

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review: 3rd Cycle, 27th Session

MOROCCO

I. BACKGROUND INFORMATION

Morocco ratified the *1951 Convention relating to the Status of Refugees* in 1956 and its *1967 Protocol* in 1968 (hereinafter jointly referred to as the “*1951 Convention*”). Morocco has not ratified the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*), nor the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*).

Morocco’s recently adopted *Constitution* (July 2011) recognizes the primacy of international conventions ratified by Morocco over domestic law and establishes that non-nationals shall enjoy the same fundamental freedoms as nationals.¹

Regarding asylum, Morocco adopted a *Royal Decree*² (the *Decree*) on 29 August 1957 agreeing on the modalities for the implementation of the *1951 Convention*. The *Decree* established an Office for Refugees and Stateless Persons (*Bureau des Réfugiés et Apatrides*, hereinafter referred to as “BRA”) and an Asylum Appeal Instance within the Ministry of Foreign Affairs. Furthermore, the *Decree* stipulated that the BRA is responsible for recognizing the refugee status of persons under UNHCR’s mandate or by virtue of the criteria under the *1951 Convention*, and issuing residence permits and other documentation to applicants. However, the adoption of the *Decree* did not result in the establishment of a national asylum procedure nor a systematic issuance of residence permits.

In 2003, Morocco adopted *Law No.02-03 relative à l’entrée et au séjour des étrangers au Royaume du Maroc, à l’émigration et l’immigration irrégulière*³ (*Immigration Law*). The *Immigration Law* sets out the conditions for granting asylum-seekers or refugees a residence card (Article 17), the criteria for their non-expulsion or deportation (Article 29), and procedures on the treatment of asylum-seekers in waiting areas (Article 38). Furthermore, the Government initiated the drafting of an asylum law (*Draft Law on Asylum*) in early 2014,⁴

¹ Maroc: Constitution, 29 July 2011, preamble and Article 30, available at: <http://www.refworld.org/docid/3ae6b5454.html>.

² National Legislative Bodies / National Authorities, Maroc: Décret No. 2-57-1256 du 2 safar 1377 (29 août 1957) fixant les modalités d’application de la convention relative au statut des réfugiés signée à Genève le 28 juillet 1951, 6 September 1957, available at: <http://www.refworld.org/docid/3ae6b4f04.html>.

³ National Legislative Bodies / National Authorities, Maroc: Loi n° 02-03 relative à l’entrée et du séjour des étrangers au Royaume du Maroc, à l’émigration et l’immigration irrégulières, 11 November 2003, available at: <http://www.refworld.org/docid/3ae6b4ed5c.html>.

⁴ *Draft Law 26.14 related to Asylum*.

which, when completed, should further strengthen the protection of persons of concern to UNHCR by recognizing the principle of *non-refoulement* and the rights under the *1951 Convention*. This draft law has been dragging for years and is now pending adoption by the *Conseil du gouvernement* and the Parliament. Until the adoption of the *Draft Law on Asylum*, the *Immigration Law* is the only national legislation applicable to immigrants.

On 25 September 2013, the Government re-activated the BRA (which had been inactivate since 2003) and established an inter-ministerial *ad hoc* Commission for the Regularization of Refugees Registered with UNHCR, pending the development of a national asylum system. As of May 2016, there have been 1493 UNHCR-registered refugees interviewed by this Commission (687 non-Syrians and 814 Syrians). All non-Syrians were granted refugee cards by the Government and, subsequently, were granted one-year (renewable) sojourn permits by the Ministry of Interior, which constitutes a significant development for refugee protection in Morocco.

As of 30 June 2016, there were 6,398 persons registered with UNHCR Morocco. Out of these registered persons, 4,329 were refugees and 2,069 were asylum-seekers, i.e. pending determination of their refugee claim by UNHCR. From the registered refugees, there were 1,879 (44 per cent) women and 1,889 (44 per cent) children. As for the main countries of origin of refugees in Morocco, 68 per cent are from Syria (2,949), 11 per cent are from Yemen (453), 7 per cent are from the Ivory Coast (279), 4 per cent are from the Democratic Republic of the Congo (167), 3 per cent are from Iraq (134), and 3 per cent are from the Central African Republic (114). Among asylum-seekers in Morocco, 26 per cent are from Cameroon, 15 per cent are from Ivory Coast, 12 per cent are from the Democratic Republic of the Congo, 12 per cent from Guinea, and 7 per cent are from Mali.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendation no. 129.122: “Continue progress in the implementation of the policies that safeguard the rights and dignity of migrants (Indonesia).”⁵

UNHCR wishes to commend the efforts deployed by Morocco in the development and implementation of a national immigration and asylum policy since September 2013.

On 9 September 2013, the National Human Rights Council, an independent institution established and empowered by the 2011 Moroccan constitution to promote human rights nationwide, issued its recommendations for a comprehensive migration policy in compliance with the country’s commitments under international human rights and refugee law. These recommendations were immediately endorsed by H.M. the King Mohamed VI who called on the Government to rapidly undertake the necessary changes and reforms to effectively develop a new migration and asylum policy.

In addition, the Government of Morocco developed and started to implement a national strategy for Immigration and Asylum (SNIA) in 2014. The SNIA aims at developing a policy framework which provides a comprehensive regulatory and institutional basis for ensuring

⁵ All recommendations made to Morocco during its 2nd cycle UPR can be found in: “Report of the Working Group on the Universal Periodic Review of Morocco” (06 July 2012), A/HRC/21/3, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MASession13.aspx>.

successful management of asylum, legal migration and local integration, while preventing and counteracting illegal migration, trafficking in persons and smuggling. Furthermore a set of measures were taken to ensure the local integration of regularized migrants and refugees (access to the labour market, public health services, including the National Security Scheme for the Most Vulnerable - named RAMED -, access to public schools and to social housing, etc.).

Linked to 2nd cycle UPR recommendation no. 129.53: “Step up its efforts in the field of combatting trafficking of human beings and consider the possibility of inviting the Special Rapporteur on trafficking in persons, especially women and children (Belarus).”

UNHCR wishes to commend Morocco for the adoption by the Parliament in August 2016 of the *Law No. 27.14 on Human Trafficking*, under its new framework on migration and asylum policy. UNHCR believes that the new anti-trafficking legislation will simplify the processes of investigation, data collection and prosecution, where complications exist due to the crime’s ambiguous definition in the Moroccan Penal Code.⁶

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Access to health, education and employment

Linked to 2nd cycle UPR recommendation no. 129.107: “Introduce policies in the health system to address the needs of people in situation of vulnerability (Mexico)” **and no. 129.111:** “Intensify efforts to consolidate economic and social rights, especially in the area of health, education, housing and unemployment (Qatar)”.

We wish to note that while basic services such as education and health care in Morocco are available to refugees and regularized migrants, there exist practical barriers for them to access these services. Firstly, Syrians interviewed by the *ad hoc* Commission for the Regularization of Refugees Registered with UNHCR have not received proper legal status, hampering their local integration and ability to exercise their rights, especially access to employment.

Secondly, access to medical services for refugees is generally guaranteed for the primary health care (general consultation), but not for the secondary and tertiary health care services except for cases where national programs exist (TB, HIV, vaccination, etc.). In 2015, the Government announced that the RAMED would be extended to regularized refugees and migrants, but this has yet to be implemented.

The above-mentioned barriers to employment and health services create obstacles for asylum-seekers and refugees to enjoy their rights recognized under, *inter alia*, the *International Covenant on Economic, Social and Cultural Rights*, to which Morocco is a party. In that sense, in its previous *Concluding Observations* of 22 October 2015, the Committee on Economic Social and Cultural Rights recommended that Morocco “[e]nsure that women, persons with disabilities, asylum seekers, refugees, migrants, Sahraouis, children

⁶ Maroc: Code Pénal [Morocco], 26 November 1962 (Consolidated version dated 4 June 2015), available at: <http://adala.justice.gov.ma/production/legislation/fr/Nouveautes/codepenal.pdf>.

born out of wedlock and homosexuals can enjoy the rights recognized in the Covenant, particularly access to employment, social services, health care and education.”⁷

Recommendations:

UNHCR recommends that the Government of Morocco:

- a. Ensure that Syrian refugees benefit from proper legal status and residence permits, in order to guarantee their unimpeded access to fundamental rights without discrimination, including access to the formal labour market; and
- b. Ensure the effective access of refugees to the National Security Scheme for the Most Vulnerable Nationals (RAMED).

Additional protection challenges

Issue 2: Adoption of the Draft Law on Asylum and protection against refoulement

UNHCR welcomes the positive efforts taken by the Government of Morocco to develop a *Draft Law on Asylum*. However, three years since the launch of the new immigration and asylum policy, the *Draft Law on Asylum* has not yet been finalised by the Government. This hinders the enjoyment of fundamental rights and freedoms by persons in need of international protection, including protection against *refoulement* and extradition to any country where they may be at risk of persecution and/or torture.

Pending the adoption of a national asylum system, there is no possibility to seek asylum at border points, either on land or at sea borders or at airports. The absence of a refugee status determination (“RSD”) procedure hampers UNHCR efforts to ensure full and unfettered access to protection mechanisms.

Recommendations:

UNHCR recommends that the Government of Morocco:

- a. Ensure that all individuals in need of international protection are able to exercise their fundamental rights, without discrimination;
- b. Accelerate efforts to enact the *Draft Law on Asylum*, in consultation with UNHCR and in compliance with the *1951 Convention relating to the Status of Refugees*; and
- c. Provide effective access to asylum procedures in all entry points of the country, including the transit areas of airports, in order to guarantee effective protection against *refoulement*.

Issue 3: Sexual and gender-based violence (SGBV)

There is no specific legislation related to SGBV, including domestic violence in Morocco. However, some significant improvements have been made in the Moroccan *Penal Code* in order to reduce discrimination against women. For instance, sexual harassment has been recognized as an abuse of power and is sanctioned. Further, the obligation to keep medical files confidential has been lifted for cases of domestic violence. Rape with aggravating circumstances is also sanctioned.

⁷ Committee on Economic, Social and Cultural Rights, *Concluding Observations on Morocco*, 64th and 65th Session, 22 October 2015, E/C.12/MAR/CO/4*, para. 14, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/MAR/CO/4&Lang=En.

In addition to their economic vulnerability, refugee women often live in overcrowded and sub-standard housing conditions that lack of privacy, and this increases the risk of being subject to sexual violence. The Age, Gender and Diversity Mainstreaming (AGDM) assessments carried by UNHCR Morocco imply that refugee women and girls are exposed to the risks of survival sex due to the lack of access to viable livelihood means as well as to an early marriage due to the cultural traditions in their countries of origin.

Furthermore, the office has observed that despite the identification of the cases of refugee survivors of SGBV and the legal intervention through our consultant lawyer towards the national judiciary systems, there has been little success in bringing the perpetrators to justice. At times, the cases brought to the police authorities have not been thoroughly and timely followed up.

Recommendations:

UNHCR recommends that the Government of Morocco:

- a. Further reinforce the capacity of national judiciary systems, including the police authorities and criminal court judges, so that the perpetrators of SGBV are duly brought to justice.

Issue 4: Child Protection

In view of the growing presence of unaccompanied children seeking asylum in Morocco (42 unaccompanied refugee children and 231 unaccompanied asylum-seeking children registered by the office as of August 2016), UNHCR is still concerned that procedural safeguards for the identification and determination of their best interests have not been developed by the Government. In addition, the Government of Morocco does not provide them with assistance and protection from violence, exploitation or trafficking in persons.

Recommendations:

UNHCR recommends that the Government of Morocco to:

- a. Ensure that the *Draft Law on Asylum* includes a mechanism to determine the best interests of asylum-seeking and refugee children and to provide adequate support and assistance for their protection and their integration.

Issue 5: Children's right to a nationality and protection against statelessness

The amendments to the Moroccan *Nationality Code*⁸ in 2007 addressed important legislative gaps concerning statelessness in Morocco. Since the amendments to the *Nationality Code*, Moroccan women have been able to automatically transfer their nationality to their children, irrespective of the nationality of the father. This not only remedies an important vestige of gender inequality in the law, but it also serves as a vital measure to prevent statelessness and ensure children enjoy the right to acquire a nationality at birth, as enshrined in Article 1 of the *1961 Convention*. However, some challenges that may lead to statelessness persist. For example, children of stateless refugees who arrive in Morocco will inherit the statelessness

⁸ The following is the Nationality Code including the amendments up to 2011: Maroc: Code de la nationalité marocaine (2011) [Morocco], Dahir n. 1-58-250 du 21 safar 1378, 6 September 1958, available at: <http://www.refworld.org/docid/501fc9822.html>; The following is the Nationality Code in its amended version of 2007: Maroc: Code de la nationalité marocaine amendé (2007) [Morocco], Dahir n. 1-58-250 du 21 safar 1378, 6 September 1958, available at: <http://www.refworld.org/cgi-bin/tehis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=550853cc4>.

condition from their parents even if they are born on the territory of Morocco. This is because Moroccan legislation foresees the conferral of Moroccan nationality only to children born to unknown parents, commonly referred to as “foundlings”, but not to children born to stateless parents whose identity is known.

In addition, notwithstanding the provisions of Article 6 of the *Nationality Code*, recognizing the right of children to acquire nationality from their mother and not just from their father (“*Est Marocain, l’enfant né d’un père marocain ou d’une mère marocaine*”), some children born to Moroccan mothers in mixed marriages are still unable to be confirmed as Moroccan nationals in certain situations. Challenges have been reported in confirming children as nationals in cases where they are born out of wedlock or born to a Moroccan mother and an irregular migrant father.

Difficulties also arise for children born in Syria to a Syrian father and a Moroccan mother, who had not been registered at the Moroccan Consulate due to the closure of its services since the outbreak of the Syrian conflict. The challenge in these cases is to prove filiation with the mother or to request an easing of the procedural requirements to ensure full and effective implementation of Morocco’s important 2007 reforms recognizing the right of women to confer nationality to their children automatically at birth. UNHCR has been working with a legal partner in an effort to resolve such cases.

Recommendations:

UNHCR recommends to the Government of Morocco to:

- a. Accede to the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention relating to the Reduction of Statelessness*;
- b. Amend the *Nationality Code* in order to comply with international standards on the prevention and reduction of statelessness, in particular by adopting provisions that grant nationality to a child born in Morocco who would otherwise be stateless; and
- c. Establish a national legal framework for the protection of stateless persons in accordance with the *1954 Convention*.

Human Rights Liaison Unit
Division of International Protection
UNHCR
September 2016

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

MOROCCO

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Morocco.

I. Universal Periodic Review (Second Cycle – 2012)

Recommendation ⁹	Recommending State/s	Position
Gender-based violence		
129.14. Accelerate the deliberations on the draft law on domestic violence;	Belgium	Supported
129.16. Adopt a specific law for domestic violence, containing both criminal and civil provisions;	Brazil	Supported
129.19. Bring its legal system in line with its Constitution by implementing measures that guarantee gender equality and adopting legislation guaranteeing women effective remedies against violence;	Estonia	Supported
129.21. Accelerate the drafting process of a bill on domestic violence and take appropriate measures in order to effectively prevent gender discrimination;	Germany	Supported
Trafficking in persons		
129.53. Step up its efforts in the field of combating trafficking of human beings and consider the possibility of inviting the Special Rapporteur on trafficking in persons, especially women and children;	Belarus	Supported
129.61. Step up effort to prevent and combat sexual exploitation and trafficking in women and children, including by ensuring that all allegations of trafficking and sexual abuses are investigated and the perpetrators are brought to justice and punished;	Malaysia	Supported
Migrants		
129.121. Develop strategies to better manage the migratory flows of political and economic refugees who unfortunately overwhelm Morocco's capacity and resources;	Swaziland	Supported

⁹ All recommendations made to Morocco during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Morocco" (06 July 2012), A/HRC/21/3, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MASession13.aspx>.

129.122. Continue progress in the implementation of the policies that safeguard the rights and dignity of migrants;	Indonesia	Supported
129.41. Continue to give high priority to the promotion of women, children, persons with disabilities and migrants rights;	Zimbabwe	Supported

II. Treaty Bodies

Committee on Economic, Social and Cultural Rights

Concluding Observations, (22 October 2015), [E/C.12/MAR/CO/4*](#)

Self-determination and natural resources

5. While taking note of the Moroccan Extended Autonomy Initiative, the Committee reiterates its concern about the failure to find a solution to the issue of the right to self-determination of the Non-Self-Governing Territory of Western Sahara. Likewise, the Committee remains concerned about the precarious situation, upon their return, of the Sahraouis refugees displaced by the conflict in Western Sahara, particularly women and children. It is also concerned that the Sahraouis' right to participate in the use and exploitation of natural resources is still not respected (arts. 1 and 25).

6. **The Committee recommends that the State party:**

- (d) Take measures to ensure that the rights of Sahraouis refugees are respected upon their return. It further recommends that the State party guarantee respect for the principle of the prior, free and informed consent of the Sahraouis, and thus that they are able to exercise their right to enjoy and utilize fully and freely their natural wealth and resources.**

Discrimination

13. The Committee remains concerned about:

- (a) The lack of comprehensive anti-discrimination legislation prohibiting all forms of discrimination affecting enjoyment of the rights enshrined in the Covenant;
- (b) The disparities between rural and urban areas with respect to the enjoyment of economic, social and cultural rights, particularly as regards the most marginalized and vulnerable individuals and groups;
- (c) The de facto discrimination against Amazighs, especially in terms of access to education and employment (art. 2).

14. **The Committee recommends that the State party:**

- (d) Ensure that women, persons with disabilities, asylum seekers, refugees, migrants, Sahraouis, children born out of wedlock and homosexuals can enjoy the rights recognized in the Covenant, particularly access to employment, social services, health care and education.**

Committee on the Rights of the Child

Concluding Observations, (14 October 2014), [CRC/C/MAR/CO/3-4](#)

Birth registration/Name and nationality

- (a) Migrant and asylum-seeking parents face difficulties in obtaining official birth registration certificates for their children, as they cannot afford the medical fees to be paid before obtaining an *avis de naissance*;

31. The Committee urges the State party to:

- (a) **Adopt all the necessary measures for an effective implementation of the nationality law reform, and amend article 16, paragraph 7, of Law No. 37-99 in order for all mothers without discrimination to be able to transmit their family names to their children.**
- (b) **Ensure that all children born on its territory, irrespective of their parents' status or their legal residence permits, are registered and provided with official birth certificates immediately, without any undue barriers;**
- (c) **Abolish the fees imposed for obtaining a birth certificate, extend the short period of time (30 days) for the registration of newborns and facilitate the provision of birth certificates to all refugee children who still do not possess one; and**
- (d) **Consider ratifying the 1961 Convention on the Reduction of Statelessness.**

Health and health services

- (d) Forty-two per cent of the children living in the Migrant Reception Centre are underweight, and many are reported to present serious or contagious medical pathologies.

55. The Committee draws the State party's attention to its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, and recommends that the State party:

- (a) **Ensure that sufficient resources are allocated for the health sector and are used effectively, and that it develop and implement comprehensive policies and programmes for improving the health situation of children and facilitating a greater and equal access to quality primary health services by mothers and children in all areas of the country in order to end the disparities in health-care access;**

Migrant, asylum-seeking and refugee children

62. The Committee welcomes the development of a new law on asylum, the reopening of the *Bureau des Réfugiés et des Apatrides* in 2013, and the instructions given in October 2013 by the Ministry of Education to facilitate the enrolment of all migrant, refugee and asylum-seeking children in public and private schools. Nevertheless, in view of the growing number of unaccompanied children and child asylum seekers in the State party, the Committee is concerned that procedural safeguards to identify and determine the best interests of these children have not been developed, and that the State party does not provide these children

with any type of assistance and protection from violence, exploitation or trafficking. The Committee is particularly concerned about:

- (a) The deportation of unaccompanied children, which takes place in spite of the provisions of the Migration Act (Law No. 02-03) which provide for the protection of children from expulsion (art. 26) and deportation (art. 29), five children having been deported at the risk of their life in the desert between Morocco and Algeria in 2013;
- (b) The arrest and detention of refugee and asylum-seeking children;
- (c) The deteriorating health conditions of children present in the Migrant Reception Centre;
- (d) The obstacles that migrant, refugee and asylum-seeking children face to accessing health services;
- (e) The situation of an unaccompanied girl who was placed, in 2012, at the age of 6, in a specialized centre, without monitoring of her situation by the State authorities since then.

63. The Committee recommends that the State party accelerate the adoption of a legal and institutional framework that ensures that the rights of non-accompanied migrant, asylum-seeking and refugee children are respected at all times, in accordance with international refugee and human rights law. The State party should ensure that:

- (a) Refugee and asylum-seeking children are not arrested, arbitrarily detained and deported back in breach of the law;**
- (b) An inquiry to determine the responsibilities in the deportation of five children in the desert in 2013 is conducted, sanctions are taken against those responsible and measures are adopted to prevent the recurrence of such a situation;**
- (c) Prompt measures are taken to ensure improved access by asylum-seeking, refugee and migrant children to protection units located in hospitals, and to improve the health status in the Migrant Reception Centre.**

Comité pour la protection des droits de tous les travailleurs migrants et des membres de leur famille

Concluding Observations, (08 October 2013), [CMW/C/MAR/CO/1](#)

31. Le Comité note avec préoccupation des informations reçues selon lesquelles l'État partie mène des expulsions collectives de travailleurs migrants en situation irrégulière et des membres de leur famille vers l'Algérie et la Mauritanie et que souvent les migrants, notamment des femmes enceintes et des mineurs non accompagnés, sont abandonnés dans des zones désertiques y compris dans des zones minées et des zones où ils sont susceptibles d'être victimes de violences, y compris, pour les femmes, de violences sexuelles, dans des conditions de précarité qui les rendent plus vulnérables à des agressions et à l'exploitation. Tout en notant que l'État partie a fait des efforts pour mettre en place des mécanismes de surveillance, le Comité note que des efforts supplémentaires sont nécessaires pour assurer l'application des dispositions légales concernant l'expulsion ou le renvoi.

32. Le Comité recommande à l'État partie de prendre les mesures appropriées pour mettre en place un cadre juridique régissant les procédures d'expulsion/de renvoi

conformément aux dispositions de la Convention et de prendre en compte l'observation générale n° 2 du Comité qui énonce en particulier que les intéressés ont le droit de faire valoir les raisons pour lesquelles ils ne devraient pas être expulsés et de faire examiner leur cas par une autorité compétente. Le Comité recommande également à l'État partie de créer des mécanismes de surveillance qui garantissent que les reconduites à la frontière des migrants sont faites dans le strict respect des normes internationales relatives aux migrants.

33. Le Comité note que l'article 19 de la loi n° 02-03 établit dans quels cas le titre de séjour peut être retiré aux étrangers. Le Comité est préoccupé par les informations selon lesquelles les autorités marocaines confisquent et détruisent de manière systématique et arbitraire les documents des travailleurs migrants refoulés à la frontière, lorsqu'ils essayent de faire valoir leurs droits.

34. Le Comité recommande à l'État partie de prendre des mesures adéquates pour mettre un terme aux abus et aux violations dont sont victimes les travailleurs migrants et les membres de leur famille. En particulier, il prie instamment l'État partie de créer un mécanisme de surveillance des activités des autorités marocaines chargées des procédures de migration ou impliquées dans ces procédures afin de garantir que les abus et les violations commis à l'encontre de travailleurs migrants et des membres de leur famille, tels que la confiscation et la destruction de leurs documents d'identité, fassent l'objet d'une enquête et que les responsables soient poursuivis et sanctionnés, conformément à l'article 21 de la Convention.

35. Tout en notant qu'un projet de loi sur les travailleurs domestiques a été adopté par le Conseil du gouvernement de l'État partie, le 2 mai 2013 et soumis au Parlement, le 8 août 2013, le Comité note avec préoccupation que les travailleurs domestiques migrants, y compris ceux en situation irrégulière, et en particulier les femmes, sont particulièrement exposés à différentes formes d'exploitation.

III. Special Procedures

Report of the Special Rapporteur on trafficking in persons, especially women and children

Visit to Morocco (01 April 2014) [A/HRC/26/37/Add.3](#)

Conclusions

76. Morocco has expressed its commitment and resolve to combat trafficking. The Government is in the process of adopting important legislative changes and policy measures to combat trafficking in persons in a comprehensive manner. The Special Rapporteur nonetheless remains concerned at the absence of specific legislation on trafficking, targeted policies and institutions to deal with trafficking, appropriate procedures for the identification of victims of trafficking and mechanisms for data collection. Such a situation makes it impossible to conduct proper investigation and prosecution of trafficking cases.

77. While Morocco has engaged actively in preventive measures, trafficked persons are not provided with adequate protection, assistance or support in their recovery process. Their right to compensation is not specifically recognized, and they are not given adequate information thereon nor the necessary support to exercise that right, such as legal aid.

78. The Special Rapporteur is also concerned that the Government has not engaged enough with civil society organizations, particularly with those who possess specialized expertise and could be important partners in the fight against trafficking. The lack of specific legislation on trafficking hinders the involvement and efforts of civil society organizations in assisting victims of trafficking.

Recommendations

79. On the basis of her findings, the Special Rapporteur makes the recommendations below.

1. Legal, policy and institutional framework

80. With regard to the national legal framework, Morocco needs to ensure full domestic application of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, which requires the State to prevent and combat trafficking in persons. In this connection, the Special Rapporteur encourages the Government to accelerate the process of adopting the necessary amendments to the Penal Code, and subsequently enacting and implementing specific anti-trafficking legislation within a specified timeline. Furthermore, the scope of the existing legislation on labour should be extended to provide adequate protection to domestic workers.

81. With regard to policy responses to trafficking in persons, the Government should develop, in consultation with all stakeholders, including civil society organizations, a national plan of action that clearly identifies objectives, delineates responsibilities and sets out clear indicators to measure progress and the impact of policy responses.

82. To ensure effective implementation of anti-trafficking efforts, a national agency to coordinate anti-trafficking activities of governmental institutions should be established. The Government should also consider appointing a national rapporteur tasked with monitoring the implementation and the human rights impact of anti-trafficking legislation and policy responses.

2. Identification and protection of, and assistance to, victims of trafficking

83. A proper identification system should be put in place and be well resourced. This should include specific tools and protocols for identifying victims of trafficking and for training relevant law enforcement agencies, especially police, immigration and labour inspectors. Such training should enhance their capacity to identify trafficked persons quickly and accurately, and to make referrals to appropriate services. Furthermore, a clear distinction should be made between irregular migrants and victims of trafficking; different laws and procedures should apply to each category.

84. Given the absence of reliable data on trafficking, there is an urgent need to design a mechanism for the collection of data on cases of trafficking, as well as on the forms, trends and manifestations of trafficking. Such data are vital to the elaboration of informed policy responses to address trafficking in persons.

85. With regard to support services for victims of trafficking, the Government should make much greater efforts to protect and assist all victims of trafficking, including male victims, with full respect for their human rights and, incorporate a human rights-based approach to the investigation of trafficking cases.

86. Funding and resources to be used for assisting victims of trafficking should be increased, and programmes and institutions sponsored or supported by the State should be created and expanded to provide short and long-term victim care.

87. Any amendment or legislation on trafficking in persons to be adopted should have a human rights-based approach and include provisions for compensation and effective remedies for trafficked persons.

88. Existing labour laws should be extended to ensure adequate protection for the rights of domestic workers. Labour inspectors should be given the power to monitor the working conditions of domestic workers, who are often the most vulnerable to trafficking.

Awareness-raising, training and capacity-building

89. Urgent action should be taken to sensitize and build capacity to adopt victim-centred responses to cases of trafficking in persons. The Government should step up its efforts to raise awareness also among the general public about all forms of trafficking in persons, to promote understanding of what constitutes trafficking.

90. Given that lawyers and practitioners lack adequate knowledge and expertise to apply international human rights laws and standards, there is a need to organize training on the application of international legal instruments.

4. Prevention, prosecution and punishment

91. The Government should increase its efforts to prosecute traffickers while guaranteeing fair trial rights consistent with a human rights-based approach to criminal justice, and to establish the necessary legal framework and procedures in order to ensure that victims and witnesses are protected. With regard to Moroccans living abroad, the Government should identify and implement effective judicial measures to protect Moroccan women who have become victims of prostitution networks abroad.

92. Penal reform should be undertaken, and victim and witness protection systems should be established. The said reform should be accompanied by amendments to the Penal Code and a wider legal framework that exempts trafficking victims from prostitution, illegal immigration and other related crimes committed as a direct result of the trafficking process.

93. Punishment and penalties for forced labour should be made more severe to dissuade traffickers who recruit for this purpose.

94. In addition to legal and policy actions to combat trafficking in persons, concurrent measures should be taken to address the root causes of the problem, including social exclusion, poverty, inequality and discrimination.

5. Cooperation and partnerships

95. The Government of Morocco should continue to maintain close cooperation with the relevant United Nations agencies and international organizations, including UNHCR and IOM, for the safe return of trafficked victims in their country, with due regard for the need, if applicable, of international protection of the victims. Further measures should be taken to ensure that victims of trafficking with international protection needs are properly identified and referred to the asylum system, when appropriate.

96. Morocco should continue to strengthen its partnership with source countries in all regions, including sub-Saharan Africa and South-East Asia, and extend cooperation for exchange of information and mutual legal assistance, and consider ratifying ILO Convention No. 189 on decent work for domestic workers.

97. Cooperation with international and bilateral agencies is important, also to facilitate the provision of shelters and compensation to victims of trafficking. Also, the feasibility of using the receipts of money laundering or assets seized from trafficking perpetrators should be explored to raise more financial resources for victim assistance.

98. The contribution of and collaboration with civil society organizations are crucial in the fight against human trafficking. In this regard, immediate steps should be taken to establish the necessary legal framework and support for civil society organizations working on providing assistance, including counselling services to victims. Civil society organizations and victim support agencies should be enabled to work in all regions of the country.

99. With regard to Dakhla, Western Sahara, the Special Rapporteur recommends that the authorities:

- (a) Take concrete measures to improve the situation of irregular migrants and domestic workers, and address the issues of child labour and the sexual exploitation of women and children;
- (b) Enhance their capacity-building to identify cases of trafficking in persons, take further measures to reduce vulnerability of potential victims of trafficking and ensure adequate protection of migrants and their families.

Report of the Special Rapporteur on torture and other cruel, inhumane or degrading treatment or punishment

Mission to Morocco (30 April 2013) [A/HRC/22/53/Add.2](#)

Conclusions and recommendations

74. The Special Rapporteur also expresses concern about the increase in reported violence by security forces against migrants and asylum seekers, particularly in the north of the country. National protection mechanisms and investigations are insufficient

and there is a lack of legal and medical assistance for those subjected to torture or ill-treatment.

- (k) Ensure that the principle of non-refoulement contained in article 3 of the Convention against Torture is fully implemented, including in cases involving migrants, refugees and asylum seekers, so that persons are not extradited to any country where they may be at risk of torture;**

90. With regard to migrants, refugees and asylum seekers, the Special Rapporteur recommends that the Government work in closer cooperation with the Office of the United Nations High Commissioner for Human Rights; the Special Rapporteur on the human rights of migrants; and other United Nations agencies, such as the Office of the United Nations High Commissioner for Refugees, and:

- (a) Take all necessary measures to prevent further violence and investigate reports of violence against sub-Saharan migrants, refugees and asylum seekers;**
- (b) Respect the fundamental human rights of migrants, refugees and asylum seekers, and ensure to them access to health facilities and medical care without fear of arrest.**