

AFRICA RISK CONSULTING

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Morocco releases a new draft penal code, last updated in 1962, containing greater powers to tackle organised crime, illicit enrichment and cross border criminal activity. However, adultery and homosexuality remain criminalised, causing leading liberal commentators to criticise what they see as a missed opportunity to modernise the system. Private investors from the Middle East and inside Morocco rush to invest in the private healthcare sector after a law liberalising the ownership of hospitals comes into force. United Arab Emirates (UAE)-based Tasweek Real Estate Development and Marketing, for example, invests \$3 billion in three new "healthcare cities". The Bank Al-Maghrib (central bank) rebalances the dirham's basket of currencies, with a shift from the euro to the dollar. The move reflects Morocco's stronger economic performance and positive international investor exposure, with year-on-year growth for Q1 2015 at 4.4% compared to 1.8% in 2014.

Government moves forward with penal code reform

Justice minister **Mustapha Ramid** announced on 20 April that the government would reform Morocco's penal code and published a new draft code containing a range of proposed changes. The reform of the 1962 penal code was one of the key campaign points of the moderate-Islamist **Parti de la Justice et du Développement (PJD)** government in its 2011 election campaign.¹ The draft code triggered a liberal backlash amid claims it does not go far enough.² The government said it is trying to balance traditional values associated with Islam with a desire to bring Morocco in line with international human rights law.

*"The debate over the penal code is a debate about modern Morocco... We are a Muslim nation but the liberal urban population is increasingly secular... The PJD can't put the Islamic basis of Moroccan law to one side, they would lose legitimacy with their [moderate Muslim] voter base (and traditionalists in the rural areas)."*³

The new draft code makes important changes: the definitions of criminal activity have been changed to include cross-border crimes and organised crime; it criminalises unlawful enrichment and sexual harassment, and decriminalises minor crimes, including begging. Overall, the new code repeals 40 sections of the original code entirely, amends 576 and adds 187 new ones.⁴

However, liberal commentators and Moroccans on social media have criticised the new code for retaining "crimes" linked to the breaking of traditional Islamic law, including adultery, breaking the *Ramadan* fast and homosexuality.⁵ Some acts in this category have had their punishments reduced. For example, those convicted of "fornication" will no longer receive a prison sentence but a \$2,000 fine instead. Other controversial criminal acts retained include not showing due loyalty to the state and destabilising the institutions of Islam. The code also expands the powers of the **Bureau Central d'Investigation Judiciaire (BCIJ)**, the investigative branch of Morocco's domestic intelligence

¹ L'Economiste, 21 Apr 2015

² Le Matin, 20 Apr 2015

³ Source: professor, Rabat

⁴ AFP, 23 Apr 2015

⁵ Jeune Afrique, 21 Apr 2015

agency, the **Direction Générale de la Surveillance du Territoire (DGST)**. Liberal activists have been vocal in their condemnation of the draft code:

*"This new code moves Morocco backwards... we have wasted an opportunity to bring the country up to international standards."*⁶

However other commentators point to major reforms contained within the act:

*"This act has re-written criminal law from the ground up... it reforms sentences across the board and empowers the judiciary to tackle financial and organised crime more effectively."*⁷

Ramid said at a press conference on 20 April that the justice ministry would amend the draft code before submitting it for royal approval, but that criminal acts against the state and Islam would remain unchanged. Critics accuse Ramid of rushing the code through without adequate consultation. The PJD originally announced that it was working on the reforms in September 2013 but did not present a draft code to the national assembly until February 2015. The national assembly has had just seven weeks to scrutinise the bill prior to it going to the palace for approval by **King Mohammed VI** (1999-present). It will then return to the national assembly for a final vote before it passes into law.⁸

Healthcare reforms lead to surge in sector investment

United Arab Emirates (UAE)-based **Tasweek Real Estate Development and Marketing** announced on 11 April that it will invest \$3 billion in the Moroccan healthcare sector.⁹ New legislation allowing non-medical investors to operate hospitals and healthcare clinics came into force in February 2015. This has led to increased interest from international healthcare groups in the market, with some already building low-cost centres for treatment of international patients, so-called "healthcare tourism".¹⁰

Foreign nationals currently account for around 10% of Morocco's private healthcare market. Procedures in Morocco are on average 30% cheaper than in **Europe** and draw customers from across North Africa and, increasingly, from **sub-Saharan Africa** as well.¹¹

*"Deals have been happening almost weekly... clients want to get into the market early to get the best returns... Morocco's geographic location and political stability definitely contributes to the attractiveness of the market."*¹²

Tasweek's stated goal is to create three "healthcare cities" – mixed-use residential and advanced medical treatment centres – in **Tangiers**, **Agadir** and **Casablanca**. Other UAE-based investors are providing the finance for the project. Tasweek is already building its first "city" in **Marrakech**, which the company estimates will open its doors in the second half of 2015. The 21,000 square-metre Marrakech site has cost \$60m to build.¹³

Morocco and UAE have increased their trade and investment flows since a free trade agreement came into force in 2005. UAE investors have backed other private healthcare projects in Morocco. The **Khalifa Bin Zayed Al Nahyan Foundation (KBZF)**, linked to the eponymous president of UAE and emir of **Abu Dhabi**, funded the **Sheikh Khalifa Ben Zayed Al-Nahyane Hospital** in Casablanca. The hospital is now the largest private medical facility in the country and opened on 17 March.¹⁴

⁶ Source: blogger and activist, Casablanca

⁷ Source: academic, Rabat

⁸ Le Matin, 20 Apr 2015

⁹ Le Matin, 11 Apr 2015

¹⁰ PWC, 24 Mar 2015

¹¹ PWC, 24 Mar 2015

¹² Source: consultant, Casablanca

¹³ Morocco World News, 11 Apr 2015

¹⁴ Morocco World News, 19 Mar 2015

Domestic companies have also lined up investments in the sector. Insurance group **Saham**, which trade and industry minister **Moulay Hafid Elalamy** owns, has entered into a joint venture with **Spanish** private medical firm **Asisa-Lavinia**. The resulting company – **Saham-Asisante** – has made offers to buy the largest existing private medical clinics across the country, starting with the **Badr** clinic in Casablanca.¹⁵ Saham has set up corporate entities (**Spring Park, Coral Park, Cristal Park, Ivory Park** and **Wood Park**) to manage the centres.¹⁶

The liberalisation moves are part of a broader healthcare reform agenda. The government is implementing the third stage of its healthcare reform plan in 2015. The end goal is to increase access to the mandatory national health insurance scheme, **l'Assurance Maladie Obligatoire de base (AMO)**, and the national healthcare programme, the **Régime d'Assistance Médicale (RAMED)**.¹⁷ The health ministry aims to increase access to RAMED from 42% to 96% of the population within the year. AMO has a much lower uptake rate than RAMED, with 92% of the (poorer) rural population uninsured. The government is aiming to halve this figure by 2016. The government believes that a growing private healthcare sector will help take pressure off state-run hospitals and ultimately service all insured patients.¹⁸ The **European Union (EU)** provided \$97m in December 2014 to help fund the reforms.¹⁹

*"Critics say that these new hospitals will only help tourists and the rich, but AMO customers will be able to use all of these services, freeing up space in state-run hospitals."*²⁰

Morocco rebalances the dirham, capitalising on strong economic performance

Morocco has taken action to better manage trade in the dirham following the country's strong economic performance so far in 2015. The economy performed well in Q1 2015 compared to previous years: year-on-year growth was 4.4% for Q1 2015, compared to 1.8% year-on-year in Q4 2014. Building on this, the central bank, **Bank Al-Maghrib (BAM)**, has moved to rebalance the dirham's basket of currencies in favour of the dollar against the euro.²¹ This repositions the dirham to be more attractive in global markets as a more stable and independent currency, attractive to traders and investors alike:

*"By rebalancing the dirham's currency basket, Morocco can leverage its economic success on global bond markets by reducing its exposure to the weak and fluctuating euro... [this could lead to] higher yields and a wider range of investors."*²²

The move also reflects a fall in trade with the **Eurozone** and an increase in Morocco's trade in dollars. Morocco has diversified its trading partners since 2007 as Europe has experienced successive financial crises and low growth. Tying the dirham to the dollar not only moves it into further alignment to the **United States (US)** but to other dollarised trade flows, including from sub-Saharan Africa. The dirham's overall value will now be calculated based on 60% of its value against the euro and 40% against the dollar. Previously it was valued 80% against the euro and 20% against the dollar. The **International Monetary Fund (IMF)** supported the move, saying that it would make the currency more flexible. The move has not affected the current exchange rate value of the dirham.²³

Morocco's trade balance is currently strong. Exports have increased 10.9% in the past year and imports have decreased by 16.2%. Falling fuel prices and increased food production (still the country's dominant sector for production and exports) have been the principal factors. But exports

¹⁵ North Africa Newsletter, 14 Feb 2015

¹⁶North Africa Newsletter, 14 Feb 2015

¹⁷ RAMED website, 2015

¹⁸ Tendersinfo, 17 Dec 2014

¹⁹ Tendersinfo, 17 Dec 2014

²⁰ Source: consultant, Casablanca

²¹ L'Economiste, 15 Apr 2015

²² Source: economist, Rabat

²³ L'Economiste, 15 Apr 2015

have risen across the board as international demand for Moroccan products has increased. According to the state statistical body, the **Haut Commissariat au Plan (HCP)**, Morocco should record growth of 4.6% year-on-year in Q2 of 2015.²⁴ The main drivers are the country's banking sector, and 12.3% growth in the agricultural sector (specifically an 8.8% increase in cereal production due to a combination of good rains, a good harvest and the expansion of farming activities in the south of the country).²⁵ The one uncertain element is that agricultural output in Morocco is still heavily dependent on smallholder farmers, who themselves depend on good annual rainfall in this semi-arid country. The country's international financial reserves have increased 21.3% compared the first quarter of last year.²⁶

Implications

The PJD-led government is pushing hard in the final year of its current term to demonstrate both its reforming and Islamist credentials – a difficult balancing act – and to deliver on promises from its 2011 campaign. The PJD faces its first real popular test in municipal elections in June this year before the general election in 2016. It came into power on a wave of anti-establishment sentiment and has had a mixed record in office. The PJD faces competition from nationalist and monarchist **Istiqlal** (traditionally the party of the palace), which resigned from the government in 2013. However, Istiqlal is now positioned badly to take any credit for the economic upturn since 2014, even if much of the improvement has been due to factors beyond the PJD's control, such as the slump in global oil prices and the good rains. Popular reforms to healthcare are also designed to cement the PJD's forward electoral position, which now looks unassailable.

Reform of the penal code has been long overdue, and the revised draft will, if passed, fix a number of fundamental problems with its predecessor. Overall, the PJD is likely to persuade many secular liberals that it is moving as far and as fast as it can. The outcry from the activist community is largely confined to a young, educated, urban population. Much of the population, especially in rural areas, holds more conservative religious views linked directly to the religious authority of the king. The palace would not have wanted those powerful social and political links severed by more radical changes to the code. The revised code is therefore being sold as a work-in-progress, a step in the right direction. But it also dodges some key issues, such as corruption in the judiciary and judicial process, which damages individuals and businesses alike. The eventual changes will therefore be judged in the popular mind by improvements in delivery and efficiency of the system (ie, where most citizens encounter the penal code in practice) rather than in issues of principle.

The private provision of public services and social goods (healthcare, education etc.) has been a fertile market for investors in Morocco for a number of years. Public institutions' poor service delivery has created public demand for private alternatives. The government has seen a potential double-win by tying the liberalisation of the healthcare system to a greater role for private investment in state-provided healthcare. As with the penal code changes, the challenge is delivery: there is a danger of creating a two-tier healthcare system where lack of access for the majority of Moroccans could lead to social grievance in the medium term. Greater AMO take-up across the country is key to creating an integrated public-private system, good returns and good service.

Rebalancing the dirham is a sign of where the central bank (and to some degree the government) sees Morocco's trajectory – less reliant on and tied to Europe and looking across the **Atlantic** and south in sub-Saharan Africa for business. Insulating the currency from fluctuations in the euro makes it a more stable bet in the foreign exchange markets, as well as more attractive investment destination for companies worldwide. To some degree, the move will also insure the dirham against anticipated volatility in foreign exchange markets later in 2015 when US interest rates are expected to rise. The

²⁴ L'Economiste, 8 Apr 2015

²⁵ Le Matin, 8 Apr 2015

²⁶ Le Matin, 6 Apr 2015

euro is still key to the basket, though, reflecting its status as (by far) Morocco's largest trading partner.

About Africa Risk Consulting:

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