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To cite this article: Katharina Natter (2020): Crafting a 'liberal monarchy': regime consolidation and immigration policy reform in Morocco, The Journal of North African Studies, DOI: [10.1080/13629387.2020.1800206](https://doi.org/10.1080/13629387.2020.1800206)

To link to this article: <https://doi.org/10.1080/13629387.2020.1800206>



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Published online: 28 Jul 2020.



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Crafting a 'liberal monarchy': regime consolidation and immigration policy reform in Morocco

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ABSTRACT

This paper demonstrates that Moroccan immigration policymaking is intrinsically tied to the monarchy's authoritarian consolidation agenda. Drawing on archival research and 87 semi-structured interviews conducted between 2011 and 2017 with Moroccan high-level civil servants, international and national civil society representatives, the paper dissects power dynamics among state and societal actors involved in Morocco's 2013 immigration reform. The analysis shows that immigration policy liberalisation not only emerged out of Morocco's autocratic political structures – a dynamic I call the 'illiberal paradox' – but at the same time consolidated them. In particular, the Moroccan monarchy used the 2013 'liberal' immigration reform to pursue three interrelated goals: (1) to perform Morocco's human rights commitment on the world stage and the regime's responsiveness to domestic pressure for political reform, (2) to consolidate the monarchical institution within Morocco's state apparatus and (3) to (at least partially) co-opt Moroccan civil society for humanitarian migration management, thereby silencing dissent in other arenas. At the same time, however, the analysis reveals that the regime consolidation strategy and the King's portrayal as a 'liberal' monarch did not cancel out deeply rooted dynamics among and between state and civil society actors, which required both sides to adapt their cooperation or resistance strategies. Ultimately, the paper showcases that immigration politics reflect the power dynamics within and the legitimisation strategies of the Moroccan monarchy. Immigration policy research thus offers a privileged vantage point from which to analyse broader political regime dynamics.

KEYWORDS Immigration policy; Morocco; state formation; regime consolidation; authoritarianism

1. Introduction

Writing about the reform of the Moroccan family code (*mudawana*) in 2004, Cavatorta and Dalmasso (2009, 487–488) argue that 'authoritarianism finds itself strengthened in Morocco despite the liberal nature and outcome of

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the reform'. They conclude that 'in Morocco, the King managed to reassert his grip on power by presenting himself as the defender of women's rights' (Cavatorta and Dalmaso 2009, 489). By replacing women with migrants, this sentence also accurately describes the dynamics around the 2013 immigration policy reform in Morocco. As this paper shows, the relative improvement of migrants' rights in Morocco is the outcome of an authoritarian regime consolidation strategy that has strengthened the position of the Moroccan King both domestically and internationally.

The paper argues that the shift in immigration policy – from repression to controlled liberalisation – reflects the power dynamics within and legitimisation strategies of the Moroccan state. It demonstrates that the 'liberal' immigration reform in 2013 not only emerged out of Morocco's autocratic political structures – a dynamic I call the 'illiberal paradox' – but at the same time consolidated them. In particular, the monarchy mobilised relations with the administration, civil society and other political actors to portray the King as a 'liberal' monarch and to consolidate his legitimacy in the face of both pressures by domestic civil society groups, as well as the monarchy's fear of regional 'revolutionary diffusion' (Weyland 2012) in the context of the 'Arab Spring'.

The paper first sketches the cartography of actors involved in Moroccan immigration politics and Morocco's main political dynamics since the turn of the 21st century, hereby showcasing that migration-making is an intrinsic part of state-making. The paper then introduces theoretical debates on the link between political regime dynamics and the politics of immigration – with a particular focus on the (il)liberal paradox concepts. The core of the paper then elaborates on how the Moroccan monarchy used the 2013 'liberalisation' of immigration policy in pursuit of three interlinked goals: First, to perform its commitment to human rights on the world stage and at the same time showcase its responsiveness to domestic reform pressure in the post-Arab spring context. Second, to consolidate the monarchical institution within the Moroccan state apparatus by playing on inter-institutional rivalries and diffusing responsibility. And third, to (at least partially) co-opt Moroccan civil society organisations (CSOs) for humanitarian migration management, thereby silencing dissent in other arenas.

The paper develops these arguments by drawing on archival research and 87 semi-structured interviews conducted with Moroccan high-level civil servants, international and national civil society representatives between 2011 and 2017 (see [Table A1, Annex](#)). Given the importance of preserving my respondents' anonymity in the small, yet politicised field of Moroccan immigration politics, I generally refrain from revealing the identity of my respondents (names, job description, institutional affiliation) throughout the article. Instead, I identify respondents through a number code – the code M16-I1, for example, referring to interview 1 in my 2016 fieldwork. I only reveal the

respondents' position within the cartography of actors when statements were made during public events or when the respondent's identity is imperative to contextualise the quote and does not in any way compromise his/her security. In these cases, however, I retract the number code to avoid cross-referencing.

2. Morocco: migration-making as state-making

While immigration was no issue of public policy or societal concern in Morocco at the turn of the twenty-first century, two decades later immigration has advanced into a burgeoning field of policy intervention. This shift from low to high politicisation was progressive: In the early 2000s, a new regional and domestic context raised the political stakes associated with immigration control in Morocco, leading to the enactment of a restrictive immigration law in 2003 – the first one since independence in 1956 (Natter 2014). Although the new policy was implemented inconsistently over time and across the Moroccan territory, it heralded a decade of restrictiveness towards so-called 'irregular transit migration' from sub-Saharan Africa (Cimade and AFVIC-PFM 2004; CMSM and GADEM 2012; MSF 2005).

A first shift in the cartography of actors occurred in the fall of 2005, when the tragic deaths of migrants at the Moroccan-Spanish borders of Ceuta and Melilla triggered domestic and international outrage (Migreurop 2006, 96–98; MSF 2005) and disrupted the monopoly of action of the Moroccan state: Although the central role of Ministry of Interior in immigration control was not fundamentally affected, new actors entered the policy scene, as local civil society efforts shifted from humanitarian work towards political advocacy, and the presence of international actors such as the International Organisation for Migration (IOM) and the United Nations High Commissariat for Refugees (UNHCR) became more pervasive.

The second fundamental shift occurred after September 2013, when King Mohamed VI launched Morocco's new, 'liberal' immigration reform structured around a migrant regularisation, a set of integration measures and legal reforms, as well as an intensified migration diplomacy (RC 2013). Legal status was granted to nearly 50,000 irregular migrants through two amnesties rolled out in 2014 (MCMREAM 2016) and 2017 (MDCMREAM 2018, 72), and migrant associations as well as Moroccan pro-migrant CSOs were legalised. The reform also upgraded Morocco's institutional structures on immigration: the Ministry in Charge of Moroccans Residing Abroad was renamed Ministry in Charge of Moroccans Residing Abroad and Migration Affairs (MCMREAM) and its portfolio broadened to include immigration.¹ In April 2014, the Directorate for Migration Affairs was tasked with elaborating a National Strategy on Immigration and Asylum (MCMREAM 2014). In line with this strategy, the Ministry of Education opened public schools to migrant children, the Ministry of Health proclaimed the creation of a health insurance for regularised migrants and refugees, and

the Ministry of Labour exempted regularised migrants from the labour market test. It was also announced that the human-rights based approach would be legally enshrined through new laws on immigration, asylum, and human trafficking. Although all three draft laws were elaborated by the end of 2014,² only *Law 27.14 of 25 August 2016 relative to the fight against human trafficking* has been enacted by the end of 2019. Apart from minor developments, the legal immigration reform remains stuck at the political level.

On the ground, migrants' physical security and access to services improved in Moroccan cities, but as other contributions in this special issue show, the 2013 reform did not end state agents' violence towards (irregular) migrants. In particular, continued raids of irregular migrants' settlements in the northern border regions and forced displacements to Morocco's southern regions clash with the liberal reform promises (FIDH/GADEM 2015). In addition, many of the announced integration measures remain scattered and legal reform is still missing. Ultimately, Morocco's immigration policy since 2013 is neither characterised by linear progress, nor by a back-and-forth between restriction and liberalisation. As this article suggests, the constant duality between restriction and opening reflects the strategic maneuvering of contradictory interests on immigration within the Moroccan state.

Despite major shortcomings at the level of law-making and implementation, it is however undeniable that the 2013 reform has heralded a new phase in Moroccan immigration politics in terms of the actors, interests and power dynamics at play. Most importantly, the King has entered the picture, followed by the National Council on Human Rights (CNDH) and its president Driss El Yazami as key figures of Morocco's immigration reform. Within the administration, the power monopoly of the Ministry of Interior has not been fundamentally challenged over the years, but the involvement of other ministries – in particular the Ministry of Foreign Affairs and the MCMREAM – has complicated agenda setting and decision-making due to inter-ministerial rivalries. In parallel, civil society work on immigration and integration mushroomed in response to funding opportunities; existing migrant associations and CSOs were regularised and new ones were created; and Moroccan associations working on development, education, health or professional training started including immigrants in their work. In sum, the field of immigration politics has become more crowded at all levels, increasing the complexity and ambiguity of immigration policymaking.

This paper links these immigration policy dynamics to the wider context of authoritarian consolidation in late 20th and early 21st century Morocco. Since independence in 1956, the legitimation and stability of Morocco's monarchy relies on three pillars: (1) the King's historical and religious legitimacy as Commander of the Faithful (*amir al-mu'minin*), (2) a mix of repression, elite co-optation through patronage networks, and a divide and rule strategy towards political opponents, and (3) particularly since the 1990s, Morocco's

international image as a reliable diplomatic partner for the West and relatively liberal country in an unstable region.

The infamous 'Years of Lead' that spanned from the 1970s to the early 1990s were not only characterised by systematic state repression, arbitrary arrests and execution of political opponents, but also by the transformation of state and economy into patronage tools, allowing the Moroccan monarchy to assure the fidelity of rural and urban elites by distributing political-administrative functions (Hibou 2005; Hinnebusch 2015; Vermeren 2002). In addition, a divide-and-rule tactic has consolidated monarchical power by maneuvering different opposition factions. Although the monarchy is often portrayed as 'arbiter among the state's groups and institutions' (Ayubi 1995, 121), it has actively instrumentalised conflicts between Moroccan societal and political groups to strengthen the regime.

In the early 1990s, King Hassan II engaged in a limited political liberalisation to widen the domestic regime base before the throne succession and to improve Morocco's image abroad (Cubertafond 2001; Monjib 2011; Santucci 1995; Waltz 1995). Freedom of the press was increased, civil society granted some room for maneuver, a Consultative Council of Human Rights (CCDH) was created in 1990 and leftist opposition parties integrated into the government of socialist politician and human rights lawyer Abderrahmane Yousoufi in 1998. This controlled liberalisation of political and civil rights opened negotiation spaces between state and society, yet ultimately assured the continuity of the regime. When Mohammed VI became King in 1999, there was widespread optimism that liberalisation would deepen, as he invited former exiles to return to Morocco, set up an Equity and Reconciliation Commission in 2004 to investigate human rights abuses during the 'Years of Lead' and reformed the family code (*mudawana*) despite widespread protest of conservative and religious parts of society (Boukhars 2011; Vermeren 2011).

Two decades later, however, the controlled liberalisation is stalling: In 2011, mass protests also erupted in Morocco as Islamist and leftist parties joined secular human rights groups in the '20 February movement', calling for more political freedoms and socio-economic equality. Mobilisation was cut short by the King's announcement of a constitutional reform that diverted mobilisation away from broader democratisation claims (Abdelmoumni 2013). Ultimately, the new constitution consecrated human rights and widened the powers of parliament and government, without however touching royal prerogatives. As a result, trust in democratic institutions remains limited, electoral participation low and regular social unrest continues to channel public grievances into the political sphere, most notably by the 'Hirak' movement that advocates social justice and political freedoms in the Rif region since 2016 but has been violently repressed by security forces (Masbah 2017). In sum, a stark difference remains between liberalisations on paper and the limited ways in which political rights and the rule of law

are realised in everyday life across Morocco (Boukhars 2011; Cubertafond 2001; Sater 2007; Vermeren 2011).

The analysis in this paper shows that the repertoire of actions historically mobilised by the Moroccan monarchy towards political opposition – a mix of repression, divide-and-rule strategies, elite co-optation and controlled liberalisation – plays out in similar ways on the immigration issue. Hereby, this analysis showcases that, ultimately, migration-making is an intrinsic part of state-making.

3. Theorising immigration politics: the (il)liberal paradox

To investigate the intrinsic link between immigration policymaking and deeper political regime dynamics, this section introduces the concepts of the (il)liberal paradox. In the early 1990s, Hollifield (1992) introduced the 'liberal paradox' to capture the contradictory drivers liberal democracies are confronted to when elaborating their immigration policies. He posited that the dominant economic ideology of liberalism pushes states to globalise their (labour) markets and to enshrine international human rights into national legislation, providing the ground for open immigration policies. At the same time, however, the political logic of liberal democracies is dominated by electoral objectives and national identity claims that provide the ground for immigration restrictions.

As I have argued elsewhere (Natter 2018b), countries across the democracy-autocracy spectrum are bound in similar ways by global dynamics of economic liberalism and human rights norms that drive immigration openness. However, autocracies are less bound by democratic processes that drive immigration restrictions, such as elections, or by legal constraints inherent to countries with a strong rule of law. Thus, autocratic leaders have a stronger capacity to break institutional path dependency and to enact wide-ranging reforms: Although they too have to forge compromises between different institutional actors and to reconcile diverging public and economic interests, the centralised decision-making increases the executive's leverage to enact rapid and fundamental policy shifts. It follows that compared to consolidated liberal democracies, autocracies can more easily enact liberal immigration policy reforms *if* they fit their broader economic agenda, foreign policy priorities, or domestic political goals. This dynamic, visible in the Moroccan case analysed here, is what I call the 'illiberal paradox'.³

The 'illiberal paradox' does not suggest that autocracies necessarily *do* enact more liberal immigration policies than democracies. There are numerous examples where autocracies have drastically restricted immigration and violated immigrants' rights. Instead, the 'illiberal paradox' seeks to conceptualise the dynamics underlying the fact that autocracies *can* open their immigration regimes more easily than democracies *if* they wish to do so, because

autocratic policymaking decreases the weight of legal or institutional path dependency and allows state actors to privilege strategic and foreign policy interests over domestic demands.

However, the 'illiberal paradox' has three main limitations (Natter 2018a). First, liberal immigration reforms might not be followed through in practice. Welcoming immigration discourses might first and foremost fulfil a symbolic role towards a specific (often international) audience. Second, while autocracies are less bound by legal constraints than democracies and can more rapidly liberalise their immigration regimes if they wish to do so, this also increases the vulnerability of liberal reforms to sudden restrictive backlashes. Morocco's current strategic welcoming policy might not be sustained in the long term – as royal priorities can change in the future. Third, immigration and integration rights do not automatically go hand in hand. As research suggests, countries tend to grant more extensive integration rights when the number of migrants concerned is low (Ruhs 2013) or when social welfare benefits are limited in the first place (also for citizens). As a consequence, the 'illiberal paradox' dynamic might be particularly relevant in countries where the magnitude of immigration is low or where liberal entry rights are not automatically coupled to socio-economic rights – such as in Morocco.

The remainder of this paper delves into the three central goals that underpin the illiberal paradox in Moroccan immigration policymaking: the performance of progressiveness at home and abroad, the consolidation of the 'liberal monarch' within the Moroccan polity, and the co-optation of civil society as a way of channelling political dissent. Together, they showcase how Morocco's 'liberal' immigration reform is not only a result but also a driver of autocratic consolidation.

4. Performing progressiveness at home and abroad

The performative dimension of state power is central to the Moroccan monarchy who 'is obsessed with maintaining and embellishing its image' (M17-I21). Ostensibly the chief purpose of the 2013 immigration reform was to portray the Moroccan regime as a 'liberal' monarchy and to secure its legitimation at home and abroad, by showcasing its responsiveness to domestic reform pressure in the post-Arab spring context and by performing its commitment to human rights on the world stage. As one Moroccan respondent highlighted, 'the Palace understood that it was a good card to play for Morocco' (M16-I15).

4.1. Geopolitical rebordering and image polishing on the world stage

The regularisation campaigns and integration measures enacted after 2013 were central for Morocco's international 'image polishing' campaign that

sought to showcase the progressive character of the Moroccan state (see also Benjelloun in this special issue). As the royal press release announcing the 2013 reform reads: 'This Royal Initiative, which is part of the Kingdom's tradition of welcoming, illustrates the constant involvement of the Sovereign in favour of protection of human rights' (RC 2013). The PR strategy proved successful: Journalists worldwide reported on the reform, highlighting that Morocco was a pioneer in the region. As one respondent highlighted: 'Morocco is the only African country that regularises irregular migrants!' (M17-I13). Also international actors repeatedly praised Morocco for its progressive policy, such as IOM Director General William Lacy-Swing who emphasised in February 2017 that 'Morocco is showing the way to a much better humanitarian and benevolent approach to migrants'.⁴

In particular, the reform was instrumental for Morocco's 'geopolitical rebordering', i.e. the shifting of Morocco's position on the (imaginary and symbolic) world map that splits the world into developing and developed, democratic and autocratic countries. Indeed, the 2013 reform placed Morocco discursively in proximity with developed, democratic receiving countries: 'We offer migrants a regularisation and integration in Morocco, so we can put ourselves on equal footing with Europe' (M17-I21), one respondent said. In the same vein, Anis Birou, Moroccan Migration Minister between October 2013 and April 2017, highlighted at a public event I attended in Rabat: 'We should not forget that migrants leave their countries first and foremost to live a life in dignity, and this is only possible in a country that offers security and opportunities'. Although this framing ignores the fact that Morocco is still first and foremost an emigration country, it allowed Morocco to cast itself as part of the 'receiving country family', a group of countries that (at least in peoples' mindsets) is characterised by high levels of development, democracy, and modernity.

Yet, the image polishing was not only directed towards Morocco's northern neighbours. As one respondent said: 'The heart, the catalyst of the new migration policy is Morocco's new positioning towards Africa' (M17-I21). Indeed, the 2013 reform advanced two vital Moroccan interests on the African continent: intensifying economic cooperation and securing support in the Western Sahara issue. Since the mid-2000s, systematic migrant rights' violations by police and border guards have jeopardised Morocco's interests in Africa. Through the regularisation and integration strategy, Morocco sought to garner support on the Western Sahara question across sub-Saharan Africa (see also Benjelloun in this special issue). The 2013 reform was also driven by political economy interests, as it facilitated the expansion of Moroccan firms and investments across West Africa, particularly in the financial, telecommunication, and national resources sector (Cherti and Collyer 2015). Ultimately, the 2013 reform positioned Morocco as an African role model on immigration governance and was instrumental for Morocco's

reintegration into the African Union in January 2017, where it is now officially in charge of the migration dossier.⁵

4.2. Framing migrants' rights as human rights on the domestic scene

But the immigration reform not only reflected Morocco's goal to perform its commitment to human rights on the world stage. It was also meant to bolster the regime's domestic legitimacy among liberal, progressive parts of Moroccan society at a moment where authoritarian stability was weakened by regional political developments. The 2013 reform was indeed partly a response to civil society claims for more migrants' rights in the context of the monarchy's limited political opening after 2011.

Morocco's transnational pro-migration civil society movement that had emerged since the early 1990s gained political momentum after 2011, when it could capitalise on the new constitution and the regional atmosphere of change: '2011 gave a lot of liberties, we could denounce what happened in Morocco with the migrants because of the changing socio-political context' (M16-I26). The 2011 constitution gave primacy to international treaties over national law and laid down the constitutional right to political asylum (Article 30). This gave CSOs new legal tools to advocate for migrants' rights: 'We can profit from the new constitution to ask for our rights [...] Article 30, the Convention on migrant workers, the Convention on refugees. Suddenly we have tools that we can rely on' (M17-I3).

In addition, the constitution upgraded the powers of the new National Council on Human Rights (CNDH) to strengthen Morocco's commitment to international human rights norms. In a symbolic move, King Mohammed VI appointed Driss El Yazami, a prominent human rights activist who lived in French exile for more than three decades and only returned to Morocco in 2004, as its president – 'to assure his political legitimacy in a political marketing strategy' (M16-I30). Under El Yazami's mandate, the CNDH set up a working group on discrimination in Morocco and started to actively engage on immigrants' rights: In August 2011, the CNDH asked for consecrating the right to asylum into Moroccan law and in 2013, the CNDH played a pivotal role in providing the impetus for immigration reform.

In sum, the constitutional and institutional changes in 2011 increased the legitimacy and leverage of national civil society actors and the CNDH. This allowed the immigration issue to take shape in the context of Morocco's wider human rights and democratisation debate. Indeed, Moroccan respondents systematically related migrants' rights to the issue of human rights in Morocco: 'If there is progress on human rights, there will be progress on migrants' rights, if there is a backlash, this will also impact migrants' (M17-I21). Thus, foreigners' rights have been seen by some as a testing ground

for Morocco's promise of political liberalisation, as a 'thermometer' to gauge the broader human rights situation in Morocco.

It was this migrants' rights – human rights nexus that was at stake in 2012, when a UN Committee in Geneva evaluated Morocco's adherence to the *International Convention of the Protection of the Rights of All Migrant Workers and Members of Their Families*, ratified back in 1993. This international evaluation offered a window of opportunity for civil society to make its voice heard and denounce Morocco's migrant rights' violations. Doctors Without Borders (MSF), the Moroccan Association for Human Rights (AMDH), and the Moroccan pro-migrant organisation GADEM handed in reports' to the committee in Geneva to counter the Government's official report that denied the arbitrary detentions and expulsions of migrants. The harsh report by MSF (2013) 'made the Royal Court particularly nervous, as it made such a bad impression on the international arena' (M17-I4). The UN Committee, inspired by civil society reports, concluded that the situation of migrants in Morocco was alarming. This created a moment of cumulative internal and external pressure on the Moroccan government and provided the immediate trigger for the 2013 reform.

On 9 September 2013, in parallel to the final meeting in Geneva, the CNDH presented a set of recommendations to the Moroccan King, entitled *Foreigners and human rights in Morocco: For a radically new immigration and asylum policy* (CNDH 2013).⁶ The next day, Mohammed VI announced an immigration reform along the lines of the CNDH recommendations (RC 2013), 'to calm things down a bit' (M16-I26). As I explain in the next section, the CNDH report was key for closing the gap between official discourse and realities on the ground that was threatening Morocco's image abroad, without however jeopardising the legitimacy of the monarchical institution.

5. Consolidating the 'liberal monarch' within the Moroccan state

In addition to performing progressiveness at home and abroad, the liberal immigration reform allowed to strengthen the monarchical institution within Morocco's state apparatus. Until the late 2000s, the involvement of the Moroccan state on immigration was limited to the security approach of the Ministry of Interior, as well as to negotiations between the Ministry of Foreign Affairs and European or African countries. Increasing domestic and international criticism exposed the dissonance between Morocco's restrictive immigration policy and the King's declared political vision of modernity and liberalisation. As this section shows, the 2013 immigration reform consolidated the monarchical institution by casting the King as a 'liberal' monarch within a repressive political system, playing on inter-institutional rivalries, diffusing responsibility and framing immigration as a 'national undertaking'.

5.1. A 'good cop/bad cop' dynamic between the King and the administration

First of all, the 2013 reform mobilised the set-up of the Moroccan state – with the King and his entourage on the one side and the administration on the other – in a 'good cop/bad cop' logic: Progressive developments and liberal immigration policy proposals were cast as royal initiatives, while the administration was made responsible for shortcomings or backlashes, such as continued violence towards migrants or delays in migrants' access to residence permits and social services (see also Ferrié and Alioua 2018, 20–21). The outcome is a split image of the state in which the King is portrayed as the guardian of the reform's liberal spirit, while other state actors – the Ministry of Interior, security forces, school headmasters or hospital directors – are made responsible for its failures. Ultimately, this dynamic legitimises the monarchical institution:

The King is the driving force behind the migration policy – from him come the big gestures, the big promises, but the implementation is left to the Ministry of Interior. And there are defensive reflexes in the administration that mitigate these big gestures and make sure that they don't become too dangerous for the state. (M17-I4)

This dynamic on immigration policy reflects a broader, historically rooted formula of Moroccan political life in which 'the King is good, the political class is bad'. As Bennani-Chraïbi (2017, 5) develops with regards to Moroccan party politics, the King is portrayed as an 'enlightened prince', a democratic leader close to the concerns of common people, while the political class (high-level civil servants, political party leaders, as well as regional political elites) is seen as marked by widespread corruption, incompetence, and a lack of societal rooting. A ministerial respondent hinted at this paradox, saying: 'Fortunately we have the King here in Morocco, he is very democratic' (M17-I8).

The regularisation process launched in 2014 is exemplary for this dynamic: Foreigners Bureaus were created by the Ministry of Interior in each of the 83 prefectures across the Moroccan territory to register regularisation claims. Local regularisation commissions, composed of representatives of Moroccan security services and police, as well as two civil society representatives appointed by the CNDH, were set up to rule on the applications (Mol and MCMREAM 2013). Three thousand civil servants were mobilised to carry out the regularisation campaign.⁷ Most applications were rejected at first instance because of insufficient residency or work proofs (PNPM 2014). In September 2014, Migration Minister Anis Birou blamed the administration for not having turned the regularisation into a success: 'The number of regularisation requests is below our expectations. This is probably due to the difficulties illegal migrants have in providing the administration, *sometimes a little too*

fussy, the documents attesting to the length of their stay' (quoted in: Benjeloun 2018b, 46; emphasis by the author). As I will show below, these administrative difficulties have been resolved through the top-down intervention of the CNDH.

The good cop/bad cop dynamic also became evident during the 'Figuig refugee crisis' in April 2017, when 41 Syrian refugees were left without food and shelter at the Moroccan-Algerian border, as both Moroccan and Algerian security forces refused to accept them on their territory.⁸ On 20 June, the World Refugee Day, the King intervened by granting Syrian refugees the right to enter Morocco, an 'exceptional' decision 'dictated by humanist values', as the press release of the Royal Cabinet specifies.⁹ Episodes such as these portray the King as 'saviour' of vulnerable groups in a repressive national environment and turn him into the guardian of human rights.

The centrality played by the King in the 2013 reform guaranteed a generalised dynamism on immigration within the administration; and some respondents even compared Moroccan bureaucracy to a 'machine' set in motion by the King's intervention: 'In Morocco, as soon as it's royal, it progresses, everyone runs' (M16-I16). However, as I show elsewhere (Natter 2019), the 2013 reform also reinforced inter-institutional dynamics within the Moroccan administration, as institutions appropriated the 'royal will' for their own agendas. Together with the dynamics sketched here, these contribute to the monarchy's regime consolidation strategy by diffusing responsibilities and making it more difficult to locate decision-making.

5.2. Immigration as a 'national undertaking': the absence of party politics

Yet, the 2013 immigration reform not only consolidated the monarchical institution by casting the King as the 'liberal' monarch within a repressive political system or by playing on inter-institutional rivalries and diffusing responsibility. It also did so by forcing cross-partisan adherence to the immigration reform. As highlighted in the introduction, electoral participation in Morocco remains low and political parties continue to have little influence over core policies such as national budgets or internal security. The passivity of political parties on immigration – with immigration not figuring in political party programmes for the 2012 and 2016 parliamentary elections – is thus perhaps unsurprising. Yet, it exemplifies the core dynamics of the illiberal paradox and the stark contrast with immigration politics in liberal democracies.

Fieldwork insights suggest that the King has depoliticised immigration by elevating it into the royal realm and transforming immigration policy into a 'national undertaking' (M17-I5) that stands above party politics. As a result, open discontent with the 2013 reform is not possible and has made it

relatively immune to exploitation by domestic political actors. According to one Moroccan Member of Parliament:

From the moment that the King says it's a state policy, we cannot have a discourse like the European far-right here in Morocco. The fact that the policy has been initiated by the King prevents immigration from being politicised for electoral ends. (reference redacted)

Indeed, elected politicians or party leaders have refrained from polarising around immigration because it falls in the realm of royal prerogatives (Benjeloun 2018b). When it happens, such as in May 2017 when a Moroccan deputy criticised the immigration policy by claiming that 'Moroccan cities are now polluted by sub-Saharan migrants',¹⁰ it triggers a wave of political and media outrage. Immigration has become a red line of the Moroccan state, one of the 'untouchable topics' (M17-I6) – like internal security, territorial integrity and the royal family. In this context, one of the few state actors who have been granted strategic room for maneuver on immigration has been the CNDH.

5.3. The im/potence of the monarchy's poster child, the CNDH

Indeed, next to instrumentalising the administration and depoliticising immigration in national political debates, the success of the immigration reform was assured by increasing the room for maneuver and public profile of the National Council for Human Rights (CNDH). Created in 2011 as a successor to the CCDH, and close to the Royal Palace, the CNDH became the institutional safeguard of the migration reform by legitimising it nationally, serving as a corrective to administrative restriction when needed, and acting as a mediator between state and civil society. As this section shows, the im/potence of the CNDH to enforce migrants' rights showcases the ambiguities inherent in navigating Morocco's hybrid political system.

First of all, the CNDH played a crucial role in legitimising the 2013 reform as a home-grown and not externally imposed initiative. As I explain above, the September 2013 report of the CNDH offered Moroccan authorities an opportunity to reform their immigration policy in the face of domestic and international criticism without losing face: 'The CNDH had the legitimacy in front of civil society and authorities. When in 2013 the CNDH confirmed the civil society reports, it could be heard by the institutions' (M16-I26).

Second, the CNDH redressed administrative developments when things did not go as expected – such as in the regularisation campaign. As just mentioned, the local regularisation committees chaired by the Ministry of Interior first rejected a considerable number of applicants. The appeals could have taken place in front of an administrative tribunal, but in June 2014, a National Appeals Commission was created under the presidency of the CNDH. This created room for alternative interpretations of the regularisation criteria

without infringing upon the power of the Ministry of Interior. Composed of civil servants, as well as ten civil society and migrant representatives (CNDH 2014), the appeals commission functioned as a counterweight to the local regularisation commissions: 'Those who designed the policy created safeguards such as the National Appeals Commission that enabled the solving of 80% of the cases, but with the idea of finding an honourable way for all parties involved' (M17-I12). The Appeals Commission decided to regularise all women and children regardless of their length of stay and to accept alternative documentation to prove work, marriage or length of stay (see also Benjelloun in this special issue). As one commission member told me: 'The aim was to regularise as many people as possible' (M16-I26). In the end, the CNDH played a key role in regularising the majority of applicants, thereby turning the amnesty into a successful geopolitical marketing tool.¹¹

Thirdly, the CNDH has become the principal mediator between state actors and civil society, not without ambiguities, as respondents have highlighted. As the next section shows, the CNDH functions as a 'gatekeeper' for civil society to access the Moroccan state apparatus, indirectly controlling which civil society voices are heard: 'CSOs are obliged to pass through the CNDH to reach institutions with their advocacy' (M16-I3). For Üstübeci (2016, 312), 'despite criticism that it is a state agency with closed membership and a lack of independence, CNDH has been a crucial channel for the lobbying efforts of civil society'.

Due to the high-level profile of its president Driss el Yazami and his close relationship with the royal cabinet, the CNDH has acted as an agenda setter and influenced decision-making within the Moroccan state.¹² It has used its leverage to advance not only migrants' rights, but also to address sensitive issues such as racial discrimination or religious diversity. As interviews have shown, interpersonal and informal negotiations are a key tool for the CNDH to achieve change, rather than direct advocacy or outspoken criticism of state actions. Nonetheless, the 'red lines' of the regime also constrain the CNDH's influence: 'There are things that cannot be done because they are not ripe enough at the institutional or societal level' (M17-I17). The CNDH's in/capacity for influence therefore also depends on civil society – national and international – to continue its advocacy for migrants' rights, thereby ensuring that past achievements are not watered down in the future.

6. Co-opting civil society and channelling dissent

The 2013 immigration reform did not only allow the Moroccan monarchy to perform progressiveness at home and abroad and to strengthen the royal institution within Morocco's state apparatus. Immigration 'liberalisation' also became a powerful tool to (at least partially) co-opt Moroccan CSOs for humanitarian migration management, thereby redirecting or silencing dissent on other issues such as citizens' political freedoms and social equality. This

policy of controlled opening towards Morocco's pro-immigrant civil society reminds of Morocco's broader regime stability strategies. As Hibou (2005, 79) writes, 'in a context where central power is not able to permanently control all of Moroccan space, the sovereign encourages and often contributes to the construction of dissident spaces [...]. The "controlled dissidence" [...] [is] thus part of state engineering'.

6.1. Institutionalisation: granting civil society strategic room for maneuver

It is undeniable that over the past two decades, civil society activism on migration has gained political clout in Morocco. In the early 2000s, formal interactions between civil society and public authorities were minimal. Acting without legal status, CSOs were under constant surveillance from Moroccan security services. Respondents painted the picture of an impenetrable administration: 'All doors are closed [...] Our requests are not taken into account' (M12-I3). Yet, certain Moroccan pro-migrant associations such as GADEM started to enjoy relatively wide freedoms in the late-2000s:

The migration field was totally controlled by the Ministry of Interior and no one could talk, but the GADEM managed to constitute a small bubble. [...] GADEM was not recognised, but it was here, it was tolerated. That's not how things are normally done in Morocco – an illegal association in Morocco, they're normally imprisoned. (M17-I5), a state respondent commented

Although these CSOs partly disturbed authorities' work – flagging migrant rights' violations and hereby damaging Morocco's reputation at home and abroad – they also fostered Morocco's image as a liberalising state that allowed for public dissent and activism. Paradoxically, one key reason for the relative freedom of Morocco's pro-immigrant civil society over the 2000s was that it converged with the royal agenda of regime consolidation: 'There was an impetus from above to open up for influences from below' (M11-I4). In fact, by granting CSOs visibility in the public sphere, the monarchy consolidated its domestic legitimacy and at the same time strengthened its control over the human rights discourse, thereby reducing the risk that civil society activism would jeopardise the monarchy.

These dynamics were reinforced after 2013, as the monarchy needed civil society involvement to successfully implement the immigration reform and to showcase its democratic character. The implementation of the 2014 regularisation is exemplary in this regard: Many irregular migrants were at first skeptical of the regularisation, fearing that Moroccan authorities would lure them into providing their identity and fingerprints just to expel them more efficiently afterwards. The success of the regularisation thus in part depended on CSOs and migrant leaders to vouch for the sincerity of Morocco's

regularisation offer. As the head of the Directorate of Migration Affairs at the MCMREAM said at a conference I attended in Rabat in March 2017: 'During the first regularisation, there was a certain suspicion from the migrants, it's after the intermediation by civil society that this has changed'. Migrant associations led awareness-raising campaigns within their respective national or local communities, and encouraged migrants to legalise their status. For instance, the Democratic Organisation of Immigrant Workers (ODTI) distributed flyers summarising the regularisation criteria and providing instructions on how to submit a regularisation claim. Had migrant associations not played this facilitator role, the regularisation campaign would likely have been unsuccessful – both in terms of its real impact on migrants' lives and its symbolic geopolitical power.

Thus, the state was dependent on a critical – although not too critical – civil society to fortify its liberal image. In part, this led to the institutionalisation of civil society as a political actor: CSOs and migrant associations were regularised in 2014, and state and civil society actors started to formally cooperate. Particularly the CNDH and the MCMREAM have developed direct contacts with CSOs and migrant organisations. However, interviewees framed the political arena as a space with limited access, requiring an entrance 'ticket' (M17-I1, M17-I3, M17-I10) that was in part conditional on political quietism. Indeed, instead of strengthening civil society's place in Moroccan political processes, such institutionalisation has made its role more ambiguous. As the next section shows, the dependency between CSOs and the state is reciprocal: While the 'liberal monarchy' depends on civil society activism, CSOs also depend on the monarchy for their survival – as protection from the Moroccan security apparatus and to access national and international funds –, making them vulnerable to co-optation.

6.2. 'Makhzenisation': the partial co-optation and silencing of civil society

Civil society activism on migration flourished after 2013 – partly in response to a political window of opportunity, partly as a reaction to (national and international) funding. However, civil society struggles to reposition itself in response to Morocco's 'liberal' agenda. Before 2013, civil society was clearly situated in opposition to state authorities, denouncing their securitarian approach and violence. After 2013, the mushrooming of CSOs has triggered growing competition and a fragmentation of the civil society agenda that facilitated its partial co-optation and silencing by the state. In parallel, the involvement of a growing number of state actors on immigration has diffused responsibilities for continued migrant rights' violations, and forced civil society to adjust its advocacy strategies.

Institutions such as the CNDH and the MCMREAM have attempted to co-opt CSOs in various ways: First, the regularisation of associations and the public funding of pro-immigrant activities allowed the state to cooperate with CSOs that used to be their opponents. For instance, the MCMREAM started to issue yearly calls for proposals in 2014 to fund social and humanitarian assistance or cultural integration projects.¹³ As one international respondent highlighted: 'This is of course a control reflex' (M17-I4), given that public funding not only enables but also steers civil society activities in certain directions. Second, state institutions took over successful civil society activities and branded them as state initiatives. For instance, the yearly 'Migrant Week' (Semaine des Migrants), organised by the ODTI since December 2012, has been reframed as an initiative of the MCMREAM since 2015.¹⁴ Third, state institutions such as the CNDH or the MCMREAM have hired people known for their advocacy work on migration, and formally integrated CSOs into decision-making through the local regularisation commissions. This 'Makhzenisation' of civil society has somewhat silenced their criticism of migrants' rights abuses over the past years.

More generally, by bringing CSOs on board, Moroccan authorities have made it more difficult for civil society to openly criticise migrant rights' violations and to provide a robust counter-discourse. Interviewees noted the silence of previously vocal civil society actors on the ongoing violence of state actors towards migrants in the north of Morocco or at the borders with Spain: 'some migrant associations that were always very vocal in criticising the government, they don't talk anymore' (M16-I22). For Norman (2016, 431), 'Moroccan civil society organisations thus paid a heavy price by choosing to transform "... their practices and policies from mobilisation and street activities to participation in public policies and cooperation with the authorities" (Vairel 2013, 43)'.

CSOs now face two new challenges: On the one hand, they have to strike a balance between welcoming changes and continuing their critique of migrant rights violations:

Before 2013, it was all securitarian at the level of government policy. So for civil society it was easy to do advocacy, you just needed to denounce the policy and the lack of political will, so civil society was more cohesive. With 2013, it has become more difficult. (M16-I22)

On the other hand, the growing number of state actors working on immigration has diffused accountability and created ambiguity about who is responsible for misconduct and lacking progress. The key question is whom CSOs should target institutionally with their criticism.

In response to the duality in Morocco's immigration policy, civil society adapted its advocacy strategies, oscillating between confrontation and cooperation with state actors. Some CSOs have twisted co-optation attempts

by the state to their advantage, mobilising their newly established contacts within the administration to advance specific dossiers informally. Other CSOs actively capitalise on Morocco's self-portrayal as African leader on migrants' rights:

Morocco was tasked with the migratory dossier at the African Union, so I think we will play on that: You cannot present and suggest things at the African level if you yourself don't have these laws in your own country. (M17-I3)

However, Moroccan CSOs such as GADEM or AMDH also increasingly use migrants' rights as an entry to advocate for Moroccans' broader political and socio-economic rights. For instance, authorities' lacking recognition of refugee residence permits is framed as 'a question of rule of law in Morocco' (M16-I2) and deficiencies in migrant protection are turned into a more general critique of Morocco's poor social system: 'Migrants now are accepted in hospitals and emergency rooms under the same conditions as Moroccans – that means with material insufficiencies and doctors' unavailability, that's the same for everyone' (M17-I11). By linking migrants' rights to the broader human rights situation in Morocco, migrants become instrumental in engendering a more general anti-system critique. Ironically, this is exactly what Moroccan authorities had hoped to avoid.

Ultimately, the opening of the state to civil society has remained partial, and most state-civil society interactions seem first and foremost symbolic, aiming at showcasing the participatory character and inclusiveness of the migration reform. After an initial period of euphoria, some CSOs deliberately reduced their involvement with state actors, having realised their instrumentalisation for liberal window-dressing and the continuation of violent state practices. With some CSOs returning to their initial position of blanket opposition and of linking migrant rights to larger issues of human rights and political freedom in Morocco, the top-down steering of civil society activism towards migrant support activities and away from broader political advocacy might ultimately not succeed. In the long term, the merely symbolic opening of the state to civil society might thus be defeating its initial purpose – autocratic consolidation.

7. Conclusion: immigration politics, a lens into authoritarianism

The dynamics sketched in this paper showcase that autocratic institutions can, if it suits the regime in place, be a driving force behind immigration policy liberalisation, a dynamic I call the 'illiberal paradox'. In Morocco, the (at least partial) improvement of migrants' rights on the ground is de facto the outcome of a regime consolidation strategy that has strengthened the position of the King both domestically and internationally.

As the analysis in this paper has shown, the monarchical institution was the principal driver of immigration liberalisation, based on foreign policy and

domestic regime legitimisation interests rather than human rights and democratisation ambitions. International pressure and civil society activism were important factors, but did not determine the extent of the policy change. Instead, the reform was a prestige project linked to Morocco's international agenda and allowed the (at least partial) co-optation of progressive civil society. In fact, the opening of the state towards civil society did not strengthen its weight on policy processes, as increased opportunities for civil society influence have been cancelled out by state co-optation attempts. However, as I have shown, the dependency between state and civil society is reciprocal to a certain extent: While CSOs depend on the state to survive both politically and financially, the state depends on CSOs to successfully showcase its openness.

Ultimately, this paper demonstrated that the politics around immigration provide a fruitful lens into the study of statehood, authoritarianism and political change more broadly. In the case of Morocco, the 2013 immigration reform provided a powerful tool to cast Morocco as a 'modern', 'liberal' monarchy and to consolidate its legitimacy in the face of domestic civil society pressures for liberalisation, as well as the monarchy's fear of regional 'revolutionary diffusion' (Weyland 2012) in the context of the 'Arab Spring'. The liberal reform thus not only emerged out of Morocco's autocratic political structures, but at the same time consolidated them. As has been famously stated by Sayad (1999, 6–7): 'Thinking about immigration basically means questioning the state, questioning its foundations, questioning its internal structuration and working mechanisms'.

Writing in early 2020, it remains unclear whether the liberal migration agenda initiated in 2013 will prevail in the long term, particularly in a scenario where the royal will to keep up this liberal agenda might wane. Thus, one of my respondents asked: 'What will happen to the migration policy now that Morocco is back in the African Union, now that the King got what he wanted?' (M17-I12). Will the dossier lose its dynamism or are the administrative structures and civil society institutions in place strong enough to keep the system going? On the one hand, dynamics of path dependency (Pierson 2000) would suggest that as soon as the 'royal impulse' disappears, institutions fall back into their deeply-rooted behaviours – for the Ministry of Interior a purely securitarian approach, for the MCMREAM a focus on Moroccans abroad, for the Ministries of Health, Labour and Education a policy of *laissez-faire* and ignorance of the migrant population. This would lead to a return to pre-2013 politics.

On the other hand, institutions or policies, once created, can take on a life of their own (see Tilly 1975, 117). Indeed, setting up institutions such as the CNDH, the MCMREAM, or the ODTI – even if they might be *façade* institutions initially – can create institutional incentives and dynamics that were not originally planned. The establishment of new actors and interactions might thus,

in the long run, contribute to more sustainable change. Some interviewees were therefore optimistic and stressed dynamics of a self-fulfilling prophecy: 'Now, if we act as if Morocco followed a rights-based approach, we might end up with a rights-based approach' (M17-I6).

Notes

1. In April 2017, the MCMREAM has been downgraded to a Delegate Ministry and attached to the Ministry of Foreign Affairs as 'a way to please the Ministry of Foreign Affairs' (M17-D10). In October 2019, the immigration portfolio is again removed from the official name of the delegate ministry that becomes a Delegate Ministry in Charge of Moroccan Residents Abroad (MDCMRE) and is incorporated into the Ministry of Foreign Affairs, African Cooperation and Moroccan Residents Abroad.
2. For details, see: Benjelloun (2018a, 78–95).
3. In my paper, the illiberal paradox refers to immigration *policymaking*. Other researchers have developed the idea of an illiberal paradox in relation to autocracies' *emigration* policies (see Tsourapas 2018).
4. See: MoroccoWorldNews, *IOM Ready to Support Morocco in Implementing its Migration Policy*, 13 February 2017, <https://www.moroccoworldnews.com/2017/02/208087/iom-ready-support-morocco-implementing-migration-policy/>, retrieved 5 September 2018.
5. As part of Morocco's African Migration Agenda (MVI 2018), Rabat also announced to host the African Migration Observatory of the African Union (MDCMREAM 2018).
6. The recommendations were based on a report commissioned internally by the CNDH, which acknowledged state violence against migrants. However, the report was never made public.
7. See: *Proceedings of the 214th session of the Parliament on 2 December 2014*, <http://www.chambrederesrepresentants.ma/sites/default/files/seances/214.pdf>, retrieved 10 August 2017.
8. See: LeDesk, *En plein désert, des réfugiés syriens ballotés entre le Maroc et l'Algérie dans le dénuement le plus total*, 23 April 2017, <https://ledesk.ma/2017/04/23/en-plein-desert-des-refugies-syriens-ballotes-entre-le-maroc-et-lalgerie-dans-le-denuement-le-plus-total/>, retrieved 17 March 2018.
9. See: TelQuel, *Mohammed VI met fin au calvaire des familles syriennes bloquées près de Figuig*, 20 June 2017, https://telquel.ma/2017/06/20/mohammed-vi-met-fin-au-calvaire-des-familles-syriennes-bloquees-pres-de-figuig_1551327, retrieved 17 March 2018.
10. See: Yabiladi, *Migrants subsahariens: De Fès au Parlement, la vague de racisme déferle*, 25 May 2017, <https://www.yabiladi.com/articles/details/54008/migrants-subsahariens-parlement-vague-racisme.html>, retrieved 26 August 2018.
11. The same dynamic was at play again in the 2017 regularisation. See: HuffPost-Maghreb, *Le Maroc assouplit ses critères de régularisation des étrangers clandestins*, 28 March 2018, https://www.huffpostmaghreb.com/entry/le-maroc-assouplit-ses-criteres-de-regularisation-des-etrangers-clandestins_mg_5abb5c61e4b04a59a312acfe, retrieved 5 September 2018.

12. In December 2018, Amina Bouayach - a key civil society activist and political figure since the 1980s - was nominated to succeed Driss el Yazami as director of the CNDH.
13. In 2014, 60 projects were funded with nearly 25 million dirham; in 2015, 64 projects with 11.6 million dirham (MCMREAM 2016, 115–116). These are rather meagre financial investments compared to other migration policy domains. For instance, over the same period, the Ministry of Interior spent more than two billion dirham 'to reinforce the integrated border management to limit irregular migration' (MCMREAM 2016, 78).
14. The event was renumbered accordingly: As advertisement flyers collected during fieldwork show, the ministry marketed the 2015 event as the first edition of the migrant week even if it was in fact the fourth.

Acknowledgements

The research leading to these results was part of the MADE (Migration as Development) Consolidator Grant project, receiving funding from the European Research Council under the European Community's Horizon 2020 Programme (H2020/2015-2020)/ERC Grant Agreement 648496.

Disclosure statement

No potential conflict of interest was reported by the author(s).

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Annex

Table A1. Interviewed actors.

State institutions	<ul style="list-style-type: none"> • Ministry of Foreign Affairs • Ministry of Interior • Ministry of Justice • Ministry for the Moroccan Community Abroad and Migration Affairs • Ministry of Labour • Ministry of Education • Ministry of Industry • Ministry of Health • Bureau of Refugees and Stateless People (BRA) • Parliament • National Council on Human Rights (CNDH) • Interministerial Delegation on Human Rights (DIDH) • Fondation Hassan II for Moroccans Residing Abroad • Consultative Council on Moroccans Abroad (CCME) • High Planning Commissariat • Entraide Nationale
CSOs and migrant organisations	<ul style="list-style-type: none"> • Caritas Morocco • Moroccan Organization of Human Rights (OMDH) • Moroccan Association of Human Rights (AMDH) • Moroccan Association for the Support and Promotion of Small Enterprises • Association Droits et Justice • Democratic Organization of Labor (ODT) • Democratic Organization of Immigrant Labour (ODTI) • La Cimade • Fondation Orient Occident • Moroccan Association for Studies and Research on Migrations (AMERM) • Friends and Families of Victims of Clandestine Migration (AFVIC) • Anti-Racist Defence and Support Group of Foreigners and Migrants (GADEM) • African Cultural Centre of Morocco • Council of sub-Saharan Migrants in Morocco (CMSM) • Association for the Development and Sensitization of Guineans in Morocco • Association Light on Emigration in Morocco • Clinique Hijra • Evangelical Church Rabat • International Mutual Aid Committee (CEI)

International organisations and
diplomatic actors

- EU Delegation in Morocco
 - United Nations High Commissariat for Refugees (UNHCR) Morocco
 - International Organization for Migration (IOM) Morocco
 - International Labour Organization (ILO) Morocco
 - German Development Agency (GIZ) Morocco
 - Swiss Development Cooperation Morocco
 - Friedrich Ebert Foundation Morocco
 - Austrian Embassy Morocco
 - European External Action Service, Brussels
 - DG Home, Brussels
-