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"Les droits ne sont pas respectés": A Study of the Effectiveness of the Moroccan Law in Protecting the Human Rights of Sub-Saharan Female Migrants

Meghan Gragg
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“Les droits ne sont pas respectés”

A Study of the Effectiveness of the Moroccan Law in
Protecting the Human Rights of Sub-Saharan Female Migrants

Meghan Gragg

University of Tennessee at Knoxville

Academic Director: Et-Tibari Bouasla

Advisor: Stephanie Bordat, MRA Women

Rabat and Tetouan, Morocco

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Abstract

This paper aims to determine to what extent Moroccan law is protecting female Sub-Saharan migrants against human rights abuses and in the process, it attempts to determine what the Moroccan government needs to do differently to protect this population. Female migrant women from Sub-Saharan Africa are a population that suffers human rights abuses because of their dual positionality as both women and Sub-Saharan migrants: both of which are discriminated populations in Morocco. The research was carried out by communicating with lawyers and non-governmental organization (N.G.O.) team members who work with women to determine the common legal and social problems affecting migrant women and also by speaking with migrant women themselves, to hear their stories and their opinions regarding the matter. By comparing migrant experiences to Moroccan law at the international, national, and local scale the paper determines that the Moroccan government not only needs to create new laws to protect female migrants, but also needs to help change public opinion of the migrant.

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Introduction

Arguably, the two most talked about topics in the current news cycle in Morocco are migrants and violence against women. The Moroccan government, which still maintains a strong influence over news in Morocco, depicts both issues as worthy of urgent reform. Both are seen as a menace against Moroccan society that should be regulated and controlled by legislation and government enforcement. The difference between the two, however, is that one is a group of people and one is a violent action done against a group of people. So what happens when violence and abuse happens against migrant women? How does Moroccan law reconcile this paradox it has created for itself?

Morocco prides itself in its “migration security record,” which includes strict enforcement methods including “preventative measures” to stop undocumented migrants from reaching Europe (Associated Press, 2018, 4; Ghani, 2018, 11). These so-called “preventative measures” have been strongly condemned by various world and local institutions as violations of fundamental human rights. On the other hand, local activists and the Moroccan government have taken an active stance against the issue of systemic violence against women in Morocco. The Moroccan government enacted a law on September 12, 2018 criminalizing various forms of violence against women around the same time the kidnapping and gang-rape of a Moroccan teenager made national and international news, spurring calls for social and legal change (Al Jazeera, 2018; Bremond, A., & Ratcliffe, R., 2018). Although change in the treatment of women will be slow, it is obvious that the Moroccan government’s official position is that women have the right to gender equality and to live free of abuse.

It remains to be seen how the Moroccan government will reconcile what they consider two separate societal issues- Sub-Saharan migrants and abuse of women; because there are

migrant women too. If the Moroccan government declares in its constitution that all men and women are endowed with human rights that cannot be infringed upon (*Constitution of the Kingdom of Morocco*; 2011), do the laws that protect Moroccan women and laws that are in place to protect human rights in Morocco also protect migrant women? The intersection of these women's dual identities as women and migrants puts them in a uniquely vulnerable situation. As the number of migrants, especially Sub-Saharan migrants, increase in Morocco this population of vulnerable women will also grow, and the need for comprehensive legislation to protect these women will become more and more necessary.

This paper attempts to answer the question that this problem poses: "How effective is Moroccan law in protecting migrant women from abuse?" From the stories I have already heard and the research I have done, my hypothesis is the Moroccan law is not effective in protecting migrant women because of both the extent of the laws in place and the enforcement of these laws. However, I want to know to what extent these women are protected by the law what factors, if any, determine the kind of protection they receive, and can be done to ameliorate the protection of these women under Moroccan law. Carrying out this research is essential in order to change the Moroccan law to provide greater protections for the most vulnerable women in Moroccan society. By determining how the Moroccan law fails to protect migrant women's human rights in accordance with international and national law, it is then easier to push for legislative change, and change to law enforcement, that will ensure that these women are protected.

Key Terms

For the purpose of this study the following terms will be defined as follows:

Moroccan Law: All legislation that Morocco is bound by and the enforcement of said legislation.

Migrant: “Any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person’s legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is” (Who is a Migrant?).

Voluntary Migrant: Someone who is moving or has moved across international borders but has not done so because he or she was forced to do so by circumstance.

Forced Migrant: Someone who is moving or has moved across international borders because they are forced to do so by circumstance.

Documented Migrant: Someone who is legally allowed to reside in a country as determined by his or her documentation status.

Irregular/Undocumented Migrant: Someone who is moving or has moved across international borders and does not have the proper documentation to live or work in his or her host country.

Refugee: “A refugee is someone who has been forced to flee his or her country because of persecution, war or violence. A refugee has a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership in a particular social group”
(What is a Refugee?).

Carte de Séjour: Moroccan residency card.

Literature Review

In order to understand the effectiveness of existing that should be protecting migrant women in Morocco, it is first necessary to understand what legal systems are in place and the extent of their purview. There is currently a hierarchy of three legislative systems in place protecting the human rights of migrants in Morocco. These include: The international human rights conventions Morocco has ratified, the Moroccan constitution, and Moroccan laws regarding the human rights of migrants.

Regarding the human rights of refugees Morocco has ratified the “International Covenant on Civil and Political Rights, the International Convention on Economic, Social and Cultural Rights, the UN Convention against Torture, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination Against Women, the International Convention for the Protection of the Rights of All Migrant Workers and their Families and the 1951 Refugee Convention” (*Foreigners and Human Rights in Morocco*, 2014, p. 7). By ratifying these conventions Morocco has agreed to be bound by the laws to protect all the rights indicated in them (Bordat, S., personal communication, Nov. 14, 2018). Morocco has agreed to be legally bound to protect everything from the migrant woman’s right to life to her right to freedom from discrimination through international treaties. However, the ways these international laws are enforced are through the constitution and national laws that Morocco creates.

The second level of human rights law that governs Morocco are the human rights and the rights of migrants ensured in the 2011 constitution. The Moroccan constitution ensures many of the rights that the international treaties that Morocco has ratified does. It guarantees “the right to life,” the equality of man and woman, “the right to the security of persons,” the protection of their “physical and moral integrity,” the right against unjust arrest and prosecution, and the right

to freedom of expression, among other things (*Constitution of the Kingdom of Morocco*, 2011). A constitution for a territory is meant to protect all of those who live and work in that territory regardless of their documentation status, unless it specifically states otherwise. So everyone in Morocco, including all migrant women in Morocco, should have these rights protected.

There are certain rights as detailed by the Constitution that Morocco only gives citizens of the country. These rights include things such as the “right to be electors,” but also things like the “right to healthcare,” to “modern accessible education of quality,” and “to decent housing” (*Constitution of the Kingdom of Morocco*, 2011). Although all people in Morocco are guaranteed the right to life through the Constitution, the quality of life they may obtain is dependent upon documentation status as per the Constitution. Furthermore, in the Moroccan Constitution is the phrasing “*dans le respect des dispositions de la Constitution, des constantes du Royaume et de ses lois*” [in respect for the provisions of the Constitution, of the constants of the Kingdom and its laws] after the article guaranteeing men and women equal rights under the law. This puts women at a disadvantage because their rights are dependent on not only the Constitution but also what Moroccan law says about them. So, together, these two aspects of the Constitution create a potential vulnerable situation for female migrants whose rights may not be guaranteed under the Constitution.

The third and arguably most effective mode of protection of human rights in Morocco, are individual laws, ordinances, and royal decrees from the king. Despite the fact that all three levels of legislation are supposed to protect the human rights of all people in Morocco, including migrant women, securing these rights is dependent upon individuals laws, and how those laws are enforced.

In Moroccan law the listed human rights that Morocco agreed upon in the international treaties it ratified, its constitution, and its national law differ. The rights of individual Moroccans depend on his or her migration status. In order to be able to work in Morocco and find housing, individuals must have the “Carte de Séjour” (Titres de séjour). This card gives migrants a “legal” status in Morocco and allows them to enter into the formal job sector and find housing (New Migration Policy; 2018). Although someone might be able to find work or housing without this card, they are doing so illegally and are therefore not protected under Moroccan law that protects the right of a worker or tenant. Examples of such laws include the Moroccan “Code du Travail” which grants the right to a fair pay and the right against forced labor and discrimination (Work Code of Morocco). Although the law itself does not say that the rights provided are limited to documented persons, the availability of legal work is and therefore, so are these rights. The same applies to housing law, in which tenants are guaranteed rights against unfair eviction and a refund if the housing is of poor quality (Moroccan Law no. 49-16; 2016). Without a legal right to housing, migrants are not guaranteed these rights as well.

All rights not directly specified as the rights of citizens or residents are considered as rights of all under both the Moroccan Constitution and Moroccan law. Some laws that should be protecting the rights of female migrants include the 2018 Law on the Elimination of the Violence Against Women, which makes illegal all forms of physical, sexual, psychological, or economic violence against women and the new Domestic Workers law, which should protect the rights of all domestic workers in Morocco, and any other law that does not specify it only applies to citizens (Moroccan law no. 103.03, 2018; Moroccan law no. 19.12, 2016).

The Kingdom of Morocco claims that it recognizes the gaps in the protections in human rights that documented and undocumented people in Morocco receive and its official position is

that this issue has been rectified by two regularization campaigns of migrants: one in 2014 and one in 2016 (Kasraoui, 2017). The first campaign regularized (gave residency to) 82% of those who applied and the second campaign is meant to do the same thing with those who applied, starting in 2016. However, the effectiveness of this current campaign remains to be seen.

Methodology

My original research question was how effective Moroccan law is in protecting all female migrants. I wanted to do a comprehensive study to this effect and interview at least two lawyers that represent migrants, two N.G.O. workers and at least two women from each migrant class that I identified: Undocumented Sub-Saharan migrants; Un-documented migrants from other “Non-Western” countries; documented migrants from “Non-Western” countries including both Sub-Saharan countries and the Middle East, both refugees and “regularized migrants;” and various migrants from Western countries both documented and undocumented. In doing so, I sought to evaluate what the legal standing of all of these migrants was and how the rights they attained compared to the rights guaranteed to them by certain facets of Moroccan law. Soon, however, I realized that this kind of research project was unattainable in the time allotted for this project.

Instead, the main sources of this paper come from the interviews I conducted with Mohommed, the lawyer from Manos Solidarias; the focus group I conducted with undocumented female domestic workers from Sub-Saharan Africa at Afrique Culture Maroc; the interview I conducted with the team member at Afrique Culture Maroc; and the forum: *Je suis Migrant* that I attended at Orient Occident. Furthermore, I conducted minor interviews with my advisor, and the lawyer Stephanie Bordat, to answer clarifying questions about human rights law in Morocco and

a team member at Fondation Orient Occident to gain a broad understanding of the problems that migrants face in Morocco, specifically refugees.

The interviews carried out with Mohommed and the focus group with the female domestic workers were more structured interviews with little room for me to ask follow-up questions. This was simply because these were the two interviews conducted in other languages, with the interview with Mohommed conducted in Moroccan Darija and then translated later by a native speaker of the language and the focus group with the female domestic workers conducted in French and then translated in partiality later by myself. I asked no questions at the forum, *Je suis Migrant* but simply wrote down the information that I understood in French. This forum informed me of how some migrants see their current situation and what they believe should be done to improve that situation.

The interviews conducted with Stephanie Bordat and the team member at Orient Occident were semi-structured, which I found best to do in order to gain the most information. I had a list of questions, but was able to improvise based on the information I needed to know and based on the responses I received. On the other hand, the interview with the team member at Afrique Culture Maroc was informal. It was carried out at the organization in a room where copious information about the situation of undocumented migrant workers was posted on the walls. I had questions originally but I refrained from using them, instead opting to ask questions about the information on the walls, which I believe allowed me to gain the most information in the time allotted.

Findings and Analysis

Abuses Suffered and Laws in Place

In my research, I found migrant women suffer the same vulnerabilities and human rights abuses as migrant men, but their position as women makes them more vulnerable and perhaps more likely to suffer from these abuses. Two abuses common among migrant women, along with migrant men, are employment and labor abuses and housing discrimination. In addition, migrant women are in the unique position of being extremely vulnerable to sexual and reproductive abuses while in Morocco.

Employment and Labor Abuses

Everyone I spoke to emphasize the difficulty of finding employment, keeping that employment, and labor abuses after employment that affect Sub-Saharan female migrants. In order to find legal employment that is protected by the Moroccan *Code du Travail* it is essential that a migrant has the “Carte de Séjour”, which allows these migrants to enter into the legal workforce (Work Code of Morocco). This card is not a guarantee for legal employment, however. Refugees and legalized migrants are given the Carte de Séjour, but many of them still struggle to find work and compete with Moroccans, even though they may be more qualified than Moroccans in the positions for which they apply (Team member at Orient Occident, November 13, 2018; Lawyer for Manos Solidarias, personal communication, November 27, 2018).

This discrimination violates many of the international conventions that Morocco has signed, the Moroccan Constitution, and the Moroccan Work Code. For international law specifically, this hiring discrimination goes against Article 6 of the International Covenant on Economic, Social, and Cultural Rights, which guarantees the “right to work” in work he or she

“freely chooses to accept.” If it is the case that the work for which the migrant is applying and for which he or she is qualified is not allowed to him based solely on his status as a migrant or his race, this violates the right to work. The Moroccan Constitution, however, only gives “equal access” to work to citizens. This creates a gap between what Morocco promises in international law and the Constitution, the basis of the law of the land. International law is meant to be enforced through national law, and the Constitution does not do that. There is a national law in the *Code du Travail* which states in Article 9 that it is forbidden for employers to discriminate against “sex,” “race,” and “national origin.” Yet, it is common for employers to discriminate in hiring based on all three factors.

Furthermore, many migrant women face labor abuses once hired. A common form of abuse that female domestic workers face is that they are either not paid or they are paid very minimally. Many women are often paid as small as a tenth of their Moroccan counterparts or their employers decline to pay them (Focus group of female migrant domestic workers, personal communication, Dec. 3, 2018). This is possible because employers do not create physical contracts but instead create vocal ones. This is in direct violation of Moroccan Law on the Condition of Work and Employ of Domestic Workers of 2016, which requires a written contract. However, the same law requires domestic workers to show employees documentation such as the Carte de Séjour to the employer. In this case, if the woman may not feel like she in a position to demand a written contract because she is not legally allowed to work in Morocco.

The lack of a written contract means that once again it is the employers word against the employee and it is likely that the employer can change the terms of the contract and the woman may not feel like she can do anything, regarding salary and work requirements. One example of this is that one woman was guaranteed 2 days off every 2 weeks and when her day off cam she

was not allowed to take it off. In another case a woman was hired to clean clothes and was then required to cook and clean the house as well (Team Member at Afrique Culture Maroc, personal communication, November 26, 2018). In other cases women are required to work 24 hours a day and are forced to sleep in small places in their place of employment (Focus group of female migrant domestic workers, personal communication, Dec. 3, 2018). All of these instances go against Article 7 of the International Convention on Economic, Social, and Cultural Rights which guarantees “fair wages,” “a decent living,” “safe and healthy working conditions,” and the right to “reasonable limitation of working hours” and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990 which guarantees the right against “forced or compulsory labor” and “freedom of person.”

The rights are guaranteed regardless of documentation status and Morocco is a signatory of both of these international conventions, which means it is supposed to enforce the protection of these rights. These migrant women are able to gain justice if they have someone who is able to approach the employer and mediate on their behalf to fight for better wages and working conditions. Going to the courts is not preferable because it can take years and undocumented migrants may be afraid of being punished by the courts for being undocumented (Team Member at Afrique Culture Maroc, personal communication, November 26, 2018).

If employment discrimination based on race, sex, and national origin and abuses of domestic workers are forbidden by international and local Moroccan law and yet these events are still occurring then the Moroccan laws are not effective in preventing these events from occurring. Any law is meant to do one of two things, to punish offenses and in the process prevent such events from occurring again through a fear of the punishment. If such laws work in other places around the world then a logical conclusion is that in these cases of employment and

labor discrimination against migrant women, the offenders are not being punished enough for their actions.

Housing Discrimination

Housing discrimination also continues to be an issue for many Sub-Saharan migrants, both documented and undocumented. Similar to labor interactions, landlords shy away from creating contracts. Landlords do not want to pay the taxes that would come from the rent, so they prefer to come to a vocal agreement on rent and the rules regarding tenants (Team Member at Afrique Culture Maroc, personal communication, November 26, 2018). However, this creates a vulnerable position in which if a violation of the spoken contract occurs then it is the word of the Moroccan landlord against the tenant. If the migrant has a Carte de Séjour, then they have some power in court because according to Moroccan law they have the right to housing, but it is still the word of a Moroccan against a migrant, which puts these migrants in more vulnerable positions. Furthermore, similar to the labor contracts, the landlord may not want to go to court because it is against the law to create a vocal contract, which is a form of tax evasion. Thus, the migrant is placed in a position which necessitates negotiations which they may not have the power or experience to conduct.

In the case where a migrant does not have the Carte de Séjour, they are not guaranteed the right to housing as per the constitution (*Constitution of the Kingdom of Morocco*, 2011). These migrants can be forcefully evicted or may suffer unclean or unstable living conditions because they fear retribution from the courts because of their undocumented status. Female migrants might also have children they must take care of, which makes the need for housing more urgent (*Forum: Je suis migrant*, Nov. 17, 2018, conducted at Fondation Orient Occident).

This fear of authority, mixed with the necessity for housing, may force these migrant women to stay in conditions in which they suffer discrimination.

However, this all depends if they receive housing. Cases have been reported that Sub-Saharan Africans are often denied housing, simply based on their country of origin ('No Africans Please,' 2015) and women with children have been turned away on the pretense that they do not have the Carte de Séjour (*Forum: Je suis migrant*, Nov. 17, 2018, conducted at Fondation Orient Occident). The women in the focus group told stories of people with the Carte de Séjour who were denied housing simply because the housing was "for Moroccans" (Focus group of female migrant domestic workers, personal communication, Dec. 3, 2018). Such housing discrimination, both the refusal to house based on national origin and the terrible conditions in which some of these migrants live, violates many of the international conventions that Morocco has signed. Article 11 of the International Covenant on Economic, Social, and Cultural Rights of 1966 states that "adequate food, clothing, housing, and continuous improvement of living conditions" is a right for all people. This article does not discriminate based on national origin or documentation status, and as a signatory of this covenant Morocco is legally bound at an international level to protect these rights of all people in its territory. Morocco does not guarantee these rights for undocumented peoples and even documented migrants are still having these rights infringed upon (*Constitution of the Kingdom of Morocco*, 2011). As previously stated Moroccan law no. 49-16 of 2016 guarantees proper housing conditions to individuals with no mention of the necessity of citizenship and documentation. However, if housing is only stated as a right in the constitution for citizens, then undocumented individuals are not under the purview of these rights under Moroccan law.

Sexual and Reproductive Abuses

Unfortunately, female migrants are extremely vulnerable to sexual abuses at every stage of their journey and in every aspect of their lives. The first kind of sexual abuse that affects Sub-Saharan migrant women in Morocco is sexual abuse on the journey to Morocco. It is a common problem that while travelling to Morocco, especially through the Algerian border, migrant women may be raped by either fellow travellers, smugglers, or possibly border guards and in the process may become pregnant (Lawyer for Manos Solidarias, personal communication, November 27, 2018; Team member at Orient Occident, November 13, 2018). In other cases, migrant women may be forced to give up their bodies while in Morocco if they live with men and cannot pay the rent. These women may fear living without housing and feel they have no alternative but to keep “protection” with the men who are their abusers (Lawyer for Manos Solidarias, personal communication, November 27, 2018). These are all cases of sexual abuse, which can result in a woman becoming pregnant.

Pregnancy can lead to an increasingly vulnerable position for migrant women. Women are almost always left in charge of taking care of children, which limits the options for work they can do and confines them to the home (Team member at Orient Occident, November 13, 2018). The frequent sexual abuse and coercion can lead to a situation in which the woman may not know the child’s paternity (Lawyer for Manos Solidarias, personal communication, November 27, 2018). This leads to a situation in which a woman cannot ask for monetary support from the child’s father and may be unable to financially support the child because she is unable to find a job because she has to care for the child. If an undocumented woman is in this situation and is unable to receive social housing because she does not have a Carte de Séjour, this violates her rights as per Article 11 of the Covenant on Economic, Social, and Cultural Rights.

In addition, sexual abuse can occur in the workplace for female domestic workers. These workers may be abused and their rights to their own body may be denied either forcibly or through coercion because of the power dynamic at play in the employer-employee relationship (Team Member at Afrique Culture Maroc, personal communication, November 26, 2018). Furthermore, sexual abuse can occur on the streets as well.

The Moroccan government has been vocal in taking a strict stance against abuse and discrimination against women. The new Violence Against Women law that went into effect earlier this year, which guarantees protections for women against forms of violence against women including “Physical,” “Sexual,” “Psychological,” and “Economic” violence (Moroccan Law no. 103.03, 2018). This law does not specify that it applies to Moroccan citizens and it guarantees harsh punishments, but it is not effective in protecting migrant women in these situations. It requires 2 witnesses to accompany the victim to the police station to report the accident. If these situations occur in the presence of other migrants, it is likely that a fear of retribution for being a Sub-Saharan migrant may prevent the witnesses or even the victim from reporting the incident. Furthermore, if this happens to a female domestic worker who is a migrant, this event may have happened in seclusion or only among people who are the perpetrators of the violence.

Carte de Séjour and the Responsibilities of the Migrant

According to the interviews I conducted and research I completed, it is clear that the official stance of the Moroccan government and legal system is that the Carte de Séjour eliminates all forms of discrimination against migrants, and will soon be available to any undocumented migrant who wishes to have it, through the new regularization program. However, there are many problems with this. One is that the Carte de Séjour is extremely hard to

obtain. A new regularization program was scheduled to go into effect in 2016 but it has not yet been carried out (*Forum: Je suis Migrant*, Nov. 17, 2018, conducted at Fondation Orient Occident). Furthermore, if someone is lucky enough to receive a Carte de Séjour, after a few years it has to be renewed which requires a proof of residence such as a housing contract. As previously stated, most landlords do not wish to create such a housing contract because they wish to avoid taxes. In this case, it is very easy for “regularized” migrants, including those who gained regularization through refugee status, to become undocumented.

Many people believe that in exchange for the protection of his or her human rights a regularized migrant is expected to fulfill certain duties. This concept was raised both by the Forum: *Je suis Migrant* at Orient Occident and the lawyer from Manos Solidarias. The forum: *Je suis Migrant* emphasized the importance of being a good migrant by paying bills and respecting Moroccans as they want to be treated. In return, they demand the rights granted to Moroccan citizens. The lawyer from Manos Solidarias stated that the Moroccan government does not “discriminate regarding to migrant rights in parallel with their duties.” However, in the question and answer part of the forum at Orient Occident a common theme was that the migrants are trying their hardest to be responsible to their duties, but they are not receiving protection of their rights in return. One example of this is the housing discrimination that people with the Carte de Séjour also face. The lawyer from Manos Solidarias suggests that if the migrants ask for the protection of their rights from the courts they will receive it, but that these migrants are too afraid to ask for this protection.

Why These Problems Continue to Occur

While I originally hypothesized that migrant women's human rights would not be protected because of the failure of both Moroccan law and the courts, I discovered different reasons why the laws in place might not be effective. Migrants often do not wish to interact with the courts. In cases of human rights abuses, whether a migrant has the Carte de Séjour or not, migrants fear that interaction with the courts will hurt them more than help them. In the case of female migrant domestic workers, when cases of unfair employment or working conditions occur, the organization Afrique Culture Maroc aids migrant women in negotiations to ameliorate the women's conditions and pay, only resorting to going to the courts as a last resort. It was explained to me that the courts are not an effective way in finding quick justice for these women that need it because courts are slow and cost money that these women do not have (Team Member at Afrique Culture Maroc, personal communication, November 26, 2018).

Other migrant women fear the courts because they fear losing their jobs or deportation or other forms of retribution for being a migrant. These risks are unfounded based on Moroccan law; migrants cannot be deported from Morocco unless the migrants home country agrees to it and those who have gone to court seeking justice have often eventually found it, but these migrants rightfully fear discrimination (Team Member at Afrique Culture Maroc, personal communication, November 26, 2018; Lawyer for Manos Solidarias, personal communication, November 27, 2018). Migrant women, and migrants in general, fear the courts because the courts are one arm of the law, the other being the police.

When asked if documented migrants are treated better than undocumented migrants, all of the women in the focus group gave a resounding no. They said it makes no difference if someone has documentation or not. They reported discrimination in all levels of society

regardless of documentation status. One specific example they gave was how the police treat Sub-Saharan migrants in Tangier. Regardless of documentation, these police barge into migrants' homes, seize them, and drive them out of Tangier into the countryside (Focus group of migrant female domestic workers, Dec. 3, 2018).

If these are the stories of the Moroccan government's treatment of Sub-Saharan migrants then it is obvious why these women fear the courts. The police and the courts are two sides of Moroccan law and even if the Moroccan courts are just toward migrants in terms of protecting them against human rights abuses, which may or may not be the case, migrants are too afraid to approach the courts for help because the Moroccan government has spread the message through the police that Sub-Saharan migrants are not welcome here and their rights are not protected.

How These Issues are Being Addressed

Currently, these issues of abuse are being addressed by organizations such as Orient Occident, Afrique Culture Maroc, and Manos Solidarias, whom I interviewed for this paper. Because female migrants are often afraid of going to the courts because of their vulnerable status and the discrimination from Moroccans they face in their everyday life, they often reach out to non-governmental organizations. All of these organizations work to educate migrants for their rights and to fight for protection of these rights for these women and for migrants in general. Orient Occident aids refugees in assimilating into Moroccan culture by offering French and Darija classes and other forms of intercultural education. Manos Solidarias conducts similar classes for undocumented migrants. Afrique Culture Maroc helps with mediation between employers and employees so that these migrant women can fight for fair pay and better conditions. All of these organizations I spoke with and the lawyer I talked to enforced their belief

that education and assimilation into society and will help lessen these human rights abuses as these two groups, migrants and Moroccans begin to see each other in a more positive light.

The Moroccan government has funded organizations such as these in the past, in accordance with the belief in human rights they made as a fundamental part of the 2011 Constitution. However, recently, some organizations have not received adequate funding, and in the case of Afrique Culture Maroc have completely stopped receiving funding from the Moroccan government. With a lack of income these organizations, which in the current climate of migrants being afraid of Moroccan legal institutions, are losing their ability to become effective and help these women who are extremely vulnerable to human rights abuses.

What Should Be Done Differently

The final question I asked both the focus group of female domestic workers and the lawyer from Manos Solidarias was, “What do you want the Moroccan government to do differently in terms of laws, courts, and treatment of migrants?” I also kept this in mind throughout the rest of my interviews and my attendance at the forum at Orient Occident. The migrants’ message was clear, in the words of one of the women in the focus group “We want to be treated equally.” These women demand nothing less than the protection of their human rights on the same level that Morocco protects the rights of its own citizens. Of all the stories and the people I have talked to in this project, one statement rang out clear- “We are all Africans.” (Focus group of migrant female domestic workers, Dec. 3, 2018; *Forum: Je suis migrant*, Nov. 17, 2018, conducted at Fondation Orient Occident). One woman in the focus group stated “Moroccans are treated great when they come to Côte d’Ivoire, so why do Moroccans treat us terribly here?” All these women demand is that Morocco stay true the principles in its

constitution and the international conventions on human rights it has signed and protect their basic human rights.

When I asked the lawyer from Manos Solidarias the same question, in order to gain a legal viewpoint on the same problem, his response was different. He claimed that even though there have been some problems in the courts regarding discrimination against migrants, these have overwhelmingly been resolved. He claimed that migrants need to “help lawyers help them” by agreeing to offer their personal information so they can be protected in courts. This speaks to the extreme fear that these migrants, especially migrant women, have of the Moroccan government. This may be the case that the Moroccan government can offer justice through the courts, but it is the government’s responsibility to make these migrants feel safe enough to seek help, because if they don’t then the courts are not allowed the opportunity to serve their purpose. The Moroccan government can do this by having the police treat migrants with fairness and respect these migrant’s human rights.

Furthermore, the courts can only be fair if Moroccan local laws change to respect the rights that Morocco agrees all humans are guaranteed, as per international conventions. All people need to be guaranteed fair housing without discrimination, safe and fair working conditions, and protections against sexual and physical abuse. The Moroccan government cannot only guarantee these rights to documented individuals and still be in accordance with international law. If such discrimination or abuse occurs, the Moroccan government needs to make it known that this is not okay, regardless of national origin, documentation status, race, or sex.

All of the individuals I spoke with and listened to emphasized the importance of intercultural understanding in reducing discrimination and increasing the acceptance of migrants.

If the Moroccan government wishes to create an environment in which migrant women feel safe approaching the courts and the police if they have been discriminated against or abused, it is the Moroccan governments responsibility to foster this intercultural education and acceptance instead of continuing the problem. Moroccans may not feel the need to protect migrants' rights because they see them as simply passing through and may see migrants as problems because they are continuously trying to get to Europe, but this is occurring because migrants do not feel welcome here. Migrant women are more at a risk of not feeling welcome here because women's rights seem to be violated on a regular basis in Morocco and the fight for women's right seems only relegated to Moroccan or European women in Morocco. The only way Morocco can protect the human rights of these migrant women is by making them feel comfortable enough to seek help and changing the laws so that they can receive the protection of their human rights when they need it.

Conclusion

Moroccan law is not effective at protecting migrant women against human rights abuses for two reasons: It has not sufficiently written its laws and its constitution to agree with the international conventions that it has ratified, and it has not created an environment that migrant women feel safe approaching the courts. Morocco has ratified almost all of the international laws regarding human rights and therefore is legally obligated to protect all of these rights. However, Morocco's claim that it protects these rights is mostly symbolic because there are certain fundamental human rights that Morocco guarantees only to its citizens and documented persons, such as housing and work. This puts migrant women in a vulnerable position of entering into contracts and situations which are not legal. Migrant women are often abused in these situations

both by Moroccans and by fellow Sub-Saharanans because of this extremely vulnerable status. However, they feel like they cannot request help because they are breaking the law as well.

Even in cases where a Sub-Saharan migrant woman is documented, her rights might not be protected because the police are often the perpetrators of crimes such as unwarranted search and seizure. This creates an environment where this protection through documentation that so many women work for is useless and these women do not feel comfortable going to the courts for help because it is the government that has violated their rights. Due to this situation, migrant women do not feel comfortable requesting protections for their rights from the courts and therefore their rights are not protected and Moroccan law is not an effective entity in protecting these rights.

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Appendices

Interview questions for lawyer:

- 1.) What kind of legal work or education do you help Manos Solidarias with?
- 2.) Are migrants' rights protected by the Moroccan government? (police, the courts)
- 3.) Have you helped any migrant women and if so, are there specific problems/ legal problems facing migrant women in Morocco?
- 4.) Do there need to be any specific laws created to protect the rights of migrants (especially migrant women)?
- 5.) How could the Moroccan government better protect the rights of migrants?

Interview Questions for Female Migrants:

- 1.) D'où êtes-vous?
- 2.) Quel est le statut de votre documentation de migration?
- 3.) Croyez-vous avoir des droits en tant que femme migrante au Maroc? Pourquoi, ou pourquoi non?
- 4.) Croyez-vous vos droits des hommes ont protégés au Maroc? Le droit au logement? Le droit d'être traité équitablement au travail? Et pourquoi?
- 5.) Avez-vous déjà eu affaire à traiter avec le système juridique marocain et pensez-vous qu'il vous a traité équitablement?
- 6.) Croyez-vous si la Carte de Séjour fait un différence de traitement?

Transcript of Translation of Interview with Lawyer- Translated by Rajaa Boursheg

AN INTERVIEW WITH THE LAWYER FROM THE ORGANISATION « MAINS SOLIDAIRES »

Meghan: My first question is about your work with migrants; and I'd like to know if it is okay to include your answers in my research project?

The lawyer: I am giving you my verbal approval to include my words in your research project.

Well in general, I represent the legal side of the association MAINS SOLIDAIRES, and I am also a legal advisor at their headquarter here in TETOUAN, and I am specifically supporting African migrants in our area (Tanger-Tetouan...).

My work in general is focusing on African migrant's orientation and guidance about the legal procedure of getting the normal rights and being Moroccan citizens (that includes getting the ID card, solving the African migrants lodging problems, instructing them about getting involved in the professional legal work...) that is in common situations, but my interference is mostly when migrants get arrested by having several offences (illegal immigration attempts, illegal lodging, etc.); so I automatically get a call from the organization once an African migrant gets caught, and my role at this point is to support them legally and try to defend them in order to get a fair trial. My schedule is always related to sessions of advising, and these sessions are very helpful to African migrants since they provide them with important information about their rights and duties here in Morocco and what should be done to integrate in the Moroccan life pattern (concerning work, health, education...)

Meghan: Based on your daily cases, what problems encounter migrant women here in Morocco?

The Lawyer: Well, away from the legal side, I will personally answer that question in an unprofessional way; during my conversations with African migrant women, the most common issue was sexual harassment from both Moroccan and African migrants, and physical raping from African migrants here in Morocco, that basically happens when a woman is sharing her place of residence with many men, and if she can't pay her share of rent, she is simply (forced to) give up her body to her roommates so that they can guarantee her security and her shelter from the danger outside, but the fact that she is objecting her body to sexual abuse doesn't provide her with any sort of security, in the opposite, the outside danger can be more merciful than that inhumane savage behavior; and what brings my attention to that similar case of raping, is that women usually get pregnant and afterwards can't recognize which of their roommates is the father, and that case is so in-depth in a way that makes me sensitive and sorry for their case, and I can't describe you how they were having a difficulty to talk and express while trying to hold their tears.

But then, I started noticing that they were actually looking for having sexual relationships with any random person just to have their babies born in Morocco, because an article of migrant's rights said that if a child is born in a certain country, he is considered legally as a part of it, and so that was their way to stay in Morocco and not going back to their homelands. With regards to other miserable stories that I hear every day about their sacrifices and their long trip that always turns into a savage trip dominated by the jungle law (I had a story of a very talented and a genius African migrant who was escaping with his family from his country's desperate situation, and at that very long journey he lost his parents and his sister who was raped and killed, and he can say nothing because there is no law and no rules) and they end up here in Morocco facing racism and discrimination, which makes them consider Morocco as a place of transit and keep trying to cross the ocean to Spain (Europe).

Meghan: does the Moroccan government give the migrants equally their rights as Moroccan citizens? And do migrants know that they have the right to be protected at court?

Well first, there is no discrimination regarding to their rights in parallel with their duties as equal as Moroccans, and I won't deny that African migrants were having some sort of indifference concerning the legal side (e.g.: the court session was neglecting many sides of the cases/ if the illegal migrant's language was local and not understood, the court simply gives its judgment because of the inability to communicate with them, regardless to many items, and that was clearly unfair) but now many things have changed and have developed too (including a group of translators from many spots of Sub Saharan African countries) ; but after many improvements, the African migrant now can benefit from many qualities and legal services in court, but in general , some strict Moroccan policies about Migrants must change, and I am referring here to labor, because what I noticed is the strong willing of those migrants to prove themselves and also the certificates they're having that are way too much qualified than ours, but unfortunately they are not welcomed to show their skills because of the rules; though it'd be so effective to engage them in the work and I am sure they can give a lot.

And so as our role is to speak on behalf of them, our duty is to report all their sufferings and problems to the court member for the purpose of commuting the sentence as low as we can. And we should actually be thankful to the organizations that defends migrant rights and also the diplomatic relationships that Morocco is having lately, and also the articles that are officially demanding the right to guarantee a decent life for migrants; all what I've mentioned was quite efficient to take the migrant rights seriously into account and giving them rights as any other citizen in Morocco.

And about the second question, I can tell that migrants do know their rights to be defended in court, they are just not asking for it, for the operation of defense process requires the migrant's personal information, and at that point they refusing to give any correct information about themselves because they are afraid of being sent to their country; so all in all, they know their rights but they can't help us to help them, which makes the procedure much more harder.

Meghan: what proceedings should be made to protect migrants and to help them get to the right path?

Well nowadays, and I will be honest at that part; there are many nongovernmental organizations and associations and foundations that are claiming to work for these migrant's sake, but actually we haven't noticed any progress about this huge issue so far, but the silver lining of this whole thing is that there are some donators and contributors and volunteers who are always giving psychological and health assistant as well as material and moral support (food and clothes, medicines, doctors, teachers, talking sessions... they are even providing them with free practical courses in many domains), however, that doesn't really break the boundaries between their people and ours (culturally and religiously), owing to the fact that many of them refuse signing their kids in Moroccan schools because they don't want them to have religious/cultural disruption.

But in general, WE NEED REAL SOCIETIES TO TAKE CARE OF MIGRANTS, WE DON'T NEED ANY POLITICAL HYPOCRISY ANYMORE.

And for migrants, I guess the best way to seek their rights here in Morocco is to learn Arabic or at least Darijah to communicate and integrate with this community and be legally part of it, because when a migrant is a part of a community, he will be protected by the law like any other citizen; because that illegal state is what makes them objected to attacks and robbery and abuse; because people (referring to criminals) do already know that this category of migrants cannot react towards any harmful actions (which means they can't report about a crime).

So my suggestion will be to raise awareness and give assistance to this category, and I also want those “fake” associations to do their work because those migrants are so desperate for a good natural life, and we are hoping for the best in the future.