

MOROCCO

Religious Freedom: Constitutional and Legal Framework

Name: Kingdom of Morocco

Population: 35,280,000

Total area: 446,600 sq. km

Life expectancy: 76 years

Gross national income per capita: \$7,710 (1)

Official religion(s) or church(es): Muslim (official, 99.65%), agnostic (0.13%), Baha'i (0.10%), Christian (0.10%), other (0.02%). (2)

Currency: Dirham (1 EUR = about 10 dirham)

HRWF Database of FORB Prisoners: There was no such prisoner in Morocco as of 1 September 2019.

Government regulation or religion index: Average government regulation score over ARDA researchers' coding 2003, 2005 and 2008 U.S. Department of State's International Religious Freedom Reports (0-10, lower means less regulation): 6 (lower means less regulation) (3)

World Happiness Index: 85 out of 156 (4)

Global Peace Index 2017: 71 out of 163 (5)

	Freedom to change / keep religion or belief	Freedom of expression / Blasphemy / Defamation	Freedom of association	Freedom of worship assembly	Freedom to share beliefs/ Proselytism
MOROCCO	R		R	R	 

Death penalty  Imprisonment  Fine  & Restrictions **R.**

CONSTITUTIONAL AND LEGAL FRAMEWORK

Morocco is a constitutional monarchy with a bicameral legislature divided into a lower house, the House of Representatives (395 seats) and an upper house, the Chamber of Advisors (120 seats). (6) The laws or instruments regulating the exercise of freedom of religion or belief in Morocco are as follows:

- The Constitution of the Kingdom of Morocco (7)
- The Moroccan Penal Code (8)
- Press Law of 2016 (9)
- Decree on the Right to Establish Associations (Decree 1-58-376 of 1958 as amended by Decree 1-733-283 of 1973 and Decree 1-02-206 of 2002) (10)
- Decree to Implement the Decree on the Right to Establish Associations (Prime Ministerial Decree 2-04-969 of 2005) (11)
- Law 76 on Public Assemblies (2002) (12)
- Moudawana (Moroccan Family Code, 2004) (13)

The preamble to the Moroccan constitution of 2011 states its guiding principles as "participation, pluralism and good governance". It bases these ideals and the morals that reinforce them in Islam and the Islamic community. The Kingdom of Morocco is a sovereign Muslim State. There is, however, official recognition of the Jewish community and its historical role in the country. As such, only Muslim and Jewish marriages and other public rites are recognised by the government. (14) The Constitution provides for the following freedoms and restrictions on freedoms related to religion (15):

Article 1 states that Morocco is a constitutional, democratic, parliamentary and social Monarchy based on moderate Islam.

Article 3 names Islam as the religion of the state but guarantees the free practice of all other religions.

Article 7 prohibits founding political parties on a religious basis. Further, they cannot undermine national sovereignty, the Muslim faith or the monarchy.

Article 23 prohibits "All incitement to racism, to hatred and to violence is prohibited."

Article 41 states that the King is the Commander of the Faithful. He presides over the Superior Council of the Ulema, which is in turn responsible for interpretation, consultations (fatwas) and declarations relating to Islam in Morocco.

The attributions, the composition and the modalities of functioning of the Council are established by Dahir [Royal Decree].

The King exercises by Dahirs the religious prerogatives inherent in the institution of the Emirate of the Faithful [Imarat Al Mouminine] which are conferred on Him in exclusive manner by this Article.

Article 64 stipulates that "No member of the Parliament may be prosecuted, investigated, arrested, detained or judged on the occasion of an opinion or of a vote emitted by him in the exercise of his functions, except in case where the opinion expressed challenges the monarchic form of the State or the Muslim religion or constitutes an infringement of the due respect for the King."

Article 175 states that "No revision may infringe the provisions relative to the Muslim religion, on the monarchic form of the State, on the democratic choice of the Nation or on [those] acquired in matters of [the] freedoms and of fundamental rights inscribed in this Constitution."

Other aspects of religious life are monitored or controlled by other offices within the government:

- The Ministry of the Interior (MOI) handles issues involving the registration of associations and religious groups.
- The Ministry of Endowments and Islamic Affairs (MEIA) monitors all sermons and Islamic religious activity, particularly that which is seen as extremist.
- The Ministry of Education (MOE) also ensures that curricula include information on religion, the religious history of the country, and material that combats extremism in the younger generation. (16) These are all subject to standards set both in government and by the Council of the Ulema.

Sunni Islam and Judaism are the only religions recognized by the State for native Moroccans. Christians are denied official recognition.

FREEDOM TO HAVE, RETAIN OR CHANGE RELIGION

Apostasy is neither a criminal nor a offense. There is no legal mechanism to prosecute people for having or changing religion in Morocco.

On 6 February 2017, Morocco World News published an article entitled "[Morocco's High Religious Committee Says Apostates Should Not Be Killed](#)" (17) referring to a document titled "The Way of the Scholars" distributed on the occasion of an ordinary session of the Superior Council of the Ulemas.

This information was however questioned by the website <http://www.yabiladi.com>. The Superior Council of the Ulemas in Morocco had not changed its position on apostasy, according to [yabiladi.com](http://www.yabiladi.com).

Islam Maghribi also argued that "The Way of the Scholars" was only the personal opinion of a number of ulemas, was not a fatwa and was distributed in the margins of the ordinary session. Islam Maghribi also quoted Mohamed Yssef, secretary general of the Superior Council, who would have clarified that it was not an official document of the Council but the expression of several opinions on the apostasy issue raised during the work of the members of the Council.

Although the Baha'i faith is not banned in Morocco, it is viewed as heretical as across much of the Islamic world. Holding this faith is not illegal but societal acceptance is widely lacking.

Like most of the Muslim-majority countries in the region, Morocco places restrictions on inter-religious marriages. Article 39(4) of the Moudawana (Moroccan Family Code, 2004) states that a Muslim woman cannot legally marry a non-Muslim man but a male Muslim can marry a non-Muslim women. (18) If a non-Muslim man gets married with a Moroccan women, he must become a Muslim and so will their children.

CASE STUDY – Arrest and detention of Christian couple

In October 2017, a Christian couple in Marrakech were arrested for attending a church on suspicion of conversion to Christianity. Though such a conversion is not illegal, the police apparently cited the Article of the Penal Code banning proselytising activity. They were released soon after and required to sign a document listing this as the reason for their arrest, which they refused to do. It is believed by of both them and the Moroccan Association of Human Rights (AMDH) that the arrests were arbitrary. (19)

RESTRICTIONS TO FREEDOM OF EXPRESSION RELATED TO RELIGIOUS ISSUES & BLASPHEMY

The 2002 Law on the Press provided strict punishments (prison terms between 6 months and 3 years and a fine) for "shaking the faith" of a Muslim or attempting to convert, for speech or material which denigrated the King, the Islamic faith, or any tenets therein.

A new press code was adopted in 2016 and published in the Official Journal on 15 August 2016.

Press Law 73.15

Article 70 criminalizes the offense of "causing harm" to Islam which replaces "causing prejudice" to Islam in the previous law (article 41) but whereas this article of the

previous code applied to persons, article 70 of the new law applies only to publications and electronic media and imposes as punishment fines and a court-ordered suspension of the offending publication.

Penal Code

Article 267.5

During the revision of the press code, a provision on harming Islam was introduced into the penal code, where it did not previously exist. Under the new penal code's article 267.5, a person convicted of "causing harm" to Islam faces **six months to two years in prison or a fine of 20,000 to 200,000 DH (US\$2,000 to 20,000), or both.**

The punishment is increased to imprisonment for **two to five years or a fine of 50,000 to 500,000 DH, or both,** if the offense is committed via any form of print, audiovisual, or electronic media.

Like the term "causing prejudice", the lawmakers have failed to define the concept of "causing harm" but in any way, articles that criminalize speech deemed critical of, insulting to, or defamatory toward religions are incompatible with international standards on freedom of expression.

Article 431.5

Article 431.5 punishes "incitement to discrimination or hatred among persons" which is prohibited by Article 23 of the Constitution. Violators face one month to one year in prison or a fine of 5,000 to 50,000 DH, or both, unless they perpetrated the incitement through public means, in which case the prison part of the punishment is raised to between one and two years.

The breaking of the Ramadan fast in public is a crime punished under the Penal Code (Article 220) with six months in prison and a fine of up to 500 dirhams.

Under the new security measures, all Friday sermons are now monitored by the government.

FREEDOM OF ASSOCIATION

Association status is restricted. It is not granted to groups whose positions are seen to violate one of Morocco's three "red lines": Islam, the King or territorial integrity. This includes Baha'i associations, due to their perception as a heretic movement in the wider Islamic world, and al-Adl wal-Ihsan (Justice and Spirituality), an Islamist group denying the religious authority of the king. (20)

The most recent iteration of the Decree on the Right to Establish an Association states that: (21)

Article 3: An association that is founded for illegal purpose or goal contrary to the public morals or that may aim at violating the Islamic religion or the unity of the national soil or the royal regime or may call on all forms of discrimination will be invalid.

Article 8: ... Any person who practices activities or re-establishes an association illegally will be punished by **imprisonment of a period that ranges between one and six months and will be ordered to pay a fine that ranges between 10,000-20,000 dirhams.**

If an association violates the Islamic religion, the king or territorial integrity, it faces court-ordered dissolution. Heavy financial punishments are provided for illegal re-establishment or other continuation of activities. Unregistered and deregistered groups cannot make financial transactions, own a bank account or rent or own property.

CASE STUDY - **al-Adl wal-Ihsan (Justice and Spirituality)**

Al-Adl wal-Ihsan (Justice and Spirituality) has been cited as the most politically powerful Islamist opposition party in Morocco, despite the fact that it has been banned since 1974. That year, in a letter from the movement's founder, Sheikh Abdessalam Yassine, to the King, the monarchy was accused of having "strayed off the right path of Islam by installing a dictatorial regime and serving its own interests rather than those of the Islamic community". The Sheikh was subsequently arrested, and spent several years in a psychiatric facility. This was a public and potentially popular breach of two of what is now referred to as Morocco's three "red lines": violations of Islam and the monarchy. (22)

Al-Adl wal-Ihsan is still banned, though mostly tolerated. It publicly condemns the violence of modern extremism, and promotes Islamic democratic ideals. Nevertheless, its denial of the religious role of the monarchy continues to bar it from official association status, making any public demonstrations or meetings in public places illegal. (23)

FREEDOM OF WORSHIP AND ASSEMBLY

The right to worship one's religion is protected in the Constitution under Articles 3 and 41. However, public worship is restricted to religious groups which have been registered by the authorities. Registration is also required to be able to hold land, to buy, build and rent properties. The construction of new mosques is under the authority of the MEIA, and the MOI is in charge of churches. (24) Christians use the churches built during the French protectorate period (1912-1956) for their religious services.

Private worship is not restricted.

Public activities by unregistered communities are banned. In October 2017, the Baha'i community was prevented from publicly celebrating the birth of the founder of their religion, Bahá'u'lláh, by local authorities. The justification given was that as an unregistered religious group, any public activities were necessarily illegal. (25)

Law 76 on Public Assemblies requires local authorities to be notified prior to any public demonstrations or meetings, including public religious gatherings. These activities can only take place with at least 24 hours after receiving confirmation, otherwise they face breakup.

Penal Code

Article 220 of the Penal Code criminalises actions which prevent someone from being able to attend to their worship, with punishments of between **6 months and 3 years in prison and fines of between 200 and 500 dirhams**. (26)

Article 221 provides the same punishment for anyone disturbing the sanctity or peace of such religious worship. However, non-Muslim religious groups reported various forms of government interference despite registration. This included monitoring of church services and checking accusations of proselytism, which is illegal against Muslims in Morocco. This resulted in a significant number of Christian converts stating that they do

not attend church, despite their faith and desire to practice with like-minded people. (27)

The protection provided under Articles 220 and 221 of the Penal Code is only applied to registered groups.

Moroccan converts are not allowed to attend Christian services. In 2017, a group of converts created the National Coalition of Moroccan Christians (NCCM) and approached the National Council of Human Rights. Their main demands are to obtain the right to pray in churches, to marry according to their religion, to give Christian names to their children and to be buried in Christian cemeteries.

CASE STUDY – **Baha'is banned from celebrating bicentennial of founder's birth**

Buhá'u'lláh, the founder of the Baha'i faith, was born in the fall of 1817. In 2017, Baha'is around the world celebrated this bicentennial. However, the lack of association status of the Baha'is in Morocco prevented them from gaining permission to participate in public celebrations as other communities were. Local authorities banned these activities and broke up such gatherings. (28)

FREEDOM TO SHARE BELIEFS/ PROSELYTISM

The Penal Code prohibits any act which might "shake the faith" of a Muslim, or by seduction, corruption or coercion seek to convert them to another faith. (29)

Article 220: Anyone using violence, threats or other coercion to prevent a person from attending worship, or who acts to "shake the faith" of a Muslim or attempt to convert them will be punished with **between 6 months and 3 years in prison and a fine of between 200 and 500 dirhams.**

The government of Morocco maintains the authority to expel any foreign national accused on undermining the society of Morocco in any way, the three red lines in particular. Proselytism is interpreted as undermining Islam and Protestant missionaries to Morocco are now only occasionally expelled. (30)

Footnotes:

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2. The ARDA. "[National Profiles – Morocco](#)". 2015. Accessed 14 June 2018. Christian leaders in Morocco estimate the total number of Christians to be as high as 40,000 (30,000 Roman Catholics and 10,000 Protestants). Other sources just give a number of 5,000.
3. Ibid.
4. J.F. Helliwell, R. Layard and J.D. Sachs. "[World Happiness Index 2018](#)". 2018. Accessed 14 June 2018.
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6. The Economist Intelligence Unit. "[Morocco](#)". The Economist. 2018. Accessed 14 June 2018.
7. Kingdom of Morocco. "[Constitution of the Kingdom of Morocco, 2011](#)". Constitute Project. 2012. Accessed 14 June 2018.
8. Kingdom of Morocco. "[Dahir N° 1-59-413 du 28 Jomada Ii 1382 \(26 Novembre](#)

- [1962\) Portant Approbation du Texte du Code Pénal](#)". World Intellectual Property Organization. 5 June 1963. Accessed 14 June 2018.
9. Human Rights Watch. "[The Red Lines Stay Red: Morocco's Reforms of its Speech Laws](#)". 2017. Accessed 14 June 2018.
 10. Kingdom of Morocco. "[Act on the Right of Association](#)". The International Center for Not-for-Profit Law. 2002. Accessed 14 June 2018.
 11. The International Center for Not-for-Profit Law. "[Civic Freedom Monitor: Morocco](#)". 8 June 2018. Accessed 14 June 2018.
 12. Human Rights Without Frontiers. "[Human Rights in Morocco: Achievements and Challenges Ahead](#)". 2018.
 13. Kingdom of Morocco. "[The Moroccan Family Code \(Moudawana\) of February 5, 2004](#)". Human Rights Education Associates (HREA). 5 February 2004. Accessed 14 June 2018.
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 15. Kingdom of Morocco. "[Constitution of the Kingdom of Morocco, 2011](#)". Constitute Project. 2012. Accessed 14 June 2018.
 16. Bureau of Democracy, Human Rights and Labor. "[International Religious Freedom Report 2017 – Morocco](#)". U.S. Department of State. 2018. Accessed 14 June 2018.
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 19. C. Lahsini. "[Moroccan Couple Arrested for Attending Church in Marrakesh, Released an Hour Later](#)". Morocco World News. 17 October 2017. Accessed 14 June 2018.
 20. Bureau of Democracy, Human Rights and Labor. "[International Religious Freedom Report 2017 – Morocco](#)". U.S. Department of State. 2018. Accessed 14 June 2018.
 21. Kingdom of Morocco. "[Act on the Right of Association](#)". The International Center for Not-for-Profit Law. 2002. Accessed 14 June 2018.
 22. A. Hamza. "[Al Adle Wa Al Ihassane and Its Islamic Paradigms of Modernity and Democracy](#)". Morocco World News. 3 September 2015. Accessed 14 June 2018.
 23. Ibid.
 24. Bureau of Democracy, Human Rights and Labor. "[International Religious Freedom Report 2017 – Morocco](#)". U.S. Department of State. 2018. Accessed 14 June 2018.
 25. Ibid.
 26. Kingdom of Morocco. "[Dahir N° 1-59-413 du 28 Joumada Ii 1382 \(26 Novembre 1962\) Portant Approbation du Texte du Code Pénal](#)". World Intellectual Property Organization. 5 June 1963. Accessed 14 June 2018.
 27. K. Graves. "[Christians in Morocco: A Crisis of Faith](#)". U.S. News. 30 September 2015. Accessed 14 June 2018.
 28. S. Kasraoui. "[Moroccan Religious Minorities Announce Unprecedented Conference in Rabat](#)". Morocco World News. 4 November 2017. Accessed 14 June 2018.
 29. Kingdom of Morocco. "[Dahir N° 1-59-413 du 28 Joumada Ii 1382 \(26 Novembre 1962\) Portant Approbation du Texte du Code Pénal](#)". World Intellectual Property Organization. 5 June 1963. Accessed 14 June 2018.
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