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Protecting migrants and refugees in North Africa: CHALLENGES AND OPPORTUNITIES FOR REFORM

MIGRATION

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This paper looks at asylum, reception and migrant protection systems in Morocco, Tunisia, Algeria and Egypt. It seeks to understand some of the dynamics driving or preventing reform of these systems and proposes some initial entry points for international cooperation.

The new European pact on migration and asylum puts renewed emphasis on the EU's partnerships with third countries, and over the years the EU has already worked towards developing closer migration partnerships with North African countries, albeit with varying degrees of success. The four countries covered by this study are countries of origin, transit and destination, and each is characterised by complex displacement and migration dynamics. They have shown very differing levels of interest to reform reception, asylum and migrant protection systems, and to cooperate closely with the EU on migration issues.

COVID-19 has exacerbated many of the existing political and economic issues faced by these countries, including high youth employment and a deterioration of public services, posing renewed challenges for local populations and migrant populations alike. This means that any cooperation will need to include a strong understanding of underlying political interests, local contexts and capacities. We map out some of the factors influencing prospects for reforming reception and asylum systems in these four countries, and indicate some initial ideas for how the EU and its member states can offer support and help strengthen migration governance and protection systems in the region.

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Acronyms

ANAPEC	National Agency for the Promotion of Employment and Competencies
APS	Algérie Presse Service
CNDH	Conseil National des Droits de l'Homme
COVID	Corona virus disease
CSO	Civil society organisation
EC	European Commission
ECDPM	European Centre for Development Policy Management
EU	European Union
GADEM	Groupe Antiraciste de Défense et d'accompagnement des Etrangers et Migrants
GCM	Global Compact on Migration
GERD	Great Ethiopian Renaissance Dam
GFMD	Global Forum for Migration and Development
GMDAC	IOM's Global Migration Data Analysis Centre
HRW	Human Rights Watch
IOM	International Organisation for Migration
MoU	Memorandum of Understanding
NGO	Non-governmental organisation
NSIA	National Strategy on Migration and Asylum
OAU	Organisation of African Unity
OHCHR	Office of the United Nations High Commissioner for Human Rights
PNPM	Plateforme Nationale Protection Migrants
SNIA	Stratégie Nationale d'Immigration et d'Asile
SSA	Sub-Saharan Africa
TAP	Tunis Afrique Presse
UN	United Nations
UN DESA	United Nations Department of Economic and Social Affairs
UNHRC	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNTC	United Nations Treaty Collection
WB	World Bank

1. Introduction

With the European Pact on migration and asylum, revealed by the European Commission (EC) on 23 September 2020, the question of how to govern migratory flows is back on top of the political agenda in Europe. The Pact puts renewed emphasis on partnerships with third countries, including through a strong focus on combating migrant smuggling¹ and on cooperation on return and reintegration, embedded in broader post-pandemic recovery support. It also pays specific attention to helping forcibly displaced and their host communities and supports the strengthening of reception, protection and integration systems. It is hoped this will help reduce incentives for transit migration to the European Union (EU) - a key interest of the European Union and individual European governments. These proposals will not come as a surprise to countries in North Africa, with which the EU and some of its members have - with varying degrees of success - tried to develop closer migration partnerships over the years.

The North African region is characterised by complex displacement and migration dynamics. While Morocco, Egypt, Tunisia, and Algeria have long been countries of origin for migrants going to Europe, their immigration and emigration flows have evolved over time. They are today countries of origin, transit and destination for various types of migrants from Sub-Saharan African (SSA) countries. A range of border measures ranging from border fences and investments in surveillance equipment to laws criminalising immigration and emigration have made passage to Europe through North African countries more difficult. This has in turn contributed to the rising migrant population in these countries. The motivations of migrants arriving in North African countries and their protection needs and claims under international law vary. Given limited standards, legislative systems and regulations, this 'mixed migration' scenario has put reception and protection systems for migrants and refugees in these countries under pressure.

The COVID-19 situation has exacerbated many of the existing **political and economic challenges** these countries face, including high youth unemployment (between 21.9% and 36.5% according to official statistics (WB 2020)), deteriorating public services, human rights abuses, and a host of governance and corruption challenges. The ongoing second wave facing parts of the region and major trade partners in Europe makes it unlikely that vital sectors like tourism and energy will pick up anytime soon, while remittances - a vital source of foreign currency for several countries in the region - have also been badly hit. Over the summer months as joblessness and economic difficulties grew in the aftermath of strict lockdowns, irregular migration from the Maghreb itself rose significantly after a lull during the spring lockdowns.² By late August 2020, UNHCR had registered over 8,000 Tunisians, 5,000 Algerians and nearly 3,000 Moroccans amongst those who arrived in Europe by sea or land through the Mediterranean (UNHCR 2020 N.d.). It is worth noting that Tunisians and Algerians were the most common nationalities arriving in Europe through these routes, followed by Bangladeshis, Syrians, Afghans, and Moroccans, while sub-Saharan African migrants transiting through North Africa were much less common.³ Against this backdrop, migrants in Egypt, Tunisia, Morocco and Algeria have been hit hard - not only as they feel the impact of economic downturn in the form of loss of work opportunities, but also because government responses have tightened restrictions on mobility.

¹ On 13 July, EU Home Affairs Commissioner Ylva Johansson and Interior ministers from North and North-West African countries (Mauritania, Tunisia, Algeria, Libya and Morocco), Southern European states and Germany held an online conference to discuss smuggling, human trafficking with a view to reinvigorate or deepen cooperation on preventing irregular migration to Europe.

² Although they still remain far below those numbers that were experienced between 2015-17.

³ Overall, Frontex data shows that Afghan nationals have been amongst those nationalities with most detected irregular border crossings from January 2020 to August 2020 followed by Tunisia and Algeria, see Frontex 2019.

Before COVID-19, commitment to building migration and asylum governance systems and reforming migration laws varied, as did the willingness to cooperate closely with the EU on these sensitive issues. The EU itself points out in its Pact that *'possibilities today to work with third countries [on these aspects and beyond providing humanitarian aid] are limited'* (EC 2020). It is clear that COVID-19, by accentuating socio-economic difficulties across the region, will further complicate the process of reforming asylum and migration systems. However, understanding public concerns, reform dynamics and political interests is vital in order to devise engagement strategies between the EU and North African actors. This paper thus sets out to explore refugee, asylum and protection systems in four countries that have been targeted by European migration diplomacy: Algeria, Egypt, Morocco and Tunisia. The paper summarises key findings of four case studies⁴ on the state of play of asylum and reception governance, both at the level of policy and practice. The paper briefly describes migration dynamics between Sub-Saharan African countries and the four case countries. It then looks more closely at existing laws and policies for asylum and migrant reception and protection (section 3) and at the main factors influencing interests and prospects for reform (section 4). The final section explores possible entry points for international cooperation.

2. Current migration dynamics between sub-Saharan Africa and North Africa

Migration dynamics vary quite substantially across North Africa, although Morocco, Algeria, Tunisia and Egypt all experience mixed migration flows. In the Maghreb, the vast majority of migrants come from the Sahel and West Africa, with variations in the nationalities represented across the three countries. Morocco, Algeria and Tunisia have also received Syrian and other Arab asylum seekers and refugees. Tunisia also hosts a large Libyan population on account of the ongoing conflict there. Egypt on the other hand largely plays host to migrant and refugee populations from Sudan, the Horn of Africa, Syria, Yemen, Iraq and Palestine.

When considering migration dynamics between the Sahel and North Africa, it is worth noting that they have changed significantly in recent years due to the outbreak of conflict in Libya and Mali. Traditionally, people moved back and forth across the borders between the Sahel and North Africa, notably between Mali, Niger, Libya and Algeria for commercial, family, or even health reasons, especially the Touareg. Before 2011, Libya was an important destination country for many migrants from Sub-Saharan Africa and some North Africans, notably Tunisians and Egyptians, rather than the transit country it became in the aftermath of the 2014 civil war. Meanwhile, the outbreak of conflict in Mali and the growing terrorist threat across the Sahel, combined with the already extreme human development issues in the region, created additional push factors (Musette and Khaled 2012). With stricter border measures applied to the central Mediterranean route through Libya to Europe in 2017 and the horrific human rights conditions faced by migrants in detention centres in Libya, migratory pressures expanded further in other parts of North Africa (Pronczuk 2019, Bozonnet 2018). Similarly, in the last two decades, protracted instability, political violence, and wide-spread livelihood insecurity across the Horn of Africa and Sudan changed the migration dynamics originating from the Horn and Sudan to Egypt.

IOM estimates that there are about 100,000 migrants and refugees in **Morocco** (UN DESA 2019), of which approximately half are female, but no official estimates of the number of irregular migrants exist and some estimates suggest there are several hundred thousand irregular migrants (Ghazouani El 2019). Two regularisation processes were conducted in 2014 and 2016, in which over 50,000 refugees and migrants from over 110 countries received residence permits which were to be valid for three years and automatically extended unless offences were committed. Senegalese (25%), Syrians (20%) and Nigerians (9%) were the main nationalities of migrants who

⁴ These are published as Annexes and can be found at [ECDPM's Migration publications](#).

participated in this process (Schuettler 2017). Nationals of Gabon, Niger, Senegal and Cote d'Ivoire can gain legal entry into Morocco through visa facilitation agreements with their countries of origin, allowing them to stay for three months without a visa (Kingdom of Morocco N.d.). Some proceed to outstay their visas, while irregular entry occurs through the Algerian border near the town of Oujda, or through Mauritania and the Western Sahara. The original intention of many of these arrivals to Morocco is to continue their journey to Europe, but many migrants also move to Morocco to work, for commercial purposes (petty trading) or to study. (Bendra 2019). UNHCR reports a total of about 8,000 registered refugees and asylum seekers, of whom almost half are Syrians (UNHCR May 2019).

UN DESA estimates that **Tunisia** hosts approximately 57,500 international migrants (Migration Data Portal 2019). Many of the sub-Saharan African nationals in Tunisia are labor migrants or students who enter Tunisia through regular channels, but as in Morocco some of them overstay their visas, turning them into irregular migrants (ICMPD 2019: 29; Mixed Migration Hub 2018). UNHCR registered 2,066 new refugees and asylum seekers during 2019 (86% of which had transited through Libya), resulting in an increase of 155% of the overall registered refugee population within one year (UNHCR 2019a). Most of them left Libya to escape the security situation and rampant exploitation and abuse they were facing there, including some Eritreans, Sudanese and Somalians (Interview, January 2020). According to UNHCR in 2019, 56% of migrants and refugees arrived in Tunisia by land (43% in 2020), 33% by sea (42% in 2020) and 11% by air (15% in 2020), through regular and irregular channels (UNHCR 2019b; UNHCR 2020a).

Algeria shares vast frontiers with Mali (1,359 km), Niger (951 km) and Libya (989 km), and although these frontiers are policed by thousands of soldiers, the Head of Mission of the IOM in Algeria, Paolo Giuseppe Caputo, has suggested that an average of 500 people cross the border into Algeria in an irregular way every day, meaning Algeria alone receives more irregular migrants each day than all of Europe (Hafid 2019). UN DESA estimates that there are about 250,000 migrants in Algeria (Migrant Data Portal 2019), but other estimates suggest that the figure is more than that.⁵ Nor is the breakdown of nationalities known, although it is clear that Malians and Nigeriens are amongst the main nationalities represented. Reports of expulsions from Algeria also mention a large number of Guineans, as well as smaller numbers of Beninese, Ivoiriens and other West Africans (Olivier 2016). The number of refugees is similarly unclear, with UNHCR noting a figure of approximately 100,000, including vulnerable Sahraoui refugees (UNHCR Global Focus), but other estimates suggest that the numbers are much greater.⁶ The majority of Sub-Saharan Africans who cross into Algeria and are not returned to their countries of origin remain in Algeria rather than trying to make the onward journey to Europe.⁷

UN DESA statistics only note about 500,000 registered foreign born migrants in **Egypt** in 2019 (GMDAC 2019). Many of the migrants however arrive irregularly or without entry restrictions and most choose not to register with UNHCR or with the government. The Egyptian government has in the past cited a number of 5 million migrants (including refugees) (Karasapan 2016) in Egypt, but some experts suggest that Egypt has an interest in amplifying these numbers, not least to pressure international partners such as the EU.⁸ IOM estimates an even higher figure of more than 6 million migrants, of which approximately 1 million are in vulnerable situations (IOM 2020b). As of April 2020, UNHCR has registered 258,910 refugees and asylum-seekers with about 50% coming from Syria, with considerable numbers from Sudan, the Horn of Africa and other Arab countries (UNHCR 2020). But many refugees and asylum seekers do not register with UNHCR so total numbers are higher (Aziz 2017). Estimates of the number of Sudanese refugees and migrants living in Egypt range from 750,000 to 4 million (Tsourapas 2020). There are also around 300,000 Palestinians living in Egypt, many of whom were born in Egypt. Since 2012-2013, and especially after

⁵ Interviews 12 & 18 March and 11 June 2020.

⁶ E.g. ACAPS estimates there are 173,600 Sahrawi refugees (ACAPS 2020).

⁷ Interviews, 12 & 18 March 2020.

⁸ Interview Legal Expert, April 2020.

increased support from the European Union following the ‘EU migration crisis’, the government of Egypt has largely prevented irregular mixed movements from the Northern Coast across the Mediterranean (UNHCR 2020b).

3. Reception, asylum and migrant protection systems in North Africa

Migration and migrant protection - as well as cooperation with the EU - are sensitive issues in all four countries, although protection systems are somewhat more developed in Morocco and Tunisia. Recent draft asylum laws exist in Morocco and Tunisia but have not been adopted. In Algeria asylum legislation drafted in 2012 was not adopted, while Egypt was expected to present an asylum law in 2020. Morocco is the most advanced in advancing a National Strategy on Immigration and Asylum (NSIA), although many legal and policy issues remain. Tunisia has drafted a National Strategy on Migration, but not yet adopted it, while Algeria and Egypt take a highly security oriented approach and have both criminalised immigration and emigration. Major challenges exist across the region, including widespread racism and difficulties accessing work, education and health. In Morocco migrants (including some with legal status) have been transported to the south of the country without warning; in Algeria the detention and mass expulsion of migrants and refugees to Niger have raised the concern of many international observers; while in Egypt migrants are often kept in detention centres inaccessible to NGOs or international observers.

Legal basis for Asylum and Protection

All four countries are parties to the 1951 Refugee Convention, to the 1967 Protocol and voted in favour of the Global Compact on Refugees in 2018 (UN 2018b). Only Egypt made reservations to the 1951 Refugee Convention on labour and social rights (MHUB 2015), personal status, food rationing, and public relief and education (See reservations: UNHCR 1951). All four countries are also signatories to both the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (UNTC 1969) and the 1994 Arab Convention on Regulating Status of Refugees in the Arab Countries. Only Egypt has not ratified both of them.

Morocco’s 2011 Constitution recognizes the primacy of international conventions that Morocco has ratified over domestic law and states that non-nationals should enjoy the same fundamental freedoms as nationals (Maroc: Constitution 2011). The 2014 Tunisian Constitution includes a legal guarantee of the right to political asylum, and a proscription against the surrender of those who have been granted political asylum (Constitution of Tunisia, 2014), making it the first country in the Arab world to make such a guarantee (Geisser 2019: 11). The 2016 Algerian constitution includes an article on the principle of non-refoulement (Article 83), but does not explicitly guarantee the right to asylum (Secrétariat Général du Gouvernement 2016). This does not change in the proposed 2020 Constitution. Article 91 of the 2014 Egyptian Constitution stipulates the granting of political asylum to foreigners who have been persecuted for defending the interests of peoples, human rights, peace or justice (Global Detention Project 2018). This provision allows foreigners in Egypt to seek asylum and prohibits the extradition of political refugees, though not including specifically a prohibition on refoulement (Hetaba et al. 2020). The right to seek asylum and protection from refoulement are stronger under international and regional law (the 1951 UN and the OAU Refugee conventions) which is usually referenced by UNHCR, and is taken as a base for determining asylum claims in practice.

None of the four countries has actually introduced an asylum law despite concerted engagement by UNHCR across the region. In the three Maghreb countries, draft asylum laws have been produced at different moments over the past 10 years, but in none of them have these laws yet been adopted and in Algeria it is likely the process will need to begin again. Morocco acknowledged the need to establish an independent asylum system in its National Strategy

on Immigration and Asylum (NSIA). A *draft law 66-17 on asylum and the conditions for granting asylum* was finalised in 2017 and presented to the government council in September 2018 (Haïti 2019), but it has not been adopted to date. In Tunisia, legislation was also drafted to establish a national protection system for refugees, with the latest version presented by the Ministry of Justice in 2018 and recently submitted to Parliament. The law has not yet been formally adopted or implemented (Bisiaux 2020: 38). The Algerian government produced a draft asylum law in 2012, but that law was not passed and the momentum around the law died down after 2012 as the government focused on reforming the constitution, which it eventually did in 2016, but has since been hit by political crisis and is now revising the constitution again. The Egyptian government does not consider local integration as one of the durable solutions for refugees highlighting only repatriation and resettlement as options for refugees falling under the UNHCR mandate (Aziz 2017). In April 2019, a draft asylum law was reportedly presented internally within the government (Interview, 2020, May 2020), yet it has received little input or advice from UNHCR to date. Interviewees anticipated a new law to be presented in 2020 following several official statements by Egyptian officials at the first Global Refugee Forum in December 2019 and at national events, but COVID-19 may have delayed this.

In each of the four countries UNHCR plays an active role in the management of asylum claims. In Morocco a royal decree from 1957 established the Office of Refugees and Stateless Persons (Bureau des Réfugiés et Apatrides - BRA) and asylum appeal instance within the Ministry of Foreign Affairs (UNHCR 2019d). A later memorandum of understanding with UNHCR from 2007 put in place a joint mechanism between the government and UNHCR for processing asylum claims. In Tunisia, Algeria and Egypt, governments have not put in place national procedures to register asylum seekers and conduct refugee status determination and it is UNHCR that registers asylum seekers and issues refugee ID cards. UNHCR also engages in service provision to refugees and asylum seekers in these countries.

Policies related to the wider migrant population

In terms of policies directed towards the wider migrant population beyond asylum seekers and refugees, there is an even larger variation in the approaches. All four countries have ratified the United Nations Convention against Transnational Organized Crime⁹ and all but Tunisia have signed the International Convention on the protection of migrant workers¹⁰. Morocco, Tunisia and Egypt voted for the Global Compact for Safe, Orderly and Regular Migration, while Algeria abstained from voting (Rush 2018).

Morocco adopted its National Policy on Immigration and Asylum (NPJA) in September 2013 and the National Strategy on Immigration and Asylum (NSIA) in December 2014. It was the first (and to date the only) country in North Africa to regularise about 50,000 migrants, following the adoption of the NSIA. The Moroccan discourse on migration highlights this regularisation process as a major achievement: both as part of its 'Politique Africaine' directed towards Sub-Saharan African countries and in its relations with the EU. The NSIA aims to: "[i] facilitate the integration of migrants in a regular condition, [ii] implement regulatory procedures, [iii] adapt the institutional structure and [iv] manage the flow of migrants with respect for human rights." (Royaume du Maroc 2020). To achieve these and integrate migrants into Moroccan society, the strategy adopted 11 programmes covering social issues, employment, human trafficking, and various other areas.¹¹

⁹ For an overview of the ratification status, see UNTC 2003.

¹⁰ For a status of all the OHCHR treaties, see UNHCR 2020e.

¹¹ Politique nationale d'immigration et d'Asile Rapport 2018 p. 11 "*Elle comporte onze programmes touchant des domaines fondamentaux, à savoir : l'éducation, la santé, le logement, l'assistance sociale et humanitaire, la formation professionnelle et l'emploi, la gestion des flux migratoires et la lutte contre la traite des êtres humains, la coopération et partenariats internationaux, le cadre réglementaire et conventionnel, la gouvernance et la communication.*"

However, the NSIA neither repealed nor replaced *Law 02-031 on the entry and residence of foreigners, illegal emigration and immigration of 2003*¹² (Jacobs 2019). This results in certain contradictions between the new strategy and the law, including crackdowns on migrants. The government has also increased its restrictions on entry and border control measures since 2014 in parallel with the reforms introduced by the SNIA (Schuettler 2017). Further, although the government places priority on the integration of migrants, it has been criticised by NGOs for failing to provide adequate structures to facilitate this (PNPM 2018).¹³

In **Tunisia**, the National Strategy on Migration was officially presented by the Ministry of Social Affairs in July 2017, but it has yet to be formally adopted and implemented. However, it already shapes policies and approaches to some extent, as ministries, government bodies and international organisations follow the line of the strategy in their cooperation and activities (Interview, January 2020). This strategy reaffirms the right to asylum as guaranteed by the Constitution. One of the five objectives of the strategy concerns the development and updating of legislation relating to the protection of the rights of foreign migrants, refugees and asylum seekers in Tunisia. The strategy recognises and guarantees the protection of their rights, no matter what their status or situation, and it states that particular attention will be paid to informal labour. There has also been some progress in the protection of vulnerable people, including migrants, in recent years through the adoption of three laws: the law on the prevention and fight against human trafficking (3 August 2016), which includes strengthened prevention measures for non-Tunisian trafficking victims, who are even more vulnerable due to their irregular status in Tunisia; the law on the elimination of violence against women (11 August 2017), which integrates migrant women; and the law on the elimination of all forms of racial discrimination (23 October 2018).

In **Algeria**, law 08-11 from June 2008 mentions that foreigners who reside in Algeria and wish to work can only obtain residence permits in certain precise circumstances, such as if they have work permits or temporary work authorisations. There is no way for those who have entered the country irregularly to regularise their status, and the law criminalises clandestine immigration and emigration (Journal Officiel 2008). Algeria has signed bilateral agreements with multiple countries of origin, including with Niger and Mali. The Algerian-Nigerian Bilateral Border Committee, created in October 1997, sought to strengthen cooperation between border towns around border security, mobility, irregular migration, and economic cooperation, and cooperation around these issues has intensified since 2015 (APS 2018A). In 2014, Niger and Algeria came to an initial agreement allowing for the forcible return of selected Nigeriens, and other accords have been struck since, but are not publicly available. Since 2017 Algeria has forcibly returned non-Nigeriens to Niger, including some asylum seekers and holders of UNHCR refugee cards (OHCHR 2018).

In **Egypt**, several legal instruments include provisions relevant to immigration and the rights of migrants, including the 2014 Egyptian Constitution, the 1960/2005 Law on Entry and Residence of Aliens,¹⁴ the Criminal Code, selected presidential decrees and specific thematic legislation. Yet, in terms of policies there is little focus on integration of migrants. Egypt passed an anti-trafficking law in 2010 (Law 64/2010 on Combating Trafficking in Persons), which follows the definitions of the Palermo Protocol. It includes provisions for protecting victims of trafficking, yet has been criticised for also criminalising them (EuroMed Rights 2019). An anti-smuggling law was passed in 2016, which criminalises both irregular exit and entry and made it possible to prosecute migrant smugglers following a rise in boats leaving for Italy from Egypt's North coast. It has contributed to a strong decrease in migrants leaving from Egypt's coast. This law is accompanied by a comprehensive strategy to curb smuggling and trafficking covering the

¹² This law criminalised irregular entry and focused on the security aspects of migration. Multiple breaches in the rights of migrants, forceful expulsions and push-backs, particularly against Sub-Saharan Africans, were documented by GADAM in its 2009 report and in a report published by the Conseil National des Droits de l'Homme (CNDH N.d.), which led King Mohammed VI to demand an overhaul of the migration system in Morocco, leading to the National Policy on Immigration and Asylum.

¹³ See interview with a representative from a Moroccan legal NGO 17.02.2020.

¹⁴ Law No. 89 for the year 1960 as amended by Law No. 88 in 2005.

period 2016-2026 as well as two year Action Plans. Article 54 of the Egyptian Constitution, which also applies to non-citizens, provides for the right to challenge detention, while Articles 55 and 56 forbid torture and establish the need for judicial oversight in cases of detention.

Challenges, abuses and discrimination

In all countries, policies and legal frameworks are only partially implemented revealing gaps between global commitments and their applications in practice.

For **Morocco**, rights organisations suggest that the implementation of the NSIA has been very partial, resulting in uncertainty about whether those initially regularised have actually maintained their status (Saga 2019 and Jacobs 2019). Since 2018, Moroccan authorities have rounded up thousands of migrants, refugees and asylum seekers resident in Northern cities and sent them on buses to the south of the country, including occasionally some migrants who have been regularised, without recourse to due process and without allowing them time to collect their belongings (HRW 2019). Authorities also destroyed ad hoc migrant camps containing irregular migrants and asylum seekers (Kasraoui 2017), and arbitrarily suspended some asylum processes (UNHCR 2019b), contradicting the more humane rights-based approach espoused by government officials at national, regional and international forums (Jacobs 2019). Migrants, asylum seekers and refugees also face racism and discrimination in Morocco (Bendra 2019). Morocco reformed its Penal Code to include three articles on non-discrimination and modified its law regarding the implementation of the revised Code to stop incidents of racism against non-nationals and nationals of different descent within the country¹⁵ (Royaume du Maroc 2016). Nevertheless, migrants, especially from sub-Saharan Africa, frequently accuse the Moroccan police authorities of discriminatory actions, such as racial profiling and excessive use of force (Alami 2018). Further, sub-Saharan Africans (and black Moroccans) have found themselves treated as servants, referred to as slave (*Abd*) or servant (*Khadem*) or occasionally been subject to violent attacks, including in the worst cases murders (Menin 2018, King 2020).

Tunisia The most reported challenge for sub-Saharan migrants interviewed in Tunisia is thus access to legal documentation upon the expiry of their three months entry permit, and the inability to legally stay in the country in the longer term.¹⁶ Sub-Saharan Africans reported a growth of verbal and physical racist attacks after 2011 (Natter 2018; Meshkal 2019). In 2018, Tunisia was the first Arab country to introduce a law on the elimination of all forms of racial discrimination, criminalising racist actions and providing protection against all forms of racial discrimination. The law foresees penalties ranging from 1 month to 3 years and fines of 1,000-3,000 dinars (310-925 euros) for acts including racist slurs, inciting hatred, participating in sustained discrimination, and stronger penalties for companies or organisations. However, the country still has important steps to make as was evident following the murder of Falikou Koulibaly, the President of the Ivoirian Association in Tunisia in December 2018 (Aliriza 2019). The government has also not yet established a National Commission to combat racial discrimination as was foreseen by the law (OHCHR 2020).

Algeria came to the attention of international human rights groups and the UN Human Rights Committee in recent years due to the regular practice of dropping migrants, asylum seekers and refugees over the border in Niger. The conditions around these expulsions and the practice of deporting non-Nigeriens in Niger are highly contested (UNHRC 2018, Amnesty International 2018, HRW 2018, Jeune Afrique 2018). In 2018 alone, IOM estimated that

¹⁵ Other relevant legislation includes Article 30 of the Moroccan Constitution of 1 July 2011, which states that foreigners enjoy the same fundamental rights as Moroccan citizens in conformity with the law. Law no 65-99 of Labour Code and Nationality Code 2007.

¹⁶ Difficulties accessing residence permits were reported by three out of four respondents in a survey; all migrant workers interviewed reported that it was virtually impossible for them to regularise their stay in Tunisia upon the expiry of their three months entry permit (Reach & Mercy Corps 2018b: 32).

25,000 people were expelled to Niger, including 14,000 Nigeriens, but also 11,238 other sub-Saharan Africans from countries like Mali, Guinee, Cameroun, Sénégal, Cote d'Ivoire and Nigeria (Pascual 2019). Following a visit to Niger in October 2018, the Special Rapporteur on the human rights of migrants, Felipe González Morales, noted that the agreements on the basis of which these expulsions have been taking place are not public and may not even be written down, raising issues regarding transparency and accountability. He highlighted that due to the lack of individual assessments of legal due process, these forced returns amount to collective expulsions that do not conform with international law. Other abuses included arbitrary detention, beatings, inhumane transportation and being dropped in the desert 25 km from the nearest town (UN General Assembly 2019).

As elsewhere in North Africa, many sub-Saharan African migrants and refugees, as well as black Algerians from the South of Algeria, face racist insults and occasionally even violent attacks. Article 298 bis. of the Penal Code, adopted in 2001, punishes any injury committed towards someone from a different ethnic, philosophic or religious group with imprisonment of 5 days to 6 months and/or a fine of 5.000 DA to 50.000 DA. Another amendment to the Penal Code, Article 295 bis., adopted in 2014, punishes discrimination or public incitement of hatred, including on the basis of race, national or ethnic origin with 6 months to 12 years of prison and a fine of 50.000 DA to 150.000 DA (République Algérienne Démocratique et Populaire 2015). However, testimonies by sub-Saharan African migrants, refugees and students living in Algeria note regular harassment in the street, including insults and even threatening physical behaviour on occasion (Goethe 2018 a&b). High-level Algerian officials and politicians have even on occasion publicly made racist or discriminatory comments (Forson 2017).

Asylum seekers, refugees and other migrants in **Egypt** have faced numerous challenges, such as detention, refoulement, deportation and attacks. While Egypt has no encampment policy, "arbitrary, unlawful detention and trials of migrants in military tribunals for illegal entry into the country is [...] common" according to Human Rights Watch and The Global Detention Project (2018). A number of detention facilities (often as part of prisons, police cells) have been used for detaining migrants who cannot produce relevant documentation. Application of law can vary and can be arbitrary. NGOs and UN agencies do not have access to detention facilities¹⁷ and thus it is not possible to acquire independent information. Reports that do exist emerge from diaspora or migrant family members. Unaccompanied minors are said to be detained as adult criminals, raising particular concerns. Due to COVID-19 and the backlog of registrations, it could be that the number of detained migrants rises.¹⁸

Concerns exist regarding safeguarding human rights, particularly of minority and dissident refugee and asylum populations, raising fears that the institution of asylum could be undermined by the government having access to asylum seekers' data. Several cases of refoulement are known of, and Egypt cooperates with security operatives from Sudan.¹⁹ A second concern relates to the capacity of the government to duly follow procedures. Interviewees perceive that there is a distinct and pervasive lack of understanding of international refugee law within the Egyptian government, trickling down to local administrations and police forces. Accounts and experiences of migrants, and especially women migrants, show that sexism and racism in the form of harassment is prevalent and influences every-day experiences (Al Jazeera 2020). There are major differences between the experiences of Syrians or other Arabs and Sub-Saharan African migrants in this regard.

¹⁷ This is especially the case for those at the Sudanese-Egyptian border.

¹⁸ Interview International Organisation staff May 2020.

¹⁹ Interviews NGO staff, International Organisation staff, scholars, May 2020.

Access to the labour market and right to work

The right to work and access to labour markets for refugees and asylum seekers differs across the four countries. Even if such rights are formally granted, barriers exist in practice, which make it cumbersome to realise them. This is also true for those irregular migrants who were regularised in Morocco, who have the right to work. In all of the four countries the number of migrants, even those with a refugee protection status, who end up working in the informal sector without benefitting from any social or legal protection is significant.

In **Morocco**, labour migrants and asylum seekers are generally granted access to work, subject to the national preference requirement.²⁰ Access to the labour market in the form of a work permit is granted based on a written labour contract, submitted to the authorities. The national preference requirement is often cited by employers as a hindrance to hiring migrant workers, especially low skilled workers, resulting in some migrant workers opting for informal work. On the other hand, refugees have access to employment opportunities without requiring the employer to satisfy the 'national preference' requirement and can be assisted by the National Agency for the Promotion of Employment and Competencies (ANAPEC) in accessing available employment opportunities.²¹ However, bureaucratic barriers exist and discriminatory practices may hinder migrants and refugees from being employed, thus making them opt for self-employment, entrepreneurship and opportunities in the informal sector.

The **Tunisian** legislation stipulates that in order to work in Tunisia, a non-Tunisian must have a residence permit authorising him/her to engage in contracted labour. Authorisations are mostly given to offshore companies and employees of international organisations.²² The majority of sub-Saharan workers in Tunisia are thus employed in the informal sector and do not benefit from any social or legal protection (Geisser 2019: 13). As a result, they are extremely vulnerable to exploitation by their employers, and their irregular status makes it particularly difficult for them to have recourse to the law and enforce their rights (Reach & Mercy Corps 2018b). Since September 2019, recognised refugees in Tunisia who held regular employment with a contract validated by the Minister of Employment or who were self-employed, were able to enrol in the Tunisian social security system, thereby formalising their employment (UNHCR 2019d). In June 2020, a refugee from Sudan was the first to obtain a social security number (TAP news agency 2020).

Law 08-11 from June 2008 mentions that foreigners who reside in **Algeria** and wish to work can only obtain residence permits in certain precise circumstances, such as if they have work permits or temporary work authorisations. There is no way for those who have entered the country irregularly to regularise their status, and the law criminalises clandestine immigration (Journal Officiel 2008). Migrants who have found employment and whose employer is willing to sponsor them are still not able to regularise their status. Many migrants have faced harassment and even expulsion regardless of their juridical status. Migrants with work permits and refugees have on occasion been amongst those expelled from the country (Jeune Afrique 2018). Meanwhile, refugees in Algeria do not have access to work permits and thus rely on informal work and support from UNHCR and various NGOs (UNHCR 2020d).

Egypt has a highly regulated and constricted access to the labour market for migrants. It made a reservation to the provision in the 1951 Refugee Convention as regards the right to work, noting that it would not put refugees on an equal footing with nationals, and thus there is no general right to work for asylum seekers or refugees in Egyptian

²⁰ Migrants are however subject to the 'national preference' requirement which functions as an economics needs test. An employer would be required to prove that there is no Moroccan national who can perform the task for which the foreigner is being recruited.

²¹ Different provisions apply to nationals of Algeria, Tunisia and Senegal however.

²² Interview, January 2020.

legislation.²³ Work permits are costly and procedures bureaucratic, so that *“in practice, the lengthy administrative process to obtain the necessary license and security clearance to start a business, or to obtain a work permit, proves to be too difficult to complete.”* (Hetaba et al. (2020), p.115). Most refugees and other migrants work informally given that much of economic activity in Egypt takes place in the informal sector.²⁴ They are vulnerable as they often work in precarious situations and have no legal options for recourse in cases of abuse. COVID-19 has exacerbated this situation as migrants and refugees have been hit hard and have no access to stimulus packages.²⁵ Some Syrian nationals moved companies and production lines to Egypt or opened businesses. These businesses operate with a formal status, as such investment is viewed positively by the government.²⁶

Access to education and healthcare

There has been much progress when it comes to health care access for migrants in the reviewed countries and in principle treatments can be accessed regardless of status. Yet, migrants in an irregular situation often tend to renounce healthcare for fear of detection, arrest and deportation. Some progress also exists in granting refugee children access to primary school, though there are still legal and administrative barriers. It should also be noted that nationals of these countries may face similar constraints given that systems are underfunded in general.

Since 2013, migrants have been able to receive basic *health care* in public hospitals in **Morocco** regardless of their documentation status. There are ongoing discussions to include migrants, asylum seekers and refugees in the state health insurance scheme, but at present treatment costs for more complex health procedures are not covered for migrants and asylum seekers. Given limited financial resources, migrants often cannot access adequate healthcare. NGOs aim to offer basic treatments to migrants regardless of their status to bridge this gap.²⁷

The Ministry of *Education* granted public school attendance to all children of migrants regardless of the migratory status of their parents since November 2013. While several thousand migrant children have been registered for school since 2013 (Lemaizi 2019), there are significant difficulties ensuring access, includes administrative requirements, such as the need to provide a birth certificate, the distance to public schools from migrant camps, the use of the Arabic language and the Islamic influence of education (Barre et al 2014), and a number of children drop out to engage in economic activities instead.

In **Tunisia** migrants including refugees report being excluded from services, including healthcare and housing, due to language barriers and discriminatory practices (Reach 2019; Msakni 2019: 18). Regular migrants have access to free emergency care, care related to sexual and reproductive health and rights, and vaccinations. Regular healthcare beyond emergencies is not free, neither for migrants nor for Tunisians. The Ministry of Social Affairs is currently preparing new legislation on universal health coverage, which has some migration-related aspects, but pending a new government, this legislation has been put aside.²⁸

²³ Exceptions exist for certain nationals due to bilateral agreements and instruments. Eg. under an agreement with the Government of the Republic of Sudan, Sudanese have the right to work “in any profession, crafts, and other works” (see Hetaba et al. 2020). In practice these rights are not always accessible.

²⁴ Women may work in domestic settings and men as day labourers in construction sites or in factories.

²⁵ Interview, May 2020.

²⁶ For the procedures for foreigners to open businesses, see Hetaba et al. 2020, p.113. This option is limited to a few refugees. Some Syrian businesses operate through an Egyptian business partner who formally registers the business.

²⁷ NGOs and organisations such as Médecins sans frontières support migrants with specific programmes to access healthcare.

²⁸ Interview, January 2020.

All children, even those whose parents are in an irregular situation have access to free primary and secondary *education*, as the legislation does not make a distinction between Tunisian and non-Tunisian children (Reach & Mercy Corps 2018b: 36).

International conventions ratified by **Algeria** guarantee immigrant children the right to *education* and *health*, and Algerian officials often mention that health and education are universal in Algeria, and thus available to migrants and refugees, but the constitution and 2017 health laws are not entirely clear on whether these rights extend beyond the citizenry (Secrétariat Général du Gouvernement 2016, Journal Officiel 2018). The 2015 law relative to the protection of children states that every child - without discrimination - benefits from the rights guaranteed by the Convention on the Rights of the Child and other international treaties, including amongst others the right to education and to healthcare (Journal Officiel 2015). Enforcement of these rights is not always easy due to lack of information amongst migrants or because of administrative obstacles. According to a 2016 survey carried out by Médecins du Monde and UNICEF in cooperation with the Ministry of National Solidarity, Family and the Condition of Women, only a third of children of school age were in school (El Watan 2016). The report also identified the need to clarify the regulations for foreign children to access Algerian schools and health facilities, and the need for data about both regular and irregular migrants in order to plan and provide adequate health structures and access to education. The Ministry proceeded to request the preparation of an action plan (UNICEF 2017).

In **Egypt**, in principle all migrants can access primary healthcare in public clinics since the Egyptian government opened up its system to migrants in 2014.²⁹ Migrants must pay for secondary healthcare and financial barriers may impede access. Unregistered irregular migrants face hurdles due to their status. The healthcare system overall lacks funding, which affects Egyptians and migrants alike, while xenophobia and racism in the public health sector can hamper access for migrants in practice. Interviewed NGO workers noted reports of migrants being refused services in public hospitals.³⁰

Egypt made a reservation to the 1951 UN Refugee Convention concerning *education*, preserving discretion regarding whether to provide refugees and asylum seekers with the same access as nationals. Domestic law contains contradicting provisions regarding access to education for non-nationals (Hetaba et al. 2020 p.144). Despite inclusive language in Egypt's Child Law, non-nationals are generally prohibited access to the public school system while the private school system is open to all.³¹ Some nationalities (Sudanese, Syrians and Yemenis) get preferential treatment for an additional fee. Access to public primary schools can also be hampered by bureaucratic procedures, lack of places, language barriers, missing documentation³² and at times racism. Schooling can still take place in donation-based community schools,³³ but there is no public oversight over the curriculum of community schools, and it is thus not always clear if certificates are recognised in Egypt. Some receive accredited certificates from their countries of origin (e.g. by the Sudanese embassy in Cairo).³⁴ There is no specific law or policy that regulates access to secondary, vocational and tertiary education for non-nationals, although the right to enroll in Egyptian universities was granted

²⁹ The idea seemed to have started in Alexandria first, where UNHCR worked with the authorities and (financially) supported them in opening up the healthcare system to refugees. It was then expanded nationwide afterwards (Interview scholars, May 2020).

³⁰ Interviews, May 2020.

³¹ Given that private schools are costly, this option is reserved for wealthy migrants.

³² Documents that need to be produced include a valid birth certificate, proof of legal residency, permission from their embassy to enroll in Egyptian public schools and if applicable recent academic recognised certificates. At times such requirements are waived for refugees as part of humanitarian policy rather than due to a legal entitlement. See Hetaba et al. (2020).

³³ Community based schools are set up by refugee communities in Egypt where they teach the curriculum of their countries of origin. Such schools are usually not officially accredited by the government.

³⁴ Some attend Egyptian public schools one day a week next to community schools which allows them to sit for end of year exams to gain official certificates.

by a Presidential decree. Due to the above challenge of obtaining official certificates, accessing higher education can be problematic.

4. Main factors influencing political interest and prospects for reforming reception and asylum systems

Across the region migration and protection policy is influenced by the complexity of mixed migration flows, domestic economic needs, foreign policy pressures, shifting geopolitical contexts, and historical legacies and relationships. Every country in the region is suffering from the economic and health consequences of COVID-19, and will be struggling to deal with these for some time to come. Having weathered the spring relatively successfully, Morocco registered almost half of its roughly 120,000 cases in September 2020, Tunisia registered almost three quarters of cases in the same period, while Egypt registered its peak in June and Algeria in July, but both continue to have multiple cases (John Hopkins University & Medicine).³⁵ Across the region, COVID-19 is adding a further challenge to already weak economic systems and social services, further compounding high rates of youth unemployment and extenuating inequalities in one of the world's most unequal regions (WB 2015). For example, in Morocco the rise in COVID-19 cases has led to relatively strict confinement measures, including notably in the country's economic capital, Casablanca, and to social tensions, including stand-offs between young people and police (Kozlowski 2020).

Priorities and interests concerning migration governance, migrant protection and integration are thus not necessarily strong although they vary by country, and across different dimensions of migration governance. Cooperation with EU countries on these issues is often motivated by diplomatic objectives, such as the aim to achieve international legitimacy, to increase access to legal migration opportunities for nationals or to increase international support for a domestic development agenda. Providing solutions to migrants is not always the main motivation of migration cooperation (Koch et al. 2018). Yet, the COVID-19 pandemic has also led to a renewed self-interest in some of the countries to improve the situations of migrants given that the internal course of the pandemic also hinges on the treatment of migrants and other vulnerable groups.

Political and Economic woes

Even before COVID-19, asylum and migration reform was struggling for attention amongst many competing political, economic and social priorities, most of them far more politically salient for the general population in these countries. Prior to the outbreak of COVID-19, Morocco was in the process of rethinking its whole development model in the face of growing public frustration; Tunisia's elections resulted in a fragmented parliament and difficulties forming a stable government; Algeria continued to be gripped by mass political protests calling for deeper political change; while Egypt had increasingly clamped down on all political expression against a backdrop of growing poverty. Across the region, high levels of unemployment, especially for youth, coupled with a large informal sector and falling standards of public services have contributed to a high-level of socio-economic pressure that has now been exacerbated by COVID-19. According to International Labour Organisation data in June 2020 total unemployment was 16.2% in Tunisia, 10.1% in Egypt, 11.5% in Algeria and 9% in Morocco. The equivalent figures for youth unemployment were much higher still at 36.5% in Tunisia, 30% in Egypt, 29.7% in Algeria and 21.9% in Morocco (WB 2020). At the same time, education levels across the region have been increasing, with a growing number of university graduates, but levels of unemployment amongst graduates are often worse than amongst the general population. These figures hide the extremely low participation of women in the labour force and the large proportion of those who are employed who work in the informal sector, where they face low wages and no job security.

³⁵ Data on 30 September 2020, 6pm CET.

Due to these socio-economic and political conditions, emigration rather than immigration is of greater interest to the media and the general public across North Africa. Indeed, recent years have seen a surge in the number of young people from the Maghreb attempting to cross to Europe through irregular channels. In 2020, Tunisians were the principal nationality arriving in Europe irregularly, followed by Algerians (UNHCR 2020e). According to IOM, Tunisians were the first nationality arriving in Italy in 2019, while Moroccans, followed by Algerians were the principal nationalities arriving in Spain (IOM 2019c). The strong interest in questions around emigration and diaspora populations is very evident in Morocco's SNIA, in Tunisia's National Strategy on Migration and in the outlawing of irregular departures from Algeria in the 2008 law. Similarly, areas of migration that matter more strongly in Egypt are emigration (labour mobility opportunities for Egyptians to go abroad) as well as reintegration support for returnees. Above outlined domestic pressures also mean that governments are hesitant to facilitate labour market access for migrant or refugee populations, and that they fear creating pull-factors that might lead to an increase in inward migration flows and further pressures on the labour market and on already stretched public services. Governments across the region are highly concerned about controlling their borders in response to cross-border terrorist threats and transnational crime, such as people trafficking, prostitution, arms and drug trafficking.

Domestic Political interests

In **Morocco**, as in other countries in the region, citizens are more concerned about high unemployment, limited emigration opportunities for Moroccans to Europe and a malfunctioning social system³⁶ rather than immigration. There is thus a greater interest in the Moroccan government seeking to engage in migration agreements with European partners with a focus on labour migration; skills development and scholarships for students.³⁷ The low salience of migration has meant that policy makers have been able to act with flexibility on migration issues, and to use migration policy to build Morocco's international image as a forward-thinking country on migration. Civil society actors have been able to influence the outcome of migration policies, with little pressure from the population, although further advocacy will be necessary to ensure adoption and effective implementation of the asylum and migration laws (Dennison and Nasr 2020). However, one of the reasons for the delay of turning the draft refugee bill into law may be the government's fear that a comprehensive law would act as a pull factor and lead to an increase in arrivals and in asylum applications (Interview, NGO, February 2020).

In **Tunisia**, politicians made a conscious decision to keep migration issues below the political radar, given their potential to quickly escalate and create problems for the political system (Lixi 2018; Roman & Pastore 2018: 9). According to experts, the fact that the law on asylum has not yet been adopted can be explained by political leaders' fear that it would encourage sub-Saharan migrants to transit or to settle permanently in Tunisia (Geisser 2019: 17) or that the authorities would be bound by obligations to which they cannot respond (Boubakri 2015: 25). The labour law is very restrictive and includes a 'national preference', which contributes to 'irregularising' many sub-Saharans (Geisser 2019: 14). Tunisian authorities attitudes toward migrants are also influenced by "*security-related fears*," as alongside the country's economic troubles, it also faces security challenges related to cross-border terrorism, smuggling, and returning foreign fighters, and is thus reluctant to add another burden to its overstretched security apparatus (Abderrahim 2017). The most interesting areas of cooperation around migration governance for the Tunisian government are those that benefit Tunisians (e.g. reintegration support, labour mobility for Tunisians, diaspora engagement) rather than sub-Saharan Africans (Roman and Pastore 2018: 23). According to one interviewee COVID-19 may have prompted more engagement towards vulnerable migrants, not only due to their increased need for food and health support but possibly also to avoid further risks of COVID-19 cases to spread through vulnerable groups.

³⁶ Dennison and Nasr 2020, Interview with an EU official (19.02.2020).

³⁷ An example is the skills partnerships are being implemented in the IT and tourism sectors with Belgium (PALIM) and Germany.

Security and counterterrorism have been top political priorities for **Algeria** since the “Black Decade” in the 1990s, when Algeria faced a terrorist insurgency, but it was following a cross-border attack on a gas plant in January 2013³⁸ that border security became a top priority for the Algerian National Popular Army. Since President Tebboune took office, there has been very little sign that his government plans to change course with regard to the expulsions taking place across Algeria’s southern borders, with some expulsions taking place even in March after COVID-19 was already spreading in Algeria (Alarme Phone Sahara 2020A&B). However, IOM and the Government of Algeria increased their level of collaboration in the aftermath of the Hirak, and there appears to be a growing level of trust between them.³⁹ They have worked together on the voluntary return and reintegration of sub-Saharan African migrants to their countries of origin since Autumn 2019 (IOM 2019A, Hafid 2019). COVID-19 also offered some openings; the Government of Algeria agreed to a temporary suspension of expulsions after the beginning of the COVID-19 crisis; migrants showing COVID-19 symptoms were entitled to be treated in Algeria regardless of status;⁴⁰ and at the government’s behest, IOM established a pilot cash grant facility aimed at migrants who have no income due to the lockdown in response to COVID-19 (IOM 2020). Although the new government’s action plan for implementing President Tebboune’s political and economic programme does not explicitly mention the rights of migrants and refugees, many of the priorities that the Government’s plan highlights - such as public health - should improve the situation of migrants and refugees (Plan d’Action 2020).

Although migration is of low political salience with the general public in **Egypt**, managing irregular migration is an important issue for the government, especially since 2016 and some claim partially in response to EU incentives.⁴¹ Egypt is interested to secure institutional capacity-building and equipment to build more powerful surveillance capacities to address border management and terrorism challenges that are seen as essential to domestic security.⁴² When progressive policies were adopted (e.g. opening primary health services to all refugees), it was often due to incentives provided by international partners in the form of funding and systemic capacity building, in this case for the Ministry of Health as a whole, thereby also benefiting all Egyptians.⁴³

Activism & Advocacy

Civil society activism on migration and protection issues varies from one country to another, but does not tend to be as high profile as other types of activism around socio-economic issues or political issues such as media freedom and civil liberties.

In **Morocco**, civil society has played an active role in the policy process, but there are a limited number of national organisations working on migration that are independent of the government. Migrant associations play an active role in supporting the integration of migrants, for example organising music and culture classes with a mix of migrants and Moroccan nationals. These activities are designed to nurture a more positive view and tolerance towards migrants, asylum seekers and refugees amongst the Moroccans who take part.⁴⁴ **Tunisia**, the only democratic country in the region, has by far the most active civil society, including a number of national civil society organisations that play an important role in the protection of refugees and cooperate with UNHCR (UNHCR 2019c). Some national human rights organisations have incorporated migrants’ rights into their work in recent years. In

³⁸ In January 2013, terrorists raided the In Amenas gas plant, which is jointly operated by Statoil, BP and Algeria’s Sonatrach, and killed 40 people by the time the army regained control of the plant 3 days later.

³⁹ Interviews, March & June 2020.

⁴⁰ Interview, March 2020.

⁴¹ Interview scholar June 2020.

⁴² EuroMed, 2019 points out that “in Cairo’s understanding, there is a direct correlation between the large influx of people through its land and sea borders, and the increase in terrorist attacks on its territory” (p. 22).

⁴³ Interview scholar, June 2020.

⁴⁴ interview with a representative from a migrant activist group (29.01.20) and training organised by The minority globe.

Algeria, human rights groups and media that previously focused some attention on migrants' rights or the collective expulsions of migrants have largely been focused on the struggle for political rights for Algerians since February 2019. The *Plateforme Migration Algérie* brings together a number of associations working on migration in Algeria with the aim of creating and implementing a national platform to work to improve the living conditions of migrants in Algeria. The EU Mission to Algeria and the Embassy of the Netherlands are currently supporting a project to strengthen the capacities of the platform.

In **Egypt**, community-based and civil society organisations catering to either specific nationalities or the wider migrant or refugee population often take care of providing services to refugees, asylum seekers and other vulnerable migrant groups in the absence of government provision of such services.⁴⁵ However, the NGO law 70/2017 compounded what was already a swiftly closing public space in Egypt, and has affected migrant organisations alongside the wider civil society, who face many obstacles to carry out their work.⁴⁶ There are strict requirements on foreign financing and how money can be spent.⁴⁷ CSOs have to register with the Ministry of Social Solidarity under the law and get authorization for foreign funding. It is difficult to engage in advocacy for migrants rights or indeed human rights in general. As a result a number of organisations have been forced to close or had to change mandates.⁴⁸ COVID-19 has made it even more difficult for many organisations, since private donations have declined and their funding situations become a greater challenge.

Diplomacy - Strengthening relations with African countries

North African countries have increased their diplomatic offensives vis-a-vis Africa in recent years, seeking to improve relations with their Southern neighbours in order to build out new markets, achieve political goals and increase their influence. Morocco has been the most aggressive with its "*Politique Africaine*." Algeria, traditionally a heavyweight at the African Union, is now seeking to regain some of its lost influence, and Egypt has shown a willingness to use migration for geopolitical ends, including in pursuit of its aims around the Great Ethiopian Renaissance Dam (GERD). This turn towards Africa appears to have played a role in Morocco's regularisation programme, and may have a knock-on impact on other countries in the region as the African Union seeks to develop more continental approaches to migration.

Morocco views itself as bridging the narrative on migration between African and European countries (Ouassif El 2019) utilising the geopolitical position of the country at the intersection of sub-Saharan Africa and Europe. A crucial part of Morocco's international strategy is linked to its visibility in promoting positive migration and integration discussions at the global level, including co-chairing the 11th session of the Global Forum for Migration and Development (GFMD) with Germany, playing a role in the negotiation process of the Global Compact on Migration (GCM), and hosting the conference to launch the GCM in Marrakech on 10 & 11 December 2018. It also puts a strong emphasis on championing African migration at the African Union (Saga 2019). Ahead of Morocco's readmittance to the African Union, the regularisation of migrants in 2014 and 2016 was used to demonstrate that its treatment of Sub-Saharan African migrants had improved and that the government had taken concrete steps to rectify the negative reports of Morocco's conduct towards migrants (Chertia & Collyer 2015). Morocco has long standing relations with its neighbours in the Sahel and West Africa, and has entered into Memoranda of Understanding (MOUs) on migration and border governance as part of its wider cooperation with countries like Cote d'Ivoire, Senegal, Burkina Faso and Mali (GIZ 2019). The Moroccan government has also granted visa free entry to several

⁴⁵ An example is Tadamon- the Egyptian/Refugee Multicultural Council, which is an independent non-political civil society network promoting welfare of marginalised refugees.

⁴⁶ Interviews NGO staff May and June 2020.

⁴⁷ Foreign funding is only admitted if they are supplied through accredited foreign diplomatic seats in Egypt and after prior authorisation by the government.

⁴⁸ Interviews NGO staff May 2020 and scholar June 2020.

countries including Senegal, Gabon, Niger and Cote d'Ivoire, while nationals of Republic of Congo, Guinea and Mali can enter visa-free, but since 2018 must complete an online registration due to concerns about nationals of these countries overstaying their visas (RFI 2018).

Tunisia has started to reinforce its political outreach towards Africa, which may play a role in its migration debates moving forward, although this has been unclear to date. Regular migration from sub-Saharan Africa started to grow in the 2000s with the expansion of the private university sector and the relocation of the African Development Bank from Abidjan to Tunis between 2003 and 2014 (Natter 2018: 7).

Algeria has a proud history of diplomacy, including notably with African partners, but Algerian diplomacy suffered greatly during the last years of former president Bouteflika. Prior to COVID, rebuilding Algeria's international standing was a clear priority for President Tebboune, and an essential element of this will be rebuilding Algeria's position with regard to African partners (Farrah 2018, Ben Yahmed 2020, Benchérif 2020). This was evident in Tebboune's speech to the African Union Summit in February 2020, in which he spoke of Algeria's deep attachment to the African Union (APZ 2020a). However, Algeria's actions on the continent may be compared with those of its neighbour and rival, Morocco, which has built an important diplomatic toolbox vis-a-vis Africa in recent years, including economic, cultural, and security tools, but also an important element of migration diplomacy. Algeria may begin to face pressure from African partners to develop a more transparent migration and asylum policy.

Intra-African politics and bilateral relations with African countries also influences specific policies towards migrants. **Egypt** has been using the rights of migrants as a political tool. Currently, the conflict around the Grand-Ethiopian renaissance dam is viewed as a possible reason for restricting rights of Ethiopians in Egypt. In order to gain support from Sudan, on the other hand more concessions for Sudanese in Egypt may be made.⁴⁹ Some interviewees pointed out that the discussions on a new asylum law is also motivated by the fact that other countries increasingly improve their systems and adopt specific laws (such as Kenya, Ethiopia etc.).

Diplomacy - Cooperation with the European Union

Cooperation with the EU is a sensitive subject across the region, and all four countries resist any European policies that could be seen as an intrusion on their sovereignty. This explains the highly controversial nature of earlier EU proposals around migrant processing centres in North Africa. However, different countries across the region have shown themselves more or less interested in cooperating with the EU on migration management in order to achieve other diplomatic and development goals. Algeria has taken the strongest stance, avoiding any overt cooperation, while Morocco, Tunisia and Egypt have each approached cooperation from very different angles.

Morocco cooperates with European countries on return and readmission, including working jointly with Spain on border control measures. Other European partners include Italy, Germany and Belgium. The main political objective of this cooperation has been to limit the number of irregular migrants transiting through Morocco towards Europe (Maccanico 2018). Such bilateral cooperation on migration issues creates opportunities for Morocco to negotiate labour mobility agreements, which enhance legal migration possibilities, prospects for employment and work experience to the benefit of Moroccan nationals. Ongoing mobility partnerships include Germany, Spain and Belgium, often as part of a larger package of migration cooperation. These agreements contribute to reducing the pressure the government faces with unemployment and increasing economic difficulties in the country.

⁴⁹ Interviews International organisation staff May 2020 and scholar June 2020.

Migration cooperation with Spain is wide-ranging and has been based on a much wider partnership, including support in the area of economic development and transformation, tackling unemployment, political partnerships, and some opportunities for legal mobility of Moroccan workers or students to Spain through seasonal work contracts or scholarships. Following considerable urging by Spain, the new partnership between the EU and Morocco announced in 2019, is very much based on the Spanish model, with migration as a cross-cutting issue, together with climate, in a wider partnership that will focus on wider economic development, political and security partnership (European Council 2019).

However, Moroccan authorities fear that after the adoption of an asylum law the EU might consider Morocco a first country of asylum (Art.26 EU 2005) or a safe third country, leading to those who transit through Morocco being denied asylum in the EU because they have or could receive protection in Morocco. This in turn could facilitate EU demands to return third country nationals to Morocco, that Morocco like its neighbours is keen to avoid (Art.27 EU 2005).

Tunisia has largely been willing to cooperate with the EU and EU member states to prevent irregular migration to Europe, particularly Italy, but stresses the political impossibility of the European request to accept the return of third-country nationals or previously proposed regional disembarkation platforms (Lixi 2017 and Bisiaux 2020: 35). EU interests and overall negotiations and cooperation between the EU and Tunisia are focused strongly on security-oriented priorities (such as border control, fighting smuggling and trafficking, readmission, return and reintegration). Other elements, such as immigration to Tunisia and the protection and integration of Sub-Saharan migrants are not a strong focus area (Roman and Pastore 2018: 23). At the same time, like Morocco, Tunisia is wary of getting ‘trapped’ by EU external migration policies if it were to reform its own policies (Interview, January 2020) and be a priori designated as a safe third country (Bisiaux 2020: 38). For example, the proposed externalisation of asylum processing by the EU and its member states may partially explain the Tunisian reluctance to adopt the asylum law (Carrera et al. 2018: 29),⁵⁰ as Tunisian authorities fear that it would further facilitate EU externalisation.⁵¹

Algeria is largely unwilling to work directly with European governments beyond the bare minimum, such as accepting the returning of rejected asylum seekers from Germany (DW 2018). Unlike Tunisia and Morocco, Algeria is not engaged in a Mobility Dialogue with the European Union and there are few migration and asylum related projects directly funded by the EU or European governments in Algeria. The new government in Algeria is unlikely to make any dramatic shift in Algeria’s positioning with regard to cooperation with the EU, but the recent changes in political leadership should offer the opportunity for renewed political dialogue between the EU and Algeria, including on migration.

The EU and its member states do offer indirect funding via UN agencies such as UNHCR and IOM, and through some smaller projects with NGOs. As previously noted, IOM has a good relationship with the Algerian government and may be able to influence gradual shifts in migration governance. However, it is worth noting that in 2018, IOM’s operational budget in Tunisia was 2.5 times that in Algeria although Tunisia has just over one quarter of Algeria’s population, shorter frontiers and a much smaller migrant population; while in Morocco, with roughly the same national population and a smaller migrant population, IOM’s operational budget was 7.5 times larger (IOM 2019B).

⁵⁰ For instance, part of the EU’s effort to externalise asylum has consisted of supporting the UNHCR’s project to help the Tunisian government draft specific legislation on asylum (Carrera et al. 2018: 29). UNHCR worked with judges and the government on the draft asylum law and provided training and guidance to ministries (particularly the Ministry of Justice, the Ministry of Health and the Ministry for Women) and judges (Papadopoulou 2015). The EU has likely sought to encourage Tunisia to develop its asylum system to make it a safe country for returned migrants and asylum seekers (Abderrahim 2019: 10).

⁵¹ Interview, January 2020. Also note: The EU’s attempt to outsource refugee protection is reportedly even more strongly criticised since the adoption in March 2014 of the EU-Tunisia Mobility Partnership, which includes Tunisia’s commitment to develop an asylum system, together with its engagement to negotiate a readmission agreement (Perrin 2016: 13-14).

Like Morocco, **Egypt** aims to gain greater recognition and support for its shift from being a transit country to becoming a destination country, and the socio-economic impact and financial responsibilities that come with that.⁵² This was especially apparent in the EU-Egypt Association discussions throughout 2018; Egypt requested EU financial support for hosting over 125,000 Syrian refugees registered by UNHCR. The Egyptian government frequently points to the high number of refugees and migrants it hosts - at times flagging them as a potential threat. Its priorities in the area of migration management with the EU includes coordination mechanism for operations in the Mediterranean, intelligence information-sharing and law enforcement cooperation and support for reintegration of Egyptian returns. Egypt has also increasingly focused on the management of irregular migration as more funding has become available from the EU and its member states.

The migration question has also allowed the current Egyptian regime to gain international legitimacy despite the increased authoritarianism and human rights abuses of the Egyptian regime. During the EU migration crisis in 2015-2016, the Egyptian regime positioned itself as a key ally in managing migration flows to Europe, allowing it to accelerate its rapprochement with a number of key European governments and the EU as a whole, which had initially been more outspoken on the Egyptian regime's human rights abuses (e.g. Council of the EU 2013). Migration appears to have played a key role in the rapprochement between Egypt and Germany,⁵³ and during the Austrian Presidency of the EU in 2018, Austrian Chancellor Sebastian Kurz described Egypt as "exemplary in the fight against illegal migration and smuggling." (Austrian Presidency of the Council of the EU 2018) President Sisi later hosted the EU-Arab League Summit in Cairo in February 2019, further reinforcing his international standing (Council of the EU 2019).

Cooperation with the EU on irregular migration has knock-on effects to how Egypt treats migrants on its territory, as some have pointed out that Egypt is unlikely to have an interest in keeping all migrants and refugees that are planning to transit. Policy approaches that aim for more protection based on cooperation agreements are then mixed with rising detentions, pushbacks, and making life more unattractive for certain migrant groups in order to deter migrants from staying or entering.

5. Possible entry points for international cooperation

Following the publication of the EU Pact on Migration, the EU and European countries will continue to look for ways to work with and support countries in North African to better manage migrant and refugee movements as well as to support the strengthening of reception protection and integration systems. Yet, given the socio-economic realities in these countries and the mix of interests, entry points are not always evident. Drawing on four case studies,⁵⁴ the following provides a number of possibilities in how the EU and EU member states can offer support and help strengthen migration governance and protection systems.

Across the region, it is essential for the EU and its member states to tackle migration within the framework of a **wider political dialogue and partnership**, where migration governance is addressed alongside economic, political and social relations. The European Neighbourhood Policy (ENP) has to date failed to deliver on its promise of shared stability and prosperity in the Mediterranean region, but these remain essential ingredients if North African countries are to reduce irregular migration and be welcoming host countries for migrant and refugee populations.

⁵² Some interviewees note that this is why the government at times tries to amplify the number of refugees.

⁵³ Roll (2018) moreover points out that "the German government considered support for [an IMF] reform programme [for Egypt] primarily as an opportunity to encourage Egypt to close its Mediterranean Sea border to irregular migration (SWP 2018).

⁵⁴ These are detailed per country (including the actors to possibly work with) in the separate country notes published on ECDPM's website ([link](#)).

Any strategy for working with these countries to manage migration through and protection in the region will thus need to integrate political dialogue, wider development cooperation, strategic investments, opportunities for greater mobility and other measures. The ambitions expressed for the new partnership with Morocco are a step in the right direction (European Council 2019), and could pave the way for more comprehensive partnerships.

In most countries international cooperation has been channelled through international organisations and NGOs, who then partner with local or international civil society organisations to deliver services. Cooperation with authorities, where it takes place, takes the form of joint planning or coordination of activities, lobbying and training opportunities. For asylum processing, protection and integration to be sustainable, **governments and their agencies will have to play a stronger role** in these processes in cooperation with NGOs and International organisations. Yet, openness for such a change is not a given and therefore entry points for EU member states to support the role of government actors have to be carefully and regularly assessed. Over the medium-to-long term, the EU can still make efforts - possibly through IOs - to work with authorities more directly to facilitate coordination across ministries and agencies, extend multi-level dialogue to decentral levels (e.g. cities which are providing services to migrants) and support the integration of migration into local and sectoral development policies and practices. Yet, depending on the country this may not be the most viable option for short-term protection results.

In almost every country in the region, there are major **gaps in knowledge and research on migrant protection that need to be filled**. This includes the need for **solid data collection and statistical systems, enabling a mapping of migrants** (socio-economic profile, difficulties in access to services etc.) and a detailed understanding of the implementation of existing protection systems. This should also include investment in more opportunities for local researchers and journalists to conduct in-depth **field research on migration dynamics**, detailed mappings of informal and community driven systems of protection, and analysis of the state of protection, reception and integration systems in their countries.

Across the region, it is essential to **support the work of local organisations** in whatever ways are locally available. This is much more difficult in the cases of Algeria and Egypt, but where direct support to local NGOs is not possible, this could still include knowledge sharing activities, including co-organising trainings, inviting selected employees for research and training opportunities, or to exchange with European NGOs at roundtables or debates. Special focus should be given to capacity building for those delivering informal and community driven systems of protection.

In those countries where it is possible, efforts should be made to build the capacity of government officials by **enhancing knowledge on migration, asylum and protection (legal and policy dimensions)**, especially for lower level and local government officials, and for border authorities. In Tunisia, specific capacity building and financial support should be considered in relation to setting up the National Commission to **combat racial discrimination**. This could also include working with local authorities to strengthen the legal system and increase the currently low number of investigations and prosecutions of cases of racial discrimination.

More should be done to support civil society and community organisations in **raising awareness in refugee and migrant communities about procedures, rights and entitlements** as they exist in the different countries. This should go hand in hand with the sensitization of government officials around the same topics, thereby increasing information on both sides.

Social service provision for migrants (and host communities) needs strengthening in all countries, yet to different degrees and in different ways. In practice service provision can be informal and community driven. Support and capacity building measures should integrate and respond to this reality.

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- In **Morocco**, healthcare services could be improved through lobbying and supporting the government to enrol migrants in the national health care insurance system. Education coverage could be increased by promoting opportunities for migrant children without birth certificates to enrol in educational facilities. More efforts should be made to ensure provision of services for migrants, asylum seekers and refugees in remote areas away from urban centres, including adequate preschool facilities for young children. Support should also be offered to migrant shelters, urban housing projects for low income families and other initiatives that can help provide access to temporary or even more permanent accommodation, which offers stability. Vocational training of refugees and asylum seekers should be better linked with labour market needs and requirements of businesses to promote workplace integration.
 - Irrespective of **Tunisia's** national migration strategy being adopted, the EU and its members can champion and support elements of it, including those related to protection and access to services on the ground in areas where migrants are hosted (alongside existing support to governance systems and policy reform).
 - In **Algeria**, support to UN systems and IOs in providing or strengthening social services may be the best strategy currently, alongside ongoing efforts by the EU and member states to work with the Algerian government to strengthen wider education and job creation in the country. There is a continuous need for emergency shelter, food and healthcare (as part of humanitarian funding) given that Covid-19 has worsened the situation for migrants and their hosts, while the UN system in Algeria is greatly underfunded in comparison with neighbouring countries and the scale of the challenges in Algeria.
 - In **Egypt**, efforts should be made to improve the capabilities of public schools in those governorates hosting a majority of refugee students, notably through training programs for teachers who work with both Egyptian and refugee students. Capacity building activities could also target public primary (but also secondary/tertiary) health care facilities in the most affected governorates with staff training, support to referral systems, SGBV related health services, information systems, etc. Specific attention should also be given to child protection services in support of migrant minors.

This paper has summarised the state of play of existing asylum and reception systems and the political dynamics that determine cooperation possibilities with the EU and its member states in Algeria, Egypt, Tunisia and Morocco. It has argued that in order for cooperation to be successful, the EU will need to recognise and carefully take into account contexts, interests and priorities when looking for possibilities and entry points. While these differ for each country, the Covid-19 context makes cooperation and support ever more urgent. Partnerships will need to be broader than migration and bring longer-term development benefits for the neighbouring region. This can help facilitate the integration of migrant reception and protection into recovery and longer-term development plans.

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