

BRIEFING

RESPONSES TO IRREGULAR MIGRATION IN MOROCCO

PROMISING CHANGES,
PERSISTING CHALLENGES

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INTRODUCTION

The Maghreb (particularly Morocco, Algeria and Tunisia) has historically been viewed as a source of emigration, with significant numbers of people from these countries having moved abroad over the past few decades. Geographical proximity coupled with economic opportunities have made Europe the primary destination for most of these emigrants; in 2004, it was estimated that 2.5 million migrants from these three countries were living in Europe, compared to 1.8 million in 1981 (Institut Thomas More 2010). Morocco has seen particularly high levels of outwards migration and it was one of the five top 'sending' countries in Africa in 2010 (IOM 2010).

More recently, significant attention has been devoted to the Maghreb as a region of transit for migrants from elsewhere whose ultimate destination is the European Union. A study by the International Danish Institute for International Studies (DIIS) suggested that 100,000–120,000 irregular migrants cross the Mediterranean every year, with approximately 30,000 coming from sub-Saharan Africa, 45,000 from countries on the south and east of the Mediterranean and 30,000 from other countries (Simon 2006).

One major question for research into migration in Morocco is the 'transit question':¹ is migration to Morocco, including from sub-Saharan countries, primarily made up of those transiting to Europe or of those intending to stay permanently? Morocco is now widely understood to be a country of both transit and of destination. Periods of migration described as 'transit' have been getting longer and longer, and anecdotal evidence that migrants are reaching Morocco with the intention of staying is increasing.

The population of irregular migrants in Morocco remains relatively small: estimates of the total number of undocumented migrants in the country are rarely above 10,000 (in an estimated total population of nearly 32 million²). Yet even in small numbers, irregular immigration is starting to change Morocco. Along the way, it is posing challenges to policymakers, requiring developments in the rights accorded even to those who lack proper documentation and immigration status. Some of the existing research on irregular migration in Morocco includes recommendations for policymakers (see for example Clandestino 2009) but in general the policy literature concerning Morocco – and the wider Maghreb region – remains relatively undeveloped.

This briefing is part of a wider programme of research on irregular migration from sub-Saharan Africa and the Maghreb to Europe.³ This project takes a critical look at the different responses to irregular migration at different stages of the migration journey and from the perspectives of sending, transit and receiving countries. As part of this project, IPPR and its Moroccan partner, the Council of the Moroccan Community Abroad (CCME), have carried out an extensive programme of primary qualitative research into the question of migration from sub-Saharan Africa to Morocco, encompassing both transit and permanent migration. The results of that research, including groundbreaking analysis of the lived experience of irregular migrants in Morocco, will be published in the coming months.

1 Including the numerous publications of CARIM (the Consortium for Applied Research on International Migration, hosted by the European University Institute) and the IMI (the International Migration Institute at Oxford University).

2 See http://www.indexmundi.com/morocco/demographics_profile.html

3 'Beyond Irregularity' is a project funded by the European Commission and led by IPPR in partnership with: the CCME, dRPC, Eaves, PICUM, and Sussex University. For more information about the project, see <http://www.ippr.org/research-project/44/7143/beyond-irregularity-towards-a-sustainable-approach-to-dealing-with-irregular-migration-from-sub-saharan-africa-to-europe>

In the meantime, the aim of this short briefing paper is to set the scene by outlining the prevailing legal, policy and practical response to irregular migration in Morocco.

While ‘non-entrée’ EU policies – measures focused on detecting and denying access to the EU to irregular migrants, such as sea interceptions – undoubtedly play an important role in shaping irregular migration in Morocco, any serious analysis has to go beyond criticism of EU border policy. The development of the necessary means to travel across the Sahara relatively inexpensively, the emergence of settled communities of irregular migrants in Morocco, and the associated establishment of civil society organisations suggest that these systemic changes are actually structural changes in regional migration that cannot solely be attributed to EU policy.

Consequently, this briefing takes a broader approach in sketching out the multilevel responses to irregular immigration in Morocco. It is structured into three main sections, surveying the Moroccan governmental response to irregular migration, the international responses, and finally how some gaps in policy and practice are being filled by civil society. In particular, this briefing discusses how the changing pattern of sub-Saharan migration in Morocco has led to a gradual shift in governmental and civil responses from dealing with irregular migration on a ‘transit’ basis to considering it on a semi-permanent or even permanent basis.

1. GOVERNMENTAL RESPONSES: LAW AND POLICY IN MOROCCO

There is no formal state acknowledgment of the notion that Morocco is a country of immigration, nor an explicit immigration policy framework. However, there exists a set of legal provisions and policies that have developed in time into a de facto response to the existence of migrant communities, and which have undoubtedly had a significant impact on the survival and adaptation strategies of irregular migrants in Morocco.

This de facto legal and policy framework is characterised by contradictory imperatives. On one side, there is the hospitable and humanitarian-focused response implied by the new constitution of 2011⁴ and the array of international human rights conventions that Morocco has ratified. These legal provisions are still largely unexplored in practice but have the potential to offer legal entitlements for migrants in Morocco, irregular or otherwise. On the other hand, current migration legislation (particularly law 02-03, on 'entry and stay of foreigners in Morocco, irregular emigration and immigration') and the practice of migration control are overwhelmingly focused on security and enforcement.

1.1 Constitutional changes: a promising framework

The 2011 constitution has the potential to become a framework for policy responses to the de facto permanence of migrants in Morocco and to balance the competing security and humanitarian imperatives outlined above.

In response to popular demands, the constitutional changes of 2011 redefined national institutions and policies and reinforced human rights. Their purpose was to set a framework that will be used for subsequent legislation and to build a political consensus. The constitution is first and foremost aimed at meeting the democratic and socioeconomic concerns of Moroccan citizens. However, it also contains articles that refer to migration and renews Morocco's commitments to universal human rights and non-discrimination – commitments that have the potential to benefit all people living in the country.

So far, however, these constitutional changes have not translated into legal or policy progress concerning migration. In the current context, it is perhaps not surprising that establishing a more comprehensive response to irregular migration has not been prioritised. Since the constitutional changes were introduced, the Moroccan government has quite reasonably focused on the needs of Moroccan citizens, in order to prevent the emergence of the kind of social and political tensions that have emerged across the Arab world in the past couple of years. Moreover, there are only limited incentives for the Moroccan government to accept that irregular migrant communities are increasingly permanent and to respond accordingly: given that migrants often attempt to continue their journeys to reach the EU, the government does not consider itself solely responsible for responding to irregular migrants in its own territory.

Regardless of government policy or migrants' official status, a minimal level of protection is guaranteed by the new constitution. Article 30 guarantees the protection of fundamental human rights of all Moroccan citizens and of migrants (implicitly, both regular and irregular migrants). This article and associated institutional changes – such as the setting up of the National Council for Human Rights (Conseil National de Droits de l'Homme, or CNDH) – could be the first steps towards a more balanced response to irregular immigration. Indeed, article 30 may be interpreted as an invitation to pursue further developments in national legislation. For example, it suggests that ordinary legislation for extradition and asylum should be developed, noting that 'the conditions regarding extradition

4 See <http://www.maroc.ma/PortailInst/Fr/MenuGauche/Institutions/Constitution/La+Constitution.htm> (in French)

and granting the asylum right are defined by law'. It is for Moroccan legislators and government to determine the shape of policy, but it is clear that the new constitution provides an important starting point.

1.2 International conventions as tools for securing legal entitlements

The renewed commitment to human rights that is mirrored in the institutional and constitutional changes of 2011 is not the only factor in favour of the development of a new legal and policy response to irregular immigration in Morocco. Historically, Morocco has been receptive to, and even instrumental in developing, international initiatives to protect the rights of migrants. It has signed up to binding international legislation, which has brought obligations which the government is responsible for implementing. Subsequent to ratification, Moroccan authorities have repeatedly reaffirmed their commitment to the implementation of human rights legislation (European Parliament 2009, CNDH 2008).

The 1990 International Convention on the Rights of All Migrant Workers and Members of Their Families is a vital international instrument⁵ which can be used to respond to the issue of migration to Morocco, especially in combating discrimination and racism. It came into effect in 2003; Morocco was an early supporter and, in 1993, the first nation to ratify it. However, the convention is yet to be adequately translated into national legislation (REMDH 2008, GADEM 2009). On the contrary, it is reported that racism at all levels of society towards sub-Saharan migrants, for example, has become a particular problem in recent years (RSC 2011, Slate Afrique 2012).

The case for Morocco to implement the 1990 convention is twofold. First, it has been used in the past by Morocco to advocate the rights of Moroccan citizens abroad. This happened at a time when the country saw itself primarily as country of origin. It would at least be consistent to offer the same rights to new immigrants in Morocco. Second, Morocco has become a member of the UN committee that monitors the implementation of the 1990 convention, giving the Moroccan government even more authority – and responsibility – in this area.

However, in reality, Morocco has been slow to move towards implementation. It has yet to submit its report on implementation to the convention's committee (CNDH 2011a) – the assessment document is currently being finalised by the domestic interministerial committee on human rights and it will finally be submitted six years late. Notwithstanding this slow progress, it is clear that the newly formed institutional structures around human rights – such as the interministerial committee – do now have the Moroccan response to migration on their agendas.

Morocco was also among the first nations to ratify the 1951 Convention Related to the Status of Refugees, signing in 1956. This international instrument⁶ is of particular significance to asylum-seekers in Morocco. The UN High Commissioner for Refugees (UNHCR) has had a permanent office in Rabat since 2007 and is now able to determine refugee status.⁷ This represents progress in refugee protection and stands in contrast to the situation in other countries of the region: migrants who seek refuge in other north African countries, such as Algeria, do not have access to any mechanism that can give them refugee status.

5 Available at <http://www2.ohchr.org/english/law/cmw.htm>.

6 Available at <http://www.unhcr.org/3b66c2aa10.html>

7 This is the new agreement signed by UNHCR with Morocco. The previous UNHCR office was based in Casablanca but was ineffective. Refugees were dealt with by the Moroccan Ministry of Foreign Affairs, but in practice the office offered little support or recognition to asylum-seekers.

Currently, migrants in Morocco who are given refugee status are legally entitled to stay in the country (they cannot be deported) but they do not benefit from a residence card. Refugees find themselves in a paradoxical situation: they are legally recognised but are not given the means to survive in the country or the possibility of moving to a third country for resettlement. Integration and access to services is severely restricted. In practice, their situation is very similar to that of irregular migrants. Refugees and asylum-seekers do not benefit from any legislation that would give them permission to work legally or to access the services that are available to regular migrants.

In light of this, UNHCR now aims to engage more closely with the authorities to coordinate their response to asylum-seekers (UNHCR 2012). The response from CNDH and the interministerial committee has been positive, and these two human rights-focused institutions have recognised the gap in legislation regarding the lack of provisions for residence and the right to work (CNDH 2011b). Cooperation on the design of a national asylum regime has already started, and further legislative development in this field will contribute to improving refugees' integration and clarifying their entitlements, beyond simple immunity to expulsion.

1.3 Legislation and implementation: the case of law 02-03

At the national level, law 02-03 is the main piece of legislation governing migration in Morocco. It has provisions regarding the entry and stay of foreigners and measures connected to irregular migration.⁸ However, this law provides the clearest example of the tensions between security and human rights in the Moroccan response to migration. It does not contravene international standards, and it includes elements that can commonly be found in other countries' border control legislation, but nevertheless it clearly sees immigration as a security problem. Given that some irregular migrants stay for longer and settle in Morocco, this is a partial view.

Law 02-03 makes reference to the importance of international commitments on one side, and it does protect some very specific categories of immigrants, such as pregnant women and refugees, from being expelled. On the other hand, most of its substance is focused on security: detention, expulsion and the criminalisation of the irregular entry or stay of migrants.⁹ The law contains highly punitive responses to irregular migration, such as fines or imprisonment for up to six months for illegal immigration, and makes no distinction between different groups of migrants and their various routes into irregularity.¹⁰ Of course, Morocco is not alone in taking this undifferentiated and highly punitive approach to irregular migration. However, the impact of this approach is worsened in the Moroccan case by the fact that no routes into regularity are available to most migrants, even to very vulnerable groups, such as unaccompanied minors.

There is also evidence that the implementation of the law is problematic. For example, a number of organisations have recognised that Morocco has not fully respected the *non-refoulement* principle¹¹ of the 1951 convention in the implementation of law 02-03

8 Available at http://www.justice.gov.ma/fr/legislation/legislation...aspx?ty=2&id_l=140 (in French)

9 See chapter III to chapter VII.

10 Some irregular migrants in Morocco have entered legally and then become irregular after three months (nationals of several sub-Saharan countries do not need a visa to stay for a short time). Others have evaded border control. Some migrants become irregular after they have graduated from a Moroccan educational institution but have not subsequently secured a residence permit.

11 This is a principle of international law, applied in relation to the protection of refugees in particular, that prevents deportation to the country of origin or, by extension, to an unsafe country.

(European Commission 2012, GADEM 2010). Sub-Saharan migrants, even refugees, have often been expelled to Morocco's desert borders.

Other studies have highlighted a range of issues, particularly concerning the deportation process: breeches in the law relating to the right to be defended, absence of legal advice for migrants, lack of translation services and a fair trial (GADEM 2009, Alkarama 2011). In some cases, security measures also prevent organisations from providing immediate assistance (Jaabouk 2012, IPPR et al 2012).

2. INTERNATIONAL RESPONSES

2.1 EU–Morocco cooperation

In simple migration situations, the key international relationship is between the country of origin and the country of destination. But irregular immigration in Morocco does not conform to this simple model: Morocco is currently a country of both transit and destination for irregular migrants, with the line between the two often blurred. The Moroccan situation is unusual because, in practice, the key international relationship is between the country of destination (Morocco) and a group of third countries that is not directly affected by the irregular migration in question (the European Union).¹² Of course, EU countries *are* affected by transit migration via Morocco, but this impact is small compared to the impact on Morocco itself, given that much ‘transit’ migration in reality becomes permanent immigration in Morocco (a trend that may be accelerating). Despite this, the EU’s response is governed by the assumption that all irregular migrants into the EU’s ‘neighbourhood’ have the ultimate intention of reaching Europe and the motivation and ability to do so. Put another way, it does not allow for the eventuality of Europe-bound migrants getting ‘stuck’, for any reason, in a transit country in its neighbourhood.

The emergence of the EU as one of the key actors strongly influencing migration into Morocco – and indeed into other countries in the EU neighbourhood – is based on a greatly unbalanced system of power relations. The European Commission, representing the 27 EU member states, engages in discussions on a bilateral basis with individual neighbouring countries. The EU negotiates through the commission, its executive institution, to ensure – among other objectives – that its security-focused initiatives to reduce irregular migration (through initiatives such as FRONTEX¹³) benefit from maximum cooperation from transit countries and countries of origin. While these bilateral discussions have resulted in substantial financial and technical support for migration control in countries including Morocco, it is clear that the EU’s interests do not always coincide with those of neighbouring countries.

The role of the EU distorts a migration management system in which the interests of countries of origin, mostly in sub-Saharan Africa, and the concerns of countries of destination (such as Morocco) would normally play a much greater role. It also undermines the widely cited historical comparison between developing patterns of immigration into north African countries from 2000 onwards and the ‘migration turnaround’ in southern Europe in the 1970s and 1980s. As Italy, Spain, Portugal and Greece became net countries of immigration they faced much less pressure from countries further north and were able to respond to this new migration in ways that they thought best.

EU member states also have long-established bilateral relations with Morocco concerning migration that predate the involvement of the European Commission. Although most earlier bilateral agreements were exclusively concerned with the emigration of Moroccan nationals to the EU, some bilateral agreements recognised the significance of immigration into Morocco very early. Most notably, a controversial 1992 readmission agreement between Morocco and Spain reputedly governs the readmission of non-Moroccan nationals to Morocco from Spain (the text is not public). This agreement was apparently later rejected by Morocco, but there have been reports at different times that it has still been in effect, most recently in 2005.

12 It is also important to note that Morocco has a (different) relationship with EU countries as a country of origin vis-à-vis Moroccan migrants in Europe.

13 This is the common name for the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union – see http://europa.eu/agencies/regulatory_agencies_bodies/policy_agencies/frontex/index_en.htm

The EU's own negotiations with neighbouring countries in the field of migration have always been framed by a discourse of 'partnership'. The treaty of Amsterdam, which came into force in 1999, provides the political basis for these negotiations. Clear objectives were first set out at the Tampere European Council, which identified 'partnership with countries of origin and transit' as a key priority of migration management strategies. The European Council's high-level working group on asylum and migration had prepared six country 'action plans' – including one for Morocco – which were presented at Tampere. As the Moroccan government pointed out at the time, a spirit of partnership was distinctly lacking from this first exercise: Morocco had barely been consulted on the contents of its own action plan.

By contrast, Morocco has played a central role in the origin and evolution of the Global Approach to Migration and Mobility (GAMM), under which the EU's 'external' actions on migration are currently assembled. It was drafted at the end of 2005, following the controversial deaths of 11 migrants at the fences surrounding the Spanish enclaves of Ceuta and Melilla on the African mainland.¹⁴ In 2006, migration between Europe and Africa was declared a priority for the EU. One manifestation of this priority was the organisation of an interministerial conference in Rabat in July 2006, which sparked a succession of meetings initially known as the 'Rabat process'. Later that year, Tripoli hosted an EU–African Union meeting, which initiated a similar series of meetings.

The GAMM functions as a framework for a variety of informal exchanges and activities around migration. This includes the high-level multilateral meetings framed by the Rabat, Tripoli or Euro-Mediterranean processes. It also covers an ongoing series of training activities involving mid-level civil servants, under the auspices of the Euromed migration programmes. Finally, substantial funding is distributed for research, civil society and capacity-building programmes. This was initially conducted through the Aeneas programme, which provided financial and technical assistance to third countries in the area of migration.¹⁵ The programme continues under a related budget line (which funded the research project of which this briefing is part). This informal, multifaceted approach allows the EU to shape the developing discourse on migration – advancing the notion that control and support should occur beyond EU territory – but also to channel technical and financial support to countries such as Morocco.

The informal framework of the GAMM functions effectively within the discourse of partnership that still frames the EU's activities in this area. Yet when principles are translated into European legislation, the partnership approach continues to be undermined. Most controversially, the EU's returns directive approved in 2008¹⁶ prompted major political opposition around the world. The strength of the reaction led the European Commission to suggest that partnership had been lacking during the preparation of the directive.

The EU began discussions with Morocco on new 'mobility partnerships' in autumn 2011. The most recent partnership – 'Migration, Mobilité et Sécurité' – commenced in December 2011. Relatively few countries have engaged in this process so far and those that have are mostly much smaller – Morocco is certainly the largest and most strategically significant country with which the EU has entered into these negotiations. There is some

14 See note 20

15 For detail of the initial programme see http://ec.europa.eu/europeaid/what/migration-asylum/documents/aeneas_2004_2006_overview_en.pdf

16 Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF>

evidence that this initiative is an attempt by the EU to respond to criticisms of previous negotiations, in terms of partnership working, although the power imbalances noted above remain. Mobility partnerships provide a framework for discussions of a range of more detailed issues. Such partnerships are based on the expectation that, in return for greater engagement by Morocco in EU priority migration control practices, the EU will offer significant access to visa facilitation regimes,¹⁷ and substantial support for student exchanges and migration and development initiatives. This might result in Morocco agreeing to maintain strict border controls in return for greater mobility of Moroccan nationals to the EU.

2.2 Regional responses

In reality, the intensity and frequency of contacts between Morocco and the EU overwhelms all other bilateral relationships sustained by the Moroccan government in the field of migration. Nevertheless, given the transnational nature of migration, it is important for Morocco to engage in regular discussions with Algeria and Mauritania. In fact, however, the regional forum for engaging in such discussions, the Arab Maghreb Union (AMU), has been defunct for many years. It is perhaps the least active regional consultative process in the world, particularly by comparison with neighbouring regional groupings, the EU and the Economic Community of West African States (ECOWAS). Like the EU, ECOWAS has also established free movement for its citizens in all of its member states.

Since the AMU was established in 1989, there has been only one meeting of the heads of the five member states (Algeria, Libya, Mauritania, Morocco and Tunisia). Officials from AMU member states meet much more frequently at events organised under the auspices of the EU or the African Union (AU) than at regional meetings. Even then there are problems with high-level meetings. Algeria withdrew from the 2006 meeting in Rabat and so is not a member of the Rabat process; Morocco is not a member of the African Union and so is absent from the Tripoli process. Algeria and Morocco only participate together in much smaller groups of European neighbourhood states.

Yet the AMU offers the only real possibility for north African states of rejecting the individual focus of EU ‘partnership’ negotiations and developing a collective bargaining position. All five states would stand to gain from this, among other results of collective action, and in fact there are now some signs that the AMU may be moving towards re-establishing regional meetings, so there is some hope of a change, although this remains very uncertain.

2.3 Countries of origin

The final type of potentially significant international relationships hold between Morocco and migrants’ countries of origin. These relationships are not yet well developed. Morocco has made only limited efforts to reach out to countries of origin and in its relationship with sub-Saharan countries, for example, the focus has been on commercial relationships. Morocco has made bilateral migration agreements with countries such as Senegal, agreeing to allow entry of Senegalese nationals for a maximum period of three months without a visa.

There is some evidence that Morocco’s engagement with countries of origin is shaped by EU pressures – for example, there are claims that EU pressured Morocco to implement visa requirements for sub-Saharan migrants (De Haas 2005).

17 Such visa facilitation agreements usually confer advantages for all nationals travelling to the EU in the form, for example, of lower fees or reduced applications waiting times.

The origin countries of sub-Saharan migrants themselves display only limited involvement regarding the welfare of their nationals in Morocco. They offer no consular services and no support or advice in the case of judicial procedures or expulsion, and there is no evidence that they advocate for the welfare of resident nationals in their relations with the Moroccan government. Many of these countries clearly face very real questions of resources and capacity to engage with countries like Morocco in this way, but these same countries have developed effective representation for migrants in Europe, so this appears to be at least in part a question of priorities.

In summary, there are two significant gaps in the international response to the de facto development of immigration policy in Morocco. The first is the relative exclusion of Morocco's Maghreb neighbours and migrant countries of origin from discussions of migration policy and action, due to the dominant position of the EU in such discussions. Second, there is a disjuncture in the EU's approach between the general prevailing discourse of partnership and the reality of top-down relations in particular arrangements.

3. FILLING THE GAPS: THE CRUCIAL ROLE OF CIVIL SOCIETY IN MOROCCO

In light of the gaps identified above, on-the-ground activities in Morocco to promote migrants' rights, and specifically irregular migrants' rights, are mainly conducted by non-governmental organisations (NGOs). Moroccan NGOs working in this area base their interventions on the broader international legal framework of human rights protections described in section 1. In their daily work, however, these organisations are confronted with the tension that has already been highlighted between international agreements ratified by the Moroccan government and national policies with their heavier emphasis on security measures.

Currently Morocco has numerous NGOs working with migrant issues (AMERM 2010).¹⁸ Several NGOs have included migrants' issues within a wider remit that covers more general areas, such as human rights or local development. For example, organisations promoting human rights have more recently begun to consider irregular migrants as a specific vulnerable population whose rights have been neglected for too long.

Only a small group of organisations could be classified as NGOs with fulfilment of migrants' rights and welfare as their main objective. However, these organisations often do not formally include migrant support among their objectives. For example, there are large organisations that promote human rights, such as Organisation Marocaine des Droits Humains (OMDH), which also run projects that focus on irregular migrants.

Among these organisations, it is worth mentioning the recent rise of migrants' associations, composed of migrants themselves, which are trying to respond to the specific needs of the different minority communities living in Morocco. However, these associations are still informal and have not been officially recognised as NGOs.¹⁹ Although the migrants in these associations share fundamental concerns (irregular status and lack of access to basic social rights) and often seek regularisation, they tend to reaffirm their identity through membership of distinct migrant associations. Nevertheless, despite linguistic or religious differences, some migrant associations have been successful in bringing irregular migrants from different national groups together to seek to secure the rights provided for them under international law.

In practical terms, most NGOs provide humanitarian support to migrants, specifically access to medical services. Only a few offer legal assistance or provide advocacy. However, in the last decade, after the adoption of law 02-03 and following the 2005 incidents at Ceuta and Melilla,²⁰ advocacy for migrants' rights in Morocco has been increasing. Some NGOs have tried to harmonise their efforts and coordinate their initiatives as alliances in a bid to become a stronger force in policy development.²¹ There are also examples of NGOs linking their activities to international networks or campaigns and regional or global forums in order to address the Moroccan context from a more solid base.

¹⁸ The publication offers a comprehensive mapping of Moroccan NGOs that also focus on migrants.

¹⁹ This is the current status according to the Moroccan dahir (royal decree) of 15 November 1958, as modified in July 2002.

²⁰ On 29 September 2005 in the Spanish enclave of Ceuta, the border fence was assaulted by hundreds of migrants simultaneously, grabbing international media attention. Caught between Spanish rubber bullets and Moroccan gunfire, five migrants died. Six days later, some thousands of sub-Saharan migrants tried to do the same in several waves at Melilla. About 700 made it, while six died in clashes with Moroccan security forces.

²¹ The most recent example, the Platform for Protection, launched in 2009 and is composed of several associations working on different issues, including the promotion of children and women's rights, legal assistance and access to justice, and cultural integration.

Although this is a fast-developing field, these organisations often struggle to produce sustainable solutions to the problems already identified. Because ambiguity and volatility have characterised the official Moroccan response (both national and local) to migrants' issues in general, and to those of irregular migrants in particular, NGOs have often only been able to respond in an ad hoc manner, rather than strategically. NGOs in Morocco also have only limited resources, and can face problems with police and local authorities. For example, NGOs working close to the Algerian and Mauritanian borders often find that the irregular migrants they assist are the target of arbitrary arrests and deportation.

Few Moroccan NGOs appear to work in cooperation with, or with the support of, government institutions. This was clear during a roundtable organised by CCME, IPPR and PICUM in Rabat in spring 2012. The lack of communication between the state and the voluntary sector may in part be the legacy of many years of repression experienced by civil society between 1960 and 1980. During these so-called 'années de plomb', activists of several NGOs served as the expression of an opposition movement campaigning for a democratic society. Consequently, they often suffered at the hands of the authorities: persecution, arrest, execution and disappearance.²² In the 1990s a new era began, under the reign of Mohammed VI, characterised by a clear support for civil society, which was considered one of the main forces of the democratic transition. NGOs are still perceived as an essential driver of democratic (and also economic and cultural) development, but the old divisions between the state and NGOs persist (Janjar et al 2004).

In general, public institutions do not partner directly with civil society organisations to respond to migration. However, this does happen indirectly, through some multilateral agencies, such as the International Organization for Migration (IOM) and UNHCR, and this is clear on both agencies' websites. In practice, grassroots organisations are in charge of implementing activities at the local level that are financed by the government, even though the official partnership on both sides is with an international organisation. The European Commission also supports some NGOs registered in Morocco in their attempts to create services and implement projects assisting vulnerable populations of irregular migrants.²³ However, these actions remain ad hoc and cannot entirely fill the gap between migrants' legal entitlements to justice and basic social rights and their present situation in Morocco.

22 This period of repression has been widely acknowledged in Morocco, and a Commission on Truth, Fairness and Reconciliation has been set up by the current king, Mohammed VI. For more information see <http://www.ier.ma/?lang=en>

23 The [Tamkine-Migrants project](http://tdh.ch/fr/news/maroc-terre-des-hommes-renforce-les-droits-des-femmes-et-enfants-migrants), for example, is co-funded by the EU and will be carried out by Terre des Hommes, Oum El Banine and GADEM. See <http://tdh.ch/fr/news/maroc-terre-des-hommes-renforce-les-droits-des-femmes-et-enfants-migrants>

CONCLUSIONS

Irregular migration in Morocco is undergoing a gradual shift from ‘transit’ migration to longer-term immigration. While this shift is taking place in a context that works against the development of a full policy framework in the short term, there are immediate challenges that need to be addressed, the most urgent of which is access to basic rights for irregular migrants.

In this context, some gaps are filled by a range of dedicated NGOs and migrants’ rights groups, but it is clear that these actors can never offer a complete solution – at some point, the state must step in. Important changes, such as the new constitution and the setting up of institutions such as the National Council of Human Rights, are positive foundations for the kind of policy and practice which Morocco must develop over time.

This paper will be followed by the publication of an in-depth case study report based on new primary qualitative research conducted with sub-Saharan irregular migrants and a range of stakeholders in Morocco. This forthcoming report will provide a more comprehensive account of recent policy development in Morocco, a detailed analysis of the experiences of irregular migrants in Morocco and the challenges they face, and a detailed set of recommendations on how to address some of the challenges Morocco faces with respect to irregular migration.

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