*#Breaking_The_Mold*

# Arab Civil Society Actors and their Quest to Influence Policy-Making

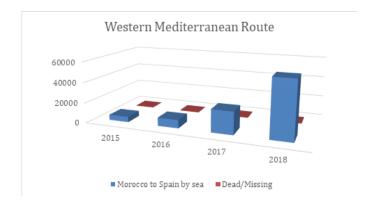## Migration and Civil Society in Morocco: A New Policy of Regularization
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### BACKGROUND

Morocco is both a transit country with geographic proximity to Europe and a destination that attracts sub-Saharan African immigrants; on the other hand, 10 percent of Moroccan nationals live abroad, indicating an emigration dynamics. Thus, migration is a constant of Moroccan geopolitics and a comprehensive issue to tackle. After the Arab Spring, both European and North African states confronted the repercussions of irregular migration flows in the Mediterranean toward Europe. Today, as restrictions are manifested on other migration routes and divert the intensity of migration flows annually, the number of migrants transiting Morocco on their way to Europe via the Mediterranean has accelerated. Today, the western Mediterranean route has lured more and more migrants to cross the Mediterranean via Morocco.

When migration from the MENA region to Europe reached its peak in 2015, the European Union gradually adopted restrictive measures. The initial response to the crisis was the strengthening of border patrols and increasing security measures. Because of the difficulty to  to migrate to EU countries, Morocco became one of the main hubs of migration in the Mediterranean basin as the numbers multiplied given its proximity to Spain. Since the most intense waves of irregular immigration to Europe emerged in 2015, 500 died, or were reported as missing, while trying to reach Spain from Morocco; this mostly concerned Sub-Saharan immigrants 1 who were among thousands of migrants that died crossing "by far the world's deadliest border", the Mediterranean2. Given current migration dynamics to Europe via the Mediterranean, this acceleration urges the need to manage migration flows in a more pressing way, to either passing through or seeking settlement in Morocco.



Western Mediterranean Route

■ Morocco to Spain by sea   ■ Dead/Missing

SNIA, the national strategy of immigration and asylum, was introduced in 2013 as the new humanitarian immigration policy that beings together civil society organizations (CSOs) and state agencies to set a regularization campaign. Initially, it was to grant residence permits to irregular immigrants followed by access to medical care and education to those meeting certain standards. The National Human Rights Council (CNDH) has been the key institution for the designation of a new policy on migration, asylum and human trafficking by providing on-site monitoring and correspondence with international NGOs drawing attention to irregular migrants who are denied political and legal rights to. During the process, the CNDH urged a reform in the Moroccan legislation on immigration and regularization. Further, the CNDH enforced the recognition of migrant-assisting institutions such as GADEM (Anti-Racist Defense and Support Group of Foreigners and Migrants), strengthening civil society action in the process.

1  CARIM. 2018. CARIM – Migration Profile: Morocco.
2  International Organization for Migration, Morocco's Profile, 2018.

## TIMELINE

In 2003, Morocco passed its first immigration law since its independence in 1956. Law 02–03 regulated foreigners' entry and stay in Morocco, and criminalized irregular immigration and emigration. It also created the Direction of Migrations and Borders Surveillance within the Ministry of Interior, and led to the creation of a national strategy on combating illegal migration. The restrictive policy was overwhelmingly interpreted as a result of European pressure to control irregular migration. Yet, it first and foremost benefited Moroccan authorities' domestic priorities and geopolitical standing. Indeed, shifting the focus away from Moroccan irregular migrants and towards sub-Saharan 'transit' migrants appeased popular concerns, and provided Morocco with a new bargaining tool in their diplomatic relations with Europe. As a consequence, the 2003–2013 decade was characterized by an arbitrary, violent and security-driven state approach to immigration, forcing sub-Saharan migrants without legal status into miserable living conditions and constant fear of crackdowns or expulsion by Moroccan police forces (CMSM & GADEM, 2012).

On the other hand, Morocco faced structural domestic problems through its migration-related legislation, migrant integration and regulation policies that it has been criticized for by the international and domestic civil society organizations on the grounds of human rights violations breaching international conventions. Since mobilization and management of immigration in countries bordering the EU lacked a proactive regional cooperation and burden-sharing, current immigration management in Morocco is further complicated through systemic internal challenges in legal, social and economic terms. With security measures having tightened to overcome irregular immigration, reports of mistreatment to immigrants in North African countries and allegations of long detention periods or mass deportations with no legal basis came up[3]. Specifically, from 2011 onwards, violence during deportation and expulsion were widely reported[4].

Although Morocco is a party to the 1951 Refugee Convention and its 1967 Protocol, the 1969 OAU Convention on the rights of refugees, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families[5], as well as the International Covenant on Civil and Political Rights, it has a domestic legislation that criminalizes irregular entry, exit and stay, sanctioned with penalties or imprisonment, documented by observations and reports pertaining to arbitrary detention and deportation [6]. Along with violation reports on immigrants, this domestic law had complicated Morocco's standing with international norms of human rights[7].  The UN Committee on Migrant Workers reports that irregular entry, exit and stay cannot be considered a criminal offense and has asked Morocco to decriminalize irregular migration and provide adequate administrative sanctions[8].

## CIVIL SOCIETY ACTOR'S ROLE AND INVOLVEMENT

An active civil society started denouncing these practices by naming and shaming the Moroccan government on the international scene – at times very successfully. The role of CSOs over that period is particularly noteworthy, given that they operated in a political context of semi-authoritarian rule. The work of Caritas mainly with sub-Saharan migrants started in the 90's; their work focused on the promotion of the rights of migrants by normalizing their access to common law services (health, education and civil status) or facilitating their integration. They have day care centers in Rabat, Casablanca and Tangier. The development of Moroccan associations such as GADEM, as well as migrant organizations such as the Council of Sub-Saharan Migrants in Morocco (CMSM) has occurred in semi-legality. Interviews[9] with representatives of these associations highlight that while they operated without legal status and were under constant police control, their activities were nonetheless tolerated (within certain limits) by the state. The kingdom's attempt to assert itself as a progressive, rights-respecting country in the region might account for this hybrid approach towards CSOs.

Taking national and international observers by surprise, Moroccan King Mohamed VI announced the launch of a new human-rights based immigration policy on September 10, 2013 after a report drafted by the CNDH[10]. Its centerpiece was a regularization campaign, a first in the North African context that granted legal status to nearly 26,000 irregular migrants, mainly Syrian and sub-Saharan refugees; it also included European and sub-Saharan workers and family members who had been living in Morocco for years (CNDH, 2015). The newly created Moroccan Ministry for Moroccans Residing Abroad and Migration Affairs (MCMREAM) was tasked with implementing SNIA, drafting laws on asylum, human trafficking and immigration, and overseeing integration measures in the health, labor and education sectors. In December 2016, a second regularization campaign was launched.

3   GADEM, Le groupe antiraciste de défense et d'accompagnement des étrangers et migrants, 2009.
4   Ibid.
5   Committee on Migrant Workers, https://www2.ohchr.org/english/bodies/cmw/cmws19.htm
6   Euro-Mediterranean Human Rights Network.
7   GADEM, Le groupe antiraciste de défense et d'accompagnement des étrangers et migrants,
8   Euromed Rights (2015) Maroc: Droits economiques et sociaux des personnes migrantes et refugies.

9   I conducted six interviews with these organizations' volunteers and full-timers in Rabat in 2012 and in 2017.
10   https://www.cndh.ma/fr/communiques/le-cndh-elabore-un-rapport-sur-lasile-et-limmigration-au-maroc

## STRATEGIES AND TACTICS

Before the publication of the new law on migration, GADEM, professional labor unions and human rights organizations were pinpointing the sufferings, racism and marginalization, irregular/illegal sub-Saharan migrants were enduring in Morocco. When these migrants started becoming visible in the May 1 labor day festivities, as street vendors, living and sleeping in forests and public gardens, CSOs published reports, media articles and organized sit-ins to pressure the government to rethink its policy towards these migrants. GADEM started highlighting the issue in various activities, mainly Migrants Scene,11 publishing reports12, providing legal assistance, medical assistance and advocating for migrants rights.

The new migration and exile policy has led to a growing number of migration-specific CSOs in Morocco that act as intermediaries between migrants and the state. This development has created

issues of competition, cooptation, and legitimacy. It has also fragmented civil society, affecting its capacity to provide a robust counter-discourse to official discourse. Interviewees13, however, highlighted that the main challenge is the integration of ad-hoc policy decisions into national legislation in order to protect the new policy from future backlashes. As long as the laws on immigration and asylum, finalized but stuck at the political level, are not enacted, Morocco's immigration policy will thus remain ambivalent and arbitrary (Norman, 2016a).

## INFLUENCING FACTORS OR POLICY WINDOWS

The motives underlying this shift have left many puzzled, but the configuration of international priorities, national political developments, and specific institutional interactions provides some explanation. First, the new policy can be cast as a change in 'Moroccan geopolitical culture' (Cherti & Collyer, 2015), partly away from Europe and more directed towards Africa. Indeed, since 2010, King Mohamed VI has embarked on a pro-active Africa policy, characterized by multiple diplomatic visits, the signing of heavy trade deals and efforts to rejoin the African Union (AU) – which Morocco left in 1987 and successfully rejoined in January 2017 (Rousselet, 2015). Morocco's interests in Africa were thus increasingly at odds with the violence and maltreatment of African nationals by Moroccan police forces and border guards. Also, the denial of immigrants' rights in Morocco stood in stark contrast to Morocco's lobbying for more migrants' rights in Europe.

Yet, the new migration policy not only reflects a change in Morocco's foreign policy strategy, but also emerged out of national political developments. Most importantly, the 2011 constitution created the CNDH, an independent state body headed by Driss El Yazami, a former political refugee in France and human rights activist. Its activities, notably the September 2013 report on migrants' rights abuses perpetrated by the Moroccan state, had wide-ranging consequences for the issue of migration in Morocco, as it eventually triggered the launch of the new migration policy.

This change in diplomatic priorities is also significantly motivated by economic concerns – in Mali, Mohammed VI signed 17 separate economic agreements. Morocco's budgetary report for 2014 recorded a rise in exports to sub-Saharan Africa to 12.8 billion dirhams in 2012. Although this still does not rival exports of over 100 billion dirhams to the EU in the same year, trade with sub-Saharan Africa is growing rapidly; exports were less than 2 billion dirhams in 2002, a more than ten-fold increase in ten years, to the point where sub-Saharan Africa now accounts for 7 percent of Moroccan international trade.

The new immigration policy must be understood in this changing political and economic context. Greater respect for the human rights of migrants from countries of sub-Saharan Africa makes sense at a time when the Moroccan state is forming closer relationships with those countries. This is a far more positive trend. More regular diplomatic engagement with countries to the south suggests that the policy is motivated by a more genuine concern for the rights of migrants originating from those places.

## TRANSFORMATIVE MOMENTS

The transformative moment is the adoption of the new policy itself on September 9, 2013. It is a departure from a security approach of the old 02-03 law to a more humanitarian policy. The deaths of at least fifteen migrants in 2005 at the hands of Spanish and Moroccan authorities while trying to scale the fences separating Morocco from Melilla and Ceuta is also considered a transformative moment. Finally, the harsh criticisms from Moroccan NGOs on the status of these migrants, and the report of the National Council of human rights (CNDH) on migration were all together transformative moments for the regularization campaign of illegal migrants.

Refugees and regularized migrants have obtained stay permits, and easier access to the labor market, education and public health care. Other changes are underway to facilitate the integration and social acceptance of immigrants. Yet, the sustainability of the new approach remains uncertain in the face of continued raids of irregular migrants' settlements and migrants' rights violations, especially in the north of Morocco and in the border areas (FIDH/GADEM, 2015). One of the reasons for these territorial inconsistencies is institutional; while the migration ministry is overseeing the new migration policy, its successful implementation depends on sectoral ministries such as the ministries of health, education, interior or labor, for whom migration is not a priority. Thus, despite the discursive adherence of all institutions to the new policy, it has been a challenge for the migration ministry to put immigration on the agendas of these ministries.

This development – the decline in the number of irregular migrants transiting through Morocco – is also linked to the fact that traffickers have opened, from 2006, new migration corridors to Europe, between Mauritania and Senegal and the Canary Islands in West Africa, and between Tunisia, Libya, Sicily and Lempedusa in Italy, in the center of the Mediterranean.

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11  https://mailchi.mp/c00213c319ac/festival-migrantscne-rabat2869601-
12  Expulsions Gratuites: Note d'analyse sur les mesures d'éloignement mises en œuvre hors tout cadre légal entre septembre et octobre 2018. https://gallery.mailchimp.com/66ce6606f50d8fd7c68729b94/files/3690d5cc2-b404-47c-a43d-ca0beeb7e20181011/383_GADEM_Note_Expulsion_gratuite_VF.pdf
13  I interviewed activists from GADEM and Fondation Orient/Occident on the implementation of the new policy. I interviewed also the beneficiaries within the Fondation Orient/Occident headquarters.

Table 2: Evolution of the share of irregular migration via the ''western Mediterranean route'' in all migrations similar across the Mediterranean between 2008 and 2015.

| Year | Total Migrants (All Routes in the Mediterranean) 1 | West Mediterranean Route (ROM) 2 | 2/1 |
|---|---|---|---|
| 2008 | 151,135 | 6,500 | 4,3% |
| 2010 | 104,120 | 5,000 | 4,8% |
| 2012 | 73,160 | 6,400 | 7,75% |
| 2013 | 101,800 | 6,800 | 6,68% |
| 1014 | 283,175 | 7,840 | 2,75% |
| 2015 | 1,058,299 | 12,516 | 1,18% |

Thus, by comparing the number of irregular departures from Morocco – just before "the Arab Spring', from the end of 2010 and in 2013 and thereafter – with all irregular movements in the Mediterranean during the same period, it appears that, after having represented, in 2012, 7.75 percent of the total irregular migration flows between the southern and northern Mediterranean, the number of illegal migrants leaving Morocco represented only 1.18 percent of the same movements in 2015. This is despite the presence of more than 4,000 Syrian refugees among the irregular migrants who transited through the Spanish presidios in the Moroccan territory, Ceuta and Melilia.

## POLICY OUTCOME

SNIA was adopted on December 18, 2014 by the council of Ministers It was drafted using a participatory approach, integrating NGOs and researchers working in the field of migration. It adopts global human rights and international law approaches; its main strategy is to facilitate the integration of regular migrants and manage the flux of migrants while respecting human rights.

In SNIA's first year, 17,000 of the 27,000 applicants were able to receive residency permits.14 Despite endorsing migrant-assisting civil society action as a democratic improvement and regulating 2,000 irregular migrants, SNIA was drafted without in-depth vision for implementation, including mid and long-term consequences, and whether the most vulnerable immigrants or minors could benefit from the reforms has been questionable. Although a new immigration policy is in force and subject to annual evaluation, Morocco lacks the positive outcomes of these policies and sustainable management of migration today due to inadequate implementation. Thus, the impact of the policy could never be examined since the systemic challenges remained and were even exacerbated after six years, as some immigrants who legally entered the country became irregular in the process, and suffered more profound integration issues, being denied of any legal status, limiting their access to public services and jobs.

## CONCLUSION AND LESSONS LEARNED

As Morocco is aspiring to become a hub of migration in the Mediterranean, the new policy on migration and exile was put on the table of the regime and politicians as a diplomatic card in this strategy. Besides a transit country on the way to Europe given its geography, Morocco is a destination for thousands of sub-Saharan Africans. Because in recent years immigrants in Morocco face severe systematic social and economic problems such as lack of access to medical care and education, the king (based on a report of the national council of human rights (CNDH)) drafted a promising national strategy to regulate immigration in compliance with international obligations; however, SNIA, introduced in 2013, is insufficiently implemented. The major lesson now after the implementation of the new strategy is that a law is not enough to regulate the situation of migrants. Morocco should revisit the setbacks to the implementation of its policy as well as inter-institutional coordination, especially in a period of time it is rekindling its relationships with African countries. SNIA is key to addressing internal and international issues, alleviating human rights abuses the migrants are subject to through systemic difficulties, and integrating immigrants and their descendants, who comprise a portion of the population, into the system and society.



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14   *International Organization for Migration, 2018.*

## BREAKING THE MOLD PROJECT

*In mid-2018, the "Civil Society Actors and Policymaking in the Arab World" program at IFI, with the support of Open Society Foundations, launched the second round of its extended research project "Arab Civil Society Actors and their Quest to Influence Policy-Making". This project mapped and analyzed the attempts of Arab civil society, in all its orientations, structures, and differences, to influence public policy across a variety of domains. This research produced 92 case studies outlining the role of civil society in impacting political, social, economic, gender, educational, health-related, and environmental policies in ten Arab countries: Lebanon, Syria, Palestine, Jordan, Egypt, Morocco, Tunisia, Yemen, and the Arab Gulf.*

*Over two dozen researchers and research groups from the above countries participated in this project, which was conducted over a year and a half. The results were reviewed by an advisory committee for methodology to ensure alignment with the project's goals, and were presented by the researchers in various themed sessions over the course of the two days.*

## THE CIVIL SOCIETY ACTORS AND POLICY-MAKING PROGRAM

*at the Issam Fares Institute for Public Policy and International Affairs at AUB, examines the role that civil society actors play in shaping and making policy. Specifically, the program focuses on the following aspects: how civil society actors organize themselves into advocacy coalitions; how policy networks are formed to influence policy processes and outcomes; and how policy research institutes contribute their research into policy. The program also explores the media's expanding role, which some claim has catalyzed the Uprisings throughout the region.*

## THE ISSAM FARES INSTITUTE FOR PUBLIC POLICY AND INTERNATIONAL AFFAIRS AT THE AMERICAN UNIVERSITY OF BEIRUT

*The Issam Fares Institute for Public Policy and International Affairs at the American University of Beirut (AUB Policy Institute) is an independent, research-based, policy-oriented institute. Inaugurated in 2006, the Institute aims to harness, develop, and initiate policy relevant research in the Arab region. We are committed to expanding and deepening policy-relevant knowledge production in and about the Arab region; and to creating a space for the interdisciplinary exchange of ideas among researchers, civil society and policy-makers.*