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Center for Migration and Refugee
Studies



POLICY BRIEF

Governance of Double Migrations in North African Countries





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Dr. Mohammed Charef*

“Human rights are universal and indivisible.”
Václav Havel, Czech playwright and statesman.

General introduction

Former UN Secretary-General Kofi Annan was among the first to call for considering multilateral treatment of international migration, appointing in 2001 a committee responsible for identifying key areas of multilateral cooperation on international migration¹, to enhance coordination among relevant UN agencies. Prior to initiating the high-level UN dialogue on Migration and Development in 2006, the committee presented its report on international migration and development, which concludes that migration remains one of the direct effects of globalization, and that it clearly highlights the disparities between world countries. Consequently, it would be futile to ignore the reality of individuals' movement in absence of effective regulatory mechanisms, given the potential positive effects on both countries of origin and countries of destination, and even on migrants themselves.

It seems that governance of migration as an issue remains far from any international consensus, as it is the case for other issues and areas, whether the European Charter on Immigration and Asylum, or bilateral deportation agreements on the readmission of expelled persons signed between certain countries. State sovereignty is invoked every time to limit the access of migrants to their territories, keeping in mind that countries of the global south have nothing but a narrow margin for maneuver regarding the readmission of expelled migrants from Europe and irregular migration. Parallel to the mainstreaming of a sovereign and security-based approach, the idea and project of migration governance emerges through observing the gap between the global realities of international migration and political treatment solely based on the security, economic and electoral concerns of host countries.

*A geographic-urbanist, research professor. Charef is the Director of the Regional Observatory of Migrations Spaces and Societies (ORMES)- Agadir, Chairman of the Regional Human Rights Commission of Agadir, and member of the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

¹ Beaujeu, Mélodie. « Vers une gouvernance mondiale des migrations : enjeux, réalités et perspectives », *Revue Migrations Société*, vol. 121, no. 1, 2009, pp. 147-158.

1. Management versus Governance of International Migration in Counties of North Africa

Contrary to the dominant representations of migration in many countries, whether in the global north or south, international trends on the intrinsic nature of migration confirm their beneficial effects, hence it is necessary, according to the United Nations, to “**accept migration as a natural fact in the lives of individuals, families, societies, and states**”.²


Based on this approach, international organizations do not question whether migration should occur, but rather tend to think about the way in which migration should be regulated in order to produce the expected beneficial effects specifically, and here emerges the semantic debate on the terminology used to define this regulation of migration flows. The term migration governance, or international migration governance, is often used; while the term has multiple meanings, it generally defines the range of mechanisms through which the phenomenon is managed; thus this includes not only the role of governments, but also the role of other actors (such as civil society or the private sector) at several levels (from local to global).

As for the concept of migration management, which is also common, it sets out, in a normative way, the necessary and due cooperation between different actors, and requires the achievement of the goals set by States and the international community. To cite but a few, only rational measures to reduce climate change are within the competence of governments, but also non-state actors (NGOs, corporates, media outlets, etc.) and public actors at different levels of responsibility (city councils, districts, etc.), noting that only with the cooperation among those actors will combating global warming be feasible.

With regard to the domain of North Africa, the term includes all the Mediterranean countries within the African continent, noting that there is not yet one agreed upon definition of what constitutes “North Africa”, as experts believe that its geography stretches from the Atlantic shores across the Suez Canal to the Red Sea to the east, which means that it extends from Morocco to Egypt. In contrast, some researchers limited the connotation of North Africa to the geographical area of interest to the countries of Morocco, Algeria, Libya and Tunisia, which is the approach France had adopted during the colonial era.

It can be accepted that the most reasonable definition of “North Africa” includes the countries of Morocco, Algeria and Tunisia, as well as Libya and Egypt, including the Spanish territories located in Ceuta and Melilla and some of its small islands north of Morocco, in addition to the Canary Islands. There is much that distinguishes North Africa from a larger part of sub-Saharan Africa historically and naturally. This is due to the presence of the natural barrier

² Nations Unies, *La Déclaration de La Haye sur la politique de demain en matière de réfugiés et de migrations*, New York : Assemblée générale des Nations Unies, 2002, document A/57/693, p. 3. 4.



formed by the Sahara for a long period of the modern history, which prompts us to adopt this definition, as it is closer to consensus based on the geography that provides clarity and prevents ambiguity.³

North Africa has traditionally been a region with large-scale migrations, where double migration trends are of concern within two major geographical areas, South-North and South-South. However, it is worth noting that the first difficulty raised by any analysis of double migration relates to the inadequacy of statistics and figures due to the absence of an integrated information system on double migration flows⁴, which makes it difficult for us to comprehensively analyze the specificities of the migration systems for each of the North African countries to determine their compliance with their international obligations.

Upon these considerations, this article will have to start with the general framework of migration and human rights in its international context, then comes the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families, to conclude with the third axis as a case study for Morocco and the objective considerations represented in the ratification of the international convention under study as well as the Moroccan migration policy.

2. Migration and Human Rights in the International Context

We are all aware of the close interrelationship between migration as a phenomenon and human rights as a culture, as they are two sides of the same human-centred coin. Reports issued by relevant international organizations also reflect the strength of this interrelationship, considering that the global trend of the frequency and volume of human movements across borders has been increasingly on the rise in the past 10 years.

Most official statistics confirm that the current number of people living in countries other than where they were born exceeds any records during the past decades. In 2000, the number of international migrants reached a total of 173 million, increasing in 2017 to reach around 258 million people; then 272 million in 2019, according to the latest annual statistics released in the UN reports prepared by the committee in charge of demographic affairs in the Department of Economic and Social Affairs (DESA). In this regard, it is noteworthy that the outbreak of the COVID-19 pandemic has led to a slight decline in the volume of migration flow to 270 million people during 2020⁵.

The chart below shows the distribution of the characteristics of international migrants. According to the IOM, it is noted that they consist predominantly of migrant workers by

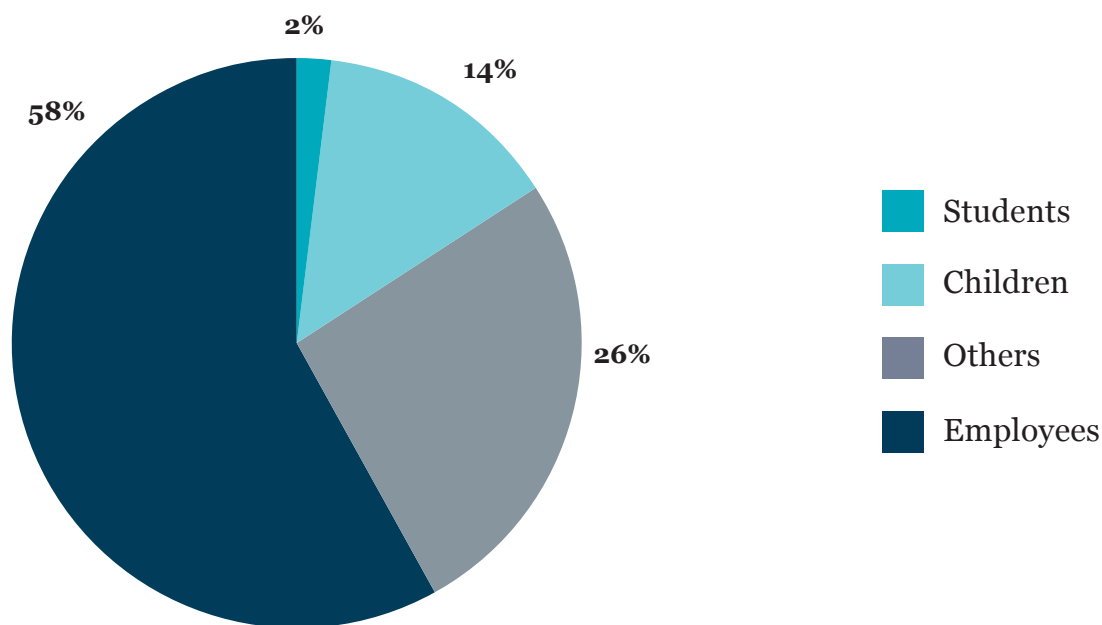
³ Nigoul, Claude. « La Méditerranée : mythes et réalités », *Revue L'Europe en Formation*, vol. 356, no. 2, 2010, pp. 11-34.

⁴ Dumont, Gérard-François. « Les migrations internationales et l'Afrique : des logiques Sud-Nord ou Sud-Sud ? », *Revue Les Analyses de Population & Avenir*, vol. 19, no. 1, 2020, pp. 1-14.

⁵ The UN official Website. Visited April 2021. URL: <https://news.un.org/ar/story/2021/01/1069102>

58%, while unaccompanied children are about 38 million, noting that three in four migrants of working age are between the ages of 20 and 64 years; these data collectively illustrate the fragility of the situation migrants are facing.

Percentage distribution of migrants across the world 2018



Source: International Organization for Migration Report 2018

It is well known that the rapid rise in the number of international migrants recorded between 2000 and 2019 did not happen spontaneously, but in fact it is the causal result of a set of factors and motives that forced people to immigrate and move from one area to another. They are mostly classical drivers such as seeking relief from poverty, seeking job opportunities in other countries, aspiring to secure a better future for the family, family reunification, or study. Globalization with its repercussions and impacts has added other drivers to international migration, among them are the effects of climate change and the destruction of the environment⁶ (United Nations Climate Conference in Marrakesh, COP22).

The following map shows the distribution of international migrants around the world in 2019 according to recent statistics issued in the *2020 by the relevant UN committee:

⁶ Charef Mohamed. Dorai Kamel, “Human migration and climate change in the Mediterranean region”, in Thiébault, S., Moatti, J.-P. (ed.). The Mediterranean Region under Climate Change, A Scientific Update, Paris, IRD Editions 2016, p. 3. 439-444

* It should be mentioned that this policy paper relies on the IOM World Migration Report 2020 as it contains the most updated figures and statistics, while at the time of writing this policy brief, the comprehensive and official IOM 2022 report is yet to be issued.

Map 1: Distribution of International Migrants by Continent



Source: Based on the UN 2020 data on international migration⁷

Based on the figures shown in the map above, it is noted that the numbers of international migrants in the major international geographical regions are distributed as follows: Asia 83.6 million; Europe 82.3 million; North America 58.6 million; Africa 26.5 million; South America and the Caribbean 11.6 million; and finally, Oceania 8.9 million. The most notable observation from the map above is perhaps that, despite the differences and disparities in the numbers of international migrants amongst the world's major geographical regions, all countries of the world are experiencing the reality of human movement globalization, intensity, and increasing.

Statistics on the group distribution of international migration according to the IOM 2020 report shows that migrants represent 3.5% of the total world population, 52% of the are males while 48% are females. The report adds that the migrants of working age (between 20 and 64 years) constitute 74% of the migrant population. While the number of refugees in the world in 2018 is 25.9 million, the number of stateless people from the same year was 3.9 million⁸.

⁷ International Organization for Migration. "World Migration Report 2020", accessed July 2021. URL: <https://publications.iom.int/system/files/pdf/wmr-2020-ar.pdf>

⁸ IOM, "Migration Report 2020," accessed in April 2021, URL: <https://publications.iom.int/system/files/pdf/wmr-2020-ar.pdf>

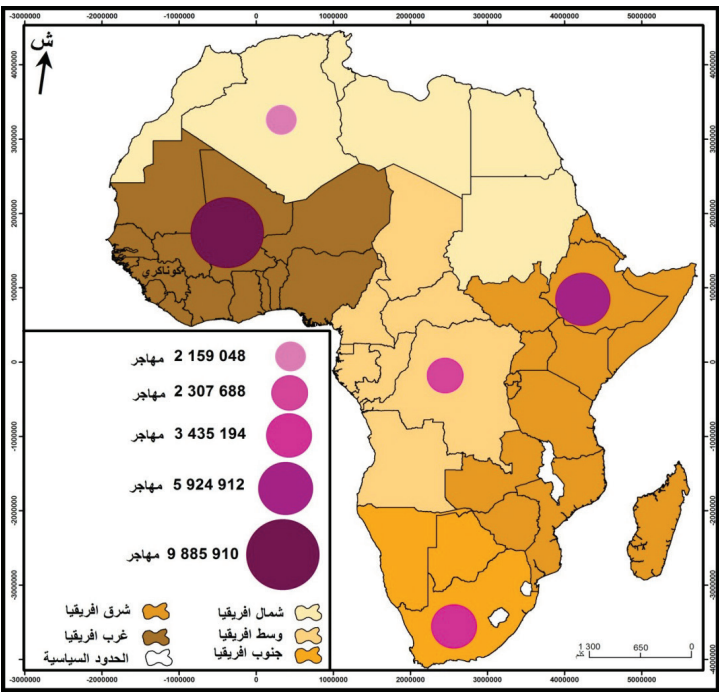
At the continent level, it is important to note that the use of cartographic information systems in studying African migration is one the most crucial elements contributing to the proper understanding of the phenomenon. According to the 2020 UN data, the number of international African migrants was about 26 million, which represents only a quarter of the number of European international migrants, contrary to the prevailing believed assumption.

The African Union confirms that 80% of African migration takes place predominantly within the continent, more specifically “spatially within the western, eastern and southern regions; and cross-regionally from West Africa to Southern Africa, East Africa, then from the Horn of Africa to Southern Africa and Central Africa to Southern and Western Africa”⁹. Official statistics show a decline in the percentage of African migrants compared to international migrants, in 1990 their percentage reached 85%, and it was 6.68 points lower in 2017 at 78.54%. The same trend is registered within the sub-Saharan Africa as well, with a decline by 6.44 points. In percentages, migrants in sub-Saharan Africa in 1990 were estimated at 83%, while in 2017¹⁰ they counted for only 76.56%. In order to accurately understand the phenomenon of African migration and the position of the sub-Saharan migrant, we shall divide the continent into five geographical regions:

1. North Africa.
2. West Africa.
3. Central Africa.
4. East Africa.
5. South Africa


Map 1: Distribution of African migrants within the African continent in 2020

Source: Based on the data of the IOM 2020 Report, prepared by Dr. Mohamed Charef, Dr. Abdelhamid Jamour, the Regional Observatory of Migrations Spaces and Societies, Ibn Zahr University, 2021.



⁹ Union africaine, « Cadre de politique migratoire pour l'Afrique révisé et plan d'Action (2018–2030) » rapport publié mai 2018, consulté décembre 2019. p. 21, In : https://au.int/sites/default/files/documents/35956-doc-2018_mpfa_french_version.pdf

¹⁰ El Arbi Mrabet, « la migration africaine », publication de Institut Royal Des Etudes Stratégiques, décembre 2018, p. 17.

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Map 2 demonstrates the evident differences in the status of African migration with the aforementioned geographical regions, and the five areas can be arranged by the percentage of African migrants on the continent as follows : West Africa ranks first at 42%, East Africa at 25%, South Africa at 14%, Central Africa at 10%, and finally North Africa with the lowest percentage of the total migrants at 9%.


In order to explain this difference between the five regions, it is necessary to recall the principle of freedom of movement of persons in Africa, which is the principle in force in both West and East African countries, which explains why these two destinations rank first and second respectively in terms of the percentage of African migration. The advanced discussion of the freedom of movement of persons in South and Central African countries led these regions to be ranked third and fourth, respectively.

Thus, if large-scale migratory flows are not a recent phenomenon, international migratory movements have also become “mixed flows”, involving different age groups of women, men and children who are forced to take sea, land, and sometimes air routes, which are dangerous due to strict border control and the blockage of regular migration routes and outlets, making irregular migration a solution for some, despite their prior awareness that it poses direct threats to their lives, and affects their identity. This segment of migrants is forced to resort to human smuggling networks, which exposes them to extortion and exploitation, in addition to facing the risk of death in the desert or at sea, or the risks of arbitrary detention and exposure to various inhuman and degrading practices, all under a rise in racism, xenophobia, and serious violations that migrants may be exposed to in the country of destination, regardless of their status, whether legally or irregularly.

3. Overview of the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

The recognition by the United Nations, that migrant workers, as a social group, are particularly in need of protection under an international convention, marked the beginning of the emergence and development of the International Convention on Human Rights. In 1949, ILO Convention No. 97 on the Rights of Migrant Workers was adopted. In 1972, for the first time, the UN expressed its concern about the rights of migrant workers. Various UN organizations were questioned about the status of migrant workers and members of their families. In the same year, the General Assembly, in its resolution No. 2920 (d28), condemned discrimination against workers and called for an end to all practices contrary to human rights principles.

At the request of the Economic and Social Council in 1973, the Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted, in 1976, a report prepared by the Special Rapporteur of the Commission, Ms. Halima Warzazi, on the exploitation of migrant workers through illegal and clandestine trafficking, in which it recommended the need for a




United Nations framework convention on the rights of migrant workers. The recommendation was reiterated at the World Conference against Racism and Racial Discrimination in 1978 in Geneva, as well as in General Assembly resolution 33/163, to establish in 1980 a working group open to all state parties and entrusted with the task of elaborating a convention. Relevant international bodies and organizations -the Commission on Human Rights, the Commission for Social Development, the International Labour Organization (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Health Organization (WHO)- were invited to contribute to this task. The working group, which was reconstituted at successive annual sessions of the General Assembly, completed the drafting of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, formally adopted by the UN General Assembly on December 18, 1990, without being put to a vote, but it was opened for signature directly by all UN states members, thus underscoring the great need to protect the rights of migrant workers in the world. 56 of the 193 UN state members have become parties to the Convention, which means we are still far from the universality of the Convention.

The convention's entry into force strengthens and complements the arsenal of provisions contained in the main UN human rights instruments. The Convention emphasizes the link between migration and human rights, aiming to establish a set of standards that can guide states members in the enactment of their judicial and administrative laws and procedures and in ensuring their compatibility with the Convention.

In addition to the preamble, the Convention was divided into nine parts, as follows:

- Part I (arts. 1 to 6) refers to the scope and definitions of terms and concepts contained in the Convention.
- Part II establishes the principle of non-discrimination between nationals and migrant workers.
- Part III (arts. 8 to 35) sets forth the rights of all migrant workers, including migrants in an irregular situation.
- Part IV (arts. 36 to 56) is based on the rights of migrant workers.
- Part V (arts. 57-63) addresses certain categories of migrant workers.
- Part VI (arts. 64 to 71) addresses just conditions in immigration policy matters.
- Part VII (arts. 72 to 78) addresses the application of the Convention.
- Parts VIII and IX (arts. 79 to 93) addresses the general and final provisions.

Here, we shall point out that by ratifying the Convention, governments of the state parties, as provided for in article 1, undertake to *“respect and to ensure to all migrant workers and*



members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind such as to sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status". Additionally, it provides for a set of binding standards, regarding the treatment of documented and non-documented migrants alike, the protection of them and their human rights, along with the commitments and responsibilities of countries of origin and destination¹¹.

As an international convention, broad in scope, which sets out the rights and obligations of the States that ratify it, it draws inspiration in many of its provisions from other international conventions relevant to migrants, and thus does not establish new rights, but rather emphasizes that some rights are insufficiently protected.

The Convention also focuses on the minimum standards that state parties must apply to migrant workers and members of their families, regardless of their status as migrants. The preamble to the Convention also sets out for States the reasons justifying the recognition of the rights of irregular migrant workers, taking into account, in particular, that this category of migrants is often exploited and subjected to serious violations of their fundamental rights, and therefore the adoption of appropriate measures shall be encouraged to curb irregular migration and trafficking in migrant workers, while at the same time assuring the protection of their fundamental human rights.

The Convention cannot stop at that extent. In fact, States parties, considering **“Considering the situation of vulnerability in which migrant workers and members of their families frequently find themselves”**, have the insight and wisdom to take into account that among such migrant workers, in general, there is a particularly vulnerable group, because they are not **“authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party”** as provided for by article 5. As stated in the preamble to the Convention, **“human problems involved in migration are even more serious in the case of irregular migration”**.

The Convention recognizes that undocumented or irregular migrant workers are entitled to all fundamental rights relating to the **“universal identity of people”**. Being particularly vulnerable to certain forms of exploitation, specific rights that set out a rights-based approach to managing migration flows have been recognized. The rule is based on the universality of human rights and must be applied without any discrimination; accordingly, rights are not

¹¹ Each member state shall have the sovereign right to determine which of the nationals of other states may be admitted to it, and to reside in its territory, and each state may decide on the means by which it shall regulate or prevent the entry of migrant workers. According to article 5 of the Convention, migrant workers and members of their families:

(a) Are considered as documented or in a regular situation if they are authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party;

(b) Are considered as non-documented or in an irregular situation if they do not comply with the conditions provided for in subparagraph (a) of the article.



attributed to individuals on the basis of their legal status, but only in relation to their human status. Therefore, international human rights law generally does not distinguish between citizens and non-citizens in terms of the rights granted to individuals.

On the foregoing basis, migrant workers, even those in an irregular situation, are certainly concerned with all internationally recognized human rights. These rights are set out in Part III of the Convention (arts. 8 to 35) and are founded on the freedoms recognized to all individuals to protect their dignity and physical integrity, as is the freedom to leave any State, including their State of origin, and to return and remain in their State of origin (art. 8); the right to life (art. 9); the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (art. 10); the right not to be subjected to slavery, servitude or forced or compulsory labour (art. 11); and the right to freedom of thought, conscience and religion (art. 12). In sum, it may be agreed that the Convention follows the essence of the fundamental human rights affirmed in the Universal Declaration of Human Rights and the New York Covenants¹².

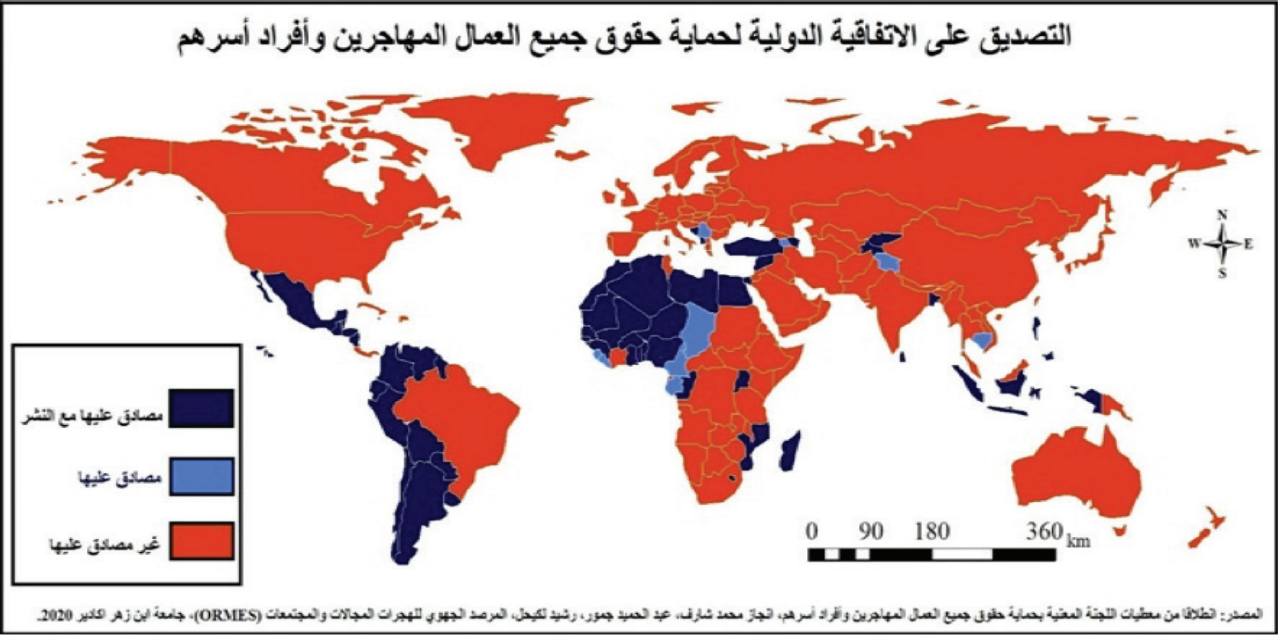
Moreover, because of the precarious situation in which migrant workers find themselves living outside the territory of which they are nationals, the Convention has recognized certain specific rights to strengthen the protection required for them, such as the right not to be imprisoned for failure to perform a contractual obligation, or to be deprived of a residence permit or a work permit or to be expelled for failure to fulfill an obligation arising from a contract of employment (art. 20), the right to protection against the confiscation and destruction of identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits (art. 21); the right not to be subjected to measures of collective expulsion (art. 22); and the right to have recourse to the protection and assistance of the consular or diplomatic authorities of the State of origin or of the State representing the interests of that State whenever the rights [recognized by the Convention] are impaired (art. 23).

Employers must also not take advantage of the reality pertaining of the irregular situation of a migrant worker, in terms of residence or employment, to deny him or her the right to fair treatment not less favourable than that which applies to nationals, both in terms of remuneration and other conditions, in particular overtime, hours of work, weekly rest, paid leave, personal safety, health. and the termination of employment.

With regard to the children of migrant workers and even those in an irregular situation, their basic rights to education on the basis of equality of treatment with nationals of the State concerned remain guaranteed. The Convention expresses this right by stipulating that their access to public pre-school educational institutions or schools shall not be refused by reason on the irregular situation of with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment, as stated in article 30 of the Convention.

¹² Lagrange Philippe, "L'appréhension du phénomène migratoire par le droit international", *Revue critique de droit international privé*, 2017/1 (N° 1), p. 3. 27-35.

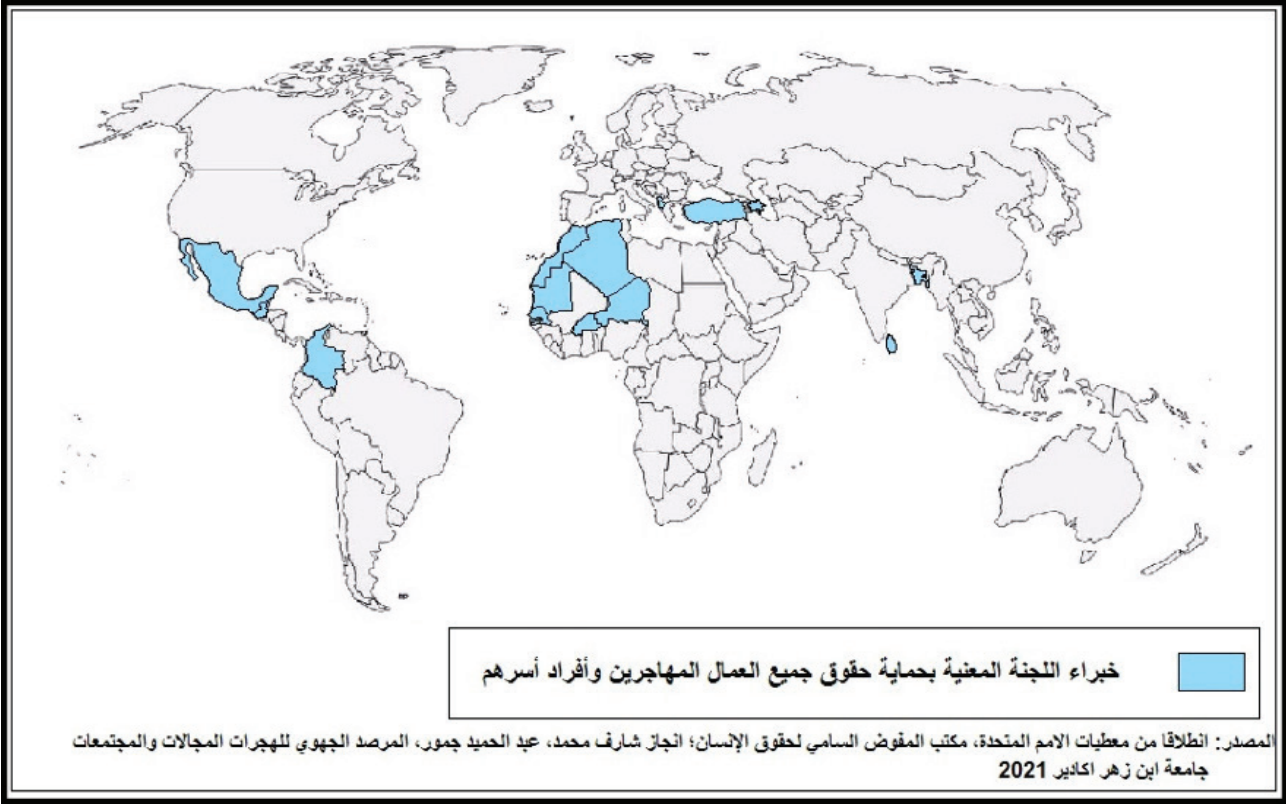
With regard to the cooperation of States parties in adopting measures regarding the orderly return of migrant workers and members of their families to their State of origin when they decide to return or when their residence or employment expires, or when they are in the State of employment in an irregular situation. Article 67 explicitly stipulates that the return of a migrant worker, regardless of his or her status, must be under conditions agreed upon by those States, with a view to promoting adequate economic conditions for their resettlement and to facilitating their durable social and cultural reintegration in the State of origin.



For the purpose of the application of the Convention, a Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families was established. The Convention stipulated that It shall consist of fourteen experts elected by secret ballot by the States Parties from a list of persons nominated by States Parties, with due consideration to equitable geographical distribution. Each State Party may nominate one person from among its own nationals. Committee members shall be elected at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters; two thirds of the States Parties shall constitute a quorum, and the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the States Parties present and voting.

The members of the Committee shall serve for a term of four years. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee. The members of the Committee shall be entitled to the facilities, privileges, and immunities of experts on mission for the United Nations. The following chart shows the distribution of experts of the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families:

Distribution of current expert-members of the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families



4. Migration in North African countries through the United Nations Committee on the Protection of the Rights of Migrant Workers and Members of Their Families

To determine the extent to which North African countries have implemented and fulfilled their international obligations, it is important to present the observations made by the United Nations Committee for the Protection of the Rights of Migrant Workers and Members of Their Families to these countries, which were issued until 2022 and adopted by some countries. For example, Egypt adopted the emergency proposal in October 2021, and granted Egyptian migrant workers residing abroad the right to vote. The following table shows the subject of the observations submitted to North African countries:

Table 1: Observations of the UN Committee on the Protection of the Rights of Migrant Workers and Members of Their Families in North Africa

Subject of observation	Egypt	Morocco	Algeria	Libya
Convention practice	To review its reservations to article 4 and paragraph 6 of article 18 of the Convention	The Committee recommends that the State party continue the procedures for the submission of the two declarations provided for in articles 76 and 77 of the Convention.	Withdrawal of reservation	The Committee recommends that the State party consider making the declarations provided for in articles 76 and 77 of the Convention.
	Making the two declarations provided for in articles 76 and 77 of the Convention;	Ratification of ILO Conventions Nos. 97, 143 and 189	Making the two declarations provided for in articles 76 and 77 of the Convention	
	Acceding, as the earliest convenience, to ILO Conventions Nos. 97 and 143, which concern migrant workers			
Legislation	Lifting the state of emergency	Conformity of Act 02-03 with the Convention	Conformity and Litigation	Conformity
	Tightening the scope of application of the Anti-Terrorism Law	To decriminalize illegal immigration and establish appropriate administrative penalties.	A comprehensive strategy on labour migration	The Committee recommends that the State party develop a comprehensive strategy in line with the Convention.
			Establishing an appropriate authority with a clear mandate, tasked with ensuring inter-ministerial coordination for the implementation of the Convention	Ensuring that the National Council operates as a national human rights institution in full compliance with the principles relating to the status of national institutions on the promotion and protection of human rights (the Paris Principles);


Subject of observation	Egypt	Morocco	Algeria	Libya
Legislation	Lifting restrictions on NGO activities	Legal framework governing expulsion/repatriation procedures	Ensuring that national institution is in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), including with regard to the independence of its members	Regularization of migrants' situation
			Decriminalization of irregular migration	
			To amend its legislations governing expulsion/repatriation procedures to prohibit collective expulsions	
Women	To be able to obtain a passport			
Torture and ill-treatment	Taking measures to investigate promptly in all reports of torture or ill-treatment of migrant workers while in detention, and to prosecute and penalize the perpetrators	Not to confiscate and destroy their identity documents	Cessation of retaliation against defenders of migrants' rights	To investigate all cases of corruption
			Prohibition of administrative detention of aliens awaiting expulsion	The Committee urges the State party to end any operations run by the Libyan Coast Guard or other law enforcement officials violating the right of migrant workers and members of their families to leave any State, including the State party
			To respect the right to seek and obtain asylum, the principle of non-refoulement and, to this end, refrain from denouncing migrants at their borders or forcibly returning them when this would expose them to the risk of persecution, torture or other cruel, inhuman or degrading treatment or punishment	Protection from violence, physical harm, threats and intimidation
				Labour exploitation and other forms of ill-treatment
				Due process, detention and equality before the courts
				Conditions of detention

Subject of observation	Egypt	Morocco	Algeria	Libya
Wages and property	Equal pay and other conditions of work and employment		To take all necessary measures to resume bilateral negotiations with Morocco with the view of ensuring the restitution of confiscated property to its rightful owners or beneficiaries, or to ensure that they are awarded fair and adequate compensation	Right to transfer income and savings
			To take all necessary measures to resume bilateral negotiations with Morocco with the view of ensuring the restitution of confiscated property to its rightful owners or beneficiaries, or to ensure that they are awarded fair and adequate compensation	
			Provide information on partnerships established with financial institutions in order to facilitate money transfers to the State party by Algerian migrant workers living abroad and to facilitate transfers to countries of origin by migrant workers living in the State party Taking the measures necessary to reduce the cost of sending and receiving transfers, including through the application of preferential rates	

Subject of observation	Egypt	Morocco	Algeria	Libya
Birth registration	The Committee recommends that each child born in Egypt to a migrant worker be granted the right to a name, to registration at birth, and to a nationality in accordance with article 29 of the Convention, and to obtaining of a birth certificate by the Egyptian civil registry	Birth registration of migrants' children		
Education	The Committee recommends that the State party grant all children of migrant workers, whether documented or undocumented, access to schools on the basis of equality of treatment with Egyptian children in accordance with article 30 of the Convention.	Ensuring the right to education	The Committee recommends that the State party take significant and effective measures, such as establishing specific programmes to ensure access to school and the ability to continue pursuing education	
Health	Medical tests for migrant workers in line with the ILO Code	Access to emergency medical care and basic health services	Access, in law and in practice, to the emergency medical care required and to basic health services	Medical Care
Domestic workers	The Committee recommends that the Labour law be amended to apply to domestic workers.	Migrant domestic workers	Ensure that the labour inspectorate more regularly monitors the working conditions of regular and irregular migrant workers, and extend the application of the Convention to the informal sector, including domestic workers	
[National] Communities abroad	Egyptian migrant workers residing abroad [exercise] their right to vote	To ensure all Moroccan migrant workers residing abroad can exercise their right to vote		
		Reintegration of Moroccan returnees Effective measures for Moroccans expelled from Algerian territory		

Subject of observation	Egypt	Morocco	Algeria	Libya
Consular Services	<p>The Committee recommends that each child born in Egypt to a migrant worker be granted the right to a name, to registration at birth, and to a nationality in accordance with article 29 of the Convention, and to obtaining of a birth certificate by the Egyptian civil registry</p> <p>To encourage their embassies and consulates to provide assistance to migrant workers under the sponsorship system</p>			
Trafficking in persons	The adoption of specific law on combating human trafficking	Combating human trafficking in law and in practice	The adoption of a national strategy and action plan to combat trafficking in persons	Combating trafficking in persons and smuggling of migrants
Health			<p>The Committee reiterates its previous recommendation to the State party (CMW/C/DZA/CO/1, para. 29) to amend Act No. 90-14 to guarantee the right of regular migrant workers to form trade unions, in accordance with article 40 of the Convention and the ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), which the State party has ratified.</p>	

Subject of observation	Egypt	Morocco	Algeria	Libya
General measures	Creating a valid database	Data collection	Training in and dissemination of the Convention	To establish a centralized and comprehensive database covering all aspects of the Convention and subject to external control measures.
	NON-DISCRIMINATION	Dissemination and training	More proactive measures shall be taken to engage civil society and non-governmental organizations	Educational and training programmes on the rights of migrant workers and members of their families under the Convention
	The right to an effective remedy	Non-discrimination	Non-discrimination	Non-discrimination
		The right to an effective remedy	The right to an effective remedy	The Right to an effective remedy
			Data collection	
The dead and the paramedics				Repatriation of the bodies of victims of irregular migration, interception, and rescue in Libyan and international waters



From the above table, it is clear that the observations of the UN Committee to each North African State are different. Egypt, for example, it is noticed at the level of the Convention implementation a need to reconsider its reservations to paragraph article 12 paragraph 4, which refers us, according to the Convention, to the commitment of States parties to have respect for “the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions”. Article 18, paragraph 6, of the Convention addresses the requirements for a fair trial of migrant workers by means of a fair and public hearing by a competent, independent and impartial tribunal established by law.

With regard to Morocco, the Committee recommended the ratification of ILO Conventions Nos. 97, 143 and 189. It also noted the need to continue the procedures for making the two declarations provided for in articles 76 and 77 of the Convention. At the legislative level, the Committee called on Morocco to decriminalize irregular migration and establish appropriate administrative penalties, as well as a legal framework governing expulsion/repatriation procedures.

Algeria is constantly hesitant about the measures to be taken with regard to migration, in the absence of an appropriate legal framework that protects them, which makes their situation increasingly vulnerable¹³. In this context, the Committee called on Algeria to withdraw its reservation to the Convention, in addition to issuing the two declarations provided for in articles 76 and 77, and amending its legislation regulating expulsion/repatriation procedures to prohibit collective expulsions. The UN Committee of Experts also called on Algeria to ensure that the national institution fully complies with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), including with regard to the independence of its members.

With regard to Libya, the need to develop a comprehensive strategy in line with the Convention was mentioned at the legislative level, in addition to the work of the Libyan National Council for Human Rights as a national institution in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights in accordance with the Paris Principles.

It should be noted that the recommendations of the United Nations Committee addresses several axes as mentioned in the table above, and it may be noted that the axis of general measures in which the Committee recommended that the countries of North Africa, albeit at different levels, create and update the statistical database; similarly, a common recommendation was addressed to the countries of North Africa regarding human trafficking and migrants' health.

¹³ Baghzouz, Aomar. “ L’Algérie face aux questions migratoires et de mobilité” <g id="680">,</g> Revue Outre-Terre, vol. 53, no. 4, 2017, pp. 30-49.

5. International migration and the Moroccan national context

Morocco is a privileged immigration country, and history bears witness to the great role it played in linking between the African north and south regions, its role has also extended to trade relations with the European front, in addition to its cornerstone role for the sub-Saharan Africa. Today we are still experiencing historically rooted practices such as the yearly incoming flows from Senegal and Côte d'Ivoire and various parts of the world to perform pilgrim in Fez. It is also a fact that not so long ago, mosques in sub-Saharan Africa were echoing with prayers for the Sultan of Morocco.

Geographically, the proximity to Europe has been a factor in the influence by and on Morocco concerning the phenomenon of migration in general, and irregular migration in particular. Given its location at crossroads of the African and European continents, and thus a link between different civilizations, Morocco became real laboratory to study the phenomenon of migration. Its Mediterranean, African, Arab, and Islamic multiculturalism made it saturated with a heritage that combines the intricacies of the Eastern, Western, and Moroccan cultures, which had further been intensified by its geostrategic position located only 14 km away from the European Union countries¹⁴.

Given the global context of cross-border human movements, Morocco has been certainly witnessing a new and unfamiliar changing reality, the complexities and patterns of which can only be understood by recalling upon Morocco's modern and contemporary history on one hand, and the profound transformations of human movements worldwide and their repercussions and effects on many countries on the other.

6. Position of Morocco's international obligations in the constitutional document

In the midst of more than twenty years of public debate over the relevance between international conventions and Moroccan legislation, the royal decree of 17 June 2011 was issued to cut any doubt: **“On this matter, the primacy of international instruments, as ratified by Morocco, has been constitutionalized within national legislation.”**

The July 2011 Constitution, in its preamble, also stipulates that “Human rights and international humanitarian law systems shall be protected, promoted, and further developed, taking into consideration the universal and indivisible nature of those rights... [Moreover] international conventions, as ratified by Morocco, and within the scope of the provisions of the Constitution, the Kingdom's laws, and its well-established national identity, shall take precedence, upon their publication, over national legislation; while effort shall be made to adapt these legislations as required by this ratification”. The significance and status of migration and migrants are also noticed with Morocco's commitments as cited

¹⁴ Charef Mohamed. (2016). ‘Les migrations méditerranéennes face à la citadelle Europe : le cas du Maroc’. in revue Diplomatie, les grands dossiers n° 31, Géopolitique des migrations, février-mars 2016.

in its national action plan 2018-2021, where it is stipulated under its special objectives to “integrate migration issues into public policies following a human rights approach that takes into account the international obligations of Morocco”¹⁵.

Regardless of the doctrinal and legal controversy raised by the last paragraph, it cannot be disputed that this paragraph places certain restrictions on the primacy of international human rights law over the national legal system, namely:

- The ratification of the convention.
- Not contradicting the provisions of the constitution.
- Not contradicting the laws of the Kingdom.
- Not contradicting the national identity.
- Mandatory publication in the Official Gazette.


Apart from the explicit or implicit position of the constitutional legislator regarding the primacy of international human rights law over national law, and in order to avoid delving into the restrictions placed on this primacy, it is undeniable that the constitution, through many of its chapters, contains a great deal of human rights values and principles. Thus, it can be said that Morocco is **“among the few Arab and Islamic countries that had ratified a large part of the international conventions related to the protection of migrant workers. It had also entered into many regional and bilateral agreements and adhered to them with a view to regulate the movement of labour or guaranteeing the rights of migrant workers”**¹⁶.

7. Morocco and the International Convention on the Protection of Migrant Workers and Members of Their Families

Based on the requirements of the Convention, Morocco submitted its report to the Committee on monitoring the implementation of the Convention by the States parties in Geneva in September 2013, and this session resulted in several recommendations, including, but not limited to:

¹⁵ للمملكة المغربية، “خطة العمل الوطنية في مجال الديمقراطية وحقوق الإنسان” [The National Action Plan on Democracy and Human Rights]، ديسمبر ٢٠١٧، منشورة بالموقع الرسمي لوزارة الدولة المكلفة بحقوق الإنسان والعلاقات مع البرلمان، اطلع عليه ابريل ٢٠٢١، عبر الرابط: /٢٠٢١-٢٠١٨-https://www.didh.gov.ma/ar/publications/khtt-alml-alwtnyt-fy-mjal-alldymqratyt-whqwq-alansan

¹⁶ Charef Mohamed. “Le Maghreb central face à ses migrations : le cas du Maroc”. Dans Regards sur les migrations tunisiennes,; Editions Sud Contact Agadir (Maroc) 2009, p 10, disponible in : <https://hal.archives-ouvertes.fr/hal-00609833/document>



a) The Committee recommends that the State party take measures to harmonize Act No. 02.03 on the entry and residence of non-nationals in the Kingdom of Morocco and on illegal migration to be in line with the provisions of the Convention, with a view to extending the protection of the rights enshrined in the Convention to all migrant workers and members of their families in the State party. It also recommends that the state party ensure that the policy being formulated with regard to migration is guided by the various international human rights instruments, especially the Convention.

Additionally, it recommends strengthening, at a further stage, the measures to monitor the application of legislation on migrant workers by:

b) Significantly intensifying the training of all personnel working on the area of migration for work purposes, in particular police and border control officers, in addition to consular officers and those whose work is concerned with migrant workers at the local level;

c) Adopting practical measures to ensure that migrant workers have access to information and guidance regarding their rights as recognized in the Convention;

d) Continue cooperating with civil society organizations in order to disseminate and promote the Convention.


e) The Committee reminds the State party that the mere absence of complaints or lawsuits by migrant workers whose rights have been violated can largely reflect the shortcomings of the relevant legislations, lack of awareness of available remedies, or the authorities' reluctance to take legal action.

f)The Committee recommends that information be disseminated to migrant workers and members of their families including those in an irregular situation, who shall be informed of the remedies available to them judicial or otherwise, and that their complaints be dealt with as effectively as possible.

g)Moreover, to ensure that migrant workers and members of their families, including those in an irregular situation, have the same accessibility granted to citizens to report complaints and benefit from an effective remedy before the courts in the event of a violation of their rights as recognized in the Convention.

h)The Committee recommends that the State party take measures and intensify its efforts to address expeditiously the problems of ill-treatment and other acts of violence against migrant workers and members of their families, whoever commits them. In particular, the Committee recommends that the State party take the following measures:

Ensuring that every act of torture or cruel, inhuman or degrading treatment and any assault on the lives of migrant workers is duly investigated;



The Committee recommends that the State party take the necessary actions to include in its national strategy to combat human trafficking the following measures in particular:

1. Adoption of a law to combat trafficking in humans and protect its victims;
2. Systematically collecting disaggregated data on the phenomenon of human trafficking;
3. Intensifying prevention campaigns, particularly in border regions where the largest number of victims of trafficking are located;
4. Establishing effective mechanisms to identify, protect and assist all victims of trafficking, in particular by providing reception centers and initiating projects to help them rebuild their lives;
5. The Committee requests the State party to include in its second periodic report detailed information on the measures taken to implement the recommendations made in the present concluding observations. It further recommends that the State party take all necessary measures to ensure the implementation of these recommendations.
6. The Committee requests the State party to involve civil society organizations working on migration at the national level in the preparation of its second periodic report.


It shall be noted that Morocco is an active and dynamic member at the continental and international levels in the field of migration with significant contributions such as organizing the Forum Mondial sur la Migration et le Développement (FMMD)[International Forum on Migration and Development], and drafting the Global Compact for Safe, Orderly and Regular Migration. Morocco's openness to its African context and neighbors has also made His Majesty the pioneer of migration within Africa.

8. Morocco Policy on Dual Migration and International Conventions

The intent of the national policy did not only result from the 2011 Constitution, but is a product of the reality of migration recognized by Morocco, in addition to its international obligations through the International Convention on the Protection of the Rights of Migrant Workers as mentioned. Moreover, the tragic events of Ceuta and Melilla in September and October 2005 are among the most significant incidents that drew attention to the reality of migration towards Morocco as a country of transit and destination¹⁷.

A new era began In September 2013, as the migration management policy was commenced, thanks to the report submitted by the National Council for Human Rights to His Majesty.

¹⁷ Charef Mohamed: 'of Regional Migration Systems in the Middle East and North Africa' The Sage Handbook of International Migration. Edited by Christine Inglis (a Sociology & Social Policy from Sydney) with Wei Li (a Geographer from Arizona) and Binod Khadria (an economist from New Dehli), 2020, p-p 247-261.



For its significance, the Royal Court issued a communiqué, urging consideration of the recommendations made by the council, and calling for a comprehensive and humane approach, in line with international law and in the context of renewed multilateral cooperation. Such change was indeed the result of the Moroccan will and to develop a realistic and humanitarian migration policy that is based on humanitarian traditions and concerned with respecting fundamental human rights.

On September 10, 2013, His Majesty the King chaired a meeting in the presence of the Prime Minister and a ministerial delegation through which His Majesty called for the adoption of a new migration policy in coordination with the National Council for Human Rights (CNDH), and on September 12, 2013, four committees were established to implement the recommendations as follows:

- A committee on redrafting a law on immigration, asylum and human trafficking.
- A committee responsible for regulating the administrative framework for irregular migrants.
- A diplomatic committee to coordinate with the relevant embassies and consulates in Morocco
- A committee to examine asylum applications recognized UNHCR.


In general, Morocco launched two-phase settlement operation, the first in 2014, then the second in 2017, each was run for a year each. Generally, 650,000 to 750,000 non-nationals exist today in Morocco across its national territory from Tangier to La Güera, yet the number remains small compared to Moroccans abroad, who are roughly five million¹⁸.

9. Human Rights and Humanitarian Aspect of Migration Policy in Morocco” before this paragraph

The Moroccan Constitution, as the highest law in the country, has contained human rights and humanitarian consideration, which have been the subject of international recognition. The Constitution emphasizes the commitment to human rights as recognized internationally, and explicitly stipulates the prohibition of all forms of discrimination on the basis of sex, color, belief, social or regional affiliation or any personal status.

The Constitution contained, for the first time, fundamental principles and rights such as the principle of parity (Article 19, paragraph 3), and the right to life (article 2), and criminalization of torture (article 22). Furthermore, it stipulates that “foreigners shall

¹⁸ Charef Mohamed, “La genèse de la politique d’immigration au Maroc”, in Migration Policy Practice, Vol. V, Number 3, July 2015, Septembre 2015, p-p 9-13.



enjoy the fundamental freedoms recognized by Moroccan citizens, in accordance with the law, and the exercise of their rights,” however, this is restricted by the “principle of

CONCLUSION

It can be said that the reality of double migration should not be viewed as an intimidating subject, as this movement leads only to the migration of a very small segment of the world's population, estimated at 3% of about 8 billion people, the vast majority of them are geographically stable. Double migration remains integral to forming human communities and the vast majority of societies, and has been a unique feature of humans throughout history, which led people to occupy and regulate their human spaces¹⁹, and migrants were not to be international except upon the establishment of states, and more specifically nation states.

Given the status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Morocco remains at the forefront of the North African countries that seek to fully and effectively implement the contents of its provisions. Here, we emphasize that the overlapping dimensions of Moroccan migration and asylum policy are based on a common relationship at multiple levels, which extends beyond regional gaps and clarifies the different levels to which all actors should contribute nationally, regionally and internationally.

To sum up the problem of migration, it is **“either the riches move where people are, or the people go where the riches are”** as the French demographer Alfred Sauvy writes²⁰. Therefore, addressing the phenomenon of migration imposes a policy approach with an external dimension, in which the visions of the countries concerned are intertwined at the same level, within the framework of a strategy that transcends borders, especially after the "Democratic Spring" witnessed by countries in North Africa, and especially given that the phenomenon of **"migration is one of the most controversial issues and perhaps one of the main challenges in the twenty-first century. For some, it poses a threat, for others it is considered a "major asset" of "development" in the broad (economic, social and cultural) sense of the term."**²¹

¹⁹ Gildas Simon, « Les migrations internationales », *Revue Population et Sociétés* n° 382, Paris septembre 2002, p 1.

²⁰ Almalki, Rkia. « Vous avez dit : immigration choisie ? », *Revue Cités*, vol. 46, no. 2, France 2011, p. 113.

²¹ Mohamed Charef. « Le Maghreb central face à ses migrations : le cas du Maroc », op. Cite. p 1.