



MAIN INTERNATIONAL LEGAL FRAMEWORKS APPLICABLE TO MIGRANTS AND REFUGEES AND THEIR IMPLEMENTATION IN THE MAGHREB COUNTRIES

Covenant / Convention (introductory date)	STATUS IN ALGERIA	Transposition into national law	STATUS IN MOROCCO	Transposition into national law	STATUS IN TUNISIA	Transposition into national law
International Covenant on Civil and Political Rights (1966)	Ratification in 1989	The provisions of the Covenant do not always take precedence over national laws.	Ratification in 1979	Ongoing legislative reform to ensure full compliance of national law with international treaties	Ratification in 1969	Civil and political rights enshrined in the new Constitution of 2014 e.g. freedom of association and assembly, and right to protest
International Covenant on Economic, Social and Cultural Rights (1966)	Ratification in 1989	The provisions of the Covenant do not always take precedence over national laws.	Ratification in 1979	Ongoing legislative reform to ensure full compliance of national law with international treaties	Ratification in 1969	Civil and political rights enshrined in the new Constitution of 2014 e.g. right to work and the right to union representation, the right to health and the right to education
Geneva Convention relating to the Status of Refugees (1951) and additional Protocol (1967)	Succession in 1963, adhesion to the Protocol in 1967	No asylum law	Succession in 1956, adhesion to the Protocol in 1971	No asylum law	Succession in 1957, adhesion to the Protocol in 1968	No asylum law
Convention relating to the Status of Stateless Persons (1954)	Accession in 1964	No asylum law	Not signed	No asylum law	Accession in 1969	No asylum law
International Convention on the Elimination of All Forms of Racial Discrimination (1966)	Ratification in 1972	No law against racial discrimination	Ratification in 1970	No law against racial discrimination	Ratification in 1967	October 2018: adoption of a law against racial discrimination, following a proposal by civil society organisations
Convention on the Elimination of All Forms of Discrimination against Women (1979)	Accession in 1996	Amendment of the Constitution and several Codes but no specific law	Accession in 1993	Law n°. 103-13 on combating violence against women (in force since September 2018)	Ratification in 1985	August 2017: Organic Law n°. 2017-58 on the elimination of violence against women
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)	Ratification in 1989	Criminalisation of torture introduced in amendments to articles 263 bis, ter and quater of the Penal Code	Ratification in 1993	The definition of torture is not fully in conformity with the Convention and a provision rendering the crime of torture imprescriptible is missing (draft law to amend the Penal Code currently under preparation)	Ratification in 1988	The new Constitution of 2014 stipulates the imprescriptibility of the crime of torture in its article 23, but the definition of torture contained in the Penal Code, amended in 2011, is still not in conformity with the Convention

Convention on the Rights of the Child (1989)	Ratification in 1993	Law n°. 15-12 of 15 July 2015 on the protection of the child	Ratification in 1993	New Constitution of 2011 and legislative reforms undertaken but some provisions still missing and non-application of some existing provisions	Ratification in 1992	Revision of the Child Protection Code under way
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)	Accession in 2005	No amendment of Law n°. 81-10 of 11 July 1981 on the conditions of employment of foreign workers since accession to the Convention. Article 81 of the Constitution excludes migrants in an irregular situation from the protection of this law.	Ratification in 1993	Law n°. 02-03 of 11 November 2003 on the entry and residence of foreigners in the Kingdom of Morocco, irregular emigration and immigration containing provisions that are not in conformity with those of the Convention.	Not signed	
United Nations Convention against Transnational Organized Crime (2000) 1. Additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children 2. Additional Protocol against the Smuggling of Migrants by Land, Sea and Air	Ratification in 2002 Ratification of Protocol 1 in 2004 Ratification of Protocol 2 in 2004	Law n°. 09-01 of 25 February 2009 introduced two new sections to the Criminal Code on «trafficking in persons» and “smuggling of migrants” (article 303). No specific law on trafficking in human beings nor on smuggling of migrants.	Ratification in 2002 Accession to Protocol 1 in 2011 Protocol 2 not signed	“Law n°. 27-14 on Trafficking in Human Beings adopted in September 2016, that introduced protection measures for victims, but these are rarely used in practice.” Amendments to the Criminal Code characterise smuggling of migrants (art. 231-18) as an offence. There is no specific law on smuggling of migrants, but facilitation of illegal entry and exit is criminalised: the financial or other material benefit element from the Protocol is present but is not a constitutive element of the offence.	Ratification in 2002 Ratification of Protocol 1 in 2003 Ratification of Protocol 2 in 2003	Law n°. 61 of 3rd August 2016 on Preventing and Combating Trafficking in Persons, followed in July 2018 by the launch of a national strategy to combat trafficking in persons for the 2018-2023 period. There is no specific law on smuggling of migrants, but facilitation of illegal entry or exit is criminalised. Not only the financial or other material benefit element from the Protocol is missing but it is also explicitly stated that the facilitation of illegal entry is criminalised even if committed without payment (on a voluntary basis).
Convention on the Rights of Persons with Disabilities (2006)	Ratification in 2009	Law n°. 02-09 of May 2002 (adopted prior to the Convention) and Executive Decree N°. 14-204 of 15 July 2014 not yet harmonised with the Convention: persons with disabilities are not consulted nor actively involved, through their representative organisations, in all decision-making processes affecting them	Ratification in 2009	Framework Law 97-13 on the promotion and protection of the rights of persons with disabilities adopted in 2016, but it only protects persons with disabilities who hold a valid “disability card”. The law fails to include measures to protect persons with psychosocial and/or intellectual disabilities and persons with disabilities belonging to national, ethnic, religious and/or linguistic minorities, and those who are migrants and refugees.	Ratification in 2008	Law n°. 83 of 2005 relating to the promotion and protection of the rights of persons with disabilities to be harmonised with the Convention to make it compliant with a human rights-based approach to disability.