

Statement of legal provisions relating to murder crimes

Murder is a crime under Moroccan law. In cases where women or girls are murdered for reasons of “honour”, neither mitigating circumstances nor exemption from punishment may be applied. The crime of murder is defined in the seventh section of the Moroccan Penal Code, which deals with crimes and offences committed against males and females, regardless of the reason for the criminal act. According to this legislation, the maximum punishment for murder is the death penalty.

Article 392:

Any person who intentionally kills another person is guilty of murder and shall be sentenced to life imprisonment.

Murder shall be punished by the death penalty in the following cases:

- If it precedes, accompanies or follows another crime;
- If it is committed with the intention to prepare for, facilitate or carry out another crime or offence, or to help the perpetrators or accomplices of the crime or offence to escape or gain impunity.

Article 393:

Murder with premeditation or ambush shall be punished by the death penalty.

Article 394:

Premeditation is defined as the intention, formed prior to the act, of attacking a particular individual or an individual yet to be located or encountered, even if that intention is dependent upon certain circumstances or conditions.

Article 395:

Ambush is defined as lying in wait for an individual for any length of time, in one or more locations, with the intention of killing or inflicting violence upon that individual.

Article 396:

Any person who murders his or her father, mother or any other of his or her ascendants shall be punished by the death penalty.

Article 398:

Any person who attempts to take the life of another person using substances capable of causing death either instantly or at a later point in time, regardless of the way in which those substances are used or administered and regardless of the consequences, is guilty of poisoning and shall be punished by the death penalty.

Article 399:

The death penalty shall be imposed upon any person who carries out an act of torture or any other barbaric act.

The only exception to these general provisions is article 418, under which, in view of circumstances regarding the nature of the relationship, mitigating circumstances may be granted to a husband or wife

who commits murder, violence or injury against his or her spouse on surprising him or her in the act of adultery.

Article 418:

Mitigating circumstances are applicable in cases where a husband or wife commits a crime of murder, injury or violence against his or her spouse and/or against the accomplice of that spouse on surprising the latter two persons in the act of adultery (except under Dahir No. 1.03.207, promulgated on 11 November 2003, in application of article 1 of law No. 24.03).

Article 411:

If the perpetrator of the crime is an ascendant of the child or another person having authority over or custody of the child, he or she shall be punished as follows:

1. In the cases described in article 408: by a prison sentence of between two and five years.
2. In the cases described in article 409: by double the sentence stated in that article.

In addition, in all cases indicated in the two above paragraphs, the perpetrator may have one or more of the rights described in article 40 revoked and be banned from residing in the country for between five and ten years.

3. In the cases indicated in the first paragraph of article 410: by a prison sentence of between 20 and 30 years.
4. In the case indicated in the second paragraph of article 410: by life imprisonment.
5. In the cases indicated in the third and fourth paragraphs of article 410: by the death penalty.