



## **Immigration Detention in Morocco**

**Global Detention Project**

**February 2014**

The Global Detention Project (GDP) is a research initiative that tracks the use of detention in response to global migration. Based at the Graduate Global Migration Centre in Geneva, Switzerland, the GDP's aims include: (1) providing researchers, advocates, and journalists with a measurable and regularly updated baseline for analysing the growth and evolution of detention practices and policies; (2) encouraging scholarship in this field of immigration studies; and (3) facilitating accountability and transparency in the treatment of detainees.

"Immigration Detention in Morocco"  
By Mariette Grange and Michael Flynn  
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Global Detention Project  
Global Migration Centre  
Graduate Institute of International and Development Studies  
Rue de Lausanne 132  
P.O. Box 136  
CH – 1211 Geneva 21  
Switzerland  
Tel: + 41 22 908 4556  
<http://www.globaldetentionproject.org/>

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## Introduction

Forty-year old Congolese teacher Alain Toussaint died at Hospital Mohammed V in Tangiers in July 2013 after allegedly being pushed through the window of a moving bus by police. On a visit to friends in Tangiers, Toussaint—who was legally residing in Rabat at the time—had been caught in a police “cleansing” operation aimed at summarily deporting undocumented migrants. Toussaint’s death followed closely on the heels of two earlier cases in 2013 in which sub-Saharan migrants in irregular situations were killed during similar police operations (Chaudier 2013, Harit 2013).

Morocco has traditionally been a country of emigration, with over four million citizens living abroad. However, it is also an important transit country for sub-Saharan migrants seeking passage to Europe. Since the early 2000s, the European Union (EU) has pressured—and provided funding to—Morocco to stem the flow of migrants transiting the country. A Moroccan commission of enquiry into serious incidents along the Spanish enclaves of Ceuta and Melilla in 2005 observed that while reluctant to act as a policeman for Europe, Morocco had over time become a “cheap and natural detention centre” (CCDH 2006).

Since the end of 2011, Morocco’s treatment of migrants has been marked by a high level of violence occurring at its borders during interception and expulsion operations (GADEM 2013b). The [UN Special Rapporteur on Torture](#) recently denounced the increase in reported violence and systematic abuse of sub-Saharan migrants by security forces, particularly in the north of the country (Méndez 2013), while the [UN Committee on Migrant Workers](#) has urged Morocco to monitor violations and put an end to abuses that occur during expulsions (CMW 2013b). International and local non-governmental organisations describe a dramatic rise in wide-scale, indiscriminate raids on sub-Saharan migrants communities, during which people are rounded up, dropped at the Moroccan side of the border amidst continued physical attacks by security forces, and then forced to cross into Algeria (MSF 2013a).

Morocco introduced its first *Migration Act* in 2003, which provides stringent criminal sanctions for immigration-related violations as well as rules for the proper treatment of non-citizens who are taken into custody (for more information about the law, see [GADEM 2008](#)). Right groups, however, have argued that officials routinely fail to apply the provisions for the *Migration Act* (GADEM 2009; EMHRN 2010). Recent reports indicate that security operations targeting irregular migrants generally focus on roundups and expulsions rather than detention (Jacobs 2012, MSF 2013b, CMW 2013a). Some advocates argue that deportation has become the main alternative to detention in Morocco (Rachidi 2011f).

Observers have also directed criticism at the EU for abetting Moroccan immigration practices. A 2010 study concluded that EU cooperation with Morocco on immigration policy “runs the risk of contributing directly to the implementation of migration policies that are contrary to the basic rights of migrants and refugees” (EMHRN 2010, p.54).

In the wake of the wave of roundups in the first half of 2013, King Mohammed VI launched a reform of the country's migration policy, which was officially undertaken in response to recommendations from the national human rights institution (CNDH). The government announced changes in its laws on asylum, migration, and human trafficking. It also launched an exceptional regularization initiative starting in 2014 (L'économiste 2014b). Civil society activists have welcomed these measures, although they contend that they have been undertaken without proper consultation between officials and the public. These groups argue that the reforms will limit the number of people afforded regularization, exclude the most vulnerable migrants (e.g. Sub-Saharan migrants), and exclude unaccompanied minors (L'économiste 2014a, Engolo 2014).

## Detention Policy

**Key norms.** The [2011 Moroccan Constitution](#) includes safeguards against arbitrary detention and guarantees the right to information about grounds for detention, legal assistance, and communication with relatives (Art. 23). The [Migration Act \(2003\)](#), also known as Law 02-03, provides grounds for the deportation, expulsion, and detention of foreign nationals who are not authorized to enter or remain in Morocco, including detailed specifications on lengths of detention and access to rights. The act also provides stiff criminal penalties for violations of these provisions, drawing criticism from the [UN Special Rapporteur on the Human Rights of Migrants](#) (Special Rapporteur 2004, p. 15).

Prior to adoption of the *Migration Act*, immigration-related provisions were scattered across a number of different laws, focusing mainly on the entry, stay, and residence of foreign nationals in Morocco (GADEM 2009, p. 11). According to the Moroccan Interior Minister, the *Migration Act* aligns Moroccan law with relevant international conventions that address the rights of migrants and irregular foreign nationals and respects the agreements established between Morocco and its partners in the fight against emigration (GADEM 2009, p.10).

The *Migration Act*, which observers claim closely resembles the 1945 French law (as amended by the Sarkozy government in 2003)—including in its explicit references to “retention centres”—has been criticised for containing ample detail, but not an effective strategy for putting the law into practice, and thus serving as a façade of the country’s commitment to addressing irregular migration (GADEM 2009, p.19). The law emerged following a series of developments and “emergency” events in the late 1990s and early 2000s, including a significant rise in the numbers of irregular migrants traveling to southern Spain and the Canary Islands by boat from Morocco as well as the 2003 terrorist attacks in Casablanca (Duvell & Vollmer 2009, p.19).

In mid- 2013, the government announced reforms in its asylum, migration, and human trafficking laws and launched an exceptional regularization operation starting in 2014. Eighty-three regularization offices opened in January 2014, with a 3,000-person work force. Criteria for regularization include being married to a Moroccan national or a regular migrant, having a work contract, being able to prove continual residence in the country for five years, and being severely ill (L’économiste 2014b).

**Grounds for administrative detention and expulsion.** Article 34 of the *Migration Act* stipulates that authorities can detain for 24 hours non-citizens who have been denied entry into the country and/or who have been issued an expulsion or deportation order and are unable to immediately leave the Moroccan territory (Art. 34). In practice, the Interior Ministry carries out this function (Rachidi 2011c).

Grounds for deportation are provided in Article 21 of the *Migration Act*. These include: 1) unauthorized entry; 2) remaining in the country without a valid visa or residence permit; and 3) use of counterfeit or stolen identity documents. According to Article 22, deported foreign nationals can be prohibited from re-entering Moroccan territory for up to one year

(Art. 22). Anyone issued a deportation order has the right to immediately contact a lawyer, the consulate of his country, or a person of his/her choice (Art. 24), and can appeal to the relevant administrative tribunal within 48 hours, which must within four days decide on the case or refer the case to a court located near the person's place of residence (Art. 23). Foreign nationals have the right to an interpreter; to attend the hearing; and to assistance from a lawyer (Art. 23). The administrative tribunal's decision can be appealed before the Administrative Chamber of the Supreme Court within one month; however this appeal process does not suspend deportation (Art. 24).

Grounds for expulsion are contained in Articles 25 and 26 of the *Migration Act*, and can be applied to non-nationals who are considered to be a threat to public order, with the exception of vulnerable persons. Expulsion orders issued to foreign nationals convicted on charges relating to terrorism can be carried out immediately (Art. 26). Article 29 stipulates that a foreign national issued an expulsion order can be deported to his/her country of nationality; the country that issued his/her travel documents; or to another country that he/she is legally permitted to enter. Pregnant women, minors, and persons who face a threat to their life or freedom or who will be exposed to cruel, inhuman, or degrading treatment in their country of origin cannot be returned (Arts. 26, 29-31).

The law stipulates that foreign nationals detained on administrative grounds can be immediately informed of their rights (with the assistance of an interpreter if necessary) and that the prosecutor be immediately informed.

A court order is required for the detention of foreign nationals beyond 24 hours, which can be extended for up to fifteen days, plus ten additional days (Art. 35). The law does not specify exactly where these foreign nationals are to be detained, stating only that they be held at the initial place of detention, or under house arrest, surrendering their identity documents to the police. The lack of specificity as to where detainees are to be held was raised as a concern by the Special Rapporteur on the Human Rights of Migrants in 2004 (Special Rapporteur 2004, p.15). A judge can order the extension of detention for a further ten days, in cases of extreme urgency, serious threats to public order, or where further time is required to obtain valid travel documents.

**Designation, administration, and custody at detention facilities.** According to Article 34 of the Migration Act, Morocco is meant to have a system of officially designated immigration detention centres not under prison administration ("*locaux ne relevant pas de l'administration pénitentiaire*"). However, these facilities have to date not been established. Instead, the country has used a broad assortment of prisons, jails, transit zones, and ad hoc facilities to confine people for immigration-related reasons (see the section on "Detention Infrastructure," below).

The general delegate for prisons (*Le délégué général aux prisons*), which falls under the authority of the Office of the Prime Minister, has custody over all detainees in Moroccan prisons (Rachidi 2011e, 2013). Prison operations are managed by the prison administration (*L'administration pénitentiaire*) (Dahir 1-99-200; Rachidi 2011d).

Those detained in police stations fall under the overall authority of the Interior Ministry. Police stations are managed by the Directorate General of National Security, who report to the Wali or regional governor (Rachidi 2011d, 2011f). In the case of the Centre de la Gendarmerie Royale de Laayoune, the Gendarmerie Royale is responsible for managing operations. In rare instances of official notifications of deportation decisions, deportation or detention orders are signed by the Walis or regional governors (Rachidi 2011f).

Transit zones located at ports of entry fall under the authority of the Director General for National Security (*La direction générale de la sûreté nationale*) and are managed by the Border Police (*Police Aux Frontières*) (Migration Act 2003, Art. 38).

**Maximum length of detention.** The cumulative maximum length of detention appears to be 26 days (Migration Act, Arts 34 and 35); however the law does not specify whether a judge can order the extension of detention on multiple occasions, which could leave foreign nationals vulnerable to indefinite detention. In practice, observers have told the [Global Detention Project](#) that immigration detainees are sometimes held in detention for lengthy periods (Rachidi 2011c). However, current Moroccan practice appears to focus on speedy deportations and the average period in detention is less than 26 days (Rachidi 2011f).

In practice, most immigration-related detention in Morocco is ad hoc, taking place outside proper legal channels. Migrants are held in police stations or gendarmeries, as well as military barracks, underground premises, cabins, or quarries that are not officially recognized or regulated (GADEM 2013a).

**Transit zones.** Foreign nationals denied entry to Morocco or who enter the country seeking asylum can be held in waiting areas—*zone d’attente*—located in airports and at other ports of entry for the time required to arrange departure or to determine if there are reasonable grounds for the non-citizen to enter asylum procedures (Art. 38). The law grants authority to the “administration”—in practice the border police (*Police Aux Frontières*, or PAF) operating under instructions from the Director General for National Security (*La Direction générale de la sûreté nationale*, or DGSN)—to allocate a space for detention and requires authorities to provide a written order authorising detention for up to 48 hours, which can be renewed for an additional 48 hours. If the person cannot be deported within four days, or if he/she requests asylum, a judge can authorise an additional eight days of detention in the transit zone, which can be legally appealed although the appeal is not suspensive.

In exceptional cases, beyond twelve days in the transit zone, a non-citizen can be held for up to an additional eight days in the transit zone, if a judge deems it necessary, thereby providing for a total of 20 days (Art. 38). If a judge fails to provide official authorisation for the detention of a non-citizen within the prescribed time, the non-citizen may enter Moroccan territory with a temporary 8-day visa. He/she must leave the country within that time, unless granted a temporary residence permit or a registration card application receipt (Art. 38).



According to rights advocates, unauthorised migrants have at times become stranded in the Casablanca airport transit zone for an indefinite period without legal basis, unable to access rights and guarantees provided for in Migration Act (Articles 35, 36, and 38). Pending deportation, they at times remain there for weeks or even months, without health care or accommodation facilities, sleep on chairs or on the floor and rely on the charity of airport staff for food and hygiene (GADEM 2013a). An NGO attempted to challenge arbitrary detention of a Somali national for over a month at the Casablanca airport in early 2013. However, the case was dismissed by the first instance court in Casablanca, which argued that the request should have been framed within procedural guarantees under the code of civil procedures (Art. 149). Lawyers then proceeded to challenge the detention and advocated for release under Article 149 of the Code, but the court then declared itself incompetent to rule on the case based on the administrative nature of the detention (GADEM et al. 2013).

After a September 2012 visit to the country, the UN Special Rapporteur on Torture reported that he “visited the holding cells of Casablanca Mohammed V Airport and found four persons detained from Angola, Guinea, and Liberia who were held in decent conditions awaiting deportation” (Méndez 2013).

In late 2012 an international humanitarian organisation present in Morocco treated patients who stated that the Spanish Guardia Civil had used rubber bullets and electric batons at the border in Melilla to apprehend them prior to handing them over to Moroccan security forces, who allegedly beat them. Observers pointed out that these actions contravene Spanish immigration law, which sets out the procedures that must be followed by security forces when returning immigrants who entered Spain illegally (MSF 2013a).

Moroccan authorities argue that non-citizens are “free to leave” the transit zone as long as they go to a place outside the Moroccan territory (Rachidi 2011f). Similar arguments have been widely used by European countries to justify their decisions not to consider detention at borders a form of deprivation of liberty (see, for instance, the 1996 ruling by the German Constitutional Court, described in [Flynn 2011](#), p. 8).

**Criminalisation of irregular entry, stay, and exit.** Irregular entry, residence, and exit are grounds for criminal penalties (Arts. 42-48). These include imprisonment for up to six months and/or a fine of up to 20,000 dirhams (approximately €1,780) for foreign nationals who enter or attempt to enter Morocco irregularly, or who remain on Moroccan territory beyond the period authorized by his/her visa (the penalty can be doubled for recurring offences) (Art. 42); imprisonment for up to one year and/or a fine of up to 30,000 dirhams (approximately €2,670) for foreign nationals residing in Morocco who are not in possession of a valid registration or residence card (the penalty can be doubled for recurring offences)(Art. 43); imprisonment for up to two years for foreign nationals who evade or attempt to evade the execution of an expulsion or deportation order at the border or who re-enter Moroccan territory after having been expelled or banned from the country (Art. 45). Foreign nationals charged with these violations can be banned from re-entering Morocco for up to ten years, and are automatically deported upon the completion of their prison sentence (Art. 44).

In addition, significant penalties exist for the irregular exit from the country, and for anyone who assists or organises the irregular exit from the country. Any person who attempts to leave Moroccan territory in a clandestine way, using fraudulent means to cross a border by land, sea, or air; who fails to provide valid travel or visa documents; who uses forged or impersonated documents to enter the country; or who enters or departs from Moroccan territory at places other than those created for the purpose is liable to pay a fine of up to 10,000 dirhams (approximately €890) and/or face imprisonment for up to six months (Art. 50).

A somewhat unique feature of this provision is that upon return, Moroccan nationals who have “irregularly” left Morocco and are deported back to the country by a third country (possibly after serving a penal sentence) risk another prison sentence and/or a fine for “irregular emigration” (GADEM 2013a).

This also creates obstacles to the right to return to one’s country. Under Article 39, only authorized migrants can freely return to their country. In practice, unauthorized migrants cannot leave Morocco without an exit permit. Attempting to do so can result in deportation. In practice, this means they are driven to the Algerian border, even though they wished to leave the territory or risk prosecution and conviction for illegally staying based on Articles 43 and 44 (GADEM 2013a).

Observers have criticised the criminalisation of irregular “exit” from the country as a violation of Article 13 of the Universal Declaration of Human Rights, which safeguards the right of all individuals “to leave any country, including his own” (GADEM 2009, p.19). These provisions are stipulated in Article 12(2-4) of the International Covenant on Civil and Political Rights, ratified by Morocco in 1971.

The UN Committee on Migrant Workers has recommended that all migrant workers and members of their families should be free to leave the country, including Moroccan migrant workers and members of their families, and asked the government for information on the number of migrant workers placed in administrative detention and in criminal detention. The Committee stated that irregular entry, exit, and stay cannot be considered as criminal offenses and asked Morocco to decriminalize irregular migration and provide adequate administrative sanctions (CMW 2013b).

The prosecutor decides on possible prosecution of unauthorized residents. According to NGOs, in practice aliens are never sentenced to prison. But they are reportedly forced to pay a fine without appearing in court, which has raised questions about whether they are fines or bribes (GADEM 2013a).

In 2011, according to official statistics, 12,929 irregular migrants were arrested by the Directorate-General of National Security and the Moroccan Royal Gendarmerie during attempts to leave Morocco (CMW 2012). However, the government stated that there were no criminal convictions of migrants for irregular stay in Morocco and that partly due to the high number of irregular migrants—as well as for humanitarian reasons—relevant courts rarely render criminal sentences and generally opt for deportation orders (CMW

2013a). According to a Global Detention Project source, migrants are mostly detained on other charges such as begging, vagrancy and assault (alleged or verified) (Rachidi 2014). For instance, in January 2014, the Nigerian ambassador to Morocco, Abdallah Wali declared that at least 100 Nigerians were languishing in various Moroccan prisons mostly for offences relating to illegal migration, drugs and petty crimes (Premium Times 2014). According to Moroccan advocates, Nigerians (especially of Yoruba and Igbo ethnicity) are more often placed in immigration detention than other nationals (Rachidi 2011f).

Those who assist the unauthorized entry or exit of non-nationals are also liable to criminal charges and penalties (Art. 51 and 52). Members of organised crime rings established for these purposes can be punished according to Art. 294 of the Penal Code. Penalties are more severe for those assisting illegal entry or exit to the country if disability or death results (Art. 52). In addition, all means of transportation belonging to those used to commit such crimes can be confiscated by authorities (Art. 53).

**Procedural guarantees.** Detainees can appeal their detention at the Court of Appeals, which must make a decision on the case within 48 hours. Detailed records of all detained persons are meant to be kept at the detention facilities, including information on the progress of the foreign national's situation (Art. 35). The prosecutor is supposed to visit the facility to ensure correct procedures are being followed (Art. 36). The law provides for certain rights of detained non-nationals, including access to an interpreter, a doctor, a lawyer, and consulate (Art. 36). These rights also apply to persons confined in a transit zone (Art. 38) (Rachidi 2011f). However, consular access is often denied to persons detained prior to deportation or expulsion (Rachidi 2011f).

According to various observers, many of the protections provided to immigrants in the *Migration Act*—including rights and procedures for administrative detention, guarantees offered in the context of removal procedures, and appeal procedures—are not applied in practice (GADEM 2009, p. 24; EMHRN 2010, p.29). The [Euro-Mediterranean Human Rights Network](#) (EMHRN) claims that “in practice, removal and expulsion orders are made in various ways (decisions communicated verbally or not communicated in advance, etc.); and reasons for expulsions and deportations are rarely provided, in clear violation of the *Migration Act*. In practice, there is no procedure for appealing expulsion orders, except with respect to the destination country, if specific in the order. Even where an appeal procedure exists, in the case of administrative removals, the procedure is largely ineffective due to insufficient information being provided to the migrants and the failure of officials to follow procedures” (EMHRN 2010, p.29).

These concerns echo those raised by the Special Rapporteur on the Human Rights of Migrants in 2004 when she said, “The problem is the lack of financial resources to strengthen the capacity of those bodies responsible for combating illegal migration and managing migration generally. The lack of technical and structural resources, and of specific allocations in police and social and health service budgets for assistance to migrants in an illegal situation, is a cause for concern” (Special Rapporteur 2004, p.18).

Advocates report that the grounds for detention are only provided orally (contrary to provisions in the Migration Act, Arts. 23 and 24), which makes it difficult to challenge the detention within the legal forty-eight hours deadline. Access to legal assistance, appeals and complaints procedures is not systematically afforded to detainees and documents and proceedings rarely use Arabic so that detainees are unable to understand the reasons for detention and to appeal decisions (Rachidi 2011f). Legal assistance is mainly provided by civil society organisations and UNHCR (Rachidi 2011f).

**Asylum seekers and refugees.** Morocco is a signatory to the 1951 [Refugee Convention](#) and its 1967 Protocol, as well as to the 1969 OAU [Convention on the rights of refugees](#). However the country lacks a legislative and institutional framework in relation to asylum and refugee protection (UNHCR 2010b) and the government has announced the development of a national asylum system.

*Law No. 2-57-1256* of 29 August 1957 outlines procedures for implementation of the *Refugee Convention*, providing legislation enabling refugees recognised by the UNHCR to legalise their residency in Morocco (EMHRN 2010, p.38). The *Bureau des réfugiés et apatrides* (BRA) was established to process asylum seekers and recognise refugees registered with UNHCR, but their operations were suspended in 2004, halting implementation of the refugee law.

Before 2004, UNHCR-registered refugees received residence permits. Since 2004, refugees holding a UNHCR certificate have generally been permitted to remain in the country, but they are not granted residency permits, leaving them vulnerable to irregular status and a lack of access to most rights, including access to the labour market (EMHRN 2010, p. 40-41).

UNHCR retains sole responsibility for refugee status determination (RSD) based on a 2007 agreement (UNHCR 2010b). The 2003 *Migration Act* provides some rights to asylum seekers, including in relation to residency (Art. 17), requesting asylum at the border when entry is denied (Art. 38), and protection against expulsion and administrative removal (Art. 29). Observers have noted, however, that these procedures are not generally practiced (EMHRN 2010, p.38-39).

UNHCR reports that it is granted only limited and ad hoc access to Morocco's entry and exit points, including border areas and airports. This acts as a significant constraint on the organization's activities and also limits the access that asylum seekers have to the organization and the services that it provides (UNHCR 2010b). In practice, however, asylum-seekers are rarely detained (Rachidi 2011f).

An Ad Hoc Committee including the UN High Commissioner for Refugees (UNHCR) met in September 2013 and began reviewing cases with a view to regularizing the situation of people of concern to UNHCR, in accordance with international legal standards (UNHCR 2014). The regularization operation launched in 2014 by Moroccan authorities will formally recognize the refugee status granted by the UNHCR to some 850 refugees (Engolo 2013). According to observers, a negative consequence of this campaign is that UNHCR, at the request of the government, has reportedly stopped processing new

asylum claims since September 2013, pending the creation of the Foreign Affairs and Cooperation Ministry's joint processing structure with UNHCR (Chaudier 2013b).

**Migrant workers.** Morocco ratified the [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](#) on 21 June 1993. However there have been reports of arbitrary expulsions of regular migrants from the country (EMHRN 2010, p.24). The convention includes protection of irregular migrants, including women and children from abuse.

**Women and children.** There appears to be a wide gap between law and practice when it comes to the treatment of migrant women and children. Pregnant women and children, who are protected from expulsion under the Migration Act (Arts. 26, 29-31), have reportedly been amongst those dumped at the Moroccan-Algerian border by security forces (GADEM 2013a).

Proposed EU funded projects discussed in September 2013 alongside the EU Morocco Mobility Partnership declaration of June 2013 (see below) include a project related to unaccompanied minors, both Moroccan youth on EU territory as well as unaccompanied minors from third countries on Moroccan territory. There is a Dutch proposal for "Technical assistance in developing methods and procedures to tackle the detention of unaccompanied minors on Moroccan territory, with a view to returning the unaccompanied minors to their country of origin through specialised AVR programmes for unaccompanied minors; identification of accommodation centres" (CEU 2013).

**Human trafficking.** Morocco ratified the Palermo Protocol against Trafficking in Persons, especially Women and Children, in April 2011 but it reportedly has made little effort to address human trafficking, instead focusing on arrests and expulsions while not proactively attempting to identify trafficking victims—mostly sub-Saharan—and provide them with the protection and assistance (MSF 2013a; MSF 2013b, USSD 2013). The legislative recast announced at the end of 2013 includes legislation on trafficking.

**EU-Moroccan relations.** Morocco has been a focal point of EU efforts to externalise "migration management" efforts, particularly with respect to readmission practices. The European Commission and Morocco have been negotiating a readmission agreement since 2000, with unresolved disagreements relating to the evidence required to prove that a migrant has transited through Morocco before arriving in Europe (EMHRN 2010, p. 69).

In 1992, Morocco signed a readmission agreement with [Spain](#), but it only came into force in 2012 and reportedly has been rarely used (BOE 1992; Chaudier 2012, RDP website). Other readmission agreements include those with Germany (1998), [France](#) (2001), and [Portugal](#) (2004) (RDP website).

Morocco signed a mobility partnership agreement with the EU and in April 2013 (*Déclaration conjointe établissant un partenariat de mobilité entre le royaume du Maroc et Union européenne et ses états membres*) (EC 2013). The agreement foresees the conclusion of a readmission agreement despite Morocco's stated reluctance to act as a

policeman for Europe, as reiterated in July 2012 by Moroccan Minister of Foreign Affairs and Cooperation Salahuddin el Othmani (CCDH 2006, Chaudier 2012).

Observers have questioned whether the agreement might include other bargaining elements, for example on foreign policy (Ringuet 2013, Chaudier 2013a). Some observers have denounced the EU's pressure on Morocco to take back clandestine migrants and the "scandalous objective" of the planned readmission agreement (L'économiste 2013a).

This new generation of non-binding EU tailor-made migration-related agreements has already been signed with Moldova, Cape Verde, Georgia, and Armenia, and as of this writing there were similar agreements in the works with Azerbaijan, [Tunisia](#), and Jordan. A UN human rights expert argues that these agreements lack enforcement mechanisms and independent evaluation and do not provide a clear framework within which human rights can automatically be incorporated into the mobility partnerships, especially due to the opaque nature of the negotiations (Crépeau 2013). Moroccan NGOs contend that in the present context, any mobility agreement condones current practices and signals the EU's intention to ignore the government's treatment of migrants (GADEM 2013b).

The EU and Morocco have also established several agreements aimed at managing migration flows. According to one published study, "By strengthening a type of cooperation whose impact remains uneven, the European Union runs the risk of contributing directly to the implementation of migration policies that are contrary to the basic rights of migrants and refugees. In so doing, the EU also encourages bilateral policies and practices between its member states and the countries of North Africa, even though the latter are little concerned with the rights of migrants and refugees" (EMHRN 2010, p.54).

The EU's general framework for bilateral cooperation with Morocco (the Barcelona Process and European Neighborhood Policy, or ENP) was modified in 2005 to include migration as a key area for future collaboration. As part of its participation in the ENP, Morocco receives EU assistance aimed at "reinforcing neighbouring countries' efforts to combat illegal migration and to establish efficient mechanisms for returns, especially illegal transit migration." The ENP has resulted in the commitment of several hundred million Euros to Morocco for implementing projects or reforms in the designated policy area, including a budgetary allocation of 40 million Euros for strengthening border controls between 2004-2006 (EMHRN 2010, p.61).

The EU has provided significant funding to the Interior Ministry since 2003 to train police and improve border monitoring. In return for this assistance, Morocco is expected to assist in "managing the stock" of migrants by "closing down access points into Morocco in the south and blocking exit points to Europe in the north" (cited in [Flynn & Cannon 2009](#)). In 2006, Morocco signed a funding agreement worth 67 million euros with the European Union to provide support to the Moroccan migration strategy. In 2012, in its report to the UN Committee on Migrant Workers, the government wrote: "this investment is well below the costs incurred by Morocco in managing migration issues" and noted that the relevant programme was organized around five lines of action including support



for the Directorate-General of National Security, strengthening of the legal framework; upgrading of border operations; technical and scientific capacity-building in criminal investigations and informing and raising awareness among potential migrants (CMW 2012).

**Non-custodial measures.** Immigration law provides that a foreigner served an expulsion order or who is to be deported but cannot leave the Moroccan territory can be placed under home arrest for up to one month and must regularly report to the police or the royal gendarmerie (Art.31). According to migrants' advocates, Moroccan authorities tend to use deportation and/or expulsion as alternatives to detention (Rachidi 2011f).

**Civil society and detention monitoring.** The new 2011 Constitution strengthened the mission of the National Human Rights Council (CNDH) and it can visit places of detention, including airport transit zones. The CNDH submitted a report to the UN Committee on Migrant Workers in September 2013 calling for effective access to justice, including access to lawyers and interpreters, consular representatives, asylum procedures, also and health in cases case of arrest and detention irregular migrants (CNDH 2013). The report prompted the government to announce reforms of the laws on migration, asylum and trafficking in human beings, as well as a regularization operation (see above).

A number of UN human rights mechanisms have visited Morocco in recent years and made recommendations on issues related to immigration detention. National and international non-governmental organisations have also closely monitored the situation of irregular migrants. The 2013 CNDH report argues that integration of migrants associations in the reform process is fundamental and advocates for the "regularization" of the legal registration status of migrant assisting associations, including GADEM (CNDH 2013). GADEM confirmed that its situation was "regularized" in December 2013 after seven years of administratively underground operations (*clandestinité administrative*) and acknowledged the CNDH for its support (GADEM 2013c).

**Racism and impunity.** In 2012, 63 percent of migrants interviewed by MSF said they had experienced violence in Morocco. A majority of sub-Saharan migrants who have been attacked do not seek medical help, protection, or justice due to fear of arrest or other repercussions (MSF 2013a).

Civil society has denounced the frequent violent raids, arbitrary arrests, and collective expulsions of migrants, which they claim are based merely on physical characteristics (*arrestations au faciès*) (GADEM et al. 2013). Rights groups have accused police of thefts and destruction of IDs, as well as systematic confiscation of passports, identity documents, and mobile phones during raids (GADEM et al. 2013; ALECMA et al. 2013).

UN human rights mechanisms have urged Morocco to combat social and racial stigmatization of migrant workers, particularly sub-Saharans, and enact legislation against racism and racial discrimination. They have also pushed for the implementation of effective enforcement of legal safeguards during expulsions; respect of legal safeguards when people are placed in detention; and assistance to apprehended

migrants to facilitate their access to the courts and to ensure that the principle of non-refoulement is correctly applied (CMW 2013b, CAT 2011, CERD 2010).



## Detention Infrastructure

Moroccan law provides for the establishment of immigration detention centres, or premises not under prison administration (“*locaux ne relevant pas de l’administration pénitentiaire*”). However, these facilities have to date not been constructed. In 2013, the government reported the UN Committee on Migrant Workers that the creation of dedicated centres for third country migrants does not fall in line with the broad guidelines and guiding principles of the national strategy in the field of migration (CMW 2013a).

In practice, migrants are held in police stations, gendarmeries, or military barracks, as well as at various ad hoc sites located in forested areas and quarries (GADEM 2013a). UN treaty monitoring bodies have repeatedly requested more detailed information on the places and regimes of detention used for foreign nationals awaiting deportation, together with data disaggregated by year, sex, place, length of detention and the reason for detention and expulsion” (CAT 2011).

A 2010 UNHCR report noted that Morocco has a number of informal and temporary detention areas at key locations along the frontier, including the maritime border near Laayoune, and in the area of Ceuta and Melilla. According to the report, migrants are often crowded into cells at police stations until they are taken back to the Moroccan border and left in no-man’s land, most frequently near Oujda (UNHCR 2010).

Morocco has 73 detention facilities, including 3 central prisons for long-term imprisonment, and 58 local prisons for pretrial and short-term detainees (Méndez 2013). Only a handful of these facilities have reportedly been used for immigration-related reasons, including the **prison de Oujda** in eastern Morocco near Algeria; the **Commissariat Central of Oujda**, on the Algerian border; the **Al Hoceima** and **Nador prisons**, both located in northeast Morocco, close to the borders with Algeria and the Spanish enclave of Melilla; the **Casablanca prison**; **Aéroport Mohamed V transit centre** in Casablanca; the **Commissariat Al Maârif** of Casablanca; **Marrakesh Zone de Retention** at the international airport; **prison de Sale** near Rabat; **Oued Laou, Tétouan** and **Tanger prisons**, near the Spanish enclave of Ceuta in the north of the country; **Laayoune prison**, located in the south, close to the border with [Mauritania](#); and **Centre de la Gendarmerie Royale de Laayoune** (Rachidi 2011a).

In July 2013, several asylum seekers, including women and children, were detained at a centre in **Berkane**, west of Oujda (H24info 2013). A UNHCR official in Rabat commented that this was the first time they heard of such a centre and that there might exist at least another one. UNHCR does not know if this is a closed centre or if they can visit persons held there (Chaudier 2013a).

GADEM reports instances of detention and violent beating of a migrant by an officer at the police station in **Fnideq**, on the Mediterranean coast South of Ceuta in 2008 (GADEM 2013a). NGOs have also reported allegations of the detention of pregnant women at a jail in Fnideq, as well as claims of rape and violence at the facility (GADEM et al. 2013).

A migrant advocate in Morocco told the Global Detention Project that men are segregated from women in Moroccan prisons, and children are generally detained with their mothers (Rachidi 2011d, 2011f). Administrative detainees are, however, detained alongside criminal detainees in Morocco (Rachidi 2011d; GADEM 2009, 2007).

In 2006, [Amnesty International](#) criticised Moroccan authorities for their practice of detaining migrants, asylum-seekers, and refugees in military camps, without access to legal representation and without providing detainees information on their rights. They also reported that hundreds of people, including UNHCR-registered refugees and asylum seekers, were abandoned in the desert in early October 2005, before making their own way to the military bases of Nador and Guelmim. Upon reaching the military bases, they were reportedly registered by military personnel, housed in groups of seven in canvas tents, given food and water, but not given any information on how long they would remain at the camps. The camps were described as having insufficient washing and medical facilities, and among the detainees was a pregnant women and young children. In addition, there were reports of sexual harassment by military personnel (AI 2006, p.29).

[Médecins Sans Frontières](#) (MSF), in a 2009 report, raised concerns that the forcible detention of migrants in Morocco makes them vulnerable to sexual exploitation, prostitution, and forced labour linked to human-trafficking networks, particularly women and children (MSF 2009).

UNHCR visited asylum seekers held at the Guelmim military base in October 2005. After initially being denied access to the asylum seekers, they eventually gained access and were able to conduct refugee status determinations, leading to the release of some persons recognised as refugees (AI 2006, p.30). UNHCR was denied access to people of concern at the military base of Nador during October and November 2005. Detainees at those facilities were later taken to the border with Algeria, near Oujda, for expulsion at the end of November, despite the fact that authorities were aware that they were seeking asylum or were of concern to UNHCR (AI 2006, p. 30).

Spain has funded the construction of residential centres for unaccompanied children returned to Morocco from Spain (HRW 2008, p.5-6). Morocco reportedly received financial assistance from the British, Danish, and Belgian embassies in 2007 to improve its prison estate (Rachidi 2011f).

**Conditions of detention.** In 2012, the national human rights institution, the Conseil national des droits de l'homme (CNDH), denounced cruel, inhuman or degrading treatment and overcrowding in most prisons, noting that in addition, foreigners, especially sub-Saharan migrants are cut off from any external contact (CNDH 2012).

According to a 2012 British government information pack issued for British nationals in Moroccan prisons, severe overcrowding is normal in Morocco's 40 prisons: "typically 30 men share a cell meant for 18. How bad it is depends on where you are – some prisons have dormitories with anything from 60 to 150 men in one room, and overcrowding can be worse in the women's sections. Mosquitos, cockroaches and rats are common.

Sanitation is a tap and a hole-in-the-ground toilet inside each cell. Daily cold showers are usually available, but with hundreds using a few showerheads, many people find it easier to wash in a bucket in their cell” (Foreign & Commonwealth Office 2012).

These conditions are likely to apply to immigration detainees as Morocco does not currently have formal immigration detention centres.

The National Human Rights Council (CNDH) has called for a public debate on the creation of the independent national mechanism for the prevention of torture allowing it to access to places of detention and their location, as well as all information related to treatment and detention conditions, and all detention places and their facilities including police stations, prisons, border police stations and transit areas in airports, ports and land border points, detention centres for immigrants and asylum seekers (CNDH 2012).

Police brutality did not subside after official announcements of legal reforms on immigration and asylum and of an exceptional regularization operation in September 2013. Civil society reports several deaths during raids and collective apprehensions operations including that of Moussa Seck who "fell" from the 4th floor during a police raid in Tangiers on October 10, 2013.

During a visit to Morocco in December 2013, the [UN Working Group on Arbitrary Detention](#) also received allegations of abuse and brutality during raids and detention, in particular in the North of the country (WGAD 2013).

## Facts & Figures

There are no available statistics on the numbers of people who have been detained for immigration-related reasons. In January 2014, the Nigerian ambassador to Morocco declared that at least 100 Nigerians were languishing in various Moroccan prisons mostly for offences relating to illegal migration, drugs, and petty crimes (Premium Times 2014).

Scholars estimate that there are between 10,000-20,000 irregular migrants in the country, while the government claims there are 25,000-45,000 (Jacobs 2012, *l'économiste* 2013b). This includes sub-Saharanans, but also many Europeans and Asians. The majority of irregular migrants in Morocco come from sub-Saharan Africa and enter the country through Algeria, near Oujda, after having traversed the Sahara desert (Haas in Duvell & Vollmer 2009, p.22-23). According to one observer, the main source countries include Nigeria, Mali, Senegal, Ivory Coast, Guinea, and Cameroon; 80 percent are men (Afvic-Cisp in Duvell & Vollmer 2009, p.23).

In mid-2013 there were 3,706 asylum seekers and 874 refugees (UNHCR 2014).

In 2011, according to official statistics, 12,929 irregular migrants were arrested by the Directorate-General of National Security and the Moroccan Royal Gendarmerie while attempting to leave Morocco (CMW 2012).

During a six-month period in 2013, 6,406 people—mostly sub-Saharanans and including 22 children—were deported, according to a report of the Association marocaine des droits humains (Daily Maroc/AFP 2013).

In October 2012 more than 5,400 irregular sub-Saharan migrants were deported to the Algerian border, a third of them were unaccompanied minors. According to a security source in Oujda, 10,030 migrants were escorted to the Algerian border between May 29 and October 31, 2012. Another report by the National Sureté in Oujda indicated that 79,000 deportations to Algeria took place between 2005 and 31 October 2012 (AMDH 2013b).

According to Interior Ministry statistics, 7,830 irregular foreign migrants were intercepted in 2007, 8,735 in 2008 and 2,877 in 2009. Due to the criminalization of irregular exit, official statistics are also provided for interception of irregular migrants who are Moroccan nationals (6,619 were intercepted in 2007, 4,651 in 2008 and 2,672 in 2009) (Rachidi 2011f).

According to a UK think tank study, while technically “in transit” many long-term migrants are de facto in a state of semi-permanent settlement in the country (Cherti & Grant 2013). In 2008 Moroccan researchers found out that the average length of stay in the country for stranded migrants in transit was approximately 2.5 years for all Sub-Saharan migrants surveyed (AMERM 2008).

IOM Morocco has assisted over 3,600 irregular migrants return to their country of origin between 2005 and the end of June 2013 (IOM 2013). According to the government 11 604 trafficked migrants voluntary returned to their countries of origin since 2004 and were not criminally charged (CMW 2013a).

In 2006, Morocco signed a funding agreement worth 67 million euros with the European Union to provide support to the Moroccan migration strategy (CMW 2012).

## List of Detention Sites

Name	Status (Year)	Location	GDP Facility Type	Security	Authority	Management	Demographics & Segregation
Aéroport Mohamed V transit centre	In use (2011)	Casablanca	Transit zone - airport	Secure	Director General for National Security (La direction générale de la sûreté nationale, or DGSN)	Border Police (Police Aux Frontières, or PAF)	Adult males, adult females (2011); separation of men and women; no family unit; no segregation of criminal detainees and administrative detainees (2011)
Al Hoceima Prison	In use (2011)	Alhoceima	Prison	Secure	Office of the Prime Minister / General delegate for prisons (Délégation générale de l'administration pénitentiaire et de la réinsertion)	Prison Administration (L'administration pénitentiaire)	Adult males, adult females, minors (2011); separation of men and women; no family unit ; minors detained with women; no segregation of criminal detainees and administrative detainees (2011)
Berkane Detention Centre	In use (2013)	Berkane (near Oujda)		Secure			Adult males, adult females, minors (2013)
Casablanca Prison	In use (2013)	Casablanca	Prison	Secure	Office of the Prime Minister / General delegate for prisons (Délégation générale de l'administration pénitentiaire et de la réinsertion)	Prison Administration (L'administration pénitentiaire)	Adult males, adult females, minors (2011); separation of men and women; no family unit; minors detained with women; no segregation of criminal detainees and administrative detainees (2011)
Centre de la Gendarmerie Royale de Laayoune	In use (2011)	Laayoune	Police station	Secure	Interior Ministry	Gendarmerie Royale	
Commissariat Al Maârif	In use (2011)	Casablanca	Police station	Secure	Interior Ministry	Directorate General of National Security (Directorate General of National Security)	
Commissariat Central of Oujda	In use (2011)	Oujda (border with Algeria)	Police station	Secure	Interior Ministry	Directorate General of National Security (Direction générale de la sûreté nationale)	
Fnideq Police Station	In use (2013)	Fnideq	Police station	Secure	Interior Ministry	Directorate General of National Security (Direction générale de la sûreté nationale)	

Fnideq Prison	In use (2003)	Fnideq	Prison	Secure	Interior Ministry	Directorate General of National Security (Direction générale de la sûreté nationale)	
Laayoune Prison	In use (2013)	Laayoune	Prison	Secure	Office of the Prime Minister / General delegate for prisons (Délégation générale de l'administration pénitentiaire et de la réinsertion)	Prison Administration (L'administration pénitentiaire)	Adult males, adult females, minors (2011); separation of men and women; no family unit ; minors detained with women; no segregation of criminal detainees and administrative detainees (2011)
Marrakesh Zone de Retention	In use (2011)	Marrakesh international airport	Transit zone	Secure	Director General for National Security (La direction générale de la sûreté nationale, or DGSN)	Border Police (Police Aux Frontières, or PAF)	Adult males, adult females (2011); separation of men and women; no family unit; no segregation of criminal detainees and administrative detainees (2011)
Nador Prison	In use (2011)	Nador	Prison	Secure	Office of the Prime Minister / General delegate for prisons (Délégation générale de l'administration pénitentiaire et de la réinsertion)	Prison Administration (L'administration pénitentiaire)	Adult males, adult females, minors (2011); separation of men and women; no family unit ; minors detained with women; no segregation of criminal detainees and administrative detainees (2011)
Oued Laou Prison	In use (2011)	Ouadlaw	Prison	Secure	Office of the Prime Minister / General delegate for prisons (Délégation générale de l'administration pénitentiaire et de la réinsertion)	Prison Administration (L'administration pénitentiaire)	Adult males, adult females, minors (2011); separation of men and women; no family unit ; minors detained with women; no segregation of criminal detainees and administrative detainees (2011)
Oujda Prison	In use (2011)	Oujda, Eastern Morocco (near Algeria)	Prison	Secure	Office of the Prime Minister / General delegate for prisons (Délégation générale de l'administration pénitentiaire et de la réinsertion)	Prison Administration (L'administration pénitentiaire)	Adult males, adult females, minors (2011); separation of men and women; no family unit ; minors detained with women; no segregation of criminal detainees and administrative detainees (2011)

Sale Prison	In use (2011)	near Rabat	Prison	Secure	Office of the Prime Minister / General delegate for prisons (Délégation générale de l'administration pénitentiaire et de la réinsertion)	Prison Administration (L'administration pénitentiaire)	Adult males, adult females, minors (2011); separation of men and women; no family unit ; minors detained with women; no segregation of criminal detainees and administrative detainees (2011)
Tanger Prison	In use (2011)	Tanger	Prison	Secure	Office of the Prime Minister / General delegate for prisons (Délégation générale de l'administration pénitentiaire et de la réinsertion)	Prison Administration (L'administration pénitentiaire)	Adult males, adult females, minors (2011); separation of men and women; no family unit ; minors detained with women; no segregation of criminal detainees and administrative detainees (2011)
Tétouan Prison	In use (2011)	Tétouan	Prison	Secure	Office of the Prime Minister / General delegate for prisons (Délégation générale de l'administration pénitentiaire et de la réinsertion)	Prison Administration (L'administration pénitentiaire)	Adult males, adult females, minors (2011); separation of men and women; no family unit ; minors detained with women; no segregation of criminal detainees and administrative detainees (2011)



## Map of Detention Sites



### Country View

1. Aéroport Mohamed V transit centre
2. Al Hoceima Prison
3. Berkane Facility
4. Casablanca Prison
5. Centre de la Gendarmerie Royale de Laayoune
6. Commissariat Al Maârif
7. Commissariat Central of Oujda
8. Fnideq Police Station
9. Fnideq Prison
10. Laayoune Prison
11. Marrakesh Zone de Retention
12. Nador Prison
13. Oued Laou Prison
14. Oujda Prison
15. Sale Prison
16. Tanger Prison
17. Tétouan Prison

## **Country links**

### **Government Agencies**

Government Portal

<https://www.maroc.ma/en/content/list-government>

Ministry in Charge of Moroccans Living Abroad and Migration Affairs

<http://www.marocainsdumonde.gov.ma/>

### **International Organizations**

UNHCR – Morocco Country Information

<http://www.unhcr.org/pages/49e4860d6.html>

### **NGOs and Research Institutions**

National Human Rights Council (Conseil national des droits de l'Homme)

<http://www.ccdh.org.ma/an/about-cndh/about-us>

Euro-Mediterranean Human Rights Network (EMHRN)

<http://www.euromedrights.org/eng/>

GADEM (Le groupe antiraciste de défense et d'accompagnement des étrangers et migrants)

[www.gadem-asso.org](http://www.gadem-asso.org)

Moroccan Association for Human Rights (Association Marocaine des DroitsH)

<http://www.amdh.org.ma/En>

Organisation Marocaine des Droits humains (OMDH, Moroccan Human Rights Organisation)

<http://www.omdh.org/def.asp?codelangue=23&po=2>

### **Media**

L'économiste

<http://www.leconomiste.com/>

H24 Info

<http://www.h24info.ma/>

Magharebia

[http://magharebia.com/en\\_GB/resources/awi/resource\\_centre/countries/morocco](http://magharebia.com/en_GB/resources/awi/resource_centre/countries/morocco)

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