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ASYLUM AND MIGRATION IN MAGHREB

2012



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Introduction

The condition of migrants and refugees in Morocco has, over the last several years, gradually improved. Among other events, the 2011 ‘Arab Spring’ mobilization among civil society has offered some hope for further advancing the cause of migrants and refugees in the country by placing human rights and democratization issues at the forefront of political debate like never before. Yet both Moroccan and migrant populations are still waiting to see if this mobilization – and the resulting revisions in the Moroccan constitution – will result in concrete institutional changes. Unfortunately there is still much work to be done and many challenges to curbing the gap between legal theory and practice in terms of safeguarding the rights of migrants and refugees in the country.

Morocco, the “Arab Spring”, and the 2011 Constitution

In 2011 the revolutionary spirit of the “Arab Spring” spread throughout the Middle East and North Africa, and it continues to this day. Morocco was not immune to the contagion. Its February 20th movement was perhaps smaller and lesser known than those of other states, but their demands for a decentralization of power, an end to corruption, and better socioeconomic living conditions did indeed resonate among the population. King Mohammed VI was quick to react to these events, as he conducted a rare televised speech on 8 March, 2011, which called for the establishment of a board to review and reform the Moroccan constitution. While the protest movements did not altogether accept this initiative because of the undemocratic nature of the constitutional reform process, it nonetheless moved forward. The constitutional referendum occurred on 1 July and was positively affirmed by 98% of those who voted.

The new constitution has been criticized for its ambiguity, but it nonetheless reaffirms Morocco’s dedication to international law and the human rights conventions it has ratified. It also explicitly asserts its values of equality and non-discrimination.¹ Moreover, it stipulates that “foreigners enjoy the same

¹ Jacobs, Anna and Karla McKanders, “The Moroccan Arab Spring: protecting migrant’s rights in theory and practice,” at <http://frlan.tumblr.com/post/22195789994/the-moroccan-arab-spring-protecting-migrants-rights-in>, May 2012.

fundamental liberties as Moroccans,” which some groups have viewed as an invitation for dialogue and reform concerning the rights of migrants.² It also promises a better separation of powers among the branches of government, though the King remains the *Commander of the Faithful* - both institutionally and symbolically. Publicly questioning the power of the Palace and the influential *Makhzen*, territorial integrity, or Islam are still seen as red lines that should not be crossed. Overall, however, the values enshrined in the new constitution do offer hope to some Moroccans, as well as the thousands of migrants and refugees residing there. They are anxiously waiting to see the indiscriminate implementation of the human rights principles described in the new constitution.

Morocco, Migration, and Mobilization in Civil Society

Despite the positive changes in recent years as reflected through a relative enhancement of press freedoms, changes to the family code to improve the rights of women, and a relatively improved human rights situation in the new millennium, the situation of migrants and refugees in Morocco remains difficult. The murder of many migrants in Ceuta and Melilla in 2005 and the recurring deaths of migrants at sea have demonstrated to the world the dire nature of this situation as well as the ubiquity of security-approaches to controlling migration. The European Union describes their policy agenda of integrating North African states in this “fight” against “illegal immigration” in terms of responsibility-sharing, and yet the repercussions of such an agenda are detrimental in that they strengthen a discourse that degrades the migrant “other” and pushes their human rights to the bottom of geopolitical priorities. The Euro-Mediterranean region has become the epicenter of this policy, and Morocco has always been, and continues to be, pressured to accept readmission agreements with EU states and the European Union.

Thanks to the mobilization of Moroccan and international civil society actors, however, the struggle for the rights of migrants and refugees has been gaining momentum in the last several years and, while conditions remain extremely difficult, there have also been improvements. Marc Fawe, Director of external relations at the United Nations High Commissioner for Refugees (UNHCR), argued that their greatest accomplishment has been securing the right of *non-refoulement* for refugees in Morocco. This is a significant advancement, though the lack of an internal Moroccan institution to recognize refugees and the inability for them to obtain a residency permit continues to cripple their ability to work, their access to health care and their hope for a stable future.³

² Article 30 of the Moroccan constitution, approved by referendum in July 2011.

³ <http://www.lesoir-echos.com/%E2%80%89les-marocains-ne-sont-pas-tous-racistes%E2%80%89/societe/53865/>, accessed on July 2, 2012.

Some migrants and refugees are able to find work in informal sectors, especially in urban centers like Rabat and Casablanca. However this proves much more challenging for those residing in areas like Nador, located near the Spanish enclave of Melilla, and Oujda, a key location for deportations just next to the Algerian border.

Those living closer to major urban centers also benefit from greater civil society presence and support, though this is also improving in Oujda thanks to the coordination efforts and support of various civil society groups. According to the director of MSF-Spain, David Cantero, this support has increased access to health services in Oujda (and throughout Morocco). Other improvements, such as the decreased deportation of women and children, can also be seen. Yet, MSF has also emphasized the dire health conditions of migrants living in Nador and the acute vulnerability of women and children, with sexual violence and human trafficking becoming increasingly important issues for both international and Moroccan associations to tackle.

The initiation of projects like “Tamkine-Migrant” represents other recent efforts to support particularly vulnerable migrants, such as women and children. This effort focuses on ameliorating reproductive health services, providing socio-psychological support, and increasing access to education for migrant children. It also represents a coordination effort among several actors: it is co-financed by the European Union and managed by Terre des hommes and the Moroccan associations Oum El Banine and le GADEM.⁴ The project also exemplifies the rather contradictory nature of European Union responses to the migration question: financing human rights initiatives while also promoting the criminalization of migrants in its vast regional “neighborhood.”

It should be stressed that many of these advancements in Morocco are the result of civil society’s work on the ground (international, Moroccan, and migrant-based associations) rather than of pressure from foreign governments. On the contrary, attempts by foreign governments – particular European ones – to “externalize the migration problematic” have implicated many developing countries in oppressive policy initiatives towards migrants, rather than encouraged them to respect the fundamental human rights of this population.

⁴ <http://www.aufaitmaroc.com/maroc/societe/2012/2/29/presentation-a-rabat-du-projet-tamkine-migrants>, accessed on October 24, 2012.

In terms of the continuing challenges to reform, the problem is two-fold. First, there remains a great gap between Morocco's international engagements, such as the UN Conventions on the rights of refugees and the rights of migrant workers and their families, and its national legislation. Second, there is a disconnect between certain progressive stipulations in Moroccan domestic law and the practices of legal authorities. This gap between legal theory and practice reflects a common obstacle to advancing the rule of law for both Moroccan and migrant communities. Understood differently, the struggle for the rights of migrants and refugees directly relates to democratization and human rights advances in the Kingdom overall.

Conclusion

Morocco may have not experienced the Arab Spring like other states in the region, but it was not immune to the discourses of democracy, human rights, and civil society mobilization that spread throughout the Middle East and North Africa. However, there is much skepticism about the reform process and how the aspirations in the new constitution will be institutionally implemented in such a way as to actually touch the lives of all individuals. Altogether endogenous obstacles such as a corrupt judiciary, limited freedom of expression and association, discrimination, and political intimidation of dissidents are challenges to improving the lives of migrants and refugees in Morocco. Furthermore, the European Union continues to pressure and persuade Morocco to adopt the security approach to "fighting illegal migration." This regional pressure acts more so as a catalyst for political stagnation and disregard for reforms regarding the human rights of migrants and refugees. As such, the challenges to reform stem from both domestic and international sources. The question is thus two-fold: First, will the ideals espoused by civil society mobilization during Morocco's "Arab Spring" be institutionally implemented? And second, will these reforms be supported by powerful regional actors like the European Union?

The last few months have not left much room for optimism. The number of organized raids to arrest sub-Saharan migrants throughout the Kingdom, from Rabat and Casablanca to the border cities of Nador and Oujda, has only intensified. The authorities have begun to target sub-Saharan activists as well, such as the former president of the Council of sub-Saharan Migrants, Camara Laye. He was arrested on the evening of 20 October, 2012, and his lawyer has been denied the right to speak with him, in violation of the Moroccan penal code procedure. A plethora of human rights groups in Morocco and the Euro-Mediterranean region are afraid that this arbitrary arrest represents an attempt to crack down on those who struggle for the rights of migrants in Morocco. In other words, continuity appears to be taking precedence over change as the "Arab Spring" idealism fades.

General Framework

Ratification of International Instruments

Convention of 1951/Protocol of 1967: Yes

- Morocco ratified the 1951 Geneva Convention on 07 November 1956, without reservation.
- It ratified the 1967 Protocol on 20 April 1971.

Convention on the Protection of the Rights of All Migrant Workers: Yes

- Morocco ratified the Convention on 21 June 1993.
- The Government of the Kingdom of Morocco issued a reservation in respect of paragraph 1 of article 92 of this Convention regarding arbitration in the event of differences between the parties to the convention.

Other Conventions:

Convention relating to the Status of Stateless Persons, 28 September 1954 No

Convention on the Reduction of Statelessness, 30 August 1961 No

Slavery Convention, signed in Geneva on 25 September 1926 and amended by the New York Protocol of 07 December 1953 Yes

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 07 September 1956 Yes

Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000 No

Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000 No

Convention against Transnational Organised Crime, 15 November 2000, signed 13 December 2000, ratified 19 September 2002 Yes

Recognition of the competence of the Committee on the Rights of Migrant Workers:

Communications from third party States (article 76) No

Communications from individuals (article 77) No

The position regarding submission of periodic reports

Morocco submitted its initial report on 12 July 2012, though this report should have been submitted on 1 July 2004. It will be discussed at the Committee’s 18th session, in April 2013.

Cooperation with the Special Rapporteur on the Human Rights of Migrants

Invitation status of the Special Rapporteur:

The Rapporteur visited Morocco between 19 and 31 October 2003. He submitted the report of his visit on 15 January 2004 (reference: E/CN.4/2004/76/Add.3) and has not requested a further invitation from the Moroccan government since.

In the report of his visit, the Rapporteur notes that Morocco has made efforts to combat illegal migration and update the national legislative framework. The rapporteur considers however that this law lacks balance in that it introduces a large number of repressive measures. He invites Morocco to introduce greater protection for foreigners in Morocco, in congruence with what Morocco demands for its own nationals living aboard.

Other Comments

The report prepared by the Special Rapporteur on the Human Rights of Migrants was presented to the Human Rights Council at the United Nations' General Assembly on 12 April 2012: "This report summarises the activities of the mandate holder since he took office. The thrust of the report mainly emphasises the detention of illegal migrants. The first part of the report concentrates upon the international and regional legal framework relating to human rights, including those categories of migrants in need of special protection, whilst the second part deals mainly with ways of replacing detention. The report draws attention to the work of previous mandate holders which reflects their reports on the human rights of migrants who have been deprived of their liberty (E/CN.4/2003/85) and on the criminalisation of illegal migrants (A/HRC/7/12 and A/65/222)."⁵ According to this report, the Special Rapporteur on the Human Rights of Migrants will, in 2012 and 2013, put an emphasis mainly on the Euro-Mediterranean region and the control of the European Union's external borders.

Has the Special Rapporteur made official requests to the Moroccan authorities?

On 14 October 2005, the Rapporteur made an urgent appeal to the Moroccan authorities concerning information received about the forced collective deportation of sub-Saharan immigrants and asylum seekers arrested as of 17 September 2005.

In 2008, the Rapporteur sent a letter to the Government with allegations concerning two groups of 60 migrants from sub-Saharan Africa who had tried to reach Spain in two boats departing from El Hoceima on 28 April 2008. Their boats may have been deliberately damaged by Moroccan law enforcement officers, causing the death of several migrants. The survivors may have been detained and then expelled at the Algerian border near Oujda.

Did the authorities reply to the request?

The Moroccan authorities replied by letter dated 9 February 2006 to the urgent appeal dated 14 October 2005. They indicated that the expulsions had been carried out in accordance with the relevant legislative provisions.

The Moroccan authorities have not replied to the 2008 request.

⁵ http://www.un.org/ga/search/view_doc.asp?symbol=A/HRC/20/24&referer=/english/&Lang=F, accessed on October 12, 2012.

Other relevant instruments

International conventions on human rights that the country has ratified or agreed to:

» ICCPR	Yes
» ICESCR	Yes
» CEDAW	Yes
» CRC	Yes
» CAT	Yes
» CERD	Yes

Optional protocols:

» ICCPR – 1st	No
» ICCPR – 2nd	No
» ICESCR	No
» CAT	No
» CEDAW	No

Declaration recognising the competence of the Committee Against Torture to receive and examine communications presented by or on behalf of individuals (article 22 of the CAT) Yes

Declaration relating to article 14 of the CERD to receive and examine communications from individuals or groups Yes

International Labour Organization (ILO)

Migration for Employment Convention, 1949 (N° 97)	No
Migrant Workers Convention, 1975 (N°143)	No

Fundamental ILO conventions not yet ratified:

Morocco has ratified the ILO Discrimination (Employment and Occupation) Convention n°111.

Morocco has not ratified the recommendations of the ILO n°86 and n°151 concerning migrant workers.

African Union

Convention relating to the rights of refugees

Yes

Morocco left the Organisation of African Unity (OAU) in 1985 following the admission of Western Sahara as a member to the organisation in 1982. However, it has never formally rejected the convention.

There have nevertheless been recent discussions, according to Moroccan newspapers,⁶ about the possible return of Morocco to the African Union (AU). According to the Minister of Foreign Affairs and Cooperation, Saadeddine El Othmani, "Burkina Faso considers the return of Morocco to the African Union as necessary and offers to play a role in this matter." With many allies in the African Union, particularly in West Africa, several mentions of this return are found in the Moroccan and African media, especially in French-speaking Africa. Such a change could significantly influence sub-Saharan migration to Morocco.

⁶ <http://www.lesoir-echos.com/le-rapprochement-avec-union-africaine-nest-pas-pour-demain/presse-maroc/54914/> accessed on 20 July 2012.

A. Asylum

A.1. De Jure

Principal texts governing the status of refugees and asylum seekers

In the constitution (1 July 2011):

No

- However, in its preamble, the Moroccan constitution⁷ states that: *“Considering the imperative to reinforce the role that belongs to it on the international scene, the Kingdom of Morocco, active member within the international organisations, is committed to subscribe to the principles, rights and obligations enounced in their respective charters and conventions; it affirms its attachment to Human Rights such as they are universally recognised, as well as its will to continue to work to preserve peace and security in the world.”*
- The Moroccan constitution also indicates in its preamble that *“Founded on these values and these immutable principles, and strong in its firm will to reaffirm the bonds of fraternity, of cooperation, of solidarity and constructive partnership with all other States, and to work for common progress, the Kingdom of Morocco, a united State, totally sovereign, belonging to the Grand Maghreb reaffirms that which follows and commits itself ... To protect and promote the mechanisms of Human Rights and of international humanitarian law and to continue their development within their indivisibility and their universality; To ban and combat all discrimination whenever it encounters it, for reason of sex, of colour, of beliefs, of culture, of social or regional origin, of language, of handicap or whatever personal circumstance that may be; To comply with the international conventions duly ratified by it, within the framework of the provisions of the Constitution and the laws of the Kingdom, within respect for its immutable national identity, and on the publication of these conventions, their primacy over the internal law of the country, and to harmonise in consequence the pertinent provisions of national legislation...”*

⁷ Translation to English: Jefri J. Rushti, trans., Draft text of the Constitution adopted at the Referendum of 1 July 2011. (HeinOnline World Constitutions Illustrated Library 2011). Translation copyright 2011 by William S Hein & Co., Inc. All rights reserved. Accessed 8 November 2012”.

- In article 30, the constitution states that “Foreigners enjoy the same *fundamental freedoms recognised to Moroccan citizens [feminine] and citizens [masculine] in accordance with the law. Those among them who reside in Morocco can participate in local elections by virtue of the law, of the application of international conventions or of practices of reciprocity. The conditions of extradition and of granting of the right of asylum are defined by the law.*”
- The new constitution also emphasises the important role of the National Human Rights Council (CNDH) in articles 161 and 164. According to CNDH’s self-presentation,⁸ *“The creation of the National Human Rights Council (CNDH) strengthens the commitment of the Kingdom of Morocco to protect its citizens’ rights and freedoms. It confirms Morocco’s attachment to respect its international commitments in the protection and promotion of human rights.”*⁹
- Article 161 of the Moroccan constitution: *“The National Council of the Rights of man is a pluralist and independent national institution, charged with taking cognizance of the questions relative to the defence and to the protection of Human Rights and freedoms, to the guarantee of their full exercise and of their promotion, as well as the preservation of the dignity, of the individual and collective freedoms of the citizens [feminine] and citizens [masculine], and this with strict respect for the national and universal referents in the matter.”*
- Article 164 of the Moroccan constitution: *“The authority charged with parity and with the struggle against all forms of discrimination, created by virtue of article 19 of this Constitution sees, notably, to the respect for the rights and freedoms specified in the said article, under reserve of the attributions devolved to the National Council of the Human Rights.”*

In an organic law: No

In other laws: Yes

- Decree No. 2-57-1256 of 2 safar 1377 (29 August 1957) setting out the methods for applying the Convention relating to the status of refugees, signed in Geneva on 28 July 1951.

⁸ Translation taken from CNDH English website: <http://www.ccdh.org.ma/spip.php?article88>. Accessed on 8 November 2012.

⁹ <http://www.ccdh.org.ma/spip.php?article4881> accessed on October 14, 2012.

This decree sets out the procedure for requesting asylum and fixes the criteria by which refugee status is recognised. It also sets up an office for refugees and stateless persons - the BRA (Bureau des Réfugiés et Apatrides) which has the authority to deal with these issues.

- Decree n° 1-03-196 of 11 November 2003 adopting law n° 02-03 relating to the entry and stay of foreigners in the Kingdom of Morocco, and relating to illegal emigration and immigration (hereinafter “law 02-03”).

This decree has some impact on the rights of refugees, particularly with regard to the right of stay (Article 17), the request for asylum following a refusal of permission to enter the country (Article 38) and protection against expulsion (Article 29). Article 29 explicitly affirms that *“No foreigner who is pregnant or a minor may be expelled. Equally, no foreigner can be expelled to a country if he establishes that his life or liberty are threatened or if he will be exposed to inhuman, cruel, or degrading treatment.”*

Other Comments

The Moroccan authorities have recently set up an inter-ministerial committee to consider modernisation of the national legislative framework. The work of this committee is not made public. No date has yet been fixed for the adoption of this reform.

This committee is working on the definition of the eligibility criteria for refugee status, on the establishment of a national procedure for decision-making, and on the competences required of the national bodies that would be set up in these areas. The authorities are also looking into the shape that the reform will take (repeal of existing laws and decrees or their amendment).

The Consultative Council for Human Rights, currently known as the National Human Rights Council (CNDH), has been involved with numerous initiatives on migration, refugees, and the legislative framework: a discussion forum on the protection of refugees in Morocco (11 February 2008); a regional seminar on “the protection of refugees between international law and national mechanisms” (04 February 2009); “The protection of refugees between international law and national mechanisms” - theme of a regional seminar in Oujda (10 March 2009); the president of the CCHR also received the United Nations High Commissioner for Refugees (29 December 2009). The CCHR took part in a meeting in Amman on immigration and trafficking in human beings (28-29 December 2010).

In August 2011, the CNDH called for the updating of public policy relating to asylum.

A.2. De Facto

Is there a ministry / government body authorised to decide on the status of refugees?

Yes

The decree of 1957 establishes the BRA (the office for refugees and stateless persons), coming under the jurisdiction of the Ministry of Foreign Affairs (Article 1), as having the authority to recognise refugee status (Article 2).

This decree establishes an Appeals Board charged, amongst other things, with examining appeals against the decisions of the BRA (Article 4 and 5).

Specify the different types of status and the procedures to be followed:

The BRA is authorised to recognise refugee status for anyone who comes within the mandate of the UNHCR or who comes within the definition of the first article of the 1951 Geneva Convention (Article 2).

The decree does not set out the rules relating to the procedure for applications for asylum or for the examination of such requests.

In practice, is this procedure followed by the authorities?

No

In 2004, the Moroccan authorities suspended application of the 1957 decree. This decision was made when, following a change in practice within the UNHCR in Morocco, the number of requests recorded by this organisation significantly increased.

The BRA has not been active since 2004. It does not register requests for asylum, does not recognise refugee status accorded by the UNHCR in Morocco and does not issue any documents proving Civil Status nor residence permits to refugees recognised by the United Nations agency. The Appeals Board never seems to have been set up.

Other remarks

Refugees recognised as such prior to the decision to suspend the activities of the BRA have been able to get residence permits and enjoy the right to stay, the right to work, and a number of other economic and social rights. However, most refugees have received recognition by the UNHCR in Morocco after this date and as a result do not enjoy these rights (see below).

Several observers and players in the field have put forward the regional context to explain the current hold-up in introducing protection for refugees in Morocco. Despite the breaches of the rights of refugees and asylum seekers, the practices of Moroccan authorities are more favourable to refugees than those in the other states of the Maghreb. Equally, the economic situation in Morocco offers certain opportunities that are not found in neighbouring countries. For these different reasons, Morocco is much more attractive than these neighbours, and the Moroccan authorities are aware of this. It would therefore seem that Morocco is reluctant to encourage this situation and to increase the flow of asylum seekers by improving the protection enjoyed by refugees.

The question of Sahrawi refugees in Algeria (Tindouf) has also complicated relationships between UNHCR and the Moroccan authorities in the past and as a result contributed to the blocking of discussions about the right to asylum in Morocco.

A.3. Role of UNHCR

Is there one or more UNHCR offices in the country? Yes

UNHCR
26 Avenue Tariq Ibn Ziad, quartier Hassan, Rabat
Tel.: 0537 76 76 06
Fax: 0537 76 61 96

UNHCR began working in Morocco in 1959 and opened an honorary delegation there in 1965. In 2004, the office was transferred from Casablanca to Rabat.

Does UNHCR enjoy the official legal status allowing it to operate in that country? Yes

A cooperation agreement was signed in Geneva on 20 July 2007 between the government of the Kingdom of Morocco and the United Nations High Commission for Refugees.¹⁰

¹⁰ This agreement was published in the official journal: Decree n° 1-08-90 dated 20 chaoual 1429 (20 October 2008) adopting law n° 37-07 which approved in principle the ratification by the Kingdom of Morocco of the Agreement on cooperation signed at Geneva on 20 July 2007 between the government of the Kingdom of Morocco and the United Nations High Commission for Refugees.

Summarise the main points of this agreement:

This agreement sets out the arrangements for cooperation between the UNHCR and the government.

It authorises the UNHCR to open one or several offices whose premises are inviolable. The UNHCR can employ local or international staff. These staff enjoy certain rights, privileges and immunities.

The UNHCR can undertake humanitarian projects and activities involving partners, public institutions or private players, in order to fulfil its mandate in Morocco.

Does the UNHCR have unrestricted access to asylum seekers? Yes

The cooperation agreement gives UNHCR unrestricted access to refugees and other persons where it has authority.

In practice, however, UNHCR cannot obtain access to certain persons wishing to request recognition of their status as refugees. This is particularly so in the case of persons intercepted at the border, especially at airports, and also foreigners of illegal status arrested and detained by the authorities pending their expulsion.

Is UNHCR staff allowed freedom of movement in the country? Yes

The agreement guarantees freedom of movement of the UNHCR. In practice, the UNHCR encounters no difficulties.

Is UNHCR staff authorised to visit detentions camps / centres where there are asylum seekers? No

Morocco has no camps for refugees or displaced persons.

There are several unofficial camps where illegal migrants live (Oujda and Nador in particular). UNHCR has not expressed a wish to visit these camps but has the freedom to do so. UNHCR has no access to detention centres or other places where foreigners likely to want to request refugee status are held. This is particularly the case at the border, especially at airports (Casablanca airport). This is also true in the case of persons detained and awaiting expulsion.

In your view, is the current location of the UNHCR such that unrestricted access by refugees to their offices can be guaranteed?

No

The UNHCR office is in the centre of Rabat. UNHCR programmes aimed at refugees and asylum seekers are mainly implemented in Rabat. As a result, the majority of refugees and asylum seekers settle in the capital, or in the neighbouring towns of Salé and Casablanca, once they have registered with the UNHCR.

The UNHCR office is situated in the town centre, some distance from the lower class districts where refugees and asylum seekers live. This location does not, however, prevent asylum seekers and refugees from accessing the UNHCR office by using public transport.

The difficulties are however very significant when persons seeking protection enter Moroccan territory over land. Most migrants originating from West Africa enter Moroccan territory from Algeria, mainly near the town of Oujda. This town is some 375 miles from Rabat and all means of transport are heavily controlled by the Moroccan authorities. Migrants are therefore forced into a long clandestine journey sometimes on foot and into the clandestine use of public transport (especially goods trains). Several very serious accidents have been reported (falling off trains in particular). In addition, delinquents target migrants on certain sections of the journey. As a result, the absence of a UNHCR branch in this town makes access by the most vulnerable to UNHCR premises a real problem.

The opening, in partnership with the UNHCR, of a legal assistance unit by the OMDH (Moroccan Organisation for Human Rights) in Oujda attempts to partially address this problem. The OMDH can in fact register persons seeking protection and point them in the direction of the UNHCR in Rabat. Several organisations (Gadem, ABCDS, Association marocaine des droits humains (AMDH), Fondation Orient- Occident, MSF...) also keep a record of persons seeking international protection and redirect migrants to the services of the UNHCR in Rabat. However, these organisations cannot generally negotiate with the Moroccan authorities for safe conduct for these persons, who therefore have to make a clandestine journey to the capital.

Does the UNHCR make decisions on refugee status (RSD) and register refugees?

Yes

The UNHCR in Morocco carries out a classic procedure for the determination of refugee status (RSD). The procedure begins with the registration and issue of an asylum seeker certificate. The asylum seeker is then interviewed by a registration

officer.¹¹ The decision is notified to the asylum seeker who is given an oral explanation in the event of refusal. In this case, the asylum seeker has a right of appeal. During the appeal phase, the asylum seeker is interviewed again by a registration officer. The second decision is final.

The UNHCR in Morocco does not use a special (accelerated) procedure for asylum seekers who do not clearly come under the authority of the UNHCR.

How many refugees and asylum seekers are currently recognised by the UNHCR?

As at 31 December 2011, Morocco accounted for 723 refugees and 615 asylum seekers.¹²

List the total number and their distribution by country of origin, age and sex:

Refugee Population by Country of Origin

Country of Origin	Percent	Number of Refugees
Ivory Coast	34.44%	249
Democratic Republic of the Congo	26.97%	195
Iraq	20.61%	149
Palestine	4.29%	31
Liberia	2.21%	16
Republic of the Congo	1.52%	11
Somalia	1.11%	8
Afghanistan	1.11%	8
Cameroon	0.97%	7
Senegal	0.97%	7
Pakistan	0.97%	4
Others	4.84%	60
Total	100%	723

¹¹ In French: Officiers d'éligibilité

¹² Statistics obtained from Monsieur Marc Fawe, in charge of the UNHCR external relations, in January 2012.

Child Refugee Population

Age Range	Girls	Boys	Total
0-4 years	29	26	55
5-11 years	37	33	70
12-17 years	31	33	64
Total	97	92	189

Female Refugee Population

Age Range	Number
0-4 years	29
5-11 years	37
12-17 years	31
18-59 years	125
60 +	6
Total	228

Identify the different types of procedures and status used (prima facie, etc.):

The UNHCR in Morocco uses a standard procedure for the determination of refugee status. It makes an individual assessment of each request for asylum and does not recognise refugees on a *prima facie* basis nor does it recognise groups.

Is refugee status, including *prima facie* refugee status, granted by the HCR recognised by the local authorities?

No

The BRA no longer recognises refugee status accorded by the HCR in Morocco and has not been issuing any documents proving Civil Status nor residence permits to refugees recognised by the United Nations agency since 2004.

Beyond the procedure for recognition of refugee status, what other kinds of help are given by UNHCR to refugees (direct help, micro-projects, etc.) and in what way is this help given (local partners, procedures, etc.)?

UNHCR directly ensures that the psycho-social concerns of vulnerable refugees are listened to in order to assess their needs. It ensures that temporary financial assistance is available to the most vulnerable refugees (including unaccompanied minors, women heads of family, victims of sexual and sexist violence, chronically ill and disabled refugees) based upon certain vulnerability criteria and in collaboration with other humanitarian bodies in Morocco. Unaccompanied minors receive monthly financial assistance until they achieve financial self-sufficiency.

UNHCR has also developed several partnerships with a view to creating programmes of material and legal assistance for refugees:

- **La Fondation Orient - Occident** offers to refugees recognised under the UNHCR mandate in Morocco a service whereby individual concerns can be heard, and social and psychological counselling given, as well as support and advice.

This same partner facilitates the registration at State schools of child refugees recognised under the UNHCR mandate in Morocco. The programme includes taking care of registration fees and paying for school uniforms and equipment. Arabic language courses are also available for recognised refugees.

This organisation also arranges an apprenticeship programme and one for the furtherance of professional training for recognised refugees.

- **The AU (Action Urgence) association** arranges general medical consultations and facilitates access to the public health system for asylum seekers and refugees. This programme also offers follow-up care for pregnant women and screening for HIV/AIDS. This UNHCR partner takes care of all (or part of) the cost of medicines, medical analyses, specialised examinations, hospital treatment, dental care, spectacles, and other specialised treatments.
- **The OMDH (the Moroccan Organisation for Human Rights)** offers those who come within the mandate of the UNHCR in Morocco conciliation, advisory, and legal and administrative assistance in Rabat and Oujda (on the Algerian border). In Oujda, this association also assists refugees and asylum seekers who have been expelled and refers to the UNHCR those persons seeking international protection.
- **The AMAPPE (Moroccan Association of Support for the Promotion of SMEs)** is implementing a programme to create and bolster activities which generate income for refugees recognised under the mandate of the UNHCR in Morocco.

Other remarks

- There is neither a legal aid service nor a support service for asylum seekers at the initiation phase of an asylum request. For example, no organisation prepares asylum seekers for their first interview with the UNHCR. Provision of information and preparation for the asylum seeker's interview largely takes place within the migrant and refugee community. Legal assistance to prepare an appeal is also lacking for those who have had their request for refugee status turned down. However, certain NGOs offer access to effective networks of lawyers such as GADEM (which is specialised in legal aid for migrants and refugees) and AMDH. The OMDH provides legal support at its Legal and Administrative Help Centre in Oujda to refugees who are recognised under the UNHCR mandate. However, access to legal aid depends above all on the town and the presence of NGOs. For example, in Rabat and Casablanca this aid is much more accessible than in border areas like Oujda and Nador.
- There is no official centre for receiving or finding accommodation for the most vulnerable refugees and asylum seekers so as to ensure they have somewhere to stay, even temporarily. In some cases, however, the UNHCR can be required to find informal and temporary solutions within the refugee community in order to get accommodation for highly vulnerable persons.
- The UNHCR has no access to regular financial assistance for refugees and asylum seekers, except for unaccompanied minors who receive a monthly allowance. Exceptional selective assistance can be made available to protect the most vulnerable (women on their own, unaccompanied minors, the sick and those with no means of support...).
- The UNHCR in Morocco offers on a selective basis the relocation of certain refugees based on vulnerability criteria (77 between the start of 2005 and the end of 2009). Because of the absence of any possibility of integration locally, relocation is one of the main demands of refugees. However, a number of refugees have been recognised on the basis of the extended mandate of the UNHCR and not strictly in accordance with the definition contained within the Geneva Convention. This recognition basis excludes them from most of the national relocation programmes.
- The UNHCR and the IOM assist, on a selective basis, refugees who wish to return voluntarily to their country of origin following a change in the local situation. With this aim in view, 5 refugees were assisted in 2008.

- As a result of having no permit to stay, the reunification of recognised refugee families in Morocco is not possible. Some refugees have however been able to leave Morocco and settle with family members living abroad. They have been able to take advantage of assistance from IOM and UNHCR.

A.4. The Rights of Refugees and Asylum Seekers

Does the existing framework effectively protect the rights of refugees and asylum seekers?

No

The legislative framework would allow, were it applied, the guarantee of the most fundamental rights of asylum seekers and refugees, especially the right of stay, access to health care, to education and to work under certain conditions.

However, generally, the suspension of the activities of the BRA and the development of administrative practices in contradiction to Moroccan law entail serious violations of the fundamental rights of asylum seekers and refugees.

Protection against expulsion:

The Moroccan State has not created holding areas at borders, especially at Casablanca airport, where many refusals of entry and interception of persons in transit have been documented by many observers. The foreigner who is refused entry onto Moroccan soil and who expresses the wish to request asylum cannot have his request for asylum registered nor can he contact the BRA, and this is contrary to what Moroccan law states. If UNHCR knows about the situation of the migrant and his wish to request asylum, it does not generally have access to the person detained by the border authorities.¹³ The provisions of Moroccan law dealing with detention are not applied.

With respect to expulsion, the Moroccan authorities have retained practices which are in contradiction to the provisions of the law 02-03. As a result, illegal migrants arrested on Moroccan territory cannot request asylum before being expelled which is contrary to the provisions of national law. When UNHCR knows about the situation of the migrant and his wish to request asylum, it does not generally have access to the person detained.

¹³ The UNHCR has however been able to access persons detained in some very rare and particular cases.

Do those with refugee status have access to:*A residence permit:*

No

- Law 02-03 puts conditions on the issue of a permit to stay for refugees who legally enter Moroccan territory, in contradiction of the Geneva Convention of 1951.
- The lack of recognition, by the Moroccan authorities (BRA), of refugee status conferred by UNHCR, has prevented the issuance of a residence permit to all refugees recognised as such since 2004, no matter whether they entered legally or not on Moroccan territory.
- In practice, there is a consensus among Moroccan actors that the stay of refugees and asylum seekers is tolerated. This tolerance particularly increased after the UNHCR started to issue more secure certificates to asylum seekers and refugees in 2007 and 2008 (replacement of paper certificates with plastic cards). At present, the Moroccan authorities check almost systematically with the UNHCR the status of persons arrested who present a UNHCR registration document (refugee card or request for asylum certificate) and do not expel those persons for whom they receive confirmation from the UNHCR. Some expulsions of refugees and asylum seekers at the Algerian border have however taken place, and this is especially problematic for those in “pre-registration” phase.
- In a legal case from July 2009, the court of first instance in Rabat did not uphold charges of illegal stay against refugees prosecuted for acts of violence against an officer of the law enforcement services. The judge considered that the refugees who had been prosecuted enjoyed the right of stay on the basis of the status which had been recognised by the UNHCR.
- Marc Fawe, in charge of UNHCR external relations, stated on 2 July 2012 that the refugees: “have no Moroccan permits to stay, which indeed constitutes one of our principle hobby-horses. A problem accentuated by the absence of legislation, and by the fact that it is not the administration of Morocco that carries out the interviews and analyses the files. It must become normal procedure for those who are recognised as refugees by the UNHCR to be automatically so recognised by the Moroccan State. We have on the other hand won on a crucial issue, which is the non-expulsion of asylum seekers by Morocco. They cannot be expelled even when they do not have a permit to stay. But without this permit, they cannot sign a tenancy agreement, nor legally have access to education, nor to state health care centres. Even if in practice

these children all go to school thanks to very cooperative head teachers.”¹⁴

To the job market:

No

- Potential employers of asylum seekers or refugees must obtain a work permit (a process under the control of ANAPEC - the national agency for the promotion of employment and skills) and request a work visa. To support their request, the latter have to supply the Moroccan authorities with any documents relating to previous employment and prove legal entry on to Moroccan territory and legal right to stay. These conditions prevent most refugees and asylum seekers from getting this authorisation.¹⁵
- A number of them however have employment in the informal or unreported sectors (this is the case in the conurbations like Rabat and Casablanca). However, the illegality of their situation exposes them to all sorts of exploitation, particularly the women. Access to employment is even more difficult in the towns near the border, like Oujda, and Nador.
- The ODT (Democratic Organisation of Work) and members of the CMSM (Council for sub-Saharan migrants in Morocco) established a trade union initiative for migrant workers in Morocco on 1 July 2012. This immigrant workers' collective reflects the efforts of Moroccan civil society (see section C1 below) and migrant associations in Morocco to improve advocacy and fight for the rights of migrant workers.

To health care:

Yes

- A Ministry of Public Health circular dating from 2003, entitled “Surveillance sanitaire des immigrés clandestins aux frontières” (Surveillance of health amongst clandestine immigrants at the border)¹⁶ facilitated the treatment of refugees and asylum seekers by the public health services. Originally directed at the border police, it sets out the principles of non-discrimination and treatment of epidemic type disease for all migrants. Civil society action and support by a delegation from the Ministry of Health have greatly contributed to spreading knowledge about it in health centres, especially in Rabat.

¹⁴ <http://www.lesoir-echos.com/%E2%80%89les-marocains-ne-sont-pas-tous-racistes%E2%80%89/societe/53865/> accessed on July 12, 2012.

¹⁵ In some particular cases, which are relatively rare, some refugees can however get a work permit.

¹⁶ Ministry of Health Circular, 24 DELM/36, 27 May 2003.

- However, the situation is very different according to geographical area. Certain administrative demands therefore, such as the requirement to produce proof of address, are applied very strictly in some areas and can prevent refugees' and asylum seekers' access to healthcare arrangements. Access to health care also largely depends on the presence of NGOs in the town. For example, in Rabat, Casablanca and even, more recently, in Oujda, access to health services has improved. But the director of MSF Spain in Morocco, David Cantero, has stated that the health conditions of the immigrant populations in Nador and their access to health services are the worst in Morocco.
- As a result, programmes run by UNHCR and civil society still have great importance in the area. Intervention and mediation by these organisations greatly facilitate access to the public health system by refugees and asylum seekers. As a result of this awareness-raising activity and mediation, access by refugees and asylum seekers to health care in Rabat and Casablanca currently seems to be effective.
- Moreover responsibility for all or part of health care costs assumed by the UNHCR or certain NGOs is fundamental to ensuring effective access, taking into account the precarious economic situation of refugees and asylum seekers. There are sometimes problems with the higher medical costs, such as operations and certain medicines, which cannot always be covered because of the financial limitations of the NGOs.

To education:

Yes

- Children in Morocco must go to school. However, parents who want their children to go to state schools must produce certain documents, particularly the family registration document issued by the State. Refugees and asylum seekers do not usually possess this document, and this prevents their children being registered in those areas where this requirement is strictly observed.
- However, at the Rabat-Salé academy, there is toleration in this regard and the children of refugees and asylum seekers can register for primary and secondary schools. Application to a higher educational establishment is however prohibited because their stay in Morocco is illegal.
- Financial support received by refugees in order to get their child registered for a school is very important because, in view of their precarious economic situation, it helps them get access.
- However many obstacles hinder wider access by refugees to the school system

(discrimination, racism, lack of multicultural awareness, problem with ignorance of the Arab language...).

Comment

- Since 2005, the UNHCR in Morocco has organised many sessions on awareness-raising and education directed as much at Moroccan society in general as at the Moroccan authorities and representatives of the legal system. This strategy has enabled the UNHCR to become better known, along with its activities and the nature of its mandate, as well as the rights theoretically enjoyed by refugees under Moroccan law. The UNHCR also maintains a regular dialogue with the Moroccan authorities.
- Civil society, which is very active in Morocco,¹⁷ has also contributed to raising the profile of forced migration through advocacy and capacity building.
- For these different reasons, the situation of refugees in Morocco has noticeably improved in recent years, particularly with respect to the right of stay, even though many fundamental rights are still not assured.

¹⁷ Projects such as "Tamkine-Migrant" is but one example of recent initiatives bolstering migrant rights via an improvement of their access to health care, schooling, and the justice system.

B. Migration

B.1. Legal Entry and Stay

Is there any legislation which regulates entry, departure and stay in the country?

Yes

- Decree n° 1-03-196 of 11 November 2003 adopting law n° 02-03 relating to the entry and stay of foreigners in the Kingdom of Morocco, and relating to illegal emigration and immigration (hereinafter “law 02-03”).

Particular comments on the law, from a rights-based perspective:

- In its first article, law 02-03 states that it is subordinate to the relevant international conventions.
- Law 02-03 introduces into Moroccan law protections and guarantees provided for in international law, in particular those rights concerning children and refugees or protection against torture. Some of these provisions, however, contradict this very same international law, especially in matters concerning the issue of residence permits for refugees whose entry into the country is legally based.
- The law introduces a number of provisions aimed at penalising illegal emigration and immigration. It also penalises those who provide any help to those wishing to enter or exit illegally. In these areas, the law provides for severe penalties, including prison sentences.
- Most of the provisions which provide protection (properly managed administrative detention, guarantees within the context of expulsion and appeal procedures...) are not applied. The arrangements which should have allowed for a more dignified and humane application of the provisions managing migration (detention centres and holding areas) have not been put in place.
- In several of its articles, the law uses concepts such as “public order”, “State security”, or “public safety” without these concepts being defined (notably in articles 4, 14, 17, 21, 25, 35 and 42). These concepts give the

administration a lot of room for manoeuvre in some areas where its actions can have particularly serious consequences for the fundamental rights of migrants (expulsion, detention...).

- Many of the provisions in the law need a decree before they can be applied, and to date this has not happened.
- Although this law has been in force for nine years, most observers agree that it remains little known by law enforcement officials and members of the judiciary (judges and lawyers). For example, some procedural documents in 2008 and 2009 cited laws and decrees repealed as far back as 2003.

Is there a ministry or government body responsible migration related issues?

Yes

Direction de la Migration et de la Surveillance des Frontières
Ministère de l'Intérieur
Quartier Administratif,
Rabat
Tel: 037 76 42 43

Are official statistics available about the number of migrants in the country?

Yes

- The Ministry of the Interior has statistics about the number of foreigners holding a residence permit in Morocco. According to these figures, there were in 2008 about 60,000 foreigners legally in Morocco, the majority from France (about 16,000) and Algeria (more than 12,000). The main reasons given for this stay were family reunions (40%), work (37%) and study (23%). In 2010, "41,000 French people were registered by the French embassy in Morocco and the number of unrecorded French nationals was 30,000", according to Karim Ben Cheikh, chief press officer for the embassy.¹⁸ Europeans remain the main group of foreigners in Morocco.
- There are no official statistics about the number of illegal migrants living in Morocco. The Ministry of the Interior generally estimates between 10,000 and 15,000 persons without being specific about what categories of people this figure encompasses nor how this information has been collected.

¹⁸ <http://www.yabiladi.com/articles/details/8891/maroc-nouveau-pays-d-immigrations.html> accessed on February 11, 2012

However, a study on illegal migration from sub-Saharan Africa into Morocco carried out by the CCME (Council of the foreign Moroccan community), the British IPPR (Institute for Public Policy Research) and the European Union puts the number of undocumented sub-Saharans at under 10,000.¹⁹

- The Ministry of the Interior also calculates the number of arrests of illegal migrants on Moroccan territory or when an illegal attempt is made to cross the Moroccan border.²⁰

Year	2000	2001	2002	2003	2004	2005	2006	2007
Migrant arrests	14,395	15,000	15,300	23,851	17,252	21,894	9469	7830

Are there any other statistics (estimates, etc.)?

Yes

- MSF (Médecins Sans Frontière) estimates that there are 4500 illegal migrants in Morocco. This estimate is based on a census carried out in January 2010 in the towns of Nador, Oujda, Casablanca, Salé and Rabat.²¹ In March 2012, Sara Magber - the former co-ordinator for MSF Spain in Oujda - estimated that there were 500 migrants in Oujda and about 550 in Nador.
- Many studies refer to a number of illegal migrants between 10,000 and 20,000 without however specifying how the information is collected. However, there are also civil society sources asserting an increase in the number of expulsions for strategic reasons. In other words, the Moroccan authorities are aware that they often expel the same people (who are sent back to Algeria and who return on foot, at night, to Oujda in Morocco). The high expulsion statistics imply that the Moroccan authorities are “effective” at controlling the border - and this perhaps helps their relationship with Spain and the European Union at the level where the problem of “illegal immigration” is managed.

¹⁹ <http://www.lavieeco.com/news/societe/10-000-subsahariens-sans-papiers-...-et-pas-de-politique-d-immigration-22935.html>, accessed on August 3, 2012.

²⁰ This figure represents the actual number of arrests made. Those arrested are often expelled at the land border with Algeria and they generally quickly return to Moroccan territory. They can therefore be arrested and expelled several times a year.

²¹ According to MSF, this census excludes the sub-Saharan population that has a permit to stay or has the financial resources enabling a permit to be obtained.

B.2. Illegal Entry, Departure and Stay

Are there any legal texts which penalise illegal entry, departure or stay in the country?

Yes

Decree n° 1-03-196 of 11 November 2003, adopting law n° 02-03 relating to the entry and stay of foreigners in the Kingdom of Morocco, and relating to illegal emigration and immigration (hereinafter “law 02-03”).

Unauthorised entry and departure

- Any foreigner disembarking or arriving on Moroccan territory is required to present himself to the competent authorities with the necessary documentation (Article 3).
- Any foreigner who fails to comply with this formality is liable to a fine or a prison sentence (Article 42).
- In addition, a decision to return the person to the border can be ordered when officials of the administration encounter him (Article 21).
- Illegal departure from the territory (except at border crossings set up for this purpose) can incur a fine and a prison sentence (Article 50).

Illegal stay

- Any foreigner on Moroccan territory who is over 18 must hold a registration card or a residence permit (Article 6).
- The absence of a residence permit is punishable by a fine and a prison sentence (Article 43).
- A foreigner who continues to stay in Morocco after his residence permit has expired is punishable with a fine and a prison sentence (Article 44).

Discretionary powers over expulsion and detention

- Moroccan law distinguishes between two types of expulsion from the territory: expulsion and return to the border.
- In theory, the decision to return someone to the border does not spring

from any discretionary power of the administration. The law in fact sets out a list of cases in which this can happen and imposes a duty on the authorities to justify it (Chapter III of the law).

- The administration has a discretionary power to expel. In fact, expulsion can be decided upon by the administration if the presence of a foreigner on Moroccan territory constitutes “a grave threat to public order”. The decision to expel can be made or revoked at any time (Article 25).
- However, expulsion cannot be made in the case of several categories of persons: stay from the age of 6, stay of more than 15 years, legal stay of more than 10 years, a foreigner married to a Moroccan, a foreigner who is the father of a child with Moroccan nationality, any one who has not been sentenced to more than one year in prison, pregnant women and minors (Article 26).
- In the event of an “overriding need for the security of the State and public safety”, the exceptions provided for above cannot be applied (Article 27).
- The decision to expel a foreigner can be made automatically by the administration (Article 28).
- With regards to detention, Moroccan law distinguishes between administrative detention with a view to removal from the territory and placement in a holding area (when entry onto Moroccan territory is refused and the foreigner’s departure is anticipated). Theoretically, these measures are well set out within the law (deadlines, appeals procedure, periodic monitoring by a judge, right to consult a lawyer...). In practice, arrangements for detention (holding areas and detention centres) have not been put in place and the detention of foreigners is carried out outside the law, unmonitored by the judiciary.
- Moroccan law also provides for the possibility of the house arrest (Article 31) of persons who are subject to an expulsion order that cannot be carried out (specially protected persons such as minors and pregnant women in particular).
- According to a number of observers, in the majority of cases where illegal immigrants have been arrested, detained, and expelled from Morocco, the above provisions are not applied.
- In practice, the foreigners can be kept in detention at police stations or other places where they are deprived of their liberty without the formal procedures of the law being respected.

- Expulsions normally take place at the land borders of Morocco with Algeria (Oujda) or more occasionally with Mauritania. Foreigners are usually forced to walk into neighbouring countries in conditions which can sometimes be described as degrading and inhumane treatment (expulsion at night in areas where criminals who specifically target migrants operate, expulsion into desert areas without food and water, with mines on the Mauritanian border...).

The procedure to be followed in respect of expulsion decisions

- Moroccan law distinguishes between expulsion and removal to the border. These measures are decided upon by the competent authority, namely the Director of General Security (Directeur de la Sureté Générale) (Article 25 and 21).
- Decisions on removals to the border must be justified (Article 21). This decision can only be taken in certain very specific cases (illegal entry, illegal stay, refusal to renew a permit to stay, expiry of a permit to stay, sentence for falsification of a permit to stay, withdrawal of official acknowledgement of a request for a permit to stay, or withdrawal of an entitlement to stay because of a threat to public order).
- In practice, decisions on returns to the border or expulsions can be taken in many different ways (orally communicated decisions, unnotified decisions...) which completely contradict Moroccan law.

Prohibition on returning to Moroccan territory

- A decision prohibiting a return to Moroccan territory, for a maximum term of one year, can be made in conjunction with a decision on returning someone to the border (Article 22).
- The decision on prohibiting a return to Moroccan territory must be justified and cannot come into force until after the interested party has made any representations (Article 22).

Does the law provide for exemptions from such penalties for some special categories of migrants?

Yes

- No foreign pregnant woman or minor can be expelled (Article 21).
- No foreigner can be expelled to a country if he establishes that his life or

liberty are threatened or if he will be exposed to inhumane, cruel, or degrading treatment (Article 21).

- Expulsion cannot be made in the case of several categories of persons (stay in Morocco from the age of 6, stay of more than 15 years, legal stay of more than 10 years, a foreigner married to a Moroccan, a foreigner who is the father of a child with Moroccan nationality, any one who has not been sentenced to more than one year in prison - Article 26). However, in the event of “overriding need for the security of the State and public safety”, these guarantees can not be applied (Article 27).

In the event of a decision to expel, does the legislation provide for an appeals process?

Yes

- In matters of a decision to expel, there is no appeals process. However, the foreigner can make an appeal against the decision which specifies the country that he must be expelled to, but this appeal cannot hold up the expulsion process (Article 30).
- A decision relating to a return to the border may be challenged within a 48 hour period before the President of the administrative court (Article 23).
- During this appeal, the foreigner can have the assistance of an interpreter and a lawyer of his choice or court-appointed lawyer, if he so requests.²²

Does this procedure delay the expulsion process?

- The appeal process against the decision to expel (country being returned to) does not delay expulsion (Article 30).
- The appeal procedure against the decision to return someone to the border does delay it (Article 24).

Is this procedure genuinely accessible to migrants?

- The lack of information foreigners have about the appeals procedures makes it very difficult, indeed impossible, for them to exercise their rights. Moreover they are not made aware of their rights and no provision in the legislation requires this.

²² GADEM and other NGOs cite many witness statements asserting that there exists a great contempt for the right to have an interpreter and a lawyer for migrants in this situation. See *The Human Rights of sub-Saharan Migrants in Morocco*, (GADEM), 2010.

- Added to this lack of information is the fact that, with respect to expulsion from the territory, the administration is developing practices that are completely contradictory to law 02-03 and international conventions.
- Decisions on expulsion are often taken in contradiction to the provisions of the law and in ways which prevent any appeal (for example, expulsion decisions communicated orally).
- Notification of a decision to expel is only rarely made in accordance with the provisions of the law (absence of notification, oral notification, notification of a decision drafted in Arabic without being interpreted...). This notification is however fundamental as it is the starting point for an appeal.
- In general, the different observers questioned agree in saying that the provisions of law 02-03 about interpreting are only occasionally respected. Law enforcement officials and the administration, as well as the judiciary, use Arabic as a working language, but many migrants do not understand this language. Much of the documentation about procedures (minutes for example) show that interpreting is often carried out by a police officer which is against the law.
- Many of those involved have stated that foreigners are not informed of their right to be advised by a lawyer. Many witness statements from migrants indicate that even when they claim this right, their request is not followed up. According to many observers, foreigners are only occasionally represented by an adviser during the expulsion process.

Are there provisions which punish those who give help (with lodgings, transport, etc.) to migrants that have entered or are staying in the country illegally?

Yes

- Penalties are provided for with respect to help with illegal entry or departure (imprisonment and fine) but the provisions are not aimed at help given to persons who have already illegally entered or are staying illegally in Morocco (“the offence of offering support”).
- The penalties are more severe if those who take part in these activities do so regularly or if they belong to an association or group formed for this purpose. If someone’s permanent incapacity or death is caused by these activities, the prison sentence is severe (Article 52).

- Specific articles identify law enforcement officers (Article 51), corporate bodies (Article 54) and transport businesses (Article 48) that may be guilty of such acts.
- These provisions are often cited by transport operators to justify any refusal of responsibility for foreigners who wish to travel on Moroccan territory. They also contribute to discrimination against migrants, above all those who are of sub-Saharan origin. For example, it is often said that sub-Saharan migrants are unable to find taxis in Oujda or Nador.

Effects of these legal provisions on the rights of migrants and refugees:

- It would seem that in general these protective provisions have little effect on the rights of migrants, refugees and asylum seekers and this is because of their not being applied by the administration or the police.
- However, much recent case law seems to indicate that knowledge of the protective provisions of law 02-03 is reaching the Moroccan judiciary, mainly in areas concerned with refugees' and asylum seekers' right to stay.
- Morocco still does not display all the characteristics of a State governed by the Rule of Law. Therefore many observers (notably Amnesty International and Human Rights Watch) emphasise the lack of an independent judiciary in Morocco and the impunity which the Police enjoys when it uses excessive force or is found guilty of bad treatment. Although not relevant to the issues covered by this study, this situation is especially true as far as the infringement of the rights of migrants in Morocco is concerned.
- UNHCR, IOM, and several NGOs have organised seminars and training events aimed at the administration, the Police and members of the judiciary in order to improve knowledge of Moroccan law on foreigners.

B.3. Rights of migrant workers

Are there any legal texts protecting the rights of migrant workers? Yes

There is no specific law protecting the rights of migrant workers. However there are a number of legislative instruments capable of providing protection for them.

Identify the laws involved, the date of adoption and area of application:

- Decree n° 1-96-157 of 23 Jomada I 1417 (07 October 1996) adopting the text of the revised Constitution
 - » Inviolability of domicile
 - » Protection of private property
- Decree n° 1-59-413 (28 Jomada II 1382) approving the text of the Penal Code (Official Bulletin 05 June 1963)
 - » Protection against discrimination and suppression of discrimination offences
- Decree n°1.02.255 of 03 October 2002 approving law n°22-01 penal code of procedure (complimented by law 03-03 relating to the fight against terrorism and by law n°s 23-05 and 24 - 05).
 - » Right to appeal and fair trial
 - » Regulations on house searches
 - » Regulations on monitoring identity
- Decree n° 1-03-194 of 14 Rejeb 1424 (11 September 2003) adopting law n° 65-99 relating to the Labour Code.
 - » Prohibition of slavery and forced labour
 - » Protection against discrimination
- Moroccan Code of Public Liberties of 15 November 1958 complimented by law n°s 75.00, 76.00 and 77.00 dated 23 July 2002
 - » Freedom of worship and of conscience
 - » Freedom of the press and of association
 - » Freedom of movement
- Decree n° 1-03-196 of 11 November 2003 adopting law n° 02-03 relating to the entry and stay of foreigners in the Kingdom of Morocco, and relating to illegal emigration and immigration:
 - » Regulations concerning entry into and departure from the territory
 - » Regulations concerning the movements of foreigners
 - » Regulations concerning the monitoring of identity
 - » Regulations relating to the administrative detention of foreigners
 - » Regulations relating to detention arising from entry onto the territory being refused or from an illegal stay.
 - » The right to a guaranteed defence and a fair trial
 - » Regulations concerning expulsion procedures

Do these legal texts also protect illegal migrants?

Yes and no. The most useful provisions are those relating to work but they do not apply here. Other provisions apply.

The right to work in Morocco requires administrative authorisation being given to the foreigner before being employed. Because of their illegal situation, illegal migrants cannot get this authorisation. Therefore the Labour Code does not apply to illegal foreigners.

The other above mentioned laws do not make any distinction according to the administrative situation of the individual. They therefore apply to illegal foreigners.

Do these legal texts comply with the Convention on the rights of migrant workers? Does the national framework sufficiently protect these rights?

Whether the stay is legal constitutes a significant obstacle to being able to benefit from certain rights guaranteed by the Convention on migrant workers, no matter what their rights of stay are.

Access to state health care outside Rabat, Tangiers and Casablanca remains very difficult for illegal migrants who do not have the assistance of someone who is a member of civil society.

In addition, access to education for the children of migrant workers is not guaranteed outside Rabat for those who do not have a permit to stay.

Many observers have provided information about cases of foreigners who have not been able to access the justice system or not had the protection of law enforcement authorities as a result of the illegality of their stay in Morocco. In consequence, it is impossible for them to have the rights cited in the above texts respected.

Moreover, the Family Code²³ introduces discriminatory regulations based on a person's religion in the areas of marriage and inheritance. These regulations can go against the rights of migrant workers in the case of so-called "mixed" marriages (between people of different religions) in Morocco.

Other Comments

Many observers consider that Morocco's ratification of the Convention is more

²³ Decree n° 1-03-22 of 12 Hija 1424 (03 February 2004) adopting law n° 70-03 relating to the Family Code.

concerned with a strategy to bolster the rights of Moroccans abroad than the promotion of the rights of foreigners in Morocco. In recent years, Morocco has in fact created various institutions dedicated to Moroccans abroad and has pleaded their cause with a number of international organisations in order to have the Migration - Development link taken into account.

B.4. The role of IOM

Does IOM have one or more offices in the country? Yes

IOM Morocco
11, rue Ait Ourir
"Pinède", Souissi
Rabat, Maroc
Tel: +212 537 65 28 81
Fax: +212 537 75 85 40

The IOM has been active in Morocco since 2001.

Does the IOM have any legal status in the country (host country agreement, etc.) Yes

There is a host country agreement between the Government of the Kingdom of Morocco and the International Organisation for Migration as of 22 July 2005.

Is IOM staff permitted to move around freely in the country? Yes

Is the IOM allowed to visit migrant camps? Yes

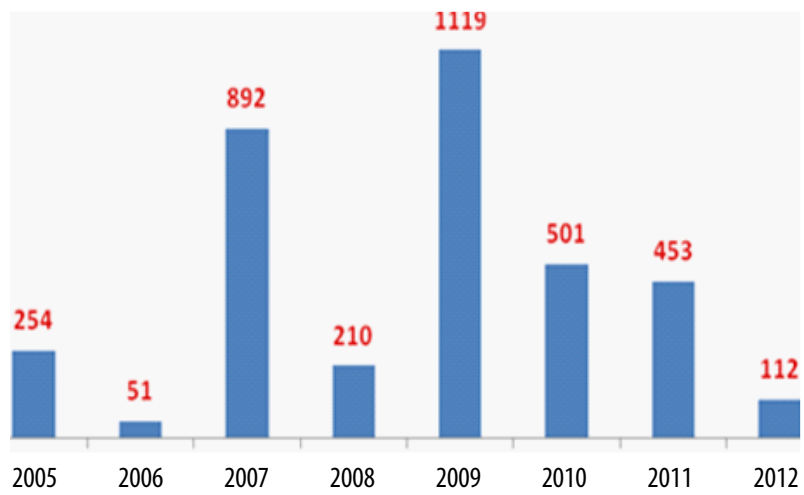
IOM has been given free access to unofficial camps for migrants in border zones (Ceuta, Melilla and Oujda) on each occasion that it has requested to go there.

Is IOM allowed to enter migrant detention centres / camps? No

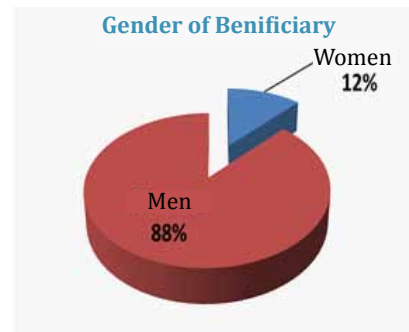
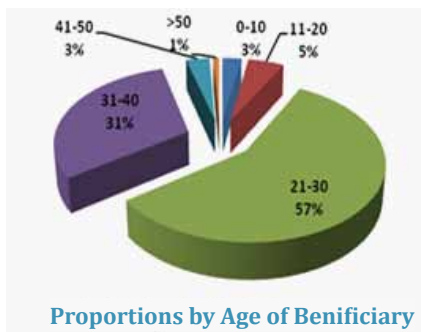
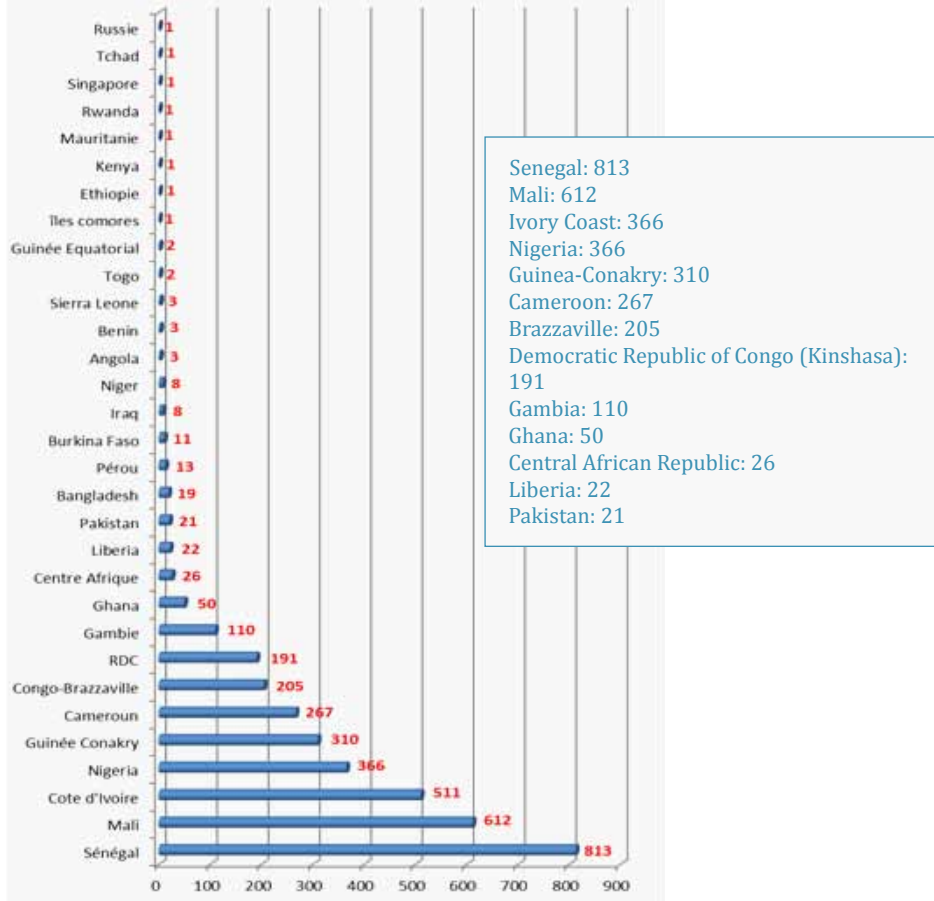
Does IOM organise voluntary return operations from the country subject of study? Yes

The most recent statistics to date (October 2012) show that IOM has repatriated 3,592 illegal migrants to 33 different countries.

Number of Voluntary Returns per Year



Number of voluntary returns per country



24

²⁴ This information was obtained from Monsieur Mouloud Kamel, assistant to IOM operations, Rabat, 23 October 2012.

Other remarks

- According to IOM, there have been voluntary returns to 33 countries. The two main countries involved are Senegal and Mali. However, since 2008, those making requests originate mainly from the Congo states, Ivory Coast, Cameroon, Guinea-Conakry and Nigeria. The first voluntary returns for Nigerian nationals began in January 2009.
- AVRR, a project for the assisted voluntary return of illegal migrants in Morocco and reintegration into their country of origin, has, above all, been emphasising the central theme of reintegration in recent years. This element of the project offered a sum of €500 to initiate a reintegration project with the support of IOM in the beneficiaries' country of origin. The funding for the project has been exhausted and IOM launched an appeal for \$800,000 in October 2012 in Geneva for its continuation.²⁵
- The IOM has three primary objectives in Morocco (preventing clandestine emigration, promoting the moving of work out of the country, and improving the government's capacities in these areas). It is therefore also developing programmes to improve national capability with respect to migration (training and discussion), the funding of studies on migration and trafficking in Morocco and the conduct of projects preventing illegal migration.
- The Moroccan authorities have organised "voluntary repatriations" in collaboration with the consular authorities of the migrants' countries of origin. According to the statistics available, 8423 persons were repatriated between 2004 and 2007, mainly to Senegal (40.9%), Nigeria (25.3%), Mali (18.8%), the Gambia (5.2%), Cameroon (3.4%), Ghana (2.6%), and Guinea (2.3%). However, many observers have indicated that these returns concerned migrants arrested for being illegal, detained by the authorities, and not questioned about their wish to return to their country of origin. It seems that these were therefore forced return operations.
- The problem with the AVRR project and other "voluntary repatriations" is to be found in the meaning of "voluntary". Some members of civil society ask themselves if migrants can make a "voluntary" decision if they do not have access to accommodation, food, health services, education, and basic security.²⁶

²⁵ <http://appablog.wordpress.com/2012/10/02/iom-morocco-appeals-for-us-800000-for-reintegration-of-stranded-migrants/> accessed on October 26, 2012.

²⁶ See also Hein de Haas, October 2012, <http://heindehaas.blogspot.com/2012/10/ioms-dubious-mission-in-morocco.html>

C. Civil Society Organisations

C.1. Presence and activities

Set out a list of civil society organisations of every kind that operate in the area of migration and asylum. Indicate briefly what their activities and main priorities are.

- **AU - Action Urgence (Urgent Action)**
 - » Health and prevention of AIDS / HIV (UNHCR partner)
- **AI - Amnesty International Morocco**
 - » Advocacy
 - » Legal assistance
- **AMAPPE - Association marocaine d'Appui à la promotion de la petite entreprise (Moroccan association in support of the promotion of small businesses)**
 - » Funding of micro-projects for refugees (UNHCR partner)
- **ALCS Association Marocaine de Lutte Contre le SIDA (Moroccan Association for the Fight against AIDS)**
 - » Health and prevention of AIDS / HIV
- **ABCDS - Association Beni Znassen pour la culture, le développement et la solidarité (Beni Znassen Association for culture, development and solidarity)**
 - » Advocacy
 - » Humanitarian and legal assistance for those who have been expelled from Morocco in the region of Oujda
- **AMDH - Association marocaine des droits humains (Moroccan association for human rights)**
 - » Advocacy
 - » Legal assistance
 - » Training (lawyer network)
 - » Awareness raising and the fight against racism

- **Caritas Morocco**
 - » Psycho-social support
 - » Facilitation of access to the health system and funding for care
 - » Prevention of AIDS / HIV
 - » Funding of micro-projects and promotion of revenue generating activities
 - » Access to education
 - » Programme for the protection of the most vulnerable (see below)
- **Cimade - Comité intermouvements auprès des évacués (Intermovement Committee for Evacuees)**
 - » Advocacy
 - » Legal assistance including during the period when asylum is being requested
 - » Awareness raising, training and improving of local capability (NGOs)
- **CEI - Comité d'entraide international (International committee for mutual aid)**
 - » Psycho-social support
 - » Facilitation of access to the health system and funding for care
 - » Funding of micro-projects and promotion of revenue generating activities
- **FOO - Fondation Orient-Occident (East-West Foundation)**
 - » Psycho-social support (UNHCR partner)
 - » Promotion of revenue generating activities for women (cooperative)
 - » Promotion of access to education and professional training
 - » Awareness raising and promotion of multiculturalism
- **GADEM - Groupe Antiraciste de défense des étrangers au Maroc (Anti racist Group in defence of foreigners in Morocco)**
 - » Advocacy
 - » Legal assistance including during the period when asylum is being requested
 - » Fight against discrimination and promotion of diversity
- **JRS - Jesuit Refugee Services**
 - » Health and prevention of AIDS / HIV
 - » Child care
 - » Programme for the protection of and assistance for the most vulnerable women and migrants (SAM-Service Accueil Migrants) (Migrant welcome service)

- **MSF - Médecins sans frontières (Doctors without borders)**
 - » Advocacy
 - » Medical assistance and facilitation of access to the health system
 - » Humanitarian aid

- **OMDH - Organisation marocaine des droits humains (Moroccan Organisation for Human Rights)**
 - » Advocacy
 - » Legal assistance for refugees (UNHCR partner)
 - » Awareness raising and improvement of local capabilities (authorities and members of the judiciary)

- **Terre des Hommes**
 - » Promotion of health and prevention of AIDS / HIV
 - » Programme for the protection of the most vulnerable
 - » In collaboration with GADEM and the Oum El Banine association they have implemented the “TAMKINE-MIGRANT” project which focuses on the vulnerability of migrant women and children in Morocco, via advocacy with the authorities and the improvement of their access to health, education, and justice.

Other Comments

The considerable collaboration between migrant associations and Moroccan civil society must also be recognised. CMSM - Conseil des Migrants subsahariens au Maroc (Council for sub-Saharan migrants in Morocco) and CCSM - Collectif de communautés subsahariennes au Maroc (Collective of sub-Saharan communities in Morocco), which is linked to the Moroccan Trade Union ODT - Organisation démocratique de travail (Democratic Organisation of Work), are the main associations representing migrants (even if they are not recognised by the government). There are also associations which have been formed on the basis of country of origin but the three mentioned above are those which most often work with Moroccan NGOs, especially in respect of advocacy and awareness raising.

Moroccan civil society is very dynamic and many associations operate in the field of assisting migrants and defence of their rights. However, few associations with charitable aims for Moroccan citizens include migrants in their activities, especially in relation to the protection of women and children, literacy, professional training and access to health. This situation has encouraged the development of programmes specifically intended for migrants or the setting up of associations specialised in this area.

However, this has restricted the **issue of respect for the fundamental rights of migrants to a particular sphere of organisations**, and thus has reduced their impact at a national level. As a response to this, UNHCR and several associations (Terre des Hommes, Caritas...) have implemented strategies of awareness raising directed at associations that do not work with migrants (notably though "Plateforme Protection", a support programme developed by Terre des Hommes in 2009). In addition, several associations (AMDH, OMDH, Fondation Orient Occident...) work on improving public awareness.

Several international associations (Caritas, MSF, CEI - the Evangelical Church...) have developed effective and coordinated **humanitarian and material assistance programmes** for refugees, asylum seekers, and illegal migrants. However these programmes are concentrated in Rabat and Casablanca although MSF does have one in Oujda. This geographical concentration corresponds to where the majority of migrants and refugees in Morocco have settled.

However, migrants who have settled in other large urban areas (notably Fez, Meknes, Marrakech, and Tangiers) find that very significant difficulties arise from this fact, especially in those areas where mediation by civil society is key (access to health care, education, protection of the most vulnerable...). It is important for civil society to expand its activities geographically, especially by raising the awareness of those players already involved so that the latter can extend their programmes to migrants and refugees.

None of the players in Morocco offers any solution to the problem of **accommodation for migrants and refugees, and that includes the most vulnerable**. Some players (Caritas, UNHCR, JRS...) try to find ad hoc solutions within the community in the most urgent cases. For example, the migrant welcome service, (SAM-Casablanca) in association with Caritas has a main objective to support the most vulnerable and the most impoverished of migrant women together with their children and to provide them with a reception and support centre. No association or organisation with emergency reception facilities, however, receives migrants or refugees. But several players offer these services to Moroccan citizens (notably associations for the protection of children and women who have been victims of violence).

The UNHCR's partner OMDH has set up **legal assistance arrangements** for refugees and asylum seekers in Rabat and Oujda. AMDH, GADEM, Cimade and, to a lesser extent, Amnesty International, provide this kind of help (representation at legal proceedings, support and assistance in dealing with the administration...) for illegal migrants.

The OMDH, Cimade and GADEM also ensure there is **assistance for those people whose requests for asylum have been initially rejected** by UNHCR. These

associations also provide information on the procedures for requesting asylum. However, no association ensures there is support for and preparation of asylum seekers during the initial phase of the procedures and before the first interview.

The AMDH, OMDH, GADEM, CIMADE, Amnesty International and a number of other NGOs provide **a monitoring and advocacy service** promoting the rights of illegal migrants, refugees and asylum seekers.

Refugees, migrants and asylum seekers, especially those from French-speaking West Africa are brought together in various representative associations. They work with Moroccan associations to support other migrants through advocacy, awareness raising, press conferences, support for researchers on the subject of migration, etc. They quickly organise themselves along with civil society to deal with such things as the arbitrary arrest of the former president of the Conseil des migrants subsahariens au Maroc (Council for sub-Saharan migrants in Morocco) in October 2012.

C.2. Violence against migrant women

Are there organisations which are tackling the problem of violence against female refugees or migrants through preventative action and readjustment activities? Yes

Several NGOs (Caritas, MSF, JRS, CEI – Evangelical Church, Terre des Hommes, Fondation Orient Occident...) and international organisations (UNHCR) operate in the area of protecting female migrants.

They have joined forces as the “Plateforme Protection” started up by the Terre des hommes association. The aim of this Platform is to bolster and coordinate action in the area of protecting migrant women and children and to try and involve Moroccan institutions or organisations working for the protection of Moroccan women.

These organisations offer a psycho-social support service in order to assess needs and define short and medium term protection strategies which forestall the occurrence of situations where exposure to violence is highly likely.

In the short term, selective or temporary financial help can be allocated as a response to the problem of accommodation or other basic needs. In the medium term, these organisations promote the development of revenue generating

activities for vulnerable women. Reducing the precariousness of their financial situation does in fact enable the prevention of situations where they are exposed to violence.

Informal homes and safe houses for migrant women who have been victims of violence or who are very vulnerable are also being set up selectively by the NGOs and the UNHCR. However, as with the children, opening up official accommodation centres comes up against the problem of illegal residence.

The SAM (Migrant welcome service) organises a centre for migrant women and refugees which takes in more than 100 women for revenue generating projects (artisan cooperative). Awareness raising workshops on different subjects (sex-related violence, prevention of AIDS /HIV, health and hygiene) are regularly organised.

With the exception of special cases, organisations working for the protection of Moroccan women and children do not receive irregular migrants or refugees and asylum seekers.

D. Reports written on the rights of migrants, people with refugee status and asylum seekers

D.1. General reports

- Consultative Council on Human Rights, *Report to establish the facts relating to events in Ceuta and Melilla in 2005*, 2006.
- EMHRN, *Economic and social rights of migrants and refugees in the Euro-Mediterranean region: Access to health care and the job market, Case Studies: France, Jordan and Morocco*, December 2008.
- EMHRN, *Recommendations on human rights in Morocco as viewed by the EU/Morocco Subcommittee on Human Rights, Democratisation and Governance dated 14th July 2009*, July 2009.
- EMHRN, *Migration and Social Affairs working group (EU/Morocco) Briefing Note, Brussels, 24 November 2009, Asylum in Morocco*, November 2009.
- Gadem, *Chasing away migrants from the borders of the EU, a Consequence of European Policy on Migrants, the Example of the expulsions from Morocco in December 2006 (original title: La chasse aux migrants aux frontières Sud de l'UE, conséquence des politiques migratoires européennes. L'exemple des refoulements de décembre 2006 au Maroc)*, June 2007.
- Gadem, *The legislative framework concerning the situation of foreigners with regard to its interpretation as adopted by the courts and its application by the executive, (original title: Le cadre juridique relatif à la condition des étrangers au regard de l'interprétation du juge judiciaire et de l'application du pouvoir exécutif)*, December 2008.
- Gadem, *Report concerning Morocco's application of the Convention on the Protection of the Rights of All Migrant Workers and Members of their Family*,

(original title: Rapport relatif à l'application par le Maroc de la Convention internationale sur la protection des droits de tous les travailleurs migrants et des membres de leur famille) February 2009.

- Gadem, *Information note on the trial of five refugees (original title: Note informative sur le procès des cinq réfugiés)*, July 2009.
- Gadem, *Memorandum for the attention of the Prime Minister (original title: Mémorandum à l'attention de Monsieur le Premier ministre)*, February 2010.
- Gadem, *The Human Rights of sub-Saharan Migrants in Morocco (original title: The Human Rights of sub-Saharan Migrants in Morocco)*, Justice without Borders Project; An MRI and OSIWA initiative, 2010.
- Hein de Haas, *The myth of invasion Irregular migration from West Africa to the Maghreb and the European Union*, October 2007.
- Hein de Haas, *IOM's dubious mission in Morocco*, October 4, 2012.
- IOM, *International trafficking in human beings, the Situation and analysis of responses in Morocco (original title: Traite transnationale des personnes, Etat des lieux et analyse des réponses au Maroc)*, August 2009.
- Jacobs, Anna, *Sub-Saharan Irregular Migration in Morocco; the politics of civil society and the state in the struggle for migrant's rights*, under the supervision of Mohammed Khachani Université Mohammed V-Agdal, August 2012, Fulbright Program in Morocco.
- Khadija Elmadmad, *Morocco and the Convention on the Protection of the Rights of All Migrant Workers and Members of their Family (original title: Le Maroc et la Convention sur la protection des droits de tous les travailleurs migrants et des membres de leur famille)*, "CARIM AS" series n° 11, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole : European University Institute, 2009.
- Khadija Elmadmad, *The United Nations High Commission in Morocco*, "CARIM AS" series n° 29, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole : European University Institute, 2009.
- Migreurop, *The Black Book of Ceuta and Melilla (original title: Le Livre noir de Ceuta et Melilla)*, June 2006

- Migreurop, *Europe's Murderous Borders*, November 2009.
- Moroccan Association for Study and Research into Migration (AMERM), *From Sub-Saharan Africa to Morocco: The realities of illegal migration (original title: De l'Afrique subsaharienne au Maroc: Les réalités de la migration irrégulière)*, 2008.
- Moroccan Association for Study and Research into Migration (AMERM), *The Moroccans and sub-Saharan Migrants: What relationship? (original title: Les Marocains et les Migrants subsahariens : Quelles relations?)*, 2009.
- Moroccan Association for Study and Research into Migration (AMERM), *The Network of Charitable and Socially-Aware Organisations and the handling of the question of migration in Morocco, (original title: Le Tissu associatif et le traitement de la question migratoire au Maroc)*, 2011.
- Moroccan Consultative Council on Human Rights. *The Protection of Refugees in Morocco, Publications of the Consultative Council on Human Rights (original title: La protection des réfugiés au Maroc, Publications du Conseil consultatif des Droits de l'Homme)*, "Seminar" Series, February 2008.
- UNHCR, *Refugee protection and international migration: a review of UNHCR's role and activities in Morocco*, March 2010.
- UNHCR, *The High Commissioner for Refugees, Presentation Note*, April 2010.

What major violations have been brought to light in the reports in question?

With respect to refugees and asylum seekers, the above mentioned reports note the absence of any recognition by the Moroccan authorities of refugee status conferred by the UNHCR. This situation prevents the issuance of a residence permit and therefore makes integration into Morocco very difficult (access to the job market, health, education). This situation brings with it the violation of other fundamental rights, increases the vulnerability of refugees and asylum seekers and causes complex humanitarian situations.

With respect to illegal migrants, the above reports express concern that the protective provisions of law 02-03 about detention and expulsion are not being applied. These reports also express concern about the absence of any monitoring by the judiciary (lack of effective appeals process) and the impunity of law enforcement agencies regarding violence committed by them, even in serious

cases that have been well documented by a number of observers (the Al Hoceima affair, for example).

These reports make several mentions of criminal gangs specifically targeting illegal migrants when they enter Moroccan territory (Oujda) or during their clandestine journey across Moroccan territory (in particular between Oujda and Rabat).

In the matter of trafficking, the inquiry by IOM considers that “Morocco is at one and the same time a country of origin, transit, and destination for trafficking in human beings, without being capable of estimating its extent, although it does seem limited”. The IOM identifies “sub-Saharan children who are borne in transit and stateless”, and groups of sub-Saharan migrants in transit to Morocco as “exposed to the risk of trafficking because of their highly vulnerable and precarious situation which favours exploitative situations and increases the risk of getting caught up with trafficking networks”.

D.2. Violence towards Migrant Women

Are there any reports which deal with the problem of violence against female refugees and migrants in the country concerned?

Yes

- Doctors without Borders (MSF), *Violence and immigration: report on illegal immigration into Morocco from sub-Saharan Africa (original title: Violence et immigration : rapport sur l’immigration d’origine subsaharienne en situation irrégulière au Maroc)*, October 2005.
- Doctors without Borders (MSF), *Violence and immigration: report on illegal immigration into Morocco and border zones from sub-Saharan Africa - two years on (original title: Violence et immigration : deux ans après, rapport sur l’immigration d’origine subsaharienne en situation irrégulière au Maroc et dans les zones frontalières)*, February 2008.
- Doctors without Borders (MSF), *Sexual Violence and Migration, The hidden reality of sub-Saharan women arrested in Morocco on the way to Europe (original title: Violence sexuelle et migration, La réalité cachée des femmes subsahariennes arrêtées au Maroc sur la route de l’Europe)*, March 2010.
- Doctors without Borders (MSF), *MSF Treats High Numbers of Victims of Violence in Morocco*, July 26, 2012.

- EMHRN, *Violence toward migrant women and refugees in the Euro-Mediterranean region, Case Studies: France, Italy, Egypt & Morocco*, December 2008.
- Smaïn Laacher, *Violence against irregular migrant women: Algeria, France, Spain, Morocco (original title: Les violences faites aux femmes pendant leur voyage clandestin : Algérie, France, Espagne, Maroc)*, Research Paper No. 188, UNHCR, April 2010.
- Women's Link Worldwide, *Rights of migrant women and their invisible reality (original title: Los derechos de las mujeres migrantes : una realidad invisible)*, January 2009.

Set out the different types of violence that female refugees and migrants face in the country:

The various reports show that female migrants are particularly vulnerable to physical violence, whether of a sexual nature or not. This violence can be experienced during their journey (from the Moroccan border to the urban centres in the east of the country), during their stay in Morocco or whilst travelling to the border (expulsions, arrest during an illegal attempt to make the journey...).

According to many organisations working in Morocco, this violence can be caused by migrants, law enforcement officers (Algerian or Moroccan), or by Moroccan nationals.

The vulnerability of illegal migrants is increased by it being impossible to get access to official protection arrangements (home or safe house for victims of violence) and the fear of reporting such facts to the law enforcement authorities (for example when the violence is perpetrated by a partner or law enforcement officers). Several players have emphasised the impunity that is enjoyed by the law enforcement authorities when cases of violence are reported.

In its March 2010 report, MSF underlines the extreme vulnerability of female migrants to sexual violence. According to data from this association, 39% of migrants questioned during the census it carried out in January 2010 had suffered some form of sexual violence. In addition, this same organisation emphasised in its report the sexual exploitation to which female migrants often fall victim during their journey.

Several players have emphasised the existence of a situation of exploitation of female migrants in Morocco, no matter whether they are legal or illegal migrants.

This phenomenon affects mainly house maids of West African (Senegal) or Asian (Philippines) origin. If this phenomenon is true, it remains very difficult to measure its exact extent, according to the IOM report.

According to several reports, especially the IOM one, and the comments of observers, criminal networks or gangs originating from English-speaking West Africa (mainly Ghana and Nigeria) organise the transit through Morocco of women destined for prostitution in Europe.

Several organisations have also reported cases of migrant women resorting to prostitution in Morocco. Here too, the data is insufficient to assess the extent and nature of the phenomenon. Moroccan players indicate, however, that prostitution increases the exposure of female migrants to sexually transmitted diseases, sexual violence and exploitation. There are also press articles propagating a discriminatory discourse about sub-Saharan women in Morocco. For example, the Arab-language newspaper *Al Massae* published an article entitled “Battalions of clandestine migrants spread AIDS in the streets of Morocco” 5 January 2012.

Finally, it is important to note that racism and discrimination based on ethnic or religious appearance are often cited as the cause of certain kinds of violence.

Appendix I: List of NGOs Active in Morocco in the Area of Migration and Asylum

Association marocaine d'Appui à la promotion de la petite entreprise (AMAPPE)

7, Rue jbal Tazaka, Appart N° 2
Rabat, Agdal
Tel: 0537 77 22 82/0661 79 34 01
Fax: 0537 68 29 88

Amnesty International Maroc (AI)

281, Avenue Mohamed V, Appt. 23, Escalier A
10000 Rabat
Tel: 0537 72 82 33
Fax: 0537 72 82 34

Association Marocaine de Lutte Contre le SIDA (ALCS)

17 av. Almassira Al Khadra, Maarif,
20100 Casablanca
Tel: 022 99 42 42,
Fax: 022 99 44 44

Association Beni Znassen pour la culture, le développement et la solidarité (ABCDS)

Oujda
Tel: 067 71 65 24
Fax: 036 70 87 67

Associations des amis et familles des victimes de l'immigration clandestine (AFVIC)

34, rue Moulay Abdellah
Khouribga
Tel: 023 49 23 49
Fax: 023 49 12 87

Association marocaine des droits de l'Homme (AMDH)

Av. Hassan II, Rue Agensous
Building 6, Appt. 1.
1000 Rabat
Tel: 0537 73 09 61
Fax: 0537 73 88 51

Caritas Maroc

Head Office
Archevêché de Rabat
BP 258 RP
Rue Zerhouni
10001 Rabat
Tel: 0 5377 780 06
Fax: 0 5377 780 06

Centre for migrants

13 Bd Al Alaouyine
Rabat
Tel: 0661 46 54 62

Chabaka

The network of North Moroccan organisations for development and solidarity (of its members: Attawasoul, l'association Mains solidaires, Association Pateras de la vida)
<http://chabaka2000.wordpress.com/>
Contact: Boubker el Khamlichi
Tel: 212 39 32 14 18

Comité d'entraide international (CEI)

44, avenue Allal ben Abdellah
10000 Rabat
Tel: 0537 72 38 48
Tel: 0537 75 96 02

Fondation Orient-Occident

Centre Yacoub El Mansour,
Avenue des F.A.R-C.Y.M,
Massira, Rabat
Tel: 0537 79 36 37
Fax: 0537 29 15 43

Jesuit refugee services

Service Accueil Migrants
25, rue Faïdi Khalifa (Lafayette)
ou 75, rue Azilal
20000 Casablanca
Tel: 212 (0) 527 645 890 / 212 (0) 527 719 321

Médecins sans frontières (MSF)

25 B, Rue Patrice Lumumba Appt. 14
10000 Rabat
Tel: 0537 26 35 73
Fax: 0537 73 46 08
63, Boulevard Mohammed VI

Oujda

MSFE-Oujda-Fieldco@barcelona.msf.org
Tel: 212-0661997665
Office tel: 212-536501828

Organisation marocaine des droits de l'Homme (OMDH)*Head Office*

8, rue Ouargha, appt. 1
Agdal-Rabat
Tel: 0537 77 00 60
Fax: 0537 77 46 15

Service d'assistance juridique pour les réfugiés (Rabat)

10, rue Ghana # 3, quartier Océan,
Rabat
Tel: 0537 72 94 66
Fax: 0537 72 94 07

Service d'assistance juridique pour les réfugiés (Oujda)

Rue Ziyani, Quartier Elmahata,
1er étage, Appt. N. 6,
Oujda
Tel: 0536 68 59 59
Fax: 0536 68 59 59

Organisation panafricaine de Lutte contre le SIDA (OPALS)

Rue 25, Youssoufia-Est,
Rabat
Tel: 0537 70 35 55

Appendix II: Principal Relevant Legislation

- Decree No. 2-57-1256 of 2 safar 1377 (29 August 1957) setting out the methods for applying the Convention relating to the status of refugees, signed at Geneva on 28 July 1951
- Decree n° 1-03-196 of 11 November 2003 adopting law n° 02-03 relating to the entry and stay of foreigners in the Kingdom of Morocco, and relating to illegal emigration and immigration.
- Ministry of Health Circular, 24 DELM/36,27 May 2003.
- Decree n° 1-96-157 of 23 Jomada I 1417 (07 October 1996) adopting the text of the revised Constitution. Decree n° 1-59-413 (28 jomada II 1382) approving the text of the Penal Code (Official Bulletin 05 June 1963)
- Decree n°1.02.255 of 03 October 2002 approving law n°22-01 penal code of procedure (complimented by law 03-03 relating to the fight against terrorism and by law n°s 23-05 and 24- 05).
- Decree n° 1-03-194 of 14 Rejeb 1424 (11 September 2003) adopting law n° 65-99 relating to the Labour Code. Moroccan Code of Public Liberties of 15 November 1958 complimented by law n°s 75.00, 76.00 and 77.00 dated 23 July 2002
- Decree n° 1-04-22 of 12 Hija 1424 (03 February 2004) adopting law n° 70-03 relating to the Family Code.
- Moroccan Nationality Code modified by decree n° 1-07-80 of 23 March 2007 - 3 rabii I 1428 (Official Bulletin n° 5114 of 5 April 2007).
- Decree n° 1-03-140 of 26 rabii I 1424 (28 May 2003) adopting law n° 03-03 relating to the fight against terrorism (Official Bulletin n° 5114 of Thursday 5 June 2003).



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