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MOROCCO'S MIGRATION POLICY AT STAKE – BETWEEN FOREIGN POLICY GAINS AND HUMAN RIGHTS COSTS

Tachfine Baida

Morocco's adoption of a new migration policy in the aftermath of the so-called Arab Spring has resulted in paradoxical outcomes. Whereas this strategy has succeeded in serving Morocco's diplomatic interests in sub-Saharan Africa, particularly through bolstering its image as a regional power, its effectiveness in protecting migrants' rights and promoting their integration at a domestic level has been limited. Furthermore, with the arrival of more migrants in the country and growing pressure to increase surveillance at its borders, Morocco has shown ambivalence in its treatment of migrants. If the Moroccan government wants to maintain its image as a regional "leader" on migration, considerable efforts to adjust policy need to be made. It is particularly recommended that Morocco: establishes a mechanism to prevent acts of violence against migrants, expedites the adoption of a migration and asylum law in line with international human rights standards, and allocates more funds to integration and protection programs.

Long disregarded by Moroccan policymakers, sub-Saharan Africa has been the focus of much attention in recent years. In the power vacuum created with the retreat of North African powers following the 2011 upheavals, Morocco saw an opportunity to be seized. The political instability of regional powers such as Libya and Egypt provided Morocco prospects for (re)claiming a key role in Africa. One of the main aspects of this foreign policy shift consisted of representing the country as a safe haven for migrants. In 2013, under the initiative of King Mohammed VI, the country adopted the National Strategy for Immigration and Asylum, (SNIA), with the aim of "ensuring a better integration of migrants and a better management of migratory flows in the framework of a coherent, global, humanist, and responsible policy."⁶⁰ Since the SNIA's adoption, Morocco has sought to display the image of a host country that welcomes migrants. Breaking with the view of migration as a problem, official discourses represented it as an opportunity. In parallel, two campaigns to regularize migrants

were conducted in 2014 and 2017, which benefitted some 50,000 individuals, most of whom come from sub-Saharan African countries.⁶¹

Morocco's adoption of the SNIA contributed substantially to reinforcing the country's diplomatic ties with African countries. King Mohammed VI's appointment as the African Union "Champion" of Migration only one year after Morocco's return to the pan-African organization became emblematic of the country's new role as a regional model for migration management in Africa. On the occasion of the 30th ordinary session of the Assembly of Heads of States and Governments of the African Union (AU) in January 2018, the King submitted a report entitled "For an African Agenda on Migration." The report boldly advocates an "Afro-centric and humanistic" approach to migration. It dismisses control of migratory flows as ineffective in addressing the root causes of migration and recognizes migration as an opportunity for development.⁶² In December 2018, Morocco was mandated by the AU to host an African Observatory on Migrations within its territory, the first institution of its kind on the continent.

The strategy of positioning Morocco as a regional model for managing migration in Africa also paid off at a global level. Indeed, the SNIA was effective in attracting the interest of Western donors to fund numerous programs and projects associated with migration. In the view of many donors, including the European Union (EU), the SNIA provided a framework to facilitate the integration of migrants in Morocco and prevent them from seeking further opportunities in Europe.

The Pitfalls of Morocco's Migration Policy

Morocco's decision to enact a new policy on migration management proved effective insofar as it enabled the country to strengthen its ties with African countries as well as with the EU. Nevertheless, whereas the SNIA initially resulted in positive outcomes for Morocco's diplomacy, the country seems to be facing increasing difficulties with migration at the domestic level. At the same time as Moroccan officials continue to depict Morocco as a safe haven for migrants, migrants' rights in Morocco have shown little improvement. Furthermore, recent

⁶⁰ Royaume du Maroc, "Politique Nationale d'Immigration et d'Asile 2013-2016," (2016).

⁶¹ Hassina Mechaï, "Maroc: au-delà du pacte de Marrakech, faire entendre sa voix en Afrique, Le Point Afrique, December 19, 2018 <http://afrique.lepoint.fr/actualites/maroc-au-dela-du-pacte-de-marrakech-faire-entendre-la-voix-de-l-afrique-page-3-19-12-2018-2280798_2365.php> (accessed May 11, 2019).

⁶² African Union, "For An African Agenda on Migration: Report of His Majesty King Mohammed VI, King of Morocco, Leader on Migration, to the 30th Ordinary Session of the Assembly of Heads of State and Government of the African Union," January 2018.

developments have shown the limits of the Moroccan approach to managing migration. Most importantly, the upsurge of acts of violence against migrants, the ongoing absence of a legal framework for asylum and migration, and the lack of prospects for migrants' socioeconomic integration have threatened the sustainability of the SNIA. In the long-run, this could result in damage to Morocco's relations with both its African neighbors as well as with the EU.

Resurgence of Violence Against Migrants

Perhaps the best illustration of Morocco's ambivalent approach to migration is the resurgence of violence against migrants in the country. In 2018, the Italian government's decision to block migrants arriving by sea resulted in increased numbers of migrants crossing the Mediterranean through Morocco and Spain. As a result, EU states started to pressure Morocco to increase border surveillance and stop illegal crossings. Although Rabat officially refused,⁶³ state authorities conducted violent operations to disperse migrant populations in the country. In the summer of 2018, hundreds of migrants were deported from the regions of Tangiers, Tetouan, and Nador to the south of the country.⁶⁴ In the same period, migrant camps along the northern coast were destroyed and several migrants were expelled from the territory.⁶⁵ These operations were conducted outside of any legal basis or procedure.

Acts of racism and discrimination against migrants also continue to plague the atmosphere in the country. As described in a report by the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance, many migrants have reported experiencing acts of discrimination when seeking access to public services, including healthcare, education, and employment.⁶⁶ Several civil society organizations also report a rise of racism in the country, criticizing the fact that acts of discrimination committed against migrants of color often remain unpunished.

Lack of Long-Term Integration Prospects

Whereas the SNIA was supposed to set the stage for the establishment of a legal framework for migration in Morocco, the government has not yet introduced adequate reforms to ensure the proper integration of migrants in the country. Current legal provisions can be problematic. For example, Law 02-03 on the entry and residency of foreigners in the Kingdom of Morocco and on irregular emigration and immigration has not been amended since its adoption. This law, adopted in the aftermath of the 2003 terrorist attacks, has today become obsolete insofar as it can be used to legitimize the expulsion of migrants from the country. The law refers to "foreigners who constitute a threat to public order" (Articles 4, 14, 16, 21, and 25), and allows authorities to expel them from Moroccan territory (Article 25). What a "threat to public order" means however is not defined, which can potentially result in abuses.⁶⁷ In addition, Moroccan authorities are still unable to process asylum claims. The Office of Refugees and Stateless Persons (BRA) which opened in 2013, is not functional because there is no legal basis that allows it to process asylum claims. In the absence of a working mechanism in Morocco, the United Nations High Commissioner for Refugees (UNHCR) is still taking responsibility for receiving and processing asylum claims, as well as providing relevant protection for refugees.

Despite Rabat's official refusal, authorities used violence against migrants

Five years after the adoption of the SNIA, migrants still face substantial difficulties settling in Morocco. In spite of state discourses, very few migrants, even those who have benefitted from the two regularization campaigns, are able to make a decent living

63 In a press conference held on 26 October 2018, Foreign Minister Nasser Bourita said that "Morocco has never been and never will be the police of anyone." <<https://lematin.ma/journal/2018/nasser-bourita-maroc-n-ete-n-sera-gendarme/303571.html>> (accessed May 11, 2019).

64 GADEM, "Coûts et blessures : Rapport sur les opérations des forces de l'ordre menées dans le nord du Maroc entre juillet et septembre 2018" <https://www.lacimade.org/wp-content/uploads/2018/10/20180927_GADEM_Couts_et_blessures.pdf> (accessed May 11, 2019).

65 GADEM, "Expulsions gratuites: Note d'analyse sur les mesures d'éloignement mises en œuvre hors de tout cadre légal entre septembre et octobre 2018," 2018.

66 Office of the High Commissioner on Human Rights, "Déclaration de fin de mission de la Rapporteuse spéciale sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l'intolérance qui y est associée à l'issue de sa mission au Royaume du Maroc," December 21, 2018.

67 Royaume du Maroc, Loi n° 02-03 du 20 novembre 2003 relative à l'entrée et au séjour des étrangers au Royaume du Maroc, à l'émigration et l'immigration irrégulières. <http://www.ilo.org/dyn/natlex/docs/SERIAL/83963/93068/F122010_3868/MAR-83963.pdf> (accessed May 11, 2019).

in the country. While the government adopted several decrees to allow migrants and Moroccans equal access to public services, national social services still lack the capacity to respond to vulnerable migrants' needs. As a result, migrants often find it challenging to access basic services, including healthcare, emergency housing, and employment services.⁶⁸ Instead of investing more resources to provide these services to migrants, Morocco has been encouraging so-called voluntary return plans, which provide financial aid to migrants to return to their home countries. However, these strategies are controversial and do little to serve the objectives of the SNIA.

Funds directed at protection programs have been steadily diminishing

Making EU Border Security a Priority over Migrants' Protection

Faced with what has been labelled as "Europe's migrant crisis," a number of foreign aid instruments have been developed by European states to address migration flows.⁶⁹ Given its central position in migratory movements, Morocco has, in the past few years, been one of the main recipients of this aid. One of the main instruments currently targeting Morocco is the European Union Trust Fund (EUTF), for addressing the root causes of irregular migration in Africa. Established following the Valetta Summit in 2015, this multi-donor fund is meant to provide quick and effective funding for projects aimed at ensuring stability through better "management of migration."⁷⁰ Nonetheless, while this fund was initially meant to address the actual causes of migration in close cooperation with recipient governments in Africa, much of this aid is being unilaterally diverted to border security management. Indeed, with the growth of illegal crossings to Spain in 2018, the EU has been pushing for the reallocation of the EUTF to border manage-

ment on the southern Mediterranean coastline. Since 2018, the EU has adopted two major projects aimed at enhancing border authorities' capacity to stop illegal crossings in the western Mediterranean, totaling of €95 million. At the same time, funds directed at protection programs have been steadily diminishing. As of December 2018, they represented a mere 10 percent of European cooperation dedicated to migration in Morocco.⁷¹ With Moroccan authorities still unable to respond to basic migrants' rights, there is serious cause to fear that numerous migrants in vulnerable conditions could suffer from the consequences of this trend.

Whereas border management might seem imperative in the light of recent political developments in Europe, it does not address the root causes of migration and does not serve the purposes of the SNIA. Border management is unproductive and results in creating a security focus uncondusive to integration. The management of foreign aid dedicated to migration seems to be increasingly ruled by a narrow security vision at the expense of a broader development approach. In the long-run however, protection and integration programs can be more effective in limiting irregular migration. Research already suggests that a considerable number of migrants in Morocco may not want to go to Europe if the conditions guaranteeing their integration and protection are present. According to a study carried out by the Université Internationale de Rabat, 67 percent of migrants claim that they would rather stay and live in Morocco than go to Europe.⁷² It is the ongoing lack of perspectives for socio-economic integration that makes migrants eventually abandon prospects of staying in Morocco.

Recommendations

Morocco's SNIA has proved to be a useful policy insofar as it has enabled the country to bolster its reputation in both Africa and Europe. Yet the government's inability to address migrants' rights domestically may substantially limit its impact. As such, urgent steps need to be made to ensure the integration of migrants, and thus safeguard Morocco's diplomatic interests abroad.

68 Plateforme Nationale de Protection des Migrants, "Etat des lieux de l'accès aux services pour les personnes migrantes," 2017.

69 Tubiana Jérôme et al., "Multilateral Damage: The impact of EU migration policies on central Saharan routes," Clingendael, September 2018 <<https://www.clingendael.org/sites/default/files/2018-09/multilateral-damage.pdf>> (accessed May 11, 2019).

70 "Plan D'Action" Valetta Summit on Migration, 2015 <<https://www.consilium.europa.eu/media/21838/action-plan-fr-2.pdf>> (accessed May 11, 2019).

71 European Commission, "EU Cooperation on Migration with Morocco," December 2018 <<https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/eu-morocco-factsheet.pdf>> (accessed May 11, 2019).

72 Fouzi Mourji et al., Migrants subsahariens au Maroc : enjeux d'une migration de résidence," Konrad Adenauer Stiftung, Rabat, 2016.

- Establish a mechanism to ensure respect for migrants' rights

The first step for Morocco to reclaim its credibility as a regional “leader” on migration and ensure the sustainability of the SNIA is to prevent any further acts of violence against migrants. Preventing violence not only means providing funds for training and sensitization campaigns for the police, who have insufficient resources to ensure the protection of migrants' rights. More efforts to fight the abuse of force and impunity need to be made. The government should establish an independent mechanism to monitor respect for migrants' rights, hosted within the Conseil National des Droits de l'Homme (Moroccan Council of Human Rights). The latter, which already works on safeguarding human rights in the country, could be given a mandate to specifically monitor migrants' rights, receive relevant complaints, and ensure their follow-up with the judiciary.

- Expedite the adoption of a legal framework on migration and asylum

The migration policy enacted by Morocco since 2013 remains incomplete without a clear legal framework for migration and asylum that is in line with international human rights standards. The most urgent reform is to revise Law 02.03 on the entry and residency of foreigners in the Kingdom of Morocco, irregular emigration, and immigration. It is important to adopt a comprehensive law that grants migrants the same rights as nationals in terms of access to basic services. The second step is for the Moroccan government to accelerate the adoption of an asylum law. The government should establish a clear and transparent legal framework that defines the procedures and modalities of granting asylum. As such, the BRA should be transformed into a functional body in charge of identifying refugees and providing them with the protection they need.

- (Re)allocate funds and foreign aid to prioritize integration and protection programs

The government should be able to better channel public development aid into programs that can contribute to the integration of migrants in the country. The Moroccan government and its European partners should allocate more funds to protect migrants' rights and ensure their integration, rather than spending them on border policing. The EUTF represents a cooperation instrument that can be used in this respect. For example, it would be advantageous

to build on the capacity of national institutions in charge of providing social services to migrants, such as the Entraide Nationale. More funds should also be allocated to NGOs in contact with migrants, especially in the fields of healthcare, professional training, emergency housing, and legal aid. Morocco can capitalize on its own experience hosting migrants to better negotiate programs with international donors – including the EU – that are most relevant to ensuring the integration of migrants in the country.

Tachfine Baida currently works as a human rights expert.