Sunnah because that is how we purify and use a religious approach to criminal justice. The state and the people both need purification since together they make it illegitimate.

Other participants were able to clarify the concept of Islamic criminal justice through various perspectives of *maqasid*. The *maqasid* relates to the objectives of Islamic law of preserving five fundamental rights; life, religion, reproduction, property, and reason. The protection of life, property, and the practice of religion is universal, but the protection of reproduction and reason differs from other legal traditions. The latter two are forms of moral regulation as the right to reproduction protects the family, its lineage, and progeny against extramarital sexual relations. While protection of reason aims to save the intellect from substances (intoxicants) that might weaken its ability to

function. Participants were adamant that a legitimate criminal justice system would protect these five fundamental rights even if they undermine individual civil liberties. Ramadan, an older participant that has lived between Morocco and Norway, provided some insight into what he would like to see in Morocco when comparing criminal justice in the countries of his dual citizenship:

Yes, Europe is a more just society than Morocco but should we have their system here? No, because the laws they have do not represent the people here. We don't want to legalize prostitution, pornography, or have complete freedom of speech to insult anyone or thing you want. We want European organization and order. But we also want to establish justice based on Islam through education, and the prevention of hardship for people and by getting rid of oppression. We also want to uphold morality in public and private according to our religious teachings.

In the interview, Ramadan's personal experience in Europe was positive as he depicted the criminal justice system in Norway as just and legitimate for the Norwegian people. Despite his positive perception, Ramadan did not believe that Norwegian criminal justice was appropriate for Moroccans mainly because of the distinctions between the divergent moral values. As quoted, Ramadan aspired for the organization, order, and professionalism displayed by Norway's officials but would also prefer enforcing Islamic values. In his interview, Ramadan spoke disparagingly towards the Moroccan criminal justice system and its numerous inadequacies. Like Ramadan, other participants repeatedly questioned the system's legitimacy in the particular deficiencies that directly opposed their understanding of Islamic principles. Of those mentioned, the most significant contradiction with Islamic values was the differential treatment between the underprivileged and the country's powerful. Unlike the former category that identified the system as legitimate, these participants not only attributed these deficiencies to criminal justice actors but placed the responsibility of failure on the system itself. Equal treatment by the law is recognized as a universal value, but for participants, the emphasis in Islamic morals and law on protecting the rights of those in the lower stratum of society is one of the fundamental teachings of the religion. The restoration of a criminal justice system grounded on Islamic values was perceived to prevent the exploitation of society's poor and weak and increase the general population's confidence in the system.

Notwithstanding the perceived departures in criminal justice from their religious values, participants were prudently hopeful in improving the system's legitimacy. As Walid, one of the participants, commented:

These past few years have brought some hope to the Arab countries. The Arab Spring with all its successes and failures still shook up the governments. In Morocco, we are doing better than other countries. We have an Islamic party in the government that has done well unlike other Arab countries that don't allow any other viewpoints that might challenge the government. It is an admirable sign of our government that we can let the party that won an election be in power. It gives us more rights to speak out about the concerns we have about the criminal justice system since we can now use politics and our parliament to make the necessary reforms.

Though participants deplore the deficiencies in legitimacy, they still postulate that criminal justice can reform in contemporary Morocco. The regional events in the Arab Spring that include a referendum for constitutional reforms as a response to protests in Morocco are still fresh in participants' memories. The 2011 Constitution handed several powers that previously belonged to the King over to the Prime Minister and Parliament. These outcomes and the election of an Islamic party for the first time bolstered the state's claims of building a genuine democracy. For these reasons, participants believed that criminal justice reform is possible in Morocco.

The criminal justice system in Morocco is an illegitimate, foreign, anti-Islamic institution that is irreconcilable with their religious interpretation.

Individuals in this category have contemptuous views of the criminal justice system. Participants perceive the criminal justice system as illegitimate, and they also deem the system as an extrinsic anti-Islamic institution that stifles religious influences. Participants in this category argued that the criminal justice system is a combination of a less Islamic and a more foreign European foundation alien and averse to Moroccans. Similar to the previous category, participants also claim that the system is not based on the morals of Moroccan society but rather on the whims of the country's elites. The state, they argue, appeases the general public through the veneer of Islamic values while sustaining power within the hands of societies' privileged. Participants allege that the

system is beyond reform and in need of a complete transformation. When Latif was asked about criminal justice legitimacy, he answered:

No one can say that this country's criminal justice system is legitimate or just or is Islamic without a sneer. Every criminal justice system in Arab or Muslim countries are designed to benefit the few powerful instead of applying what God has revealed to us. Here the state pretends to follow the Sharia' (law) of God and is good at keeping appearances but they are not fooling anyone we all know this is how our governments keep control of the people that are ignorant. I respect politicians that want a secular system and that declare it publically because they are honest. But the politicians who pretend that we have an Islamic system really think we are fools.

Participants ceaselessly questioned criminal justice in Morocco, with many indicating that the system's goals and aims are illegitimate and clash with their religious values. These participants profess that the system has the outward Islamic guise and that a legitimate criminal justice system applies Islamic law in all aspects of cultural, political, and social life. In advocating for Islamic law, participants suggest that the state picks and chooses the features that suit its rule while ignoring others that they felt were of the utmost importance. The failure to apply specific punishments decreed by Islamic law for criminals was perceived as the prevailing impediment to legitimacy. Although there were mixed opinions on what constituted *huddud* (fixed punishments for offenses against God), a couple of participants went as far as to question the faith of those Moroccans that disagree with their interpretive understanding of these punishments. Tariq argues that the current approach to criminal justice is alien to orthodox Islam's accepted mores and customs, particularly in its elimination of *huddud* punishments. In an example, Tariq relates:

The other day I heard that someone from the neighborhood murdered someone because of an unpaid debt. This person if the system was legitimate and implemented the *huddud* of God should have been executed so that people can see the consequence of this act. But instead he will most likely go to prison and find a way out after serving only five years. If we were a legitimate system that really followed the Quran and Sunnah we would not have this situation. We wouldn't have the crime that exists everywhere and criminals would think hard before they commit a crime.

One of the other underlying themes in questioning the criminal justice system's legitimacy is the direct defiance of the regime's religious authority. As Latif clarified, "The King is not *Amir al Mu'mineen*. He is the Amir of Morocco... we believe he has

political leadership but don't look to him for religious matters." These participants believed that there was nothing Islamic in any of the government institutions of Morocco except in the values that serve the state's interests and reinforce its legitimacy and authority. It was argued that the regime's role in religious affairs is not about addressing the religious needs of the public or representing their values, but rather the promotion of its version of values that can placate society and help maintain social control. In this category, the participants did not consider the criminal justice system to represent their morals and were unfavorable to the King's narrative and religious authority. Miriam disclosed that an authentically Islamic system would not render judgments in the name of the King and would "hold everyone accountable under the law no matter who they are," and that "even the King and his family should be equally subjugated to the law." In questioning the system's legitimacy, Miriam had also mentioned;

The criminal justice system is not a system for justice but rather a system that maintains the status quo under the appearance of Islamic values...this French system is foreign to us and our people and was only supported by the French and the *makhzen* (Morocco's elites) to maintain dominance over the people. They are the only ones that benefit from this legal system.

The statement by Miriam, was also common amongst participants in this category. The legal transplantation of the French system has always been contentious and perceived by participants as a severance between the law and Islamic moral traditions. Participants in this category provided a broad spectrum of thought on the blend of a criminal justice system founded on the French legal system and a Moroccan system with a perceived façade of Islamic principles. These participants depicted the criminal justice system as imposed by a foreign country that has debased its Islamic identity. Tariq, for example, believed that the imposition of the French legal system on Morocco was a *Francafrique* policy to promote the French language and culture in a more modern form of imperialism. Others perceived that the French legal system was adopted by and for the state to promote its interests and dominance over the rest of society. Participants often depicted the elites in society as agents of French cultural imperialism that assumed superiority over the general public in the same fashion as the French over their former colonial subjects. With these perceptions, participants alleged that the criminal justice system opposes their religious interpretive values and identifies them as a threat to hegemony. This skeptical perception of the system's legitimacy was less ominous than

the claim by some that criminal justice in Morocco was an anti-Islamic institution. Adil expressed;

Along with Thailand, we have become the most popular destination for prostitution. Whatever a tourist wants they offer here: men, women, even children. The government permits and ignores these issues because of the money they make from tourism. Tell me if you can, does this sound like legitimacy to you? The system is the opposite of what an Islamic system is supposed to be and is against the values of our religion.

Self-identified Salafists held unwavering perceptions that were antagonistic to the criminal justice system. Abdelqadir expressed an example of these views. Abdelqadir is an advocate involved with many former convicts who have turned to Salafism (a theological reform movement focused on reforming Islam by going back to the practices of the early generation of Muslims) for personal improvement. Abdelqadir articulated:

How can I trust a criminal justice system that allows its youth to drink (alcohol) at bars, dance in nightclubs, and openly tolerate promiscuity while imprisoning and humiliating those youth that want to practice their religion? You know what makes me laugh, so many of these groups are talking about human rights and bringing the criminal justice system to the standards of Europe but what happens when they see a person with a beard, or a person that prays *Fajr* (early morning prayer) at the mosque? The police then want to know who they are listening to, how do they view the government, and the King, and so forth. When they arrest us and beat us in jail no one ever complains or raise our issues to the newspapers or television... It's clear, the government itself does not want to implement an Islamic system because they couldn't get away with their thieving and they don't want people to be religious minded because they would turn against the corrupt system.

While a critical examination of the criminal justice system and distrust of those in power was a common reaction by Moroccans that have reservations regarding legitimacy, the notion that the system vigorously sanctions an anti-Islamic agenda was the most cynical accusation that emerged in the lawfulness discussions. Participants provided several explanations on how they formulated these perceptions. The most common sentiment was that the criminal justice system's values and actions deliberately contradict their religious interpretations. The first mentioned by participants was the state's perceived promotion of immorality. The daily interaction with violent crime, the proliferation of alcohol and drug abuse, the hostile encounters with pimps and prostitutes in specific neighborhoods, along with the light punishments handed to

tourists for crimes that include the sexual abuse of children were mentioned as concrete examples of the system's inherent anti-religious agenda. Every participant in this category insists that Morocco's newly acquired reputation as a destination for vice is not fortuitous. Similar to the quote by Adil, participants alleged that an Islamic system that aligned with their religious interpretations was not beneficial for Morocco's upper classes. Participants believed that spreading these vices increases the elites' profits from the tourism industry and diverts the people's attention away from injustices and corruption within the system. An example repeated was the perceived tendency for the system to monitor and imprison devout Muslims while ignoring criminals involved with the previously mentioned vices. Participants claimed that the system had abandoned Islamic values and fostered immoral, corrupt, materialistic, and enacted for the interests of the economic aristocracy.

In Morocco, there is no justice, we have names related to a functioning system but it doesn't serve or represent us. Its goal, like in any other country in the world is to control the people into conforming to the will of those in power. Anyone that steps out of line is herded into the system like an animal...the justice system is not legitimate because the people in the *makhzen* (Morocco's elite) are the biggest criminals in Morocco that are never punished for the worse crimes. If you are a part of the *makhzen* or have money, you can get away with the impossible, that's justice in Morocco. I am not optimistic about our system and I am sure that any Moroccan that is honest in their interviews will say the same.

Shakir reflected the dominant perception that the reform of criminal justice was improbable. Unlike the previously mentioned categories, participants in this category did not believe that the system could have the appropriate reforms that would legitimize the system. Participants like Shakir perceived criminal justice as a system that vindicates those in power while subjugating the powerless rather than fulfilling its duties in administering justice. Participants were adamant that those in power would not risk their already advantageous social and economic positions for a system that could hold them accountable for their actions.

The Moroccan criminal justice system is a secular institution that should be free from religion whose legitimacy is determined by universal human and civil rights.

Amongst the last category of participants were those that embraced a secular outlook in their perceptions of criminal justice legitimacy. These individuals were not involved with any religious organizations, identified themselves as Muslim, and believed Islam and secularism were compatible and necessary for Morocco. The respondents believed that the criminal justice system should be a secular institution and that a legitimate criminal justice system should represent universal standards of human and civil rights rather than the religious morals of Moroccan citizens. As Jamal, articulated:

To me, religion should not be used to assess criminal justice legitimacy. Through the experiences and conflicts of the past we have international standards for human rights. As humanity we learned our lessons and understand the importance of a secular criminal justice system...a legitimate system is one that successfully protects human rights and applies the right procedures for due process.

Participants are convinced that criminal justice-related issues should not be determined by religion; Jamal reiterated that even in Morocco, the Ministry of Justice and the Ministry of Endowments and Islamic Affairs were separate departments with distinct functions. According to this category, religion is a personal issue that is inconsequential to legitimacy since criminal justice should rely on universal standards of morality. These participants expressed that morals and norms shifted with every generation and argued for the criminal justice system to reflect those fluctuations. A legitimate system is inclusive and mediates between the assorted values within Moroccan society. This secular approach to criminal justice was regarded as agreeable with their religious views. Abdelhaq clarifies:

Islam teaches about our relationship with God and not how to organize a criminal justice system. I think that criminal justice should be separate from our religion because it needs effective management from people like you that study the system and how it works and not people who only study religion. Justice and people's rights are the values we have to apply in our country and both the criminal justice system and religion have to be fair and recognize those rights... Secular belief and Islam go together, this was the case throughout history... A secular criminal justice system

allows everyone to practice their interpretation of religion according to their understanding without anyone using the system against them for doing so.

One perspective within this category approved of Islam's roles in public segments of Moroccan society and only wanted to limit religion within criminal justice. These participants recognized Islam's impact in forming Moroccan identity and culture. They were fully supportive of religious values that are harmonious with Moroccan culture and international human rights standards but distrustful of the literal and stringent interpretations. Criminal justice was described as an institution that required versatility and the capability to acclimate with the peculiarities of every generation. The current system and the collaboration between the monarchy, parliament, the country's *ulema*, and criminal justice officials were recognized as one practical approach that embraces and balances competing interests in the system.

Other participants view traditional religious values as outdated for contemporary societies and categorically declare that protecting human rights and individual freedom should be the foundation of criminal justice legitimacy. Through a value-free approach to legitimacy that is reminiscent of the legal realist viewpoint, participants held that the system's interest should be in the larger society and not the application of any particular religious interpretation. Religion could be an inspiration, but none of these participants accepted it as the source for legitimacy. Ethics free of religion, logic, and reason were deemed sources for an effective and legitimate criminal justice system that accommodates citizens of different ideals, values, and persuasions. Riyyad rationalized:

The use of religion for a nation of this century demonstrates how distorted we are as a society. The reason why we and other Muslim countries fall behind the world in modernizing and being part of the first world is our obsession with religion. Religious values are narrow, what we need is a system that encompasses all values under the standards that the whole world accepts. In Morocco we need to promote the secularization of society and increase individual freedoms.

Although participants differed on the role of religion in society, they agreed that it should be restricted in matters pertaining to criminal justice. The perception amongst participants is that the reliance on religious values is an archaic approach to criminal justice. A modern criminal justice system was characterized as one that emphasizes the concepts of justice, stability, development, equality, and tolerance, values that are perceived as independent of religion. Participants repeated that the criminal justice

system should represent universal secular values that benefit society and citizens even if those values contradict religious or cultural norms. Abdelaziz provided an example for this point;

The tourism industry requires us to attract people from the world by selling alcohol and opening casinos for gambling in different cities. These actions contradict religious values and would be punished under an Islamic system. But we know that these businesses keep people working and increase money in our economy. Working in these businesses is a personal decision and it is for no one else to keep someone from making a living, it is the way it works now and the way it should be.

An additional position that participants in this category dispute is the claim that the contemporary legal system is extrinsic and foreign to Moroccans. Although they recognized the French's imposition of the legal system and its adoption by the monarchy after independence, participants strongly believe that in the sixty years that passed, Moroccan society has incorporated the French system and molded it into the customary norms and values of Morocco. When Abdelaziz made this point in our interview, he concluded, "The system is one with French and Islamic characteristics that makes it Moroccan."

In the discussion on legitimacy, participants were concerned about the issues surrounding the enforcement of their values in the Moroccan criminal justice system. Participants were optimistic about the current progress in human rights and the active inclusion of civil society in criminal justice since the Arab Spring. The general perception is that the Moroccan system will gradually shift towards their values and away from religious interpretations. The biggest threats to this advancement of the system and its legitimacy that all participants repeated are the increase in religious extremism, corruption amongst officials, poverty, and the class disparities in the system. As a response, participants were resolute that knowledge answers the actual and potential threats to legitimacy. Education was perceived as the means of turning the public away from the reliance on religion and into a more secular approach to criminal justice where legitimacy like liberal democracies would be measured by procedural justice rather than on the type of values applied. Jamal remarked:

You might be surprised at the amount of people who are illiterate in Moroccan cities, and I don't need to mention the estimated amounts in the countryside... The key to legitimacy in the system is education. From the young to the old, every citizen should be able to read, listen, and discuss knowledge that promotes ideas. Education will make everyone a better

citizen by teaching them empathy and the understanding of other viewpoints. That is how we should be fighting our social problems... Religion in society has its use, but I would rather use reliable research for social policies.

DISCUSSION

The study explored how participants conceptualize criminal justice legitimacy, the factors that shape perceptions and would enhance legitimacy, and the state's strategies in producing and negotiating legitimacy. This paper presented how the discord surrounding participants' religious interpretations shapes perceptions of criminal justice legitimacy. The competing religious paradigms identified vary from the traditional ones that defer to the monarchy's moral authority to those that openly challenge and conflict with the state's claims of legitimacy. The study reveals the dominant role of religion as an agent of socialization in criminal justice institutions.

This study contributes to the ever-growing literature on criminal justice legitimacy. The theme that emerged in the qualitative interviews orientated towards the recent re-examination and expansion of legitimacy research into moral alignment or the shared morals, values, and norms between the criminal justice system/actors and citizens (Beetham, 1991; Bottoms & Tankebe, 2012; Jackson et al., 2012; Van Damme, 2017; Sun et al., 2019; Cao et al., 2022). Even more imperative is the use of religious interpretations to conceptualize criminal justice legitimacy. The identified groups deliberating on whether the system aligned with their religious interpretations depicted a cultural battle within criminal justice institutions. The type of laws and morals the system will enforce will determine the state's future nature, character, and identity. The results also highlight the role of civil society in challenging and negotiating criminal justice legitimacy, especially in undemocratic regimes. The third sector, through social networking, the media, and literature; from the local, national, and international levels, are informing the public about issues in criminal justice.

As the first study on criminal justice legitimacy in the Arab world, the results fill gaps in the literature by providing a non-Western perspective. The interviews revealed that as religious interpretations and practices form moral judgments and conduct, they also shape criminal justice institution perceptions and legitimacy. A criminal justice system can be in accordance with international human rights standards and receive

international praise for its efforts and still be perceived as illegitimate if it is not inclusive of society's values. Religion endures as a significant source of inspiration and meaning for many societies, yet the literature regarding the role of religion in criminal justice remains oddly scarce (Cross, 2018). Participant responses reflect perceptions from a case in the Global South of the criminal justice system that inform competing perspectives around legitimacy.

The results are only tentative yet offer numerous prospects for future research on criminal justice legitimacy. Further research is necessary to explore the process associated with legal socialization and moral alignment to identify the factors that shape perceptions of legitimacy in diverse legal and political systems. Studies on the criminal justice systems in the region remain deficient and scholars familiar with Western and Arab cultural backgrounds need to expand the region's criminal justice research (Ouassini & Ouassini, 2020, 2023). Although there are access issues in many regimes, researchers need to broaden the effort to collaborate with local academics, criminal justice actors, and other individuals interested in criminal justice. Foremost in moral alignment, researchers must examine the critical link between religious and criminal justice institutions. The results warrant a quantitative analysis to test the arguments presented and future research should replicate this study in sundry cultures and criminal justice systems. Similar to procedural justice, the themes identified are essential to legitimacy, and future studies should examine how the public sphere and civil society shape perceptions of legitimacy.

The main limitations are the inherent generalizability issues regarding the perceptions of Moroccans due to the study's use of purposive sampling in Tangier. Collecting and analyzing the data was an overwhelming task. There were challenges in translating aspects of the language/culture to English to represent the participants' statements accurately. The researcher is responsible for making sense of the cultural messages collected and then communicating those messages to readers unfamiliar with the culture. In the translations, the researcher sought to present the participants as precisely as possible based on his understanding of the culture, language, and context in which the conversations took place. The results focus on the meaning that each participant conveyed in the conversations, and like any translation, there might be particular meanings lost in the process.

The policy implications provide researchers, policymakers, NGOs, and criminal justice actors insight into criminal justice legitimacy. The first relates to the relationship between moral alignment and legitimacy. The Moroccan criminal justice system must

balance religious values and international human rights standards. While most participants supported the balance, significant amounts of Moroccans perceive the two in contradictory terms. The state must confront religious interpretations that contradict international human rights standards and promulgate the consensus amongst the world's scholars that international human rights and the Islamic religion are compatible. The results also demonstrate the power citizens and civil society have over criminal justice reform.

The differences in perceptions, experiences, and values are vital to the democratic ambitions of the Moroccan people. Moroccan society should openly discuss criminal justice legitimacy and other politically sensitive topics to move citizens away from dull compulsion and feelings of powerlessness. More broadly, the results illustrate the role of religion in the formation of legitimacy with implications for reform, institution building, and stability in the Arab world. The uprisings in the region reflect the fragmentation of values between the region's citizens and the state. As religious and ideological interpretations shape identities and become internalized, excluding certain groups in Arab societies creates a dissonance between individuals and the state. The study demonstrates that there is a broad spectrum of values pertaining to criminal justice. Despite the various perceptions presented in this study that might seem highly critical, official state narratives must tolerate dissenting opinions that challenge the status quo.

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