

Submission by the United Nations High Commissioner for Refugees

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

Universal Periodic Review: 4th Cycle, 41st 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*).

The 2011 Constitution provides for the primacy of the international conventions fully ratified by the State over domestic law, and the equal enjoyment of the rights and freedoms enshrined in the Constitution, for citizens and non-nationals alike.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.

The *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) was adopted in 2003 and sets out the conditions for granting asylum-seekers or refugees a residence card (Art. 17), the criteria for their non-expulsion or deportation (Art. 29), and procedures on the treatment of asylum-seekers in waiting areas (Art. 38). Immigration and asylum laws have since remained untouched, despite the drafting of an asylum law (*Draft Law on Asylum*) in early 2014.⁴ The work on this law was resumed in 2017. According to the Ministry of Foreign Affairs, by October 2018, the draft law (now *Draft law 66-17*) was being finalized and awaited the initiation of the legislative process.⁵ An updated version of the *Draft law 66-17* was finalized in 2019 and submitted to the General Secretariat of the Government (SGG) with a view to starting the process of legislative adoption.⁶ This *Draft law*, 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*. However, no further details are known regarding the laws’ content or timeline. Until the adoption of the *Draft Law*, the Immigration Law is the only national legislation applicable to asylum-seekers and migrants.

¹ Maroc: Constitution [], 29 July 2011, available at: <https://www.refworld.org/docid/3ae6b5454.html> [accessed 31 January 2022]

² National Legislative Bodies / National Authorities, Morocco : *Décret N° 2-70-647, Modifiant le décret N° 2-67-1266 du 29 août 1987 fixant les modalités d’application de la convention relative au statut des réfugiés, signée à Genève le 28 Juillet 1951.*, 8 October 1970, available at: <https://www.refworld.org/docid/3ae6b4f04.html> [accessed 31 January 2022]

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: <https://www.refworld.org/docid/3ae6b4ed5c.html> [accessed 31 January 2022]

⁴ *Draft Law 26.14.*

⁵ Ministry in Charge of Moroccans Residing Abroad and Migration Affairs, *Politique Nationale d’Immigration et d’Asile: Rapport 2018. Edited by Chargé des Marocains Résidant à l’Étranger et des Affaires de la Migration Ministère Délégué auprès du Ministre des Affaires Etrangères et de la Coopération Internationale. Royaume du Maroc, 2018*, at p.72, available at: <https://marocainsdumonde.gov.ma/wp-content/uploads/2019/01/Politique-Nationale-dimmigration-et-dAsile--Rapport-2018.pdf>

⁶ Ministry in Charge of Moroccans Residing Abroad and Migration Affairs, *Politique Nationale d’Immigration et d’Asile: Rapport 2020*, at p. 107, available at: <https://marocainsdumonde.gov.ma/ewhatsisi/2021/10/Rapport-2020-5-10-VF.pdf>

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 29 December 2021, there have been 2,296 UNHCR-registered refugees interviewed by this Commission (933 non-Syrians and 1,363 Syrians). 919 non-Syrians have access to refugee cards by the Government and, subsequently, were granted one-year (renewable) sojourn permits by the Ministry of Interior. Syrian refugees registered with UNHCR who were auditioned by the BRA only received a receipt after their audition and never obtained a national refugee card. No guardian is appointed by the BRA for unaccompanied and separated children (UASC), preventing them from being heard by the BRA and thus from being regularized. Refugees registered with UNHCR who possessed a sojourn permit for the purpose of studying, working or others are not auditioned by the BRA and consequently do not have access to regularization procedure as refugees.

As of 31 December 2021, there were 18,248 persons registered with UNHCR Morocco. Out of these registered persons, 9,277 were refugees and 8,971 were asylum-seekers, i.e. pending determination of their refugee claim by UNHCR. From the registered refugees, there were 3,496 (37,68 per cent) women and 2,904 (31,3 per cent) children. As for the main countries of origin of refugees in Morocco, 54.78 per cent are from Syria (5,082), 11.88 per cent are from Yemen (1,102), 10.6 per cent are from the Central African Republic (983), 4.2 per cent are from the Ivory Coast (391), 4 per cent are from South Sudan (378), and 2.78 per cent are from Palestine (258). Refugees live in 79 localities across the Kingdom. About 21.8 per cent of refugees have specific needs including children at risk, survivors of gender-based violence, survivors of torture, unaccompanied or separated children, women at risk, people living with disabilities, and people with legal and physical protection needs, including those with serious medical conditions. Among asylum-seekers in Morocco, 27.96 per cent are from Guinea, 12.46 per cent are from Senegal, 11.97 per cent are from Cameroon and 11.67 per cent are from Ivory Coast.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Linked to 3rd cycle UPR recommendation no. 144.108: “Strengthen its national mechanisms and international cooperation to combat trafficking in persons and, particularly, child sex tourism” (Honduras) and no. 144.109 “Continue efforts to combat human trafficking and ensure that special attention is given to vulnerable groups when applying the law adopted in this regard” (Qatar).

UNHCR wishes to commend efforts deployed by Morocco to the development of a National Commission responsible for coordinating measures aimed at combating and preventing human trafficking. The *Decree No. 2-17-740*⁷ of 6 July 2018 sets the composition and operating procedures of a National Commission, created by *Law No. 27.14 on Human Trafficking* adopted on 25 August 2016. This Commission is composed of 23 members representing ministerial departments and security bodies, national institutions, and civil society organizations. On 3 June 2018, the Public Ministry published a circular on the protection of victims of human trafficking intended for public prosecutors at both first instance and appeal courts on the implementation of *Law No. 27-14*, and more specifically the section relating to the support of victims, their protection and the provision of relevant assistance.

Linked to 3rd cycle UPR recommendation no. 144.165: “Take further targeted measures to promote inclusive education for all (Armenia)”; **no. 144.168:** “Continue to strengthen

⁷ Décret n° 2-17-740 du 6 juillet 2018 fixant la composition et les modalités de de la Commission nationale chargée de la coordination des mesures ayant pour but la lutte et la prévention des êtres humains, available at: https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=fr&p_isn=107933&p_classification=01.05#:~:text=Nom%3A-D%C3%A9cret%20n%C2%B0%202%2D17%2D740%20du%206%20juillet%202018,la%20pr%C3%A9vention%20des%20C3%AAtres%20humains

further the right to education (Mauritius)”; no. 144.171: “Implement measures to ensure inclusive education for all at the primary, secondary and university levels” (Portugal);” and no. 144.178: “Increase efforts to ensure the school enrolment of all children at the primary and secondary levels” (Turkey).⁸

In 2018, the Ministry of National Education and Vocational Training set up an organizational and educational framework which aims to facilitate the integration of children and young people from migration and asylum without distinction of nationality into the Moroccan training and education system. This framework is accompanied by *Note no. 18/139 of 5 October 2018* from the Ministry of Education supplemented *Circular no. 13-487 of 9 October 2013*⁹ which provides for an open and free access for foreign students from Sahelian and sub-Saharan countries to Moroccan public education establishments. The *Note* contains measures related to awareness, reception and registration, pedagogical and educational support, as well as the assessment process for migrant children. In addition, circulars *135-18* and *0101-19* guided the creation of a commission at the level of provincial delegations and regional academies to monitor the implementation of the educational integration system for migrants. On 29 April 2021, the Ministry of Education and UNHCR signed a reference Partnership Agreement concerning the further integration of refugees in the national education system. In particular, the Ministry committed to integrating more than 2,000 students and trainees into the various schools and vocational training establishments.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 3rd cycle UPR recommendations

Issue 1: Adoption of the *Draft Law on Asylum and protection against refoulement*

Linked to 3rd cycle UPR recommendation no. 144.239: “Thoroughly review the national legislation on migration and asylum” (Honduras); and no. 144.240 “Speed up the review of the legal framework on migration and asylum in order to align it with the International Covenant on Civil and Political Rights” (Uganda)

UNHCR welcomes the positive efforts taken by the Government of Morocco to develop a *Draft Law on Asylum*. However, nine 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. The BRA and the *ad hoc* commission are still working with transitional measures, pending the final adoption of the *Draft Law* and the creation of the National Office of Asylum. There is still 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

⁸ See also Recommendations no. 144.174 (South Sudan), no. 144.175 (State of Palestine) and no.144.176 (Sudan).

⁹ Circulaire n° 13-487 du 9 octobre 2013, available at: https://www.ccme.org.ma/images/documents/fr/2013/11/Circulaire_13-487_Ministere_de_Education_Nationale_inscription_elevés_etrangers_FR.pdf

against *refoulement*.

Issue 2: Children’s right to a nationality and protection against statelessness

Linked to 3rd cycle UPR recommendation no. 144.242: “Accede to and domesticate the conventions relating to the status of stateless persons and the reduction of statelessness in order to grant nationality to children who would otherwise remain stateless (Kenya)”; **and no. 144.136:** “Improve the existing procedures for registering children to guarantee equality for children and equal legal treatment without any discrimination” (Serbia).

Despite the amendments to the Moroccan *Nationality Code* in 2007 and 2011,¹⁰ which addressed serious legislative gaps concerning statelessness in Morocco, some challenges that may lead to statelessness persist. For example, children of stateless refugees who arrive in Morocco will inherit the statelessness 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. 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. In addition, many refugee and asylum seekers, mostly single mothers, fail to register their new-borns as some hospitals withhold birth notification documents pending payments, which increases the risk of statelessness.

Recommendations:

UNHCR recommends that the Government of Morocco:

- 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;*
- c) *Establish a national legal framework for the protection of stateless persons in accordance with the 1954 Convention relating to the Reduction of Statelessness; and,*
- d) *Explicitly extend the free nature of maternity services to maternity wards of University Hospital Centres (CHU) in view of increasing access to civil status documentation (birth certificates, etc.)*

Additional protection challenges

Issue 3: Legal protection

The issue of access to residency permits and the renewal of documentation has significant consequences on the access of refugees and migrants to their rights and services. According to a survey among refugees in Morocco on the impact of COVID-19 on their socio-economic and psychological situation (conducted by the Haut-Commissariat au Plan in 2020 in partnership with UNHCR), only 55% of refugees declared they were in possession of a valid stay permit.¹¹ The number of refugees without access to stay permits is only increasing, mainly due to the fact that the number of refugees is increasing while the activities of the BRA have slowed down and the required documents for the proceeding are extremely difficult, and at times not possible, to obtain (e.g. lease contract, valid passport,

¹⁰ *Maroc: Code de la nationalité marocaine (2011)* [Morocco], Dahir n. 1-58-250 du 21 safar 1378, 6 September 1958, available at: <https://www.refworld.org/docid/501fc9822.html>

¹¹ Haut-Commissariat au Plan, *Enquête sur l’impact de Covid-19 sur la situation socioéconomique et psychologique des réfugiés au Maroc*, 24 September 2020, available at: https://www.hcp.ma/Enquete-sur-l-impact-de-Covid-19-sur-la-situation-socioeconomique-et-psychologique-des-refugies-au-Maroc_a2593.html

employment contract). Their local integration and empowerment are compromised in the absence of residence permits, creating precariousness and the risk of irregular secondary mobility among these populations. UNHCR's partnership efforts with the private sector to create job opportunities are hampered by the lack of residence permits. Further, UASC without a stay permit cannot access national programs dedicated to children in a regular situation. This hinders their integration into Moroccan society. Without a residence permit, the UASC continue to encounter difficulties in relation to integration into school and access to health services.

Recommendations:

UNHCR recommends that the Government of Morocco:

- a) Facilitate the issuance of residency permit to any person recognized as a refugee by the Bureau des Réfugiés et Apatrides, as well as to their spouse and children;
- b) Ensure that Syrian refugees benefit from proper legal status and residence permits, in order to guarantee their unimpeded access to fundamental rights; and,
- c) Relax the measures for renewing residence permits, by broadening the type of supporting documents that UNHCR recognized refugees can present.

Issue 4: Child Protection

In view of the growing presence of unaccompanied children seeking asylum in Morocco (75 unaccompanied refugee children and 1.124 unaccompanied asylum-seeking children registered by the office as of December 2021), 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, they are not receiving appropriate humanitarian 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: Social inclusion

UNHCR wishes to commend Morocco for the development of the National Strategy for Immigration and Asylum (NSIA), launched in 2013, which gives access for UNHCR recognized refugees and asylum-seekers to public Moroccan schools and to primary healthcare centers. In this spirit, refugees and asylum-seekers were also included in the COVID-19 vaccination campaign. As Morocco works on its Social Protection reform which aims at supporting the most vulnerable people living in Morocco, an inclusive policy should be pursued.

Recommendations:

UNHCR recommends that the Government of Morocco:

- a) Pursue the effective inclusion of refugees in national social protection systems, as well as health and education services.

Issue 6: Protection from discrimination and abuse

Morocco is a multi-ethnic and multicultural society and a country that values diversity (as is enshrined in the 2011 Constitution¹²), tolerance and humanist approaches to issues of human mobility. However, like many other countries, it also faces some forms of racial discrimination. "Along with historically rooted forms of inequality and discrimination, changing migration patterns mean that Morocco is now confronted with additional challenges relating

¹² Constitution du 18 juillet 2011 alinéa 2 <https://www.refworld.org/docid/3ae6b5454.html>

to racial inequality and xenophobia due to its status as a country of origin and transit, as well as of destination, for migrants”.¹³

Asylum-seekers and refugees from Sub-Saharan countries report regularly, to UNHCR and its partners, being victims of racist acts, mainly on the street, in the form of verbal and physical assaults. Some of them report also being discriminated against in renting housing (refusal to rent to certain nationalities, abuse of the lessor, etc.). UNHCR is also called in cases of police interventions involving risks of forced displacement to southern localities. In 2021, 152 UNHCR persons of concern were arrested for identity checks. Among those, 50% were released after UNHCR intervention as the rest were displaced by authorities to southern localities. Violence committed by security forces against asylum-seekers and refugees has also been reported.

The complaints are rarely followed-up on, because *inter alia*: the perpetrators are unknown or there is a lack of proof, the victims renounce to their complaint (sometimes due to pressure from the perpetrator’s family), or the victims are unwilling to approach or work with the judicial police during the investigation. UNHCR provides legal assistance to asylum-seekers and refugees through its legal partner. This partner has reported that specific complaints and condemnations under Article 431¹⁴ of the Criminal Code are rare.

Recommendations:

UNHCR recommends that the Government of Morocco:

- a) Facilitate the recording and investigation of police complaints filed by asylum-seekers and migrants, regardless of their origin and administrative situation.

UNHCR
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¹³ UN Human Rights Council, *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Visit to Morocco*, 28 May 2019, A/HRC/41/54/Add.1, para. 6, available at: <https://undocs.org/A/HRC/41/54/ADD.1>

¹⁴ Morocco: *Code Pénal* [Morocco], 26 November 1962, available at: <https://www.refworld.org/docid/54294d164.html> [accessed 2 February 2022]