



TRAINING MANUAL ON THE FIGHT AGAINST RACISM AND XENOPHOBIA

Addressed to justice officials



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TRAINING MANUAL ON THE FIGHT AGAINST RACISM AND XENOPHOBIA

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Index

Acronyms	9
General presentation	11
A. Introduction	11
B. General objectives	13
C. Specific objectives	13
D. Educational goals	14
E. Document structure	14
1. Document structure	14
2. Module structure	15
F. Teaching materials	16
G. Presentation and closing of the training	17
1. Presentation of the participants	17
2. Closing of the session	18
Module I. Migration, racism, and discrimination – sociopolitical issues and concepts	21
A. Introduction	21
1. Presentation	21
2. Module-specific objectives	22
3. Pedagogical objectives of the module	23
4. Module structure	23



B. Session 1. Human mobility today: main dynamics and trends and their implications for Morocco	24
1. Session objectives	24
2. Focus	25
3. Procedure	25
C. Session 2. The management of cultural diversity	36
1. Session objectives	36
2. Focus	37
3. Procedure	37
D. Session 3. Racism, racial discrimination and xenophobia. The psychosocial bases of exclusion	44
1. Session objectives	44
2. Focus	44
3. Procedure	45
MODULE II: International and national legislation on racism, xenophobia and discrimination including intersectional discrimination	59
A. Introduction	59
1. Presentation	59
2. Module-specific objectives	60
3. Pedagogical objectives of the module	61
4. Module structure	61
B. Session 1. The normative framework (international legal instruments - <i>hard/soft law</i>)	62
1. Session objectives	62
2. Focus	63
3. Procedure	64
C. Session 2. The national normative framework	73
1. Session objectives	73
2. Focus	74
3. Procedure	75



D. Session 3: The political bases for preventing and combating all forms of discrimination (including intersectional discrimination), racism and xenophobia	84
1. Session objectives	84
2. Focus	84
3. Procedure	85
E. Session 4: The organic bases for preventing and combating all forms of discrimination (including intersectional discrimination), racism and xenophobia	90
1. Session objectives	90
2. Focus	90
3. Procedure	92
MODULE III. Identification of cases of discrimination and complaint mechanisms available	101
A. Introduction	101
1. Presentation	101
2. Module-specific objectives	102
3. Pedagogical objectives of the module	102
4. Module structure	102
B. Session 1. The basics of victim identification	103
1. Session objectives	103
2. Focus	103
3. Procedure	104
C. Session 2. Tools for detecting and identifying incidents of discrimination, racism and xenophobia against migrants	113
1. Session objectives	113
2. Focus	114
3. Procedure	114
D. Session 3. Complaint mechanisms	125
1. Session objectives	125
2. Focus	125
3. Procedure	126



MODULE IV. Access to justice for migrants and its relation to the enjoyment of rights in general	133
A. Introduction	133
1. Presentation	133
2. Module-specific objectives	134
3. Pedagogical objectives of the module	134
4. Module structure	134
B. Session 1. Regulatory and political framework on access to justice for migrants in Morocco	135
1. Session objectives	135
2. Focus	136
3. Procedure	136
C. Session 2. Obstacles, barriers and discrimination in access to justice for migrants	141
1. Session objectives	141
2. Focus	141
3. Procedure	142
D. Session 3. Involvement of institutions and civil society in preventing and combating discrimination, particularly racism and xenophobia	148
1. Session objectives	148
2. Focus	149
3. Procedure	149
MODULE V. Training facilitation techniques (pedagogy and andragogy)	155
1. Primary objective	155
2. Specific objectives	155
3. The fundamental steps in the andragogical process	156
4. Andragogy: definition, foundations, theoretical contributions and historical overview	156
A. Definition, complementarity and difference between andragogy and pedagogy	156
B. The theoretical foundations of andragogy and historical overview	157
C. Place, educational methods and role of andragogy in adult education	158



D. The degree of practicability of andragogy in different contexts	159
E. Milestones and formative spirit of andragogy.	160
6. The place and role of the trainer in the andragogical method	164
1. The place and role of the trainer	164
2. The trainer and the choice of educational methods	164
7. Methods and tools for identifying and analysing professional needs	166
1. Educational methods of facilitation in andragogy	166
2. The practice of self-diagnosis	167
3. The constituent elements of self-diagnosis / reflective diagnosis	168
4. Self-regulation: the construction of personalised pathways	169
8. Tools	169
Annexes	173
Annex 1. SWOT analysis	173
Annex 2. Cases of discrimination in Europe	174
Annex 3. Sheets with the definition of each legal instrument of hard and soft law	182
Annex 4. Sheets with the legislative provisions in Morocco relating to discrimination	195
Annex 5. Legal instruments and prohibited criteria of discrimination	233
Annex 6. Migrant profile sheets	236



Acronyms

AECID	Spanish Development Cooperation Agency
AREF	Regional Academy of Education and Training
CERD	Committee on the Elimination of Racial Discrimination
CNDH	National Human Rights Council of Morocco
DENF	Directorate of Non-Formal Education
IDH	Interministerial Directorate of Human Rights
DEU	Delegation of the European Union
ENSA	Higher School of Public Administration
FIAPP	International Foundation and for Ibero-America of Administration and Public Policies
HACA	High Authority for Audio-visual Communication
IMR	Institution of the Mediator of the Kingdom
ISM	Higher Institute of Magistracy
ISIC	Higher Institute of Information and Communication
MDCMRE	Ministry Delegate in Charge of Moroccans Residing Abroad
OBERAXE	Spanish Observatory of Racism and Xenophobia
IOM	International Organization for Migration
PIPPEM	Integrated public policy for child protection in Morocco



- EU** European Union
- PMU** Project Technical Office – Project Management Unit
- UNHCR** United Nations High Commission for Refugees
- UNICEF** United Nations Children's Fund



General presentation

A. INTRODUCTION

The project '**Living together without discrimination: an approach based on human rights and the gender dimension**' is conducted by delegated cooperation of the European Union (EU) with the Spanish Agency for International Development Cooperation (AECID), as the main partner, and the International Foundation for Ibero-America for Administration and Public Policies (FIIAPP) – as the co-delegatee – with the technical support of the Spanish Observatory of Racism and Xenophobia (OBERAXE) dependent on the Secretariat of State for Migration of the Ministry of Inclusion, Social Security and Migration of Spain. The National Human Rights Council of Morocco (CNDH) and the Ministry Delegate to the Minister of Foreign Affairs, African Cooperation and Moroccan Women Residing Abroad, in charge of Moroccans Residing Abroad (MDCMRE) are also participating in the project as main partners.

The overall objective of this initiative is to strengthen the instruments and public policies aimed at preventing racism and xenophobia against the migrant population in Morocco on the basis of the protection of the fundamental rights of migrants, in order to promote 'coexistence', with particular consideration given to the gender perspective.

The project is divided into five components or areas of intervention and each of them is monitored by a specific working committee, namely:

- **Component 1:** Assisting the Kingdom of Morocco in the comparative study of norms and regulations relating to racial and/or ethnic discrimination against the immigrant population, as well as in the development of improvement proposals for the institutional strengthening of the public bodies involved, both nationally and regionally, from a human rights perspective and in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination and other international conventions to which Morocco has acceded. Particular consideration will be given to the gender perspective.
- **Component 2:** Supporting the improvement of independent mechanisms for the identification and collection of complaints in the area of human rights protection, by incorporating and developing significant criteria and indicators for



reporting and classifying racist and xenophobic incidents against migrants and for protecting victims, in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination. The protection of victims will be guaranteed at all times, with special measures for women and children.

- **Component 3:** Promoting and strengthening the skills of public administrations: social assistance, educational community (students, teaching staff, non-teaching staff, fathers and mothers of students), justice (judges, prosecutors and operators), law enforcement (police and royal gendarmerie officers) and health, with regard to the prevention of racism and xenophobia.
- **Component 4:** Promoting and strengthening the skills of civil society associations working to protect the rights of migrants with respect to preventing racist and/or xenophobic incidents.
- **Component 5:** Supporting awareness-raising measures and actions aimed at preventing racism and xenophobia, and working with the Moroccan media and society in general for the promotion and protection of human rights.

As part of component 3, the project aimed to develop a training programme for trainers for the prevention and awareness of racism and xenophobia against migrant women and men in Morocco, taking into account the intersectional discrimination based on 'race'¹, ethnicity and sex. Likewise, the project aimed to equip participants with knowledge and skills for becoming trainers in the aforementioned areas, replicating this training, in a second phase, with civil servants from the Moroccan public administration and sector ministries. This manual, which was intended for justice personnel, has been developed to provide a tool that collects the content covered during this training. Two additional manuals were also published and sent to other departments: health and education. This document is the result of the contribution of experts who were responsible for setting up the training (Jesús Migallón, expert in migration, racism and discrimination, who works for the Spanish consultancy firm CIDEALIA; Souad Rajeb, expert in law; Bahija Jamal, expert in migration and access to services and Hakima Lala, expert in andragogy), as well as Ana García, expert in gender and development who ensured the systematisation of content and its structuring. The head of component 3 of the Project Management Unit and the coordinator, as well as the project teams and the trainers who benefited from the training also contributed to its completion.

1 Although races do not exist within humans, this term is used because the belief in the existence of various races is the basis of the discrimination suffered by certain groups.



B. GENERAL OBJECTIVES

This document is a tool whose main objective is to promote and strengthen the skills of public administrations in the prevention of racism and xenophobia, taking into account the gender approach.

It is thus intended to improve the knowledge, skills and attitudes of public administration staff to prevent and combat racism and xenophobia against migrant women and men in Morocco, by providing them with methodological and didactic tools in this area.

C. SPECIFIC OBJECTIVES

The specific objectives to be met through this training manual are to:

- Master the concepts related to discrimination, racism, xenophobia, including the concepts of multiple and intersectional discrimination (in particular between ethnicity, racial origin and sex), as well as its causes.
- Understand the migratory dynamics in Morocco.
- Know the national and international legal regulations in relation to human rights and more particularly those related to the phenomena of discrimination, racism and xenophobia.
- Identify the stereotypes and prejudices that exist in Morocco towards migrant women and men, as well as analyse the forms in which stereotypes and prejudices are constructed and the role played by them in discrimination.
- Recognise and understand the dynamics of acts of racism and xenophobia and discrimination in Morocco and their impact on the people who are victims of them, taking into account the differences between women and men, in terms of access to services and more particularly to justice, on the stability of society in general, 'coexistence' and peace in particular.
- Be aware of the role of civil society in preventing and combating discrimination, particularly racism and xenophobia.
- Know the (institutional and non-institutional) mechanisms available for reporting racist and xenophobic discrimination and supporting and protecting victims of it, with a particular focus on women facing intersectional discrimination based on 'race', ethnicity and sex (mechanisms for protection, reporting, etc.).



D. EDUCATIONAL GOALS

At the end of the training, participants will:

- Learn tools for planning, monitoring and evaluating training, as well as facilitation and training techniques to train other members of public administration on the subject of racism and xenophobia.
- Become familiar with the situation of the trainer, the situation of coordination/ coordinating a group being trained (moderation and andragogy); it will also teach participants how to use some of the main tools of pedagogical communication effectively.
- Be able to provide training on preventing racism and xenophobia.
- Understand the Moroccan migratory context, become aware of their own stereotypes and prejudices and the importance of preventing and combating racism and xenophobia, as well as the intersectionality with sex-based discrimination, improve the living conditions of a society.
- Become aware of the existence of racism and xenophobia in societies, its fundamental bases and the forms in which these phenomena materialise.
- Understand and recognise the importance of preventing and/or combating these practices, in particular through effective public policies that incorporate principles related to the prevention of racism and xenophobia.
- Help the staff of public institutions to better understand the issue by bringing together the experiences of victims, with a special focus on women.
- Master the mechanisms available (institutional and non-institutional) for the care and protection of victims (where victims can go in these cases, the support they can receive, etc.).
- Understand the importance of collaboration between institutions, but also with civil society and law enforcement to provide an effective response to acts motivated by racism and xenophobia, including the multiple types of discrimination of which migrant women are victims.

E. DOCUMENT STRUCTURE

1. Document structure

The manual is structured in 5 different modules, namely:

1. Module 1: Migration, racism, and discrimination – sociopolitical issues and concepts.
2. Module 2: International and national legislation on racism, xenophobia and discrimination including multiple types of discrimination.



3. Module 3: Tools for the identification, protection and assistance of groups of vulnerable migrants and victims of racist and xenophobic acts with particular focus on migrant women.
4. Module 4: Access to basic services, including justice, for migrants, with a particular focus on women and children.
5. Module 5: Andragogy teaching techniques.

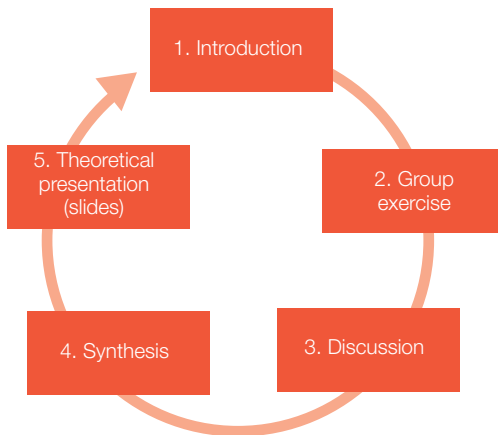
2. Module structure

Each module is divided into learning sessions that make up the different stages of the training course. The structure of each session follows the learning cycle appropriate to an andragogical context, where the training is intended for the training of professional adults. The learning cycle thus consists of 5 phases: 1) introduction to the session, 2) group exercises to encourage reflection and the active participation of the participants, 3) plenary discussion to promote debate among the participants, 4) summary to provide feedback and highlight the knowledge and of the participants and the ideas they present and 5) presentation of theoretical content to consolidate learning. Although these phases work as a framework structure, in some cases, variations can be offered to make the sessions more dynamic.

The content sheets for each session which serve as a support for the practical exercises are in the annexes. The manual presents the content of modules developed, and they are broken down by session. However, each person in charge of training is expected to select and develop specific training courses, adapted to the conditions of each training session, in particular according to the time available and the target.



Learning cycle



Introduction/Content

Introduce the sequence.

Group exercises

Reflection and active participation of the participants.

Plenary discussion

Comments, discussions and debates of the other participants.

Synthesis

Feedback and enhancement of knowledge and proposals.

Theoretical presentation (slides)

Consolidation of theoretical content.

F. TEACHING MATERIALS

In order to ensure the feasibility of the training as well as its quality, the following materials are necessary:

- PowerPoint presentation.
- Posters.
- Post-its (to identify the names of the participants).
- Markers.
- Flipchart.
- Paper.
- Material and exercise guides can be found in the annexes.



G. PRESENTATION AND CLOSING OF THE TRAINING

1. Presentation of the participants

The training should start with the introduction of the participants. These actions will facilitate the creation of a good learning atmosphere that allows interaction and communication between the group throughout the training.

Exercise objectives

- To facilitate the mutual knowledge of the trainees.
- To facilitate a space of trust that encourages discussion during the training.

Here are some examples of introductory or icebreaker games that can be used to start the training session.

Game 1. 'A ball to get to know each other'

We propose a short exercise to break the ice which serves to memorise the first names of the people present and to create links between the participants. Sitting in a circle, everyone states their first name. Once the round is finalised, the trainer brings up personal information with the group (if they have children, their favourite meal, what they like to do during the weekend, end, where did they study, etc.) and throws a ball at one of the people seated while saying that person's first name. This person must also share personal information with the other participants. In turn, that person throws the ball to another of the participants. The game continues until everyone has participated.

Game 2. 'Orange and Lemon'

Everyone stands in a circle and the trainer asks each participant to say their first name. Once everyone has introduced themselves, the trainer stands in the middle and shouts 'Orange!' (each participant must say the first name of the person to their left) or 'Lemon!' (each participant must say the first name of the person to their right). If a person is wrong, they go to the centre and are responsible for giving orders. It is also possible to shout 'Fruit salad!', and then everyone must change places and it starts again.

Game 3

We suggest the use of a game based on the video of a Danish anti-racism campaign (<https://www.youtube.com/watch?v=fXBxOaLcMZg>) which will allow us to start presenting ourselves on the basis of different common characteristics (having children,



having a partner from another country, etc.). This game is very interesting and useful to promote a group feeling and to initiate a reflection on prejudices and beliefs based on appearance (sex, skin colour, clothes, etc.).

The game works as follows:

- The trainer divides the participants into small groups based on a common characteristic. Three characteristics can be used, for example: having children, being in a relationship with someone from another country and having a social science background.
- Once the participants are gathered in small groups that are sharing common characteristics, the trainer asks them to elaborate on the information: for example, how many children and what ages, which makes it possible to share experiences between several people, from which countries were the partners of the participants, etc.
- Once the group dynamic begins to work, the participants themselves ask for other common characteristics that might unite them.

This is a simple game for strengthening group feeling and finding common characteristics in the people who share the training beyond sex, ethnicity, professional affiliation and/or identification with a specific institution.

2. Closing of the session

Exercise objectives

- Summarise certain concepts learned during the session.
- Evaluate the knowledge set by the group.
- Identify areas for improvement.

The training must also end with a small game which marks the end of the cycle of this training and which helps the participants to summarise what has been worked on. The exercise can also be used to identify opportunities for improvement in other training sessions. Below are some examples that can serve as a conclusion.

Game 1

To close the session, the trainer asks the participants to reflect on the content discussed in the session and gives them five minutes to develop a small script or summary individually. At the end of the time, the trainer randomly chooses two people who



must present their summary to the group. At the end of the presentation, the rest of the participants vote for the summary that they liked the most and justify it based on the content selected. We thank the participants for their presence and input and encourage them to continue the reflection on racism and discrimination.

Game 2

Sitting in a circle, one of the participants throws a ball at one of the other participants while saying their first name. This person should say what they liked the least and what they liked the most about the session (it is important to stick to this order). They then throw the ball to another participating person until the circle is complete. We thank everyone present for their participation and encourage them to continue reflecting on racism and discrimination.

Game 3

To end the session, the trainer forms a circle and asks each participant to recall aloud a concept or idea that they learned during the session. You can write all the ideas on a sheet to have a visual map of the key concepts retained by the participants. The person in charge of the training thanks all the people present for their participation and encourages them to continue the reflection on racism and discrimination.



Module I. Migration, racism, and discrimination – sociopolitical issues and concepts

A. INTRODUCTION

1. Presentation

The module is made up of **3 working sessions**. The **first session** aims, first of all, to develop an introduction from a practical and concrete point of view to the general characteristics and to the trends and dynamics of human mobility at the international level, taking into consideration the differences between the sexes. It will focus on strengthening the capacities of participants so that they are able to carry out their own training independently within their institutions.

This introduction will aim to give participants knowledge of the numbers, taking into consideration the importance of sex-disaggregated data, the main current human movements and to identify the sources of data from international organisations, as well as to identify types of migrants in Morocco. These types and motivations of migrants will be the starting point for the analysis of the main challenges posed by international migration.

The **second session** is aimed at understanding how migration and human mobility impact the cultural diversity of societies and raise broader diversity management challenges. First, a conceptualisation and a definition of cultural diversity based on the texts of international organisations, in particular UNESCO (Universal Declaration on Cultural Diversity and Article 1 of the Declaration of Principles on Tolerance) will be made, followed by a presentation of the main theoretical models for managing diversity from the perspective of social and cultural pluralism (multiculturalism and interculturalism vs assimilationism). This theoretical reflection will be balanced by the analysis of the practical application of these theoretical models in different fields (education, health, etc.).



The **third session** is devoted to defining and clarifying key concepts related to racism, racial discrimination and xenophobia, including intersectional discrimination based on 'race', ethnicity and sex. From a conceptualisation and historical evolution of key concepts, practical work on real cases will be developed to identify types of racial discrimination. This activity will serve to introduce the psychosocial bases of racism and xenophobia in this session through a group dynamic that will identify the main prejudices and stereotypes associated with the migrant population. The reflection will be accompanied by a discussion on how sex inequalities also impact these situations, and the specific consequences on migrant women.

2. Module-specific objectives

- Become familiar with trends and patterns, including sex differences, of international human mobility.
- Know the migratory context of Morocco in a global framework of human mobility.
- Analyse the issues and challenges of human mobility in Morocco in terms of cultural diversity.
- Make a critical analysis of the level of adaptation of public administration and policies to the social diversity existing in Morocco, including in terms of equality of the sexes.
- Approach the concept of cultural diversity and the theoretical models of diversity management.
- Deepen and understand the texts of international organisations on cultural diversity.
- Know and learn from concrete experiences of diversity management in specific areas (education, health, security, private sector, etc.).
- Understand key concepts related to racism, racial discrimination and xenophobia, including concepts related to intersectional discriminations based on 'race', ethnicity and sex
- Acquire knowledge on the sociogenesis of concepts and their evolution.
- Deepen on the creation and development of prejudices and stereotypes against migrant women and men and the role played in discrimination.
- Understand the causes and characteristics of racist incidents and racial discrimination.



3. Pedagogical objectives of the module

At the end of the training, participants will be able to:

- Identify moderation and techniques for andragogy adapted to the content of the training.
- Know and identify international trends and dynamics, including by sex, regarding human mobility.
- Reflect on the different types and motivations of human mobility, including by sex.
- Identify the main challenges that human mobility poses to Moroccan society in terms of managing cultural diversity.
- Define cultural diversity and identify international reference texts.
- Understand the different models for managing diversity from a perspective of cultural pluralism.
- Know the practical mechanisms of diversity management by taking inspiration from concrete practices.
- Understand the emergence and evolution of racism and racial discrimination.
- Differentiate/distinguish between different related concepts.
- Explain concepts to others in a way that is clear and significant to the needs of the target audience.
- Identify prejudices and stereotypes linked to racism and racial discrimination and to understand their effects on discrimination.

4. Module structure

Module 1 of the training is divided into 3 different sessions:

Session 1: Human mobility today: main dynamics and trends and their implications for Morocco.

- Characteristics and trends of human mobility by sex today: main figures and flows. Particular attention will be paid to the importance of sex-disaggregated data.
- Analysis of types of human mobility by sex: economic migration, refugees, forced displacement, human trafficking, etc.
- Analysis of the place of Morocco in the international context of human mobility trends and its effects on the social composition of the country.
- Analysis of the level of adaptation of public administration and policies to the social diversity present in Morocco, including in terms of equality of the sexes.



Session 2: The management of cultural diversity.

- Definition of cultural diversity.
- ‘Stories’ of the conceptualisation of cultural diversity (W. Kymlicka).
- Theoretical models of the management of cultural diversity.
- Practical experiences of diversity management in different fields.

Session 3: Racism, racial discrimination and xenophobia. The psychosocial bases of exclusion.

- Definition of key concepts.
- Historical evolution of concepts.
- Types of racism and racial discrimination.
- The intersectionality of discrimination based on racial origin, ethnicity and sex.
- Definition of prejudice, stereotype and identity.
- Group work on how discrimination affects everyone.
- Getting to know the experiences from real migratory trajectories.

B. SESSION 1. HUMAN MOBILITY TODAY: MAIN DYNAMICS AND TRENDS AND THEIR IMPLICATIONS FOR MOROCCO

1. Session objectives

At the end of this session, participants will be able to:

- Know and identify international trends and dynamics in human mobility by sex.
- Know the different types and motivations of human mobility by sex at the international level and in Morocco.
- Identify the main challenges that human mobility poses to Moroccan society in terms of managing cultural diversity.
- Critically analyse the level of adaptation of public administration and policies to the social diversity present in Morocco, including in terms of equality of the sexes.



2. Focus

Focus

- Contextualisation of the situation of Morocco within the context of human mobility at the international level, with the most significant data on the country's migration situation provided.
- Analysis of prejudices and misconceptions about migration around the world.
- Reflection on the different migratory realities in Morocco and the responses given by public institutions.

Key points

- It is common to have misconceptions and misperceptions about migration around the world.
- Migration has a strong regional component and mainly affects countries in the South, since 86% of migrants settle in developing countries.
- The migrant population has increased in number over the past 20 years but has remained fairly stable compared to the share of the world's population.
- Women make up almost 50% of the internationally mobile population. The production, presentation and analysis of sex-disaggregated data is necessary to fully understand differences between the sexes when it comes to human mobility.
- The migrant population in Morocco is diverse and several profiles coexist in the country.
- Public administrations must strive to adapt their actions to this diversity.

3. Procedure

a) Presentation of the working session

The session begins with the trainer introducing the objectives of the session. This is to make it transparent to the participants and to situate the session in relation to the general context of the module.

b) Group exercise on human mobility

Exercise objectives

- To understand the characteristics of current trends in human mobility, including by sex, at the international level.
- To situate/evaluate the general level of knowledge of the participants on international human mobility.



To start with the content of the session and to keep promoting knowledge and exchange between participants, a group work exercise on human mobility is undertaken.

Based on the total number of people in a situation of international mobility (1,044,000,000, of which 48% are women) and the number of participants in the session, the trainer makes a division and states that each person represents a proportionate percentage of the world's migrants. The room is divided into five continents and the members of each group discuss and negotiate among themselves for 10 minutes. At the end of this discussion, the people in each group are divided between the five continents according to the convictions of the group in relation to international movements and migratory flows, also taking into consideration the differences between the sexes. The final objective is that the participants are divided between the five continents according to the images or representations they have of international migration, and this gives the trainer an idea of the general level of knowledge of the participants on migration.

This exercise encourages dialogue and communication within the group and thus promotes a climate of collective learning from the start of the module. It also allows the trainer to initiate interactions between participants in the training room.

c) Plenary discussion and synthesis of key beliefs and perceptions about human mobility

Goals

- To jointly establish the initial convictions of all the participants around the migration issue.
- To foster self-reflection on stereotypes around human mobility.

Once all the people are distributed between the five continents, a space for reflection is opened in which they are asked to explain the reasons for their choice, since we generally tend to under-represent South-South migratory movements. Particular attention should be paid to discussions integrating differences between the sexes into migratory movements.

Once the discussion is finalised, we synthesise the main beliefs and perceptions present in the group. This synthesis exercise makes it possible to explain and jointly establish the initial convictions of all the people participating in the training. It may be useful to collate this information on a large sheet of paper to keep it in mind during the next phase of the session, in which these beliefs and perceptions will be contrasted with real data on human mobility around the world.



d) Theoretical presentation of the main figures on human mobility

Exercise objectives

- To present the main data on human mobility.
- To dismantle the beliefs and stereotypes present in the group.
- To reflect on the importance of producing sex-disaggregated data.

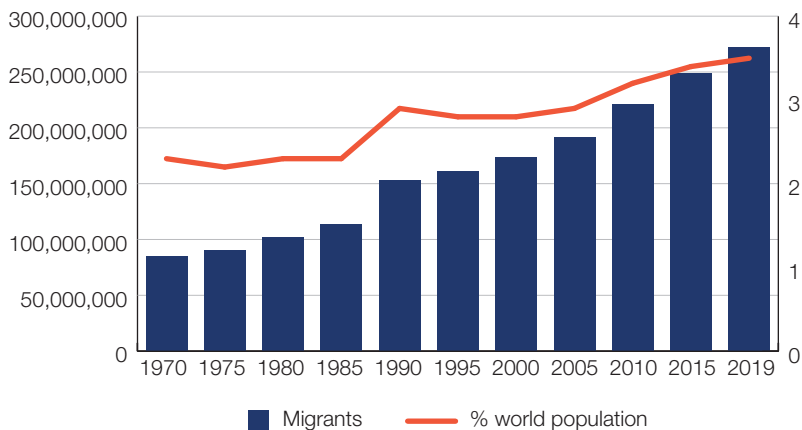
To conclude, the trainer presents actual data from international organisations on the representation of each continent in relation to human mobility on a global scale and data relating to current international migration with particular emphasis on the situation of Morocco (emigration-migration).

The data presented indicates that as of June 2021, there were 1,044,000,000 migrant people in the world, including:

- 763 million who are regional migrants.
- 281 million who are international migrant women and men, with women accounting for 48% of the total number of internationally mobile people.
- 82.4 million who are forcibly displaced (conflict, environment, etc.).
- 26.4 million who are people in a refugee situation.

It should be noted that 73% of migrants stay in neighbouring countries, i.e., **migration has a strong regional component** and mainly affects countries in the South, since 86% of migrants settle in developing countries.

Evolution of global migration



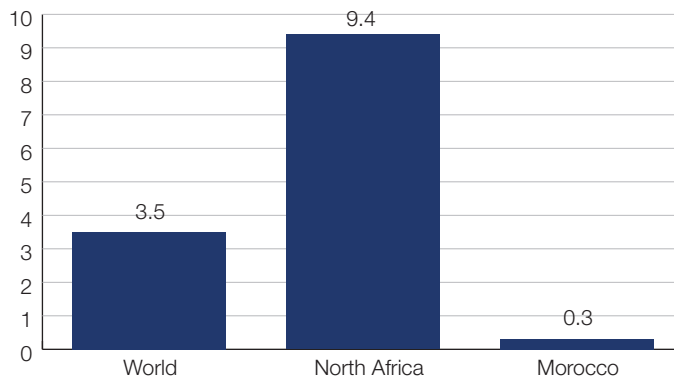


A historical perspective of the evolution of international migration, shows how the migrant population has increased in number (by a factor of 1.5 over the last 20 years) but has remained fairly stable compared to the share of the world population, representing about 3% of the total world population.

With regard to Morocco and as can be seen in the attached graph, the situation of the country in relation to the international community as a whole, but above all in relation to its regional context, is not very diverse, given that the official figures indicate that migrants only represent 0.3% of the total population of the country.

Based on this reference, the basic characteristics of international migration in Morocco are examined using data from the country profile of the United Nations Population Division, with data on the composition by nationality and sex.

% international migrants



At the end, the importance of producing and analysing data disaggregated by sex is reflected on. Specific questions on differences between the sexes will be asked based on the data presented, the lack of data and the methods to collect them and the resources available. Objective 1 of the Global Compact for Migration is reiterated: *Collect and utilise accurate and disaggregated data as a basis for evidence-based policies.*



Resources

- Portal on migration data, gender and migration (<https://www.migrationdataportal.org/fr/themes/sexospecificites-et-migration>).
- Hennebry, J., H. KC and K. Williams, 2021. Gender and Migration Data: A Guide for Evidence-based, Gender-responsive Migration Governance. International Organisation for Migration (IOM), Geneva (<https://publications.iom.int/es/node/3741>).
- UN WOMEN, Policy and Practice: Guide for a gender-sensitive implementation of the Global Compact on Migration (<https://ppguide.unwomen.org/fr>).
- IOM, Global Compact on Migration (<https://www.iom.int/fr/pacte-mondial-sur-les-migrations>).

e) Group exercise to identify the key concepts on migration and the types of migrants present in the territory

Exercise objectives

- To become familiar with the key terminology around the migration issue.
- To become aware of the variety of profiles present in the country, taking into consideration the differences between the sexes and appropriating the different concepts.

The participants are distributed into groups. The trainer distributes a series of cards with key terms related to migration (see terms in Section F). Participants are asked to reflect on each term. Furthermore, and on the basis of these terms, participants are asked to identify the profiles of migrants present on Moroccan territory according to their category of human mobility and sex (economic migration, forced migration, refugees, smuggling and human trafficking and smuggling, etc.) and to define their main characteristics.

Each group presents its reflections and the characteristics of the types in the main group and a collective dialogue is established.

f) Plenary discussion and synthesis of definitions and key concepts on migration and on the types of migrants present on Moroccan territory

Exercise objectives

- To establish the key terminology around the migration issue.
- Awareness of the main data around human mobility in Morocco.
- Presentation of the migratory diversity present in Morocco.



To conclude this reflection, the trainer distributes a series of cards with the definitions of the key concepts presented in the previous exercise and each group associates the key concept with its definition. The result is presented and discussed in the main group and the trainer rounds out the information with the following definitions:

Gender and migration approach. Gender influences the reasons for migration, the type of people who migrate, the destination chosen, the way people migrate and the networks they use, the opportunities and resources available in the places of destination and the relationship with the native country. Risks, vulnerabilities and needs are also shaped in large part by a person's sex, and often vary dramatically across population groups and other characteristics such as age, ethnicity, and economic means. The roles, expectations, relationships and power dynamics associated with being a man, woman, boy or girl significantly affect all aspects of the migration process, and can also be affected in new ways by migration².

Foreign person. Any person who does not belong to the population that is a constituent element of a State, neither by birth nor by naturalisation³.

Nationality. The legal bond between a person and a State, which confers on them the status of citizen of this State on the basis of their place of birth, the nationality of their parents or the fact that they have been naturalised⁴.

Migrant person. Anyone who is moving, or has moved, across an international border or within a country away from their usual place of residence⁵.

'Race'. Historical and social construction based on colonisation processes. The first definition of 'race' dates back to the 17th century.

Ethnicity. A group of people who share a culture (cosmology, language, etc.) and whose members feel united by the awareness of their historical singularity⁶.

Forced displacement. This term refers to the situation of people who leave their homes or flee due to conflict, violence, persecution and human rights violations.

2 IOM, *Gender Equality*. Online version: <https://www.iom.int/gender-equality>

3 Giménez, C. and Malgesini, G. (2000). *Guide to concepts of migration, racism and interculturality*.

4 Giménez, C. and Malgesini, G. (2000). *Guide to concepts of migration, racism and interculturality*.

5 IOM, Key terms on migration. Online version: <https://www.iom.int/fr/termes-keys-de-la-migration>

6 Giménez, C. and Malgesini, G. (2000). *Guide to concepts of migration, racism and interculturality*.



Today, nearly **60 million people have been forcibly displaced around the world**, and have become refugees (19.5 million), internally displaced people (38.2 million) or asylum seekers. Asylum, the highest number since the Second World War.

If the forcibly displaced population were a country, it would be the twenty-fourth largest in the world, which highlights the seriousness of the problem.

With conflicts that are the main drivers of displacement having no end in sight, this crisis is set to worsen. Forced displacements tend to be protracted and in many cases last for decades.

Refugees are people who find themselves outside their country of origin for fear of persecution, conflict, generalised violence or other circumstances which have seriously disturbed public order and who therefore require international protection. The definition of a refugee is found in the **1951 Convention** and regional instruments relating to refugees, as well as in the UNHCR Statute.

The 1951 Geneva Convention considers a refugee to be a person who has a well-founded fear of being persecuted **for reasons of 'race', religion, nationality, membership of a particular social group or political opinion**. Recent interpretations have also allowed **sex-based persecution to be considered grounds for asylum**. The OAU Convention and the Cartagena Declaration subsequently expanded the grounds for considering a person to be a refugee to include people fleeing external aggression, occupation, foreign domination, events and circumstances that seriously disturb public order, massive human rights violations, generalised violence and internal conflicts.

Asylum seeker. A person who has asked a third country to offer them asylum – i.e., reception and protection against persecution – but whose procedure has not yet been completed⁷.

Human trafficking. This term refers to the recruitment, transfer, harbouring or receiving of persons for the purpose of exploitation, deception, threat, use of force or coercion, abuse of power or to put them in a position of vulnerability. Source. Art. 3 – Palermo Protocol defines human trafficking as 'the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution

⁷ UNHCR, *Asylum seekers*. Online version: <https://www.unhcr.org/en/asylum-seekers.html>



of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs⁸.

There are different types of human trafficking:

- **Trafficking for the purpose of forced labour.** Trafficked individuals are fraudulently recruited and forced to work in mining, construction, fishing or agriculture under conditions of slavery.
- **Trafficking for the purpose of criminal activities.** These activities include stealing, selling illegal goods or begging.
- **Trafficking for the purpose of sexual exploitation.** This form of human trafficking primarily affects women and occurs in every country in the world. Victims are lured by the promise of a better life and transported to another country where they are subjected to sexual exploitation.
- **Trafficking for the purpose of organ removal.** In some countries around the world, the waiting list for organ transplants is very long, so that criminals harvest organs from victims without caring about their life or health.
- **Trafficking in people** can be defined as the illicit crossing of borders in exchange for payment, being the provision 'to a person of illegal entry' into a country 'in order to obtain, directly or indirectly, a financial or another material benefit'.

In other words, human smugglers help people cross borders illegally in exchange for payment. The main legal instrument governing human smuggling is the Protocol against the Smuggling of Migrants by Land, Sea and Air adopted in 2000⁹.

Finally, the trainer briefly presents the data available on the different migratory profiles in Morocco, namely:

- Available studies show that the migrant population in Morocco is very heterogeneous in terms of sex, age, origin, length of migration journey and reasons for migration.
- The data collected suggests an increase in the migrant population in recent decades. The 2014 General Population and Housing Census (RGPH) estimated that 84,000 foreign people lived in Morocco (56.5% men and 43.5%

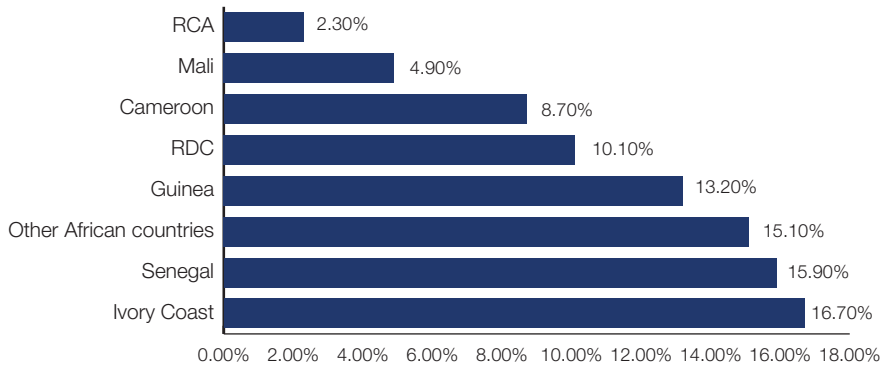
⁸ Additional Protocol to the United Nations Convention against Transnational Organised Crime to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000). Online version: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-a&chapter=18&clang=en
⁹ Protocol against the Smuggling of Migrants by Land, Sea and Air (2000). Online version: https://fr.wikipedia.org/wiki/Protocole_contre_le_trafic_illicite_de_migrants_par_terre,_air_et_mer



women), which represents an increase of 63.3% in ten years since the 2004 census.

- Regarding the administrative situation of people on the move in Morocco, according to 2021 data, 28.4% of people declare that they are in a regular situation and 71.6% in an irregular situation. Furthermore, 24% of migrants have refugee status and 12.3% are asylum seekers.
- The origin of migrants in Morocco is really varied, with most of them coming from West African countries. According to a report published in 2021 by the HCP, and covering all dimensions of forced migration, 16.7% of migrants are from Côte d'Ivoire, 15.9% from Senegal, 13.2% from Guinea, 10.1% from the Democratic Republic of Congo, 8.7% from Cameroon, 4.9% from Mali, 2.3% from the Central African Republic and 15.1% from other African countries.

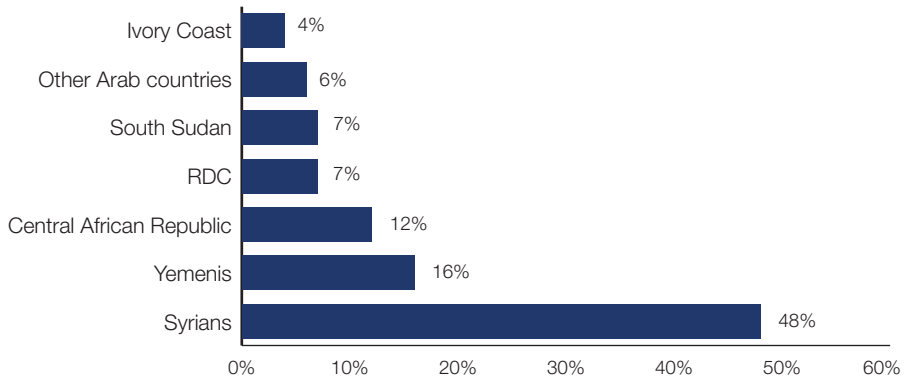
Chart 1. Nationality of the migrant population in Morocco (HCP, 2021)



- About 7,000 people were classified as refugees in Morocco in 2020. According to UNHCR data, Morocco accommodates refugees and asylum seekers from more than 48 countries. Most of the refugees in Morocco are Syrians and Yemenis.

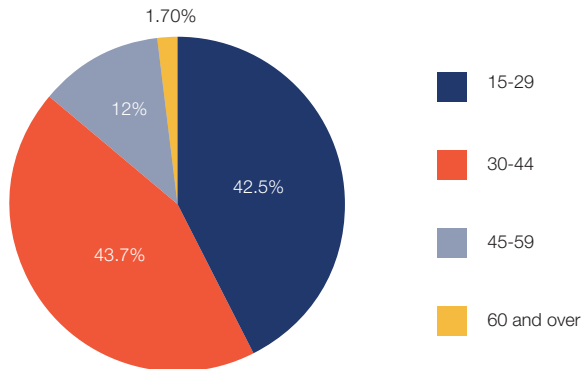


Chart 2. Nationality of the refugee population in Morocco (HCP, 2020)



- In Morocco, there are migrants of all ages, although the majority of the population is young and under 48 years old.

Chart 3. Age distribution of migrants in Morocco



- Data shows that there are more male migrants than female migrants in Morocco (59.3% of migrant persons are men and 40.7% are women), so the presence of women has increased in recent years.



Resources

- HCP (2020) Survey on the impact of Covid-19 on the socio-economic and psychological situation of refugees in Morocco (https://www.hcp.ma/Enquete-sur-l-impact-de-Covid-19-sur-la-situation-socioeconomique-et-psychologique-des-refugies-au-Maroc_a2593.html).
- HPC (2014). General Population and Housing Census of 2014.
- MCMREAM, 2018. Regularisation operations. (<https://marocainsdumonde.gov.ma/operations-de-regularisation/>).
- UNHCR Fact Sheets (<https://reporting.unhcr.org/morocco>).
- HPC (2021). Forced migration in Morocco. Results of the 2021 National Survey.

g) Group exercise to reflect on how the institution addresses cultural diversity and actions towards the immigrant population in Morocco: SWOT analysis

Exercise objectives

- Reflection on how to address cultural diversity within Moroccan institutions.
- Identification of strengths, weaknesses, opportunities and threats to address diversity at the institutional level.

The previous group exercise, which aimed at identifying the types and characteristics of international migration in Morocco, serves as a basis for the following exercise which focuses on the development of a reflection on how the institution approaches cultural diversity and actions towards the immigrant population in Morocco, especially women. In this way, we will be able to identify the key aspects to improve, but also determine those that are already implemented with an exercise based on the SWOT methodology:

- Strengths
- Weaknesses
- Opportunities
- Threats

SWOT is a work methodology that identifies the situation of an institution or a project by analysing its internal situation (weaknesses and strengths) and its external situation (threats and opportunities). Based on the results achieved in each of the identified SWOT elements, an organisational strategy can be developed.

Participants are divided into groups representing the institutions present and are invited to work to identify the weaknesses, strengths, threats and opportunities of their institutions in the management of migratory diversity in Morocco.



Each of the groups receives a large sheet of paper and *post-its* of four different colours. The different members of the group work together adding ideas to the *post-its* which are then placed in the appropriate column.

h) Plenary discussion and summary of the results obtained in the SWOT analysis

Exercise objectives

- To reflect collectively on how to address cultural diversity within Moroccan institutions.
- To collectively identify strengths, weaknesses, opportunities and threats in order to address diversity at the institutional level.

At the end of the group work, each institution presents the results of the debate and internal reflection and draws up a summary of the results obtained, which can be analysed in Annex 1 SWOT analyses.

It is important that the trainer frames the exercise to avoid it getting bogged down in an analysis of the possibilities of access to services for migrants, content which is the subject of Module 4. The aim here is rather to conduct a critical analysis of the level of adaptation of public administration and policies to the social diversity present in Morocco, including in terms of equality of the sexes.

C. SESSION 2. THE MANAGEMENT OF CULTURAL DIVERSITY

1. Session objectives

At the end of this session, participants will be able to:

- Define cultural diversity and identify international reference texts.
- Understand the different models for managing diversity from a perspective of cultural pluralism.
- Master the practical mechanisms of diversity management by drawing inspiration from concrete practices.
- Identify participatory techniques that encourage reflection on the theme.



2. Focus

Focus

- Critically reflect on the different policy models adopted to address cultural diversity.
- Promote the thought of diversity from a positive point of view and the fact that it is enriching from an individual and societal point of view.

Key points

- The idea of culture refers to the interweaving of different elements which, when combined, have external manifestations of a more superficial nature and other internal manifestations that are deeper and more difficult to analyse.
- Welcoming different populations and enabling them to maintain multiple cultural manifestations confers cultural richness on the host countries.
- Pluralistic models for managing diversity contribute to generating public policies that recognise the need to respond to this diversity.

3. Procedure

a) Presentation of the working session

The session begins with the presentation of the objectives and an exercise to introduce the reflection and the definition of cultural diversity. We remind participants that this is going to be a very dynamic session and that we are counting on the collaboration of the whole group.

b) Group exercise on the concept of culture

Exercise objectives

- To reflect collectively on the concept of culture.
- To identify group perceptions and beliefs.

The first exercise consists of a collective reflection on the concept of culture, because it is the key concept that the entire work session will revolve around. The objective of this exercise is to reflect on and respond quickly to the concept of culture. The trainer formulates the question: define the concept of culture in three words using the digital tool www.menti.com, which creates a word cloud with the contribution of all participants.



This initial exercise will serve as the basis for an initial collective reflection on the definition of cultural diversity from the point of view of individual and professional careers. It will take into consideration the gender approach and the differences between the sexes.

c) Plenary discussion and synthesis of participants' perceptions of the concept of culture

Goals

- To collectively discuss the concept of culture.
- To identify the dynamic nature of culture.
- To challenge preconceptions around culture.
- To introduce the concept of diversity.

The creation of the word cloud allows for a plenary discussion as a second phase of analysis that reveals the participants' perceptions of the concept of culture and allows for a collective reflection and debate on it. The trainer can stimulate the debate through the following questions:

- What words came out that surprised you the most?
- Are these terms positive, negative or neutral?
- Through the key words, culture appears as something homogeneous or heterogeneous?
- Based on the words that have been presented, does culture appear as a dynamic or static concept?
- Based on the debate, is there a word you think should be added?
- What are the things that characterise the culture of Morocco? Have these things changed over time? (The trainer can direct this question towards changing gender stereotypes, ethnic and cultural plurality and the presence of migrants in Morocco).

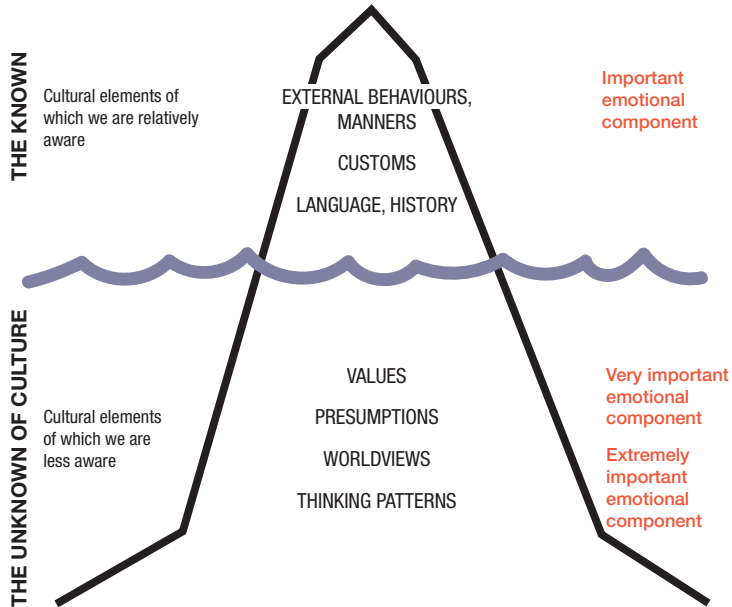
d) Theoretical presentation of the key elements for understanding the concept of culture and cultural diversity

Goals

- To learn more about the concept of culture.
- To introduce the concepts of cultural diversity and tolerance.
- To present the different diversity management models.
- To introduce the concept of diversity.

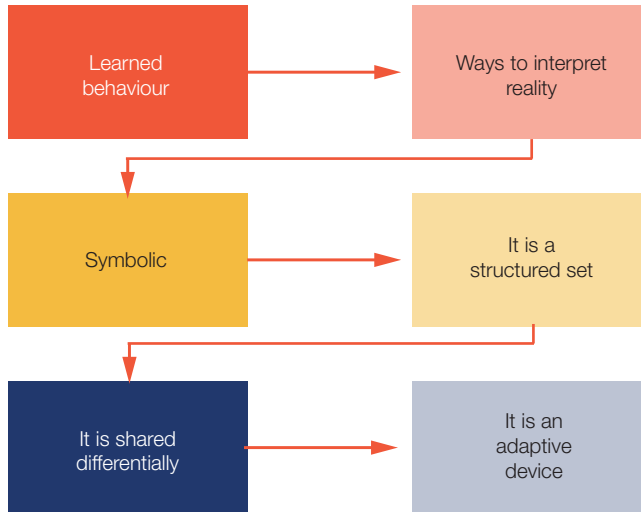


The iceberg analogy



Based on the common elements identified during the plenary discussion, the trainer presents the key elements for understanding the concept of culture. First of all, the trainer starts from **the iceberg of culture** to show how the external manifestations of culture (clothing, languages, etc.) constitute only a minority part of it, since the hidden or 'submerged' elements of which people are less conscious are those who serve as the basis for these external manifestations and are much more significant from an anthropological point of view for the understanding of culture. These are values, systems of thought and worldviews, etc. for which the emotional component is extremely important. A reflection on the impact of culture in social gender relations and inequalities between the sexes will be carried out across the board.

The analogy of the iceberg of culture serves as a basis for establishing the characteristics of the concept of culture: the trainer deepens the six fundamental characteristics of the concept in order to consolidate an anthropological perspective of culture and the value of cultural expressions (diversity) in the group.



This anthropological perspective of cultural diversity allows us to draw a link with the definitions of international organisations. To do this, we will start with the definition of cultural diversity of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Article 4.1).

Cultural diversity: the multiplicity of forms through which the **cultures of groups and societies find expression**. These expressions are transmitted within and between groups and societies.

Cultural diversity is manifested not only by the various forms of expression, enrichment and transmission of the cultural heritage of humanity, but also by the different modes of creation, production, distribution, dissemination and enjoyment of works, regardless of the medium and technology used.

The concept of **tolerance** is also presented (Article 1 of the UNESCO Declaration of Principles on Tolerance) for the relevance of point 1,1 on the meaning of respect for cultural diversity.

Article 1 – Meaning of tolerance

1.1. **Tolerance is respect, acceptance and appreciation of the richness and diversity of our world's cultures**, our modes of expression and our ways of expressing our identity as human beings. It is fostered by knowledge, open-mindedness,



communication and freedom of thought, conscience and belief. Tolerance is harmony in difference. It is more than just an ethical obligation; it is also a political and legal necessity. Tolerance is a virtue that makes peace possible and helps to substitute a culture of peace for the culture of war.

1.2. Tolerance is not concession, condescension or complacency. Tolerance is, above all, an active attitude driven by the recognition of the universal rights of the human person and the fundamental freedoms of others. Under no circumstances may tolerance be invoked to justify attacks on these fundamental values. Tolerance must be practised by individuals, groups and states.

1.3. Tolerance is the keystone of human rights, pluralism (including cultural pluralism), democracy and the rule of law. It involves the rejection of dogmatism and absolutism and upholds the standards set out in international human rights instruments.

1.4. In accordance with respect for human rights, practising tolerance does not entail tolerating social injustice, renouncing one's own convictions or making concessions in this respect. The practice of tolerance means that everyone has the free choice of their convictions and accepts that other people enjoy the same freedom. It means acceptance of the fact that human beings, who are naturally characterised by the diversity of their physical appearance, their situation, their mode of expression, their behaviour and their values, have the right to live in peace and to be themselves. It also means that no one should impose their opinions on others.

Multinational States and Polyethnic States	Coexistence in the same State of more than one nation, with the term 'nation' designating a historical community more or less institutionally complete, occupying a territory, sharing a distinct language and culture.
Migration	A country demonstrates cultural pluralism if it accepts a large number of people from other cultures as immigrants and allows them to retain some of their ethnocultural characteristics.

Subsequently, W. Kymlicka's proposal on the origins of cultural diversity in contemporary states is offered as a starting point for the presentation of the different models for managing cultural diversity from a theoretical perspective.



Subsequently, the trainer presents the different models of diversity management from a socio-political perspective, that is to say from the point of view of the organisation and the State's response to situations of diversity.

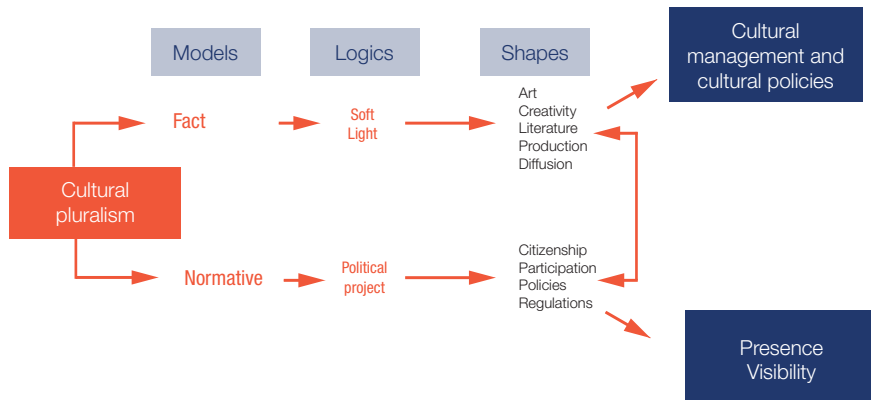
The table below presents the different models of inclusion: starting from non-pluralistic historical experiences (such as assimilation or the melting pot of the United States), we arrive at the definition of pluralistic models where multiculturalism stands out and interculturalism.

EXCLUSIVE MODELS (Barriers to integration)	A society divided along ethnic and cultural lines	SEGREGATION AND DIFFERENTIAL EXCLUSION	<ul style="list-style-type: none"> Societies are necessarily segmented into relatively autonomous groups, some of which are dominant and others subordinate. A certain degree of interaction in the economic sphere.
	NON-PLURALIST MODELS		
INCLUSIVE MODELS (Promoting Inclusion)	ASSIMILATION (Chicago School)	<ul style="list-style-type: none"> Unilateral adaptation of migrants to the values, culture and way of life of the host society. Gradual elimination of the difference. 	
	MELTING POT	<ul style="list-style-type: none"> Two-way interaction process in which dominant and subordinate sectors interact to shape a new nation. Establishes agreement of formal equal status. 	
	PLURALIST MODELS		
	MULTICULTURALISM	<ul style="list-style-type: none"> Model of inter-ethnic relations that supports social equality and equal opportunities as well as the right to be different. Promotion of cultures of origin of minorities. Maintaining a common frame of reference. 	
	INTERCULTURALISM	<ul style="list-style-type: none"> Dynamic conception of culture. Creation of a new cultural synthesis. Principle of convergence through the construction of a social unit that highlights common aspects. 	



Since the module is centred on the development of pluralistic models of diversity management, the characteristics of these models are explored in more depth using the flowchart below: two levels are differentiated in the manifestation of cultural pluralism:

- a) **Factual model.** By drawing on W. Kymlicka’s definition of cultural diversity, we can analyse the historical, social, political and other origins of diversity in a given community, because its existence is a fact. The logic that operates if only this level or this structure of pluralism manifests itself is defined as ‘soft’ in the sense that it does not exploit all its socio-political potentialities and remains in a private sphere (from a sociological point of view) of which the forms reach the different cultural expressions (creativity, literature, gastronomy, etc.).
- b) **Normative model.** A second level of cultural pluralism consists in constituting an ideal socio-political community where the normative axis appears as its backbone, that is to say where the socio-political community explicitly considers cultural diversity as an object of value. This means that the predominant logic is the development of a political vision that allows the expression of cultural diversity in all areas, in such a way that it is defined as a public dynamic in the sense that it affects the whole of the community. Thus, its modes of expression are linked to the presence and visibility of cultural diversity through access to citizenship, participation and the development of public policies aimed at enhancing existing diversity.





Resources

- United Nations State efforts to eliminate racial discrimination The experience of Spain. Online: <https://www.un.org/fr/chronicle/article/les-efforts-des-tats-pour-eliminer-la-discrimination-raciale-experience-de-lEspagne>
- Council of Europe Intercultural Cities Program Online: <https://www.coe.int/en/web/interculturalcities/networks>

D. SESSION 3. RACISM, RACIAL DISCRIMINATION AND XENOPHOBIA. THE PSYCHOSOCIAL BASES OF EXCLUSION

1. Session objectives

At the end of this session, participants will be able to:

- understand the emergence and evolution of racism and racial discrimination, including intersectional forms of discrimination based on 'race', ethnicity and sex.
- Differentiate between different related concepts.
- Explain these concepts to others.
- Identify prejudices and stereotypes related to racism and racial discrimination, including the intersection with gender stereotypes, and understand its effects.
- Put themselves in the shoes of the victims.
- Identify pedagogical techniques adapted to groups on the theme.

2. Focus

Focus

- Critically reflect on the development of racism and its forms of manifestation in our current societies.
- Question the beliefs and prejudices of the participants.



Key points

- The concept of racism has historically evolved and taken different forms that coexist today in our societies.
- Racism and xenophobia are two different concepts that do not have to occur together.
- Racism is a system of beliefs and the way in which these beliefs manifest themselves, how they take shape and materialise in concrete attitudes that lead to multiple consequences in the lives of individuals and societies.

3. Procedure

a) Presentation of the working session

The session begins with the presentation of the objectives of the work session

b) Group exercise to reflect on racism

Exercise objectives

- To reflect individually and collectively on the concept of racism.
- To present educational work tools.

The first exercise at two levels, individual and collective, consists of discussing the definitions of key concepts such as culture or racism in the main group. Initially, it involves an individual reflection which is then discussed in group. Different techniques can be used to do this. Participants may be asked to associate words or ideas between the concept under discussion and their ideas around the same concept.

After this initial individual reflection, the trainer divides the participants into different working groups and asks them to lead a collective debate on the different options.

Proposals on definitions of racism for discussion

- Violent demonstrations against people of another 'race' or culture.
- Rejection or marginalisation of people of another 'race'.
- The belief that a reason such as 'race' justifies contempt for a person.
- Negative or positive distinctions towards people of another 'race'.

Work tools

- The trainer can use the tool www.menti.com



c) Plenary discussion, synthesis and theoretical presentation of key concepts on racism

Goals

- To reflect individually and collectively on the concept of racism.
- To highlight the development of racism throughout history and identify the different forms in which racism manifests itself in our societies.
- To introduce the concept of xenophobia and identify the differences between racism and xenophobia.

The main ideas expressed for the different groups are collected in the main group, which helps the trainer to identify the thoughts and beliefs about racism that are present in the group.

Racism



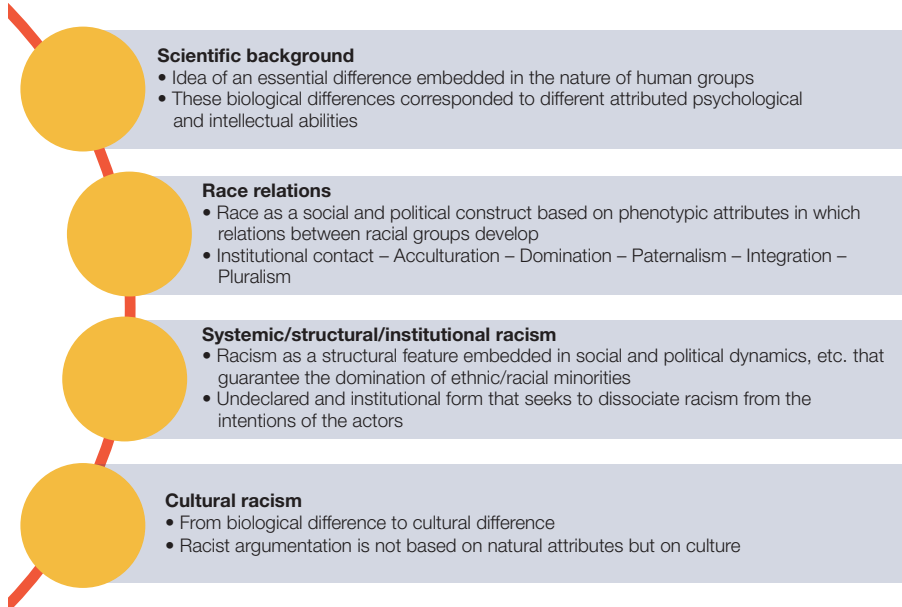
System of doctrines or ideas



Forms in which it is expressed in practice

This exercise also makes it possible to introduce ECRI's definition of racism: the belief that a ground such as 'race', skin colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or group of people or the idea of superiority of a person or a group of people (§ 1 of GPR7).

This definition of racism makes it possible to identify the common elements of the reflections of the participants and to analyse the sociogenesis and the historical evolution of racism in this perspective.



The trainer presents the historical evolution of the concept of **racism (table above)**, emphasising the fact that it is still possible today to identify racist speech and incidents from each of the theoretical approaches that have been produced throughout the history of the concept. Of course, some of them are predominant in different social and political contexts, but the trainer must emphasise that they are all still valid today and that no theoretical perspective should be discarded. For example, it is important to emphasise that while the **scientific view of racism** emerged in the 19th century as an extension of the system of colonial domination and with a clear link to the decline of slavery and the slave trade, this does not mean that this theoretical perspective on racism has completely disappeared: in fact, the debate on the intelligence curve whose theoretical basis rests on this theoretical perspective comes up periodically.

However, the trainer draws attention to the evolution of racism towards the **cultural perspective**: the theoretical postulate according to which cultural differences do not allow pluralism and living together. This does not indicate that there are cultures that are better than others, but it does indicate the need not to have pluralistic spaces, since it is understood that cultures cannot coexist in the same space. The work on the concept of culture during the previous session allows us to collectively problematise this affirmation.



Subsequently, the concept of **xenophobia** is presented as a reference to the fear of ‘the foreign person, that is to say, by abuse of language, of someone who does not have the same nationality as oneself. The concept of xenophobia is often confused with racism. The two concepts are intertwined but remain distinct. Racism involves distinction based on physical differences such as skin colour, facial features, hair texture, etc. Xenophobia involves behaviour based on the idea that the other person is foreign and not from the community or nation.

At this time, we can offer an exercise to reflect more deeply on the concepts of racism and xenophobia. The link between the notion of racism and that of xenophobia is essentially addressed from a question posed in the main group: **is there racism without xenophobia, and xenophobia without racism?**

A debate on the similarities and differences between racism and xenophobia is organised in the main group to allow the group to identify the main differences between the two concepts.

Racism is not always xenophobic



For example, in racism towards national minorities as in Spain towards the Romani people

Xenophobia is not always racist



For example, towards invading armies or colonialism

The trainer can facilitate the debate with concrete examples if necessary.

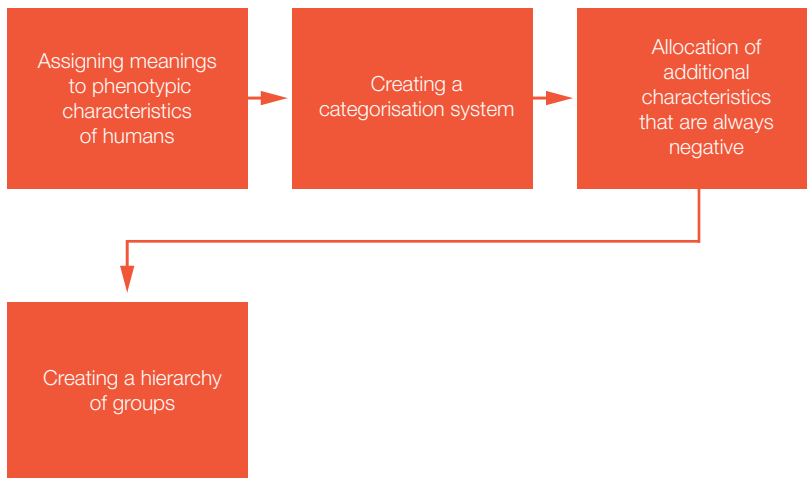
d) Synthesis and theoretical presentation of the main manifestations of racism and discrimination

Goals

- To present the main manifestations of racism.
- To highlight the ways in which racism and racial discrimination manifest themselves.
- To introduce the dynamic nature of racism.
- To present the types of discrimination.
- To introduce the notion of intersectionality and intersectional discrimination.



This work of collective conceptual definition provides an introduction to the underlying premise of racism and one of its main characteristics, namely its dynamic nature and its capacity to adapt to different social and historical contexts, which is based on a hierarchical system founded on the attribution of characteristics that are always negative to human groups. This is the first step in developing the subsequent activity on prejudice and stereotypes.



It is important to start by emphasising that the ways in which racism and racial discrimination manifest themselves are dynamic and constantly changing and evolving. However, the different manifestations of racism have the same sequence of creation:

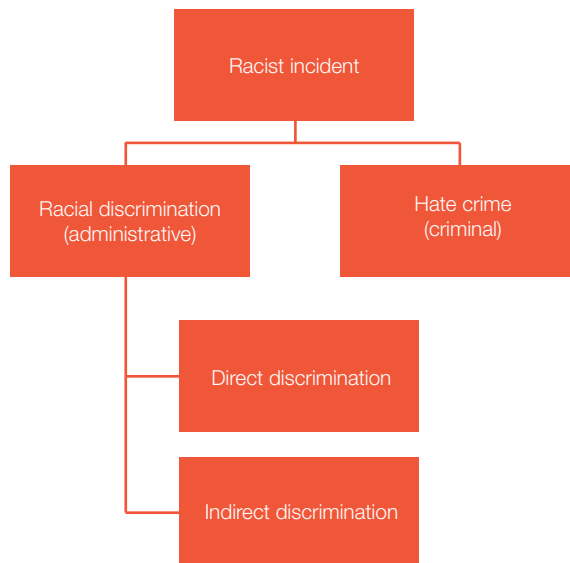
- a) The first phase is characterised by the attribution of meanings to the different phenotypic characteristics of individuals.
- b) These attributes (qualities or properties of a being) make it possible to develop a system for categorising people into different groups or collectives according to the attributes applied.
- c) In addition, those groups or collectives possessing certain attributes are assigned additional characteristics which are most often negative in nature.
- d) This last point is what makes it possible to create a hierarchy of social groups with predominantly negative attributes, which constitutes the psychosocial basis (the creation of prejudices and stereotypes) of discrimination and, in particular, of discrimination based on people's racial and/or ethnic origin.



These common characteristics in the ‘logic’ of the functioning of racist action allow us to identify how each of them is linked to the historical, social, political and economic context of each community, whether political (States, for example) or identity-related (collectives based on certain characteristics). Thus, the attribution of meanings, the creation of a system of categorisation and the attribution of negative characteristics to human groups or collectives are mediated by collective experience over time, and in each society or community, these attributions may change or the same characteristics may be attributed to different human groups. But they exist in all societies and all human groups.

It is therefore significant to review the definition of racism in order to look more closely at the manifestations and forms it takes. According to the definition of **ECRI's General Policy Recommendation No. 7**, racism is the belief that a ground such as ‘race’, colour, language, religion, nationality or national origin or ethnicity justifies contempt for a person or a group of people or the idea of superiority of a person or a group of people (paragraph 1 of GPR7).

Racism is defined as a belief system. However, different historical experiences have shown that it is about much more than that: it is the way in which these beliefs manifest themselves, how they take shape and materialise in concrete attitudes which lead to multiple consequences in the lives of individuals and societies.





Racist attitudes manifest themselves, first and foremost, in **racist incidents** which, according to the definition of ECRI's General Policy Recommendation No. 11, are any incident perceived as racist by the victim or any other person. An essential element of this definition is that it introduces the possibility that it is a person or a social agent external to the incident which determines its racist character. This inclusion is due to the well-known fact, derived from research and studies, that the majority of individuals and groups who experience racist incidents do not acknowledge that they have been victimised. This is due to multiple factors (for example, coming from countries where it is not possible to report racist incidents), but the most important is related to the fact that these people and groups often face discrimination. and structural racism and thus do not have the necessary tools to recognise that these incidents are racist and violate their human dignity. This is why the instruments and actions of public institutions or civil society are essential for the identification of racist incidents and the empowerment of vulnerable individuals and groups (those to whom negative categorisations are attributed).

Racist incidents or events can have different natures. Although they all have the common characteristic that they are an attack on human dignity and therefore none of the racist manifestations are tolerable, they can be typified according to their nature and their effects on people and groups that experience racial discrimination.

The differentiation arises in terms of legal consequences in countries that have regulated penalties for racist incidents, and these can usually be administrative or criminal in nature. In the first case, we refer to racial discrimination and in the second case, to hate crime.

a) **Definition of discrimination.** The International Convention on the Elimination of All Forms of Racial Discrimination defines discrimination as 'any distinction, exclusion, restriction or preference based on "race", colour, descent or national or ethnic origin, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life'¹⁰.

For the definition of the concept of discrimination, the project takes the definition included in European Directive 43/2000/EC of 29 June 2000 relating to the implementation of the principle of equal treatment between people without distinction of 'race' or ethnic origin and in Directive 78/2000/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation as a reference.

10 OHCHR. *International Convention on the Elimination of All Forms of Racial Discrimination*. Online version: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>



The definition of **equal treatment** in the two directives is as follows: ‘the principle of equal treatment shall mean that there shall be no direct or indirect discrimination whatsoever’.

Direct racial discrimination. Any difference in treatment based on a ground such as ‘race’, colour, language, religion, nationality or national or ethnic origin and which has no objective and reasonable justification. A difference in treatment lacks objective and reasonable justification if it does not pursue a legitimate aim or if there is no reasonable relationship of proportionality between the means employed and the aim pursued (paragraph 1 GPR 7).

Indirect racial discrimination. The case where an apparently neutral factor, such as a provision, criterion or practice, cannot be satisfied with the same facility by persons belonging to a group distinguished on a ground such as ‘race’, colour, language, religion, nationality or national or ethnic origin, or disadvantages such persons, unless this factor has an objective and reasonable justification. This is the case if it pursues a legitimate aim and if there is a reasonable relationship of proportionality between the means employed and the aim pursued (paragraph 1 GPR 7).

The concept of **multiple discrimination** is based on the observation that discrimination can occur on the basis of more than one perceived characteristic. This concept is concerned with the process by which various categories such as sex, ‘race’, ethnicity, class, disability, sexual orientation, religion and age interact on multiple and often simultaneous levels., thus reflecting how each element or trait of a person is inextricably linked to all the others. The concept makes it possible to expose different forms of discrimination in order to dismantle them and to promote the rights of vulnerable groups, and a social justice agenda that does not prioritise discriminations but perceives them as a whole and analyses them in their intersection and overlap within of the society.

Intersectional or **intersecting discrimination** refers to a situation in which various grounds exist and these interact with each other simultaneously, so that they are inseparable and generate a specific type of discrimination.



Intersectionality

Intersectionality. The term was coined by American Afro-feminist scholar Kimberlé Williams Crenshaw in 1989 to specifically address the intersection of sexism and racism experienced by African-American women, the power implications, and why these women were not taken into account in the feminist discourses of the time. The meaning of the term has since been broadened, in the 2010s, with the rise of cyber activism and now encompasses all forms of discrimination that can intersect.

In addition, the United Nations High Commissioner for Human Rights defines intersectionality as 'the consequence of two or more grounds of discrimination combined. This notion also deals with the way in which these combined factors contribute to create layers of inequality... these systems of discrimination have been identified as being based, among other vital dimensions, on "race", origin ethnicity, nationality, migration status, age, disability and minority status'.

The combination of sexism and racism has significant effects on migrant women and girls of certain racial and ethnic origins in terms of poverty and socio-economic exclusion, education, health, violence, autonomy, participation and representation in public life and equality before the law or access to justice.

Addressing intersectional discrimination is very important when it comes to the reduction of inequalities between the sexes in the context of migration and combating racism and xenophobia.

Positive discrimination refers to positive measures that aim to eradicate discrimination suffered by a group of people by giving them temporary preferential treatment. In other words, positive measures consist in providing better treatment to a part of the population that is considered to be systematically disadvantaged; this therefore entails establishing unequal treatment with the aim of promoting equal opportunities. This concept, born in the United States in the 1960s and 70s, was created in order to restore balance and diversity in the world of studies and work in particular.

b) **Definition of hate crime.** Hate crime is any criminal offence motivated by hatred or prejudice based on 'race', colour, language, religion, nationality, national or ethnic origin, sexual orientation, gender identity or sex characteristics, real or assumed. For more information on the concept of hate crime, see <http://hatecrime.osce.org/what-hate-crime>.



e) Group dynamics: Practical cases of racism, racial discrimination and intersectional discrimination based on 'race', ethnicity and sex

Exercise objectives

- To consolidate the differences between direct discrimination, indirect discrimination and intersectional discrimination.
- To analyse real examples of cases of discrimination in Europe.

In order to identify real cases of racial discrimination, the trainer provides a group work activity in which, based on material with cases of discrimination in Europe (see Annex 2a: cases of discrimination and Annex 2b: case of indirect discrimination), the participants can collectively reflect on what type of discrimination is involved in each case. The trainer asks them to indicate whether each case provided involves direct or indirect racial discrimination and to justify their reasoning. A particular focus is placed on intersectional discrimination based on 'race', ethnicity and sex.

f) Experiential group exercise to work on the psychosocial foundations of racism

Exercise objectives

- To reflect on the prejudices present at the individual and societal level and how they generate a series of associated behaviours.
- To show empathy towards the situation of the victims.
- To encourage self-reflection on the relationship between stereotype and behaviour.

To work on prejudices and stereotypes¹¹, we use the 'Band of prejudice' work activity. The objective of the activity is to analyse how stereotypes affect the way people are treated, to understand how the image that a person generates around a group or another person (and the characteristics that are attributed) conditions the way in which social relations are established.

The activity is as follows:

- Step 1: Post-its are prepared and the trainer places them on the back of each participant with different stereotypes: 'crafty', 'people-pleaser', 'mother', 'old man', 'migrant', etc. so that they are not visible to each person wearing them.

¹¹ It is important to shift the problem somewhat by considering that stereotypes present themselves less as immanent units than as products, as the results of a process of enunciation and/or reception. To understand their functions, the focus should therefore be on the process rather than the product, i.e., on stereotyping rather than stereotypes.



- Step 2: Once everyone has put on their note, a topic is proposed for discussion. During the discussion, each person should treat other people according to what the label they see on the sticky note represents to them. The trainer can remind participants that they do not have to say openly what they see on the post-it, but treat the person with the idea that they have of a person who matches this 'tag'.
- Step 3: The trainer asks the following question: how do you think your character was? How did you feel? Did the way other people behaved towards you influence your behaviour? How other people have treated you?

g) Group activity to work on the psychosocial bases of racism

Exercise objectives

- To deepen the psychosocial bases of racism through individual experiences.
- To show empathy towards the situation of the victims

The rest of the session is oriented towards deepening the psychosocial bases of racism through individual experiences and the assumption that discrimination affects us all. To start this experiential work, first we will watch some videos:

- The first of the [videos](#) is the one included in the session presentation of psychologist Kenneth Clark's experience showing how prejudices and stereotypes are formed even at a very early age.
- A [second video](#) is a Lithuanian campaign against racism based on a social experiment.
- In addition, participants can watch the video on [the Danish campaign](#), which inspired the first group activity of Session 1.

These videos allow us to establish a debate in groups to reflect on how stereotypes are transmitted, what types of stereotypes we have internalised as individuals and the effects that these prejudices have on our society. The trainer can guide the discussion towards childhood stereotypes that participants have dismantled throughout their lives and around gender stereotypes and stereotypes about people from other countries. It is also possible to reflect on the stereotypes that exist about certain regions of the country or the stereotypes that exist in other countries about Moroccans. The trainer can ask participants how they feel about these stereotypes.

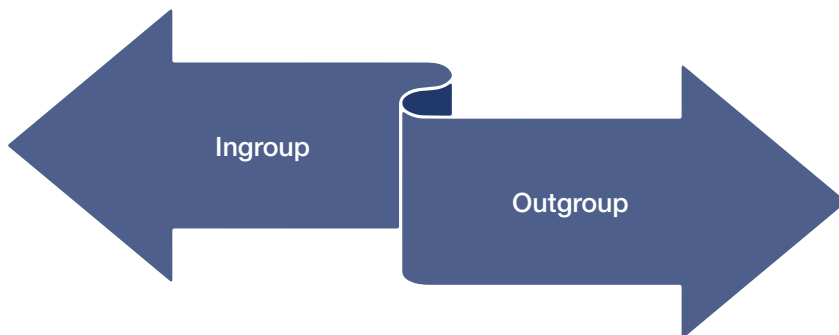


h) Plenary discussion and summary of the psychosocial bases of racism

Goals

- To define prejudices and stereotypes as well as the different dimensions (cognitive, affective and behavioural) of the socio-psychological bases of racism and racial discrimination more firmly.
- To deepen the psychosocial bases of racism through individual experiences.
- To show empathy towards the situation of the victims.
- To encourage self-reflection on the relationship between stereotype and behaviour.

The reflection in the main group allows us to define prejudices and stereotypes as well as the different dimensions (cognitive, affective and behavioural) of the socio-psychological bases of racism and racial discrimination more firmly and to relate them to the underlying rationales for racism that were already addressed. Collective sharing also allows the group to have a global vision of the different beliefs acquired in childhood and of the way in which these prejudices can be modified. The session can lead participants to share experiences where stereotypes have turned into discriminatory behaviours and experiences.



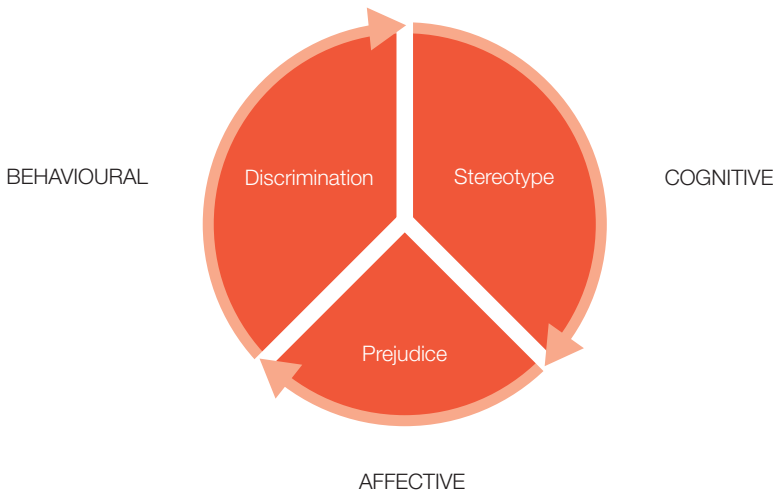
i) Theoretical presentation on the psychosocial bases of racism

Goals

- To deepen the psychosocial bases of racism through individual experiences.
- To establish the notions of prejudice and stereotypes.
- To reflect on the relationship between stereotype combining and intersectional discrimination.



Prejudices and stereotypes which are the psychosocial basis of categorisations are the opinions, generally negative, that one previously and tenaciously maintains about something or someone unknown or misunderstood. Prejudices are very common in all societies and some of them last for a long time. They have been unconsciously internalised by processes of education and socialisation based on values and beliefs that deviate from respect between people and from the concept of equality.



As we saw earlier, prejudice can be the basis of discrimination. Thus, the more negative and inflexible a person's biases are, the more intense their discriminatory attitudes and actions can be. The most mundane or innocent thoughts, beliefs and attitudes, such as the daily use of derogatory terms towards a person or a group, also fuel discrimination.

And this type of prejudice is present in almost everyone: for example, when we make jokes and jokes based on stereotypes about certain people or when we use expressions with a certain discriminatory content, etc. Therefore, we can say that almost everyone has discriminatory attitudes, even if it is on a small scale.

The combination of racist and sexist stereotypes contributes to reinforcing intersectional discriminations based on 'race', ethnicity and sex.

At the same time, we can be victims of discrimination at any time and in any space, precisely because of the enormous diffusion of categorisations or prejudices among the people who make up our daily space. For example, by entering a public place (bars,



restaurants, discotheques which impose often arbitrary rules of admission to prevent access to certain groups or collectives).

It is thus important to highlight and to become aware of the fact that discrimination is much more widespread than we think a priori, and that we ourselves can be both perpetrators and victims of discrimination.

Discrimination can occur for many reasons. It is commonly believed that discrimination only occurs when one person treats another person poorly because of their sex, racial or ethnic origin, religion, beliefs, sexual orientation or identity, handicap, etc.

However, there are many other causes or grounds for discrimination: age, illness, political opinions, and any other personal or social circumstance. In short, when we address a different person and, due to a certain status or condition, we treat them differently and unfavourably compared to others, we discriminate against them.

Finally, discrimination occurs in all kinds of contexts. Whenever two or more people interact, some of the forms of discrimination may arise. In public and private places: at home, in the neighbourhood, at school, at work, in certain places of entertainment, on the street.

Based on the work done throughout the session, and with a view to closing Module 1 'Migration, racism, and discrimination – socio-political issues and concepts', participants are invited to identify individual experiences in which they have suffered from prejudice and stereotypes and, therefore, in which they felt discriminated against by these factors.



MODULE II: International and national legislation on racism, xenophobia and discrimination including intersectional discrimination¹²

A. INTRODUCTION

1. Presentation

The module aims to present the international and national frameworks for the protection of the migrant population against discrimination, racism and xenophobia, taking into account the provisions relating to equality and non-discrimination based on ethnic or racial origin and the regulation of migration. It determines the international framework from which to assess the weaknesses and strengths of the mechanisms put in place by Morocco to combat discrimination (including intersectional), racism and xenophobia against migrant populations.

The module is made up of **4 working sessions**. The **first session** aims, first of all, to familiarise the participants with the international normative corpus for the protection of the migrant population against discrimination, racism and xenophobia, taking into account the gender approach. The session will focus on strengthening the capacities of participants so that they are able to carry out their own training independently within their institutions. This introduction will aim to allow participants to know the difference between *hard law* and *soft law*, reflect on the evolution of the international normative corpus and critically analyse the limits of *hard law* in protecting the migrant population.

¹² The content of this module has been written in line with the principles of inclusive language adopted by the project 'Living together without discrimination'. However, the terminology relating to conventions and institutions, as well as citations, retains its original form, even if this does not correspond to the principles of inclusive language adopted by the project.



The **second session** presents the national framework for the protection of the migrant population against discrimination, racism and xenophobia, taking into account the provisions relating to equality and non-discrimination based on ethnic or racial origin and the regulation of migration. The session focuses on working and reflecting on aspects of legal non-protection, including situations of multiple vulnerability, through experiential dynamics that allow us to empathise with the victims. In addition, a collective reflection on the measures that could lead to the improvement of the regulatory framework is conducted.

The **third session** is devoted to exploring how the normative framework is articulated in public policies at the international, regional and national levels, as well as exploring areas for improvement for the protection of migrant persons. The session aims to make people understand the importance of working in different socio-cultural frameworks to generate a vision that is open to diversity.

The **fourth session** explores the conventional and unconventional UN mechanisms to protect, prevent and combat all forms of discrimination (including intersectional discrimination), racism and xenophobia against migrant women and men through the analysis of a case study.

2. Module-specific objectives

- To become familiar with the international and national normative corpus for the protection of the migrant population against discrimination, racism and xenophobia, taking into account the gender approach.
- To identify international mechanisms for the protecting against, preventing and combating all forms of discrimination (including intersectional discrimination), racism and xenophobia against the migrant population.
- To learn about the public policies initiated by Morocco in combating discrimination, racism and xenophobia, taking into account the gender approach.
- To critically analyse the Moroccan normative framework and identify aspects of improvement for its upgrading with international commitments.
- To identify, from the international normative corpus, the acts/forms of racism, xenophobia and discrimination according to the type of sector.
- To identify, from the national normative corpus, the acts/forms of racism, xenophobia and discrimination according to the type of sector.
- To know the importance of international mechanisms, specifically the conventional and unconventional UN mechanisms for the protecting, preventing and combating all forms of discrimination (including intersectional discrimination), racism and xenophobia against migrant women and men.



3. Pedagogical objectives of the module

At the end of the four sessions of this module, participants will be able to:

- Identify moderation and techniques of andragogy adapted to the content of the training.
- Assimilate the reference frameworks (international and national legal instruments (hard/soft law)) for preventing and combating all forms of discrimination (including intersectional discrimination), racism and xenophobia against migrant women and men.
- Understand the political frameworks for preventing and combating all forms of discrimination (including intersectional discrimination), racism and xenophobia against the migrant population.
- Know the international and national organic frameworks (mechanisms) for the preventing and combating all forms of discrimination (including intersectional discrimination), racism and xenophobia against migrant women and men.
- Identify gaps in the protection of migrants in Morocco, particularly in the case of intersectional discrimination, and propose actions for improvement.

4. Module structure

Module 2 of the training is divided into 4 different sessions:

Session 1. The normative framework (legal instruments (*hard/soft law*) international.

- Differences between *hard law* and *soft law*.
- Presentation of United Nations instruments.
- Critical analysis of United Nations instruments.

Session 2. The national normative framework (Part 1).

- Information about the rights of foreigners at the economic, cultural and social level.
- Presentation of the other areas of the national normative framework, in particular:
 - Equality between the sexes.
 - Rights of detainees.



Session 3. The political bases for preventing and combating all forms of racial discrimination (including intersectional discrimination), racism and xenophobia.

- Presentation of the political bases at the international and national levels:
 - International focus: United Nations Declarations, Plans, Programs of Action and Sustainable Development Goals on/integrating preventing and combating all forms of discrimination (including intersectional discrimination), racism and xenophobia against migrant women and men.
 - National focus: Public policies, sectoral strategies and national programmes for preventing and combating all forms of discrimination (including intersectional discrimination), racism and xenophobia against migrant women and men.

Session 4. The organic bases for preventing and combating all forms of racial discrimination (including intersectional discrimination), racism and xenophobia.

- Presentation of international mechanisms, specifically the conventional and unconventional UN mechanisms to protect against, prevent and combat all forms of discrimination (including intersectional discrimination), racism and xenophobia against immigrants of all genders:
 - Conventional UN mechanisms.
 - Unconventional UN mechanisms.

B. SESSION 1. THE NORMATIVE FRAMEWORK (INTERNATIONAL LEGAL INSTRUMENTS - HARD/SOFT LAW)

1. Session objectives

At the end of this session, participants will be able to:

- Know and identify the frame of reference (international legal instruments (*hard/soft law*) for preventing and combating all forms of discrimination (including intersectional discrimination), racism and xenophobia against women and migrant men.
- Critically analyse international legal provisions.
- Review the historical evolution of the international normative framework.



2. Focus

Focus

- In international law, hard law includes directly applicable international treaties or agreements, as well as customary laws.
- These instruments translate into legally binding commitments for countries (states) and other international subjects.
- International treaties, to combat all forms of discrimination (including intersectional discrimination), include named, conventional instruments. To become a party to a multilateral human rights treaty, States must express their consent to be bound by signature subject to ratification, acceptance or approval.
- Signature subject to ratification gives states time to obtain treaty approval domestically and to adopt any legislation required to implement the treaty domestically before accepting the legal obligations created by treaty internationally.
- Once a State has become a party to a treaty at the international level, its international responsibility is engaged. This is *hard law*.
- Furthermore, **soft law** designates 'rules whose normative value would be limited either because the instruments containing them would not be legally binding, or because the provisions in question, although appearing in a binding instrument, would not create obligation of positive law, or would create only weak obligations'.

Key points

- The **coexistence of hard law and soft law**:
 - **Hard law instruments**: treaties, custom, international case law, general principles of law, doctrine.
 - **Soft law instruments**: Declarations, acts adopted by States within international organisations or at international conferences, standards produced by international organisations or by codes of good conduct (memorandums of understanding, resolutions, recommendations of Charter bodies and treaty organs).
- International human rights law provides a series of values, regulations and protection mechanisms for combating racism and xenophobia against migrants, but the management of diversity is a challenge for different societies. Human rights, the ideal of human dignity and the principle of equality and non-discrimination which are implicit must guide the various regulations, policies and initiatives at the national level.



Problem

The prohibition of racial discrimination is one of the fundamental principles of international *hard law*. However, the instruments of the latter, despite the timid evolution, post CRENSHAW¹³, remain allergic to the concept of intersectionality¹⁴ applied to discrimination.

- On what legal basis are States responsible for breaches relating to intersectional manifestations of discrimination (acts and words)?
- To what extent can the supervisory bodies find a breach by the State of a *hard law* obligation if it is not formalised in these instruments?

3. Procedure

a) Presentation of the working session

The session begins with the trainer introducing the objectives of the session. This is to make it transparent to the participants and to situate the session in relation to the general context of the module. The trainer explains that this session focuses on understanding the contemporary international normative landscape and that the latter is increasingly characterised by the diversification of international legal instruments to combat all forms of discrimination, including intersectional discrimination.

Before starting the session, the trainer explains the fundamental difference between *hard law* and *soft law*: While legal monism considers that the law is a homogeneous block that merges with the State, the participants are led to observe the different manifestations of legal pluralism – a critical trend – in modern societies through the appearance of innumerable law-generating focuses that compete with the proper state focus.

13 The concept of 'intersectionality' appeared explicitly in 1989 in an article by United States jurist Kimberlé Crenshaw entitled 'Demarginalising the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics'. Ms Crenshaw shows that the legal and normative framework in terms of sexist discrimination does not consider the intersection between sexist and racial discrimination, thus leaving a void for the specific discrimination experienced by black African-American women. She also analyses cases of discrimination experienced by these women who are judged by sex issue or by racial and ethnic issue, but never by combining the two and shows that the legal framework of reference on women is made on the basis of experience of white women and that on African American people is made on the basis of the experience of men and that, therefore, only discrimination by question of sex or racial and ethnic discrimination is perceived as possible for the case African American women, not the combination of these two.

14 Intersectionality is defined in the living together project document as the interaction between race, ethnicity and sex. Other factors such as age, economic situation, marital status, etc. can also intersect. The use of the intersectional approach, or intersectionality, makes it possible to explain how discrimination based on race affects women and men differently. This will make it possible to identify the causes of racial discrimination which affect women the most and to propose measures to reduce them within the framework of 'Living together without discrimination'.



One illustration of these focuses is the growing importance of codes of conduct in the regulation of business in the 1970s and 1980s. The liberalism of the 1980s called state regulation into question. This situation has given rise to the difference between *hard law*, which has often been distinguished from *soft law*. The former is a deliberate right while the latter is a spontaneous right.

The sources of *hard law* are treaties, custom, international jurisprudence, general principles of law, and doctrine. In the case of *soft law*, these are declarations, acts adopted by States within international organisations or at international conferences, standards produced by international organisations or even by codes of good conduct (memorandums of understanding, resolutions, recommendations of Charter Organs and Treaty Bodies, among others).

b) Group exercise on significant general human rights instruments

The session begins with a group exercise allowing participants to quickly and concretely grasp the international legal instruments. This exercise requires a fairly large space (at least 25 m² of free floor space) and some preparation time. The trainer must prepare cardboard sheets listing all the sources of *hard law* (treaties, custom, international case law, general principles of law, doctrine) and almost all the sources of *soft law* (recommendation of the Organs of the charter and treaty bodies, declarations, acts adopted by States within international organisations or at international conferences, standards produced by international organisations or by codes of good conduct, memoranda of understanding, resolutions, etc.). The sheets with the definition of each legal instrument of *hard* and *soft law* with its contents and a summary of the reflection in relation to the assigned exercise can be found in Annex 3.

Exercise objectives

- To recognise and differentiate between General Human Rights Instruments that establish a general principle of non-discrimination with a one-dimensional value (single input) and specific Human Rights Instruments that implicitly recognise the existence of a category of intersectional discriminations (or intersecting discriminations).
- To enable the participants to discover the meaning of the evolution of the instruments of *soft law* – as an alternative to the resistance of *hard law* – which has made it possible to understand the concept of intersectionality applied to discrimination.

The exercise takes place in two stages:

The first stage involves a **game of ‘Searching for prohibitions with multidimensional value’**. The objective is to identify and distinguish the human rights instruments which lay down a general principle of non-discrimination with unidimensional value or



with multiple values. The trainer arranges the participants in a U-shaped room to ensure that everyone effectively visualises all the *slights*. Once everyone is seated, the trainer must divide the participants into two groups, one for *hard law* and the second for *soft law*. One group sits across from the other. Subsequently, the trainer assigns each participant a cardboard sheet/half-sheet of a table, which serves as a sign. Each sign has the name of a *hard law* source (treaty, doctrine, case law, general principle) or, for the second group, the name of a *soft law* source (declaration, conference, committee recommendation, etc.). The trainer must brief the participants on each source using the brief definitions available in the annexes.

The trainer scrolls through slides containing all the international legal provisions for combating all forms of discrimination, including intersectional discrimination, racism and xenophobia against migrants. Each time the slide unfolds and once the participants have identified a legal instrument covering the concept of the prohibition of discrimination, they and they will have to submit a post-it note which will be attached/glued to the cardboard sheet/half-sheets of the table, acting as a sign with the corresponding source of law (international treaty or custom or case law, etc. for *hard law*, and conference, or recommendation of the charter or treaty bodies, etc. for *soft law*). The post-it note must have the name of the legal instrument as well as a specification of the principle of prohibition of discriminations recommended by this text: with unidimensional value (single input) or with multidimensional value (multiple input).

Example

For the International Covenant on Civil and Political Rights, the participant must note on the *post-it*:

- The name: International Covenant on Civil and Political Rights.
- The number of prohibited discrimination criteria.

To situate it: in this case 'single input'; the *post-it* will be glued to the card indicating 'International Treaty', from the *hard law* group.

The second stage involves a game 'for the designation of the winner' and is intended to highlight which of the two instruments – *soft law* or *hard law* – best captures the concept of intersectionality applied to discrimination. Participants will have to take off the *post-its*, one after one, to stick them back on a 2-column flipchart. In addition, the participants will have to stick the *post-its* onto the first column referring to the texts that pose a very general prohibition of discriminations with a unidimensional value (single input) and on the 2nd column the *post-its* referring to the texts that pose a prohibition of discriminations with a multidimensional value (multiple input). If it is an international convention, the trainer asks the participants to look for its dates and add this indication on the *post-its*. In this way, the participants can observe the texts resulting from the (tentative or not) 'post-CRENSHAW' evolution. The amount of post-its pasted on the



intersectional column of the flipchart will reveal whether the ‘post-CRENSHAW’ era still remains allergic to the concept of intersectionality when it comes to discrimination.

Example	
All flash-notes will be moved into a 2-column table:	
The first column	The second column
To stick all the <i>post-its</i> referring to the texts posing a very general prohibition of discriminations with unidimensional value (single input)	To stick all <i>post-its</i> referring to texts prohibiting discrimination with multidimensional value (multiple input)

c) Plenary discussion and synthesis on the fundamental principles and limits of hard law

Goals
<ul style="list-style-type: none"> • To identify the fundamental principles of international <i>hard law</i>. • To become aware of the limits of <i>hard law</i>. • To reflect on the evolution of <i>hard law</i>. • To identify the complementarity between <i>hard law</i> and <i>soft law</i>.

The trainer stimulates discussion and analysis on the principles of *hard law* and the complementary role of *soft law* through the question: *What are the main differences you observe between soft law and hard law?* It is expected that participants will be able to critically identify the limits of *hard law*.

In a first step, it is a question of becoming aware that the prohibition of racial discrimination is one of the fundamental principles of international *hard law*. It is at the heart of the United Nations Charter and of all major international and regional human rights instruments adopted since the founding of the UN.

It also consists in realising that *hard law*:

- Explicitly and primarily envisages a conception of discrimination with a single input and not multiple inputs.
- Recognises, rarely and implicitly, the existence of multiple discriminations or at least of one category of them, namely successive discriminations¹⁵.
- Does not recognise the existence of intersectional discrimination.

¹⁵ **‘Multiple Discrimination’** refers to discrimination in which several grounds act separately.



Secondly, the trainer asks the participants to reflect on the international texts that are more conducive to the recognition of intersectional discrimination. It is expected that participants will identify these texts as the 'post-CRENSHAW' instruments. The participants are aware of the certain delay of international law in the recognition of intersectional discrimination, which is less flexible in accepting the concept. To remedy these deficiencies, and to increase the effectiveness of fundamental rights law, *soft law* is increasingly being used to monitor non-judicial and judicial national and international control mechanisms, where it can assist in the development of the judicial/non-judicial solution and in the enforcement of judgements/reintegration of the offender into mainstream society.

d) Summary of the fundamental principles and limits of hard law

Goals

- To identify the General Human Rights Instruments that establish a general principle of non-discrimination with a unidimensional value (single input) and specific Human Rights Instruments that implicitly recognise the existence of a category of intersectional discriminations (or intersecting discriminations).
- To reflect on the complementarity between the instruments of *hard law* and *soft law*.

The remarks and ideas from the previous exercise are presented to the group and supplemented by a theoretical contribution on the limits of *hard law* and its complementarity with *soft law*.

The use of *soft law* instruments frequently used to supplement *hard law* by detailing the concrete methods of its application, lends consistency to the latter. However, in terms of principles, the proliferation of **derogations weakens** the general prohibition of discrimination.

The instruments specifically aimed at non-discrimination against migrants, as well as the international legal instruments relating to human rights, are all foundations for the policy of combating discrimination. Depending on the assumptions, they expressly prohibit the various forms of discrimination, enshrine equal treatment or expressly recognise the rights of foreigners. However, their effects can be mitigated for several reasons: the introduction of derogations is often justified by security (terrorism) and economic considerations. For instance:

- Convention No. 111 of 1958 (ILO) also includes elements reducing the impact of the principle of equality of treatment proclaimed between nationals and non-nationals on the right to work. While condemning discrimination in matters of employment and profession, the latter recognises the preference granted to



nationals for access to jobs as legitimate within the context of national labour protection.

Other limits are fundamental. They are linked to their legal system. In some treaties, the personal scope of application is confined to certain specific categories of persons (Geneva and New York Conventions relating to refugees and stateless persons). Finally, the international instruments containing **a general non-discrimination clause**, or non-discrimination clauses referring to **the intersection of discriminations**, which, of course, leaves room for fields **not covered**, are rare.

Therefore, without denying the sometimes crucial role of international instruments in terms of equal treatment between foreigners and nationals, it should be recognised that these measures are appropriately supplemented by the internal system for combating discrimination on grounds of nationality.

e) Presentation of the theoretical framework on instruments to combat all forms of discrimination

Goals

To deepen knowledge of the General Human Rights Instruments which lay down a general principle of non-discrimination with a unidimensional value (single input) and the specific Human Rights Instruments which implicitly recognise the existence of a category of intersectional discriminations (or intersecting discriminations).

i) Hard law

Conventional instruments to combat all forms of discrimination (including multiple ones)

General human rights instruments which lay down a general principle of non-discrimination in a unidimensional aspect (single-input)

- The Charter of the United Nations (CNU), signed in San Francisco in 1945, addresses the theme of international economic and social cooperation in its Chapter IX. In Article 55, it declares that the United Nations will promote 'universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to "race", sex, language, or religion'.
- The Charter thus only lays down a very general prohibition of discrimination.
- The 2 International Covenants of 1966: International Convention on Civil and Political Rights (ICCPR) – Article 26 – and on Economic, Social and Cultural Rights (ICESCR) – Article 2.



- The International Convention on the Elimination of All Forms of Racial Discrimination, 1965.
- The Discrimination (Employment and Occupation) Convention, 1958.
- The UNESCO Convention against Discrimination in Education, 1960.

Instruments that set out the specific rights of certain subjects of law (asylum seekers, refugees) as a separate legal category are called Category Instruments

- The 1951 Refugee Convention.
- The International Convention on the Rights of the Child, 1989.
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990¹⁶.
- The Convention on the Rights of Persons with Disabilities (CRPD) of 13 December 2006.

Instruments of the International Labor Organisation

- The Discrimination (Employment and Occupation) Convention (No. 111), 1958.
- Migration for Employment Convention, 1949 (No. 97).
- Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No. 143), 1975.

Specific human rights instruments implicitly recognising the existence of a category of intersectional discrimination by sex and racial and/or ethnic origin

The international ‘ post-CRENSHAW’ texts have proven to be more conducive to the recognition of multiple discrimination. These include:

- Optional protocol to the convention on the elimination of all forms of discrimination against women of 1999. It is mentioned that women in particular are subject to acts of discrimination in the workplace. The use of the plural here seems to refer more to the succession of discriminatory acts of which a woman would be the victim at work than to the combination, accumulation or connection of discriminatory criteria. In this sense, this text implicitly recognises the existence of multiple acts of discrimination or at least of one category of them, namely successive discriminations.

¹⁶ The Convention on the Rights of Persons with Disabilities (CRPD) of 13 December 2006 includes in this classification the instruments setting out categorical rights, as well as the specific human rights instruments which implicitly recognise the existence of a category of multiple discrimination based on sex and racial and/or ethnic origin (successive discrimination).



ii) Soft law

Acts adopted by States within international organisations or at international conferences

- Declaration of Philadelphia, adopted in 1944, by the ILO.
- Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief United Nations General Assembly on 25 November 1981 (resolution 36/55).
- Global Compact for Migration concluded in Marrakesh, which aims to promote 'safe, orderly and regular migration' 2018.
- Global Summit of the Alliance of Civilisations-Rabat, 2020.
- Rabat Action Plan on the prohibition of all advocacy of hatred, 2012.
- New York Declaration for Refugees and Migrants, 2016.
- Durban Declaration and Programme of Action, 2001.
- World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in 2001 in Durban.
- The Durban Review Conference, held in 2009 in Geneva.
- The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance – Durban – 2001 Programme of Action.
- African Ministerial Conference for African Agenda on Migration in 2018 which was attended by about twenty African ministers and government officials.

The observations and recommendations of the various Charter bodies and treaty bodies.

In the field of combating discriminatory and hate speech and remarks

- Resolution 16/18 on combating intolerance, negative stereotyping and stigmatisation of, and discrimination, incitement to violence and violence against, persons because of their religion or belief (2011).
- Resolution A/HRC/31/L.34 on racism, racial discrimination, xenophobia and related intolerance (2016).
- Committee on the Elimination of Racial Discrimination (CERD):
 - General Recommendation No. 15 concerning Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination (1993).
 - General Recommendation No. 30 concerning discrimination against non-citizens (2004).
 - General Recommendation No. 35 on combating racist hate speech (2013).



In the field of the rights of migrant children

- General Comment No. 22 on general principles regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, which were jointly adopted on 16 November 2017 by the Committee on the Rights of the Child and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- The appeals that UNICEF sent on 30 November 2017 to States, that the protection of migrant children be duly taken into account in the context of the negotiations on the Global Compacts, with the emphasis being placed on their protection against exploitation and violence, on the abolition of the use of detention and on the maintenance of family unity.
- The administrative arrangement (undated and unsigned) between the French and Moroccan Ministers of the Interior, resulting from the arrangement of 11 June 2018 which sets up a police cooperation system with the aim of sending supposedly Moroccan minors back to their supposed country of origin.
- Administrative Arrangement implementing the social security agreement between Morocco and Spain, Signed on 1 October 1982. The Personal Scope concerns Moroccan and Spanish workers who are or who have been subject to the social security legislation of one or both contracting parties, stateless persons and refugees and their family members and survivors.
- Special administrative arrangement between Morocco and Spain, signed on 8 February 1984, relating to management fees.

Intersectional discrimination based on 'race', ethnicity and sex

- Fourth World Conference on Women held in Beijing, 1995. For the first time, the concept of the intersectionality of discrimination in the United Nations system was mentioned here without it being explicitly cited¹⁷.
- The Durban Declaration, 2001. It recognised that racism, racial discrimination, xenophobia and related intolerance could be among the factors leading to the deterioration of the living conditions of migrant and/or ethnic minority women and girls, which lead to poverty, violence and multiple forms of discrimination and which limited or undermined the rights of women and girls. Women and girls who face intersectional discrimination on the basis of sex, 'race', ethnicity, work and descent or religion often do not have access to economic opportunities and decent work and are overrepresented in poorly paid jobs, where worker exploitation is common, such as domestic work¹⁸.

¹⁷ Sirma BILGE, 'Whitening Intersectionality', *Racism and sociology*, 2014.

¹⁸ Effects of multiple and intersecting forms of discrimination and violence in the context of racism, racial discrimination, xenophobia and related intolerance on the full enjoyment by women and girls of all their



- United Nations General Assembly resolution 69/16, 2016 Recalling its resolution 68/237 of 23 December 2013, by which it proclaimed the International Decade for People of African Descent, commencing on 1 January 2015 and ending on 31 December 2024, with the theme 'People of African descent: recognition, justice and development', to be officially launched immediately following the general debate of the sixty-ninth session of the General Assembly, and to this end emphasizing the opportunity for achieving important synergy in the combating of all the scourges of racism through the effective observance of the Decade, and in this regard contributing to the implementation of the Durban Declaration and Programme of Action¹⁹.
- The New York Declaration for Refugees and Migrants, 2016, which committed United Nations Member States to address multiple and intersecting forms of discrimination against refugee and migrant women and girls²⁰.
- The CEDAW (Convention on the Elimination of All Forms of Discrimination against Women) committee originally dealt with only one ground of discrimination (sex), but over time it began to issue recommendations to integrate intersectionality in regard to discrimination, such as No. 26 on the work of migrant people (2008). The CEDR Committee 'noted the gender dimension of racial discrimination in its general recommendation No. 25 and focused its work on the intersectionality of 'race' and gender in different areas and thus considered intersectionality to be a fundamental concept for understanding the scope of the general obligations imposed on States parties in article 2 of the Convention on the Elimination of All Forms of Discrimination against Women'.

C. SESSION 2. THE NATIONAL NORMATIVE FRAMEWORK

1. Session objectives

At the end of this session, participants will be able to:

- know and identify the national normative framework for preventing and combating all forms of discrimination, racism and xenophobia against migrant women and men;
- distinguish the national legal provisions (in the absence of an internal normative nomenclature) for combating discrimination, racism and xenophobia;

human rights. Report of the United Nations High Commissioner for Human Rights, 2017. Online version: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/10

¹⁹ Ibid.

²⁰ Ibid.



- identify the different approaches to the enjoyment of human rights and fundamental freedoms with regard to migrants in the civil, political, economic, social and cultural registers;
- develop a professional imagination around the prospect of creating a label, 'diversity' in the absence of practical means for applying the principle of non-discrimination, and give concrete expression to the commitment to diversity;
- understand the importance of building a normative framework that leaves no one behind;
- identify regulatory gaps and their effects on the most vulnerable people;
- identify the entry points for addressing the intersectionality of discrimination based on 'race', ethnicity and sex.

2. Focus

Focus

In Morocco, the absence of a global framework for combating racism hinders the exercise of human rights. Indeed, Morocco does not have comprehensive anti-discrimination legislation or a specific law prohibiting racial discrimination. It also lacks a national action plan to combat and eliminate racism.

Key points

Intersectional discrimination is not defined in international (*hard law*) or national law. It does not exist as a legal category in Morocco. However, Morocco has a very developed legal framework in terms of equality between the sexes which offers opportunities for cross-referencing with other legal provisions relating to non-discrimination and in particular according to origin.

Review

Morocco has ratified most of the Single Identity Clause treaties.

The principle of non-discrimination on the basis of a person's identity is so fundamental in international human rights law that it is set out in article 1 or 2 of all the treaty instruments. The 'identity clause' is based on the idea that it is contrary to international human rights principles to deprive a person of their rights because of a characteristic that they cannot change ('race' or ethnic origins, for example) or a personality trait so essential (religion, etc.) that they should not be forced to give it up.



3. Procedure

a) Presentation of the working session

The session starts with the trainer introducing the objectives of the session. This is to make it transparent to the participants and to situate the session in relation to the general context of the module. This session is dedicated to understanding the national legal framework relating to combating discrimination, even in the absence of a national legislative nomenclature on the subject.

b) Group exercise on the national legal framework concerning non-discrimination

To start the session and to keep facilitating collective reflection and discussion between the participants, a group exercise is undertaken. This is a two-person scenario that will facilitate discussions on the national non-discrimination reference framework, identifying the subjects that are covered by the law as well as the gaps that still need to be addressed in order to prevent and combat racism, xenophobia and racial discrimination, including intersectional discrimination on the grounds of origin and/or ethnicity and sex.

Exercise objectives

- To recognise and identify all the rights and obligations set by Moroccan legal standards in relation to combating all forms of discrimination, including racial discrimination.
- To allow participants to develop a comprehensive and in-depth view of any manifestation of discrimination, particularly racial discrimination, in the various social spaces once the elements of prohibition have been combined.
- To check whether the legal instruments related to discrimination in Morocco have succeeded in taking care of migrants and in particular those who find themselves at the intersection of discrimination.

In the game, participants will be tasked with improvising different roles. The trainer divides the group into pairs and each person is asked to choose a role: either a migrant who plays the role of a victim, or a person with legal responsibilities. The role of victim must take into account sex, age, ethnic origin, nationality or legal status and other characteristics deemed significant. Then, a summary sheet, summarising the main focuses of the legal framework, is distributed to each pair. The sheets with the legislative provisions in Morocco relating to discrimination can be found in Annex 4. Each pair will plead in favour of the legal standard(s) which they are responsible for defending, according to the summary sheet assigned to them. Theatrical improvisations can relate, for example, to obtaining a birth certificate, or the exercise of a commercial or union activity, etc.



Each victim-migrant of one or more categories of discrimination will plead in favour of these rights which are either:

- recognised but not yet applied / difficult to implement;
- are not supported by the national text;
- are subject to *avoidance process* strategies on a permanent or short-term basis.

The trainer gives the members of the pairs a time for discussion and preparation and, afterwards, each pair presents the scenario in the main group. Finally, the trainer invites the other participants who are not involved in the scenario to intervene by improvising the role of the third party to support either the requesting person or the defender.

Advice

The role of the victim is presented in the form of theatrical improvisation. For this improvisation to be successful, the situation of a migrant who is a victim of discrimination needs to be internalised to enhance the participants' awareness of it. Two options that can take place at the same time are proposed.

Option 1: For instance, the person playing the role will be able to imagine, from their professional experience, the case of a migrant who manages to find a job, but who is largely underpaid, or who has difficulty in asserting their rights such as the right to unionise, etc.

Option 2: For instance, the person playing the role will be able to imagine a migrant woman of a certain racial/ethnic origin who manages to find work as a domestic worker, but who is largely underpaid and with more precarious conditions than for women in other racial and ethnic origins.

c) Plenary discussion around the national legal framework

Goals

- To carry out a critical analysis to find out whether the legal instruments related to discrimination in Morocco have succeeded in taking care of migrants and in particular those who find themselves at the intersection of discrimination.
- To propose societal, cultural, economic and political alternatives to ensure non-discrimination.

After this exercise, participants are invited to reflect on a number of issues related to the national normative framework.

First, the participants will engage in a critical analysis of the context and the legal framework. This first step consists in becoming aware of the existence of numerous practices, abstentions, and discriminatory remarks that are accepted and integrated as



a matter of course in society but which are now sanctioned by the new legal texts at the national level. This period is an invitation to question different cognitive schemes and representations acquired in an authoritarian manner.

Secondly, each participant will draw conclusions from their self-diagnosis and self-analysis, not only at the level of cognitive knowledge but also at the level of professional practices, emotions and social patterns afforded by the game. While questioning themselves, the participants will be part of a process of commitment and reflection on a new vision of 'society' and possible 'diversity', in particular by taking migrant people into consideration, and specially women who find themselves at the intersection of discrimination based on 'race', ethnicity and sex.

Finally, the facilitator will ensure that the participants have successfully become aware of certain values, acts and behaviours. It is important to check, through interactions, to what extent the participant is sufficiently capable of appropriating new practices and proposing societal, cultural, economic and political alternatives to non-discrimination. The latter would be drawn from the objectives reviewed in the legislative texts and international conventions for combating discrimination; the principle being, of course, to welcome the legal advances, but more specifically, to exploit the avenues that point to the means to achieve the application of the principle of non-discrimination and the concretisation of the commitment to diversity.

d) Summary of main lessons and reflections

Goals

- To consolidate and pool the concepts, ideas and values relevant to non-discrimination.
- To identify good practices to combat discrimination.

The synthesis phase serves to consolidate and bring together not only the concepts and ideas that have emerged during the debate, but also to focus on the values and beliefs that underpin the participants' discourses. The trainer ensures that a) the participants are aware that the legal instruments have been revised to include prohibitions of the different forms of intersectional (although rare) and one-way discrimination and b) that to achieve an inclusive social anchoring space of the different groups and sub-groups of migrants with the rest of society it is important to disseminate and communicate on new texts and to raise awareness of good practices and reflect on the paths of coexistence.



Similarly, by capitalising on the cross-fertilisation of the existing legal system and knowledge of cultures, on representations and prejudices, it is possible to draw 'lessons learned' that can optimally accelerate the eradication of discriminatory behaviour. The trainer can introduce the idea of the 'diversity label' as a form of promoting progress towards the recognition of the rights of migrants in Morocco.

Example of good practice: the 'diversity' label

The creation of a 'diversity' label in academic circles as well as in territorial governance circles, or in company management, etc., could be an opportunity to stimulate the contagion effect and boost the dissemination of 'good practices' and contribute, as has been the case in certain countries, to this desire to make 'good practices' in diversity management visible and shared.

Once defined, it will be a question of evaluating both the actions developed in the field of diversity and the evaluation procedures that it offers, in view of the problems posed by the statistical measurement of diversity in Morocco (see Module 5, Session 2).

It will also be a question of defining the criteria that can be used to identify a diversified organisation. Would the label encompass 'all forms of diversity' by welcoming all prohibited discrimination criteria (sex, gender, ethnic origins, age, sexual orientation, disability, lifestyle, etc.)? It would be an organisation consisting of all the differences covered in their exclusive or intersectional dimension, etc.

Regular audits and readjustments would thus make it possible to support individuals at each stage of their journey, by building bridges between training institutions and the various people who have obligations.

The performance criteria for combating the various forms of discrimination would be derived from the objectives set out in the legislative texts and international anti-discrimination conventions; they would then be assessed on the basis of the various evaluation procedures proposed, which would be both quantitative and qualitative, insofar as it involves assessing both the approaches and the ways of achieving the results and the results themselves (see module 5, session 2).

e) Theoretical presentation of the normative framework against the different forms of discrimination

Exercise objectives

- To present the national normative framework against the different forms of discrimination, including intersectional discrimination.
- To analyse the limits of national legislative instruments.



iii) The multiplicity of legal instruments in Morocco

Although it is not the target of legislation in its own right, penalties are increasingly being applied to combat the various forms of discrimination (the table in Annex 5 sets out the legal instruments and the prohibited criteria for discrimination addressed by each of them).

The Moroccan Constitution is a key instrument for this issue, given the principles of equality it enshrines. The Fundamental Charter has also inspired the drafting and reformulation of legal texts that introduce this approach.

Constitution (Preamble and Article 19)

Indeed, in its preamble the 2011 Constitution refers to the commitment to human rights, to combating all discrimination 'on grounds of sex, colour, beliefs, culture, social origin, language, of a disability' and to the primacy of international conventions over the national law of the country (in respect of its immutable national identity) and provides for the harmonisation of the significant provisions of its national legislation.

Article 19 of the Constitution states that 'Men and women shall enjoy, on an equal footing, the rights and freedoms of a civil, political, economic, social, cultural and environmental nature, set out in this title and in the other provisions of the Constitution, as well as in the international conventions and pacts duly ratified by the Kingdom, in compliance with the provisions of the Constitution, the constants and the laws of the Kingdom. The Moroccan State is working to achieve parity between men and women. To this end, an Authority for parity and combating all forms of discrimination is created'.

General purpose laws that promote non-discrimination

Law No. 36-04 relating to political parties, and Law No. 75-00 amending and supplementing Dahir No. 1-58-376 of Joumada I3, 1378 (15 November 1958) regulating the right of association provide for sanctions against associations, political parties, and de facto groups that provoke, incite or encourage discrimination, hatred or violence against a person or a group of people.

In addition, discriminatory behaviour by individuals such as agents entrusted with public authority or entrusted with a public service mission is a criminal offence (criminal code, Art. Law No. 24-03 amending and supplementing the penal code (2004) in its Article 431-1, Section added by Article 1 of Law No. 09-09 on sports events, supplementing the penal code promulgated by Dahir No. 1-11-38 of 29 joumada II1432 (2 June 2011), and Article 308-5) and Law No. 54-19 on the charter of public services.



In addition to this penalisation, the prohibition of discrimination was integrated among those appearing in the Labour Code by widening the sphere of institutional duty bearers (Art 36 of Law No. 65-99 relating to the Labour Code) to include private recruitment agencies (Art 478, 9 of Law No. 65-99 relating to the Labour Code).

It also provides for the possibility of prohibiting communications and publications giving rise to discrimination (Art 72 under the Press Code - Law No. 88-13 relating to the press and publishing, and Article 9 of Law No. 77-03 relating to audio-visual communication).

It also makes stipulations, in a sensitive sector in terms of discrimination, and other protections as in the Law No. 23-98 on the organisation and functioning of penitentiary establishments, Art. 51.

Article 6-Law No. 62-06 of 2007, which modifies the Nationality Code of 1958, goes in the same direction.

Law No. 79-14 on the Authority for Parity and Combating All Forms of Discrimination (APALD), 2017. This law, which is not yet applied, was designed to combat the forms of discrimination faced by Moroccan women. Depending on its powers, the law opens up an opportunity to deal with intersectional discrimination based on 'race', ethnicity and sex.

Specific laws promoting non-discrimination against certain categories of people:

Children in a migrant situation

The Family and Child Counselling Law, Law 02.03 which protects pregnant women and children from expulsion, Law No. 65-15 on Social Welfare Institutions, as well as Law No. 19-12 relating to the working and employment conditions of domestic workers, framework law 51.17, relating to the system of education, training and scientific research (which addresses the 'vulnerable situation' of foreign boys and girls) contain provisions to protect certain children, Moroccans and migrants who find themselves in various situations, which can be cumulative: children without civil status, children in street situations, abandoned children who are victims of physical, sexual or psychological violence, children who are forced to work, child victims of sexual exploitation, young married girls or children in conflict with the law.

Law 19.12 on domestic workers, (2016), Article 3 of which stipulates that if foreign domestic workers are hired, the provisions of the labour code will be applied, and prohibits brokering by natural persons to prevent abuse, human trafficking and human



trafficking (Art.41). However, the law excludes people who are not Moroccan nationals in matters of hiring, referring the procedure to the Labour Code (migrant women are addressed in the other articles). Two decrees complete the law in 2017, namely: the decree (No. 2-17 355) relating to the 'contract template for domestic workers' makes it possible to define the criteria and commitments of the two parties between the employer and employee and the decree (No. 2-17-356) which draws up the list of dangerous work prohibited for workers aged 16 and 18, and which represents a means of resolving the situation of migrant female domestic workers, many of whom are subjected to difficult and even discriminatory working conditions.

Migrant women

In addition to Law 19.12 on domestic workers, Law No. 103-03 to combat violence against women (Moroccan and by extension migrant women on Moroccan territory) in Article 2 (modifying the provisions of 404 of the Penal Code) as well as Law No. 65-99 in Article 9 have established prohibited criteria of multiple discrimination, vis-à-vis divorced women, pregnant women, or disabled women, and finally in connection with the marital situation of the woman wishing to join a professional union and participate in its administration and management.

On the other hand, the Family Code of 2004, which aims to promote the principle of equality between men and women and to determine the rights and duties within the family in an equitable manner, makes it possible to prevent and protect against double or multiple forms of discrimination.

The 2011 internal hospital regulations also provide for specific measures.

Migrants with disabilities

The provisions of the Framework Law 51.17, which refers to all the targets of the MDG4 (Quality Education) for the implementation of inclusive education aiming at the generalisation of the schooling of children with special needs – launched in 2019 – on the other hand, Article 431-1 of the Moroccan penal code sanctions any discrimination based on disability. Law 65.00 relating to medical coverage, which gives non-regularised foreigners access to RAMEDE. Finally, Framework Law 97.13 relating to children with disabilities protects against double or multiple forms of discrimination.

The latter is part of the process of harmonising the national legal arsenal with the provisions of the international convention on the rights of people with disabilities, which prohibits discrimination on the grounds of disability. The definition of non-discrimination stipulated in Article 2 of Law 97.13 is inspired by that of the International Convention on the Rights of Persons with Disabilities.



iv) Limits of legal instruments in Morocco

It is important to note that despite the important advances, there is still a certain amount of discrimination that results either from the lack of a uniform law, which can lead to discrimination, or from the legislation itself. Here are the main forms of discrimination that persist to this day in Moroccan law:

At the constitutional level

The Constitution stipulates that the primacy of duly ratified international conventions over the country's domestic law, and thus the harmonisation of the provisions of its national legislation, is subject to two reservations: respect for its unchanging national identity and the constants of the Kingdom.

Discrimination in the field of work and employment:

Although Moroccan law has taken a step to eliminate most discriminatory provisions, some persist. This is the case with a whole series of laws that close certain jobs to foreigners. Moreover, Moroccan labour and employment legislation still grants little importance to 'fragile social categories'. Thus, and apart from a few sanction measures stipulated by the new Labour Code against certain abuses vis-à-vis these 'fragile' social categories (pregnant women, children, girls and boys minors under 18 and people with disabilities), it remains silent when it comes to certain social practices such as racism, for example, which is only mentioned in the context of invalid reasons justifying a dismissal or the taking of a disciplinary measure (Article 36 of the Labour Code). As for people with disabilities, the new Labour Code encourages measures in favour of this social category, enabling them to effectively guarantee equal chances and opportunities. In principle, general and vague provisions are supposed to put an end to the daily abuses experienced by employees who are often deprived of any form of protection. To illustrate the shortcomings recorded by the Moroccan legislature at this level, we will cite Article 24, for example, which urges the employer to take measures in this direction without however explaining the 'punitive' measures envisaged for any violation of the prescribed rules.

Discrimination in the field of individual freedoms:

Moroccan legislation still maintains certain forms of discrimination in the area of individual freedoms. In certain legal instruments the very criterion on which basic discrimination can be penalised, and which are regarded as crimes. The penalties provided for in Articles 489 and 490 of the Moroccan Criminal Code attest to the discriminatory effect against people on the basis of their sexual orientation and gender identities and expressions – depriving them not only of legal protection in the event of discrimination, but



also other fundamental rights. Similarly, Article 490 of the Penal Code has a strong discriminatory impact on children born out of wedlock and Article 148 creates obstacles to the right of children born out of wedlock to (parental) identity in the same way as other children born in wedlock.

Finally, other forms of discrimination, in particular intersectional ones, have not really been taken into account by legislative texts. Some may refer to situations of multiple discrimination (different factors of discrimination that occur separately). However, they do not necessarily reflect the intersection of the different sources of discrimination, such as origin and sex. This affects foreign women specifically: in the civil dimension relating to the impossibility of accessing the inheritance of her Moroccan husband; and in the filiation dimension of certain foreign single mothers who are not able to pass nationality onto their children in certain cases.

On the other hand, Law 65-00 on medical coverage does not cover migrants in an irregular situation who cannot access RAMED.

Final idea

A reliable method of evaluation needs to be found to measure the effectiveness of the inclusive practices implemented under the diversity model promoted by the Constitution and the legislative instruments mentioned above.

Just as the principle of non-discrimination does not indicate the means to achieve its application, the commitment to diversity does not provide the practical means to achieve it. The main difficulties would relate to the definition of indicators (see Module 5, Session 2).

Faced with the constraints of the Moroccan legal framework which prohibits the generalisation of the collection of sensitive information except for age, address, sex, recognised disability and nationality, it is important to capitalise on a few 'good practices' in managing diversity. Making these 'good practices' known to certain agents/sectors, at national level or internationally, serves to provide examples that can be followed and even function as conventional models.



D. SESSION 3. THE POLITICAL BASES FOR PREVENTING AND COMBATING ALL FORMS OF DISCRIMINATION (INCLUDING INTERSECTIONAL DISCRIMINATION), RACISM AND XENOPHOBIA

1. Session objectives

At the end of this session, participants will be able to:

- Assimilate the international and national political bases for preventing and combating all forms of discrimination (including intersectional discrimination), racism and xenophobia against migrant women and men.
- Have an overview of the function of promotion, dialogue and cooperation around non-discrimination issues related to migration and human rights.

2. Focus

Focus

Presentation of the political bases at the international and national levels:

- **International focus.** United Nations Declaration, Plans, Programmes of Action and Sustainable Development Goals on preventing and combating all forms of discrimination (including intersectional discrimination), racism and xenophobia against migrant women and men.
- **National focus.** Public policies, sectoral strategies and national programmes for preventing and combating all forms of discrimination (including multiple forms), racism and xenophobia against migrant women and men.

Key points

- The absence of a national action plan to combat racial discrimination.
- The need to develop a comprehensive programme of action aimed at progressively improving the promotion of racial equality.
- The absence of migrant women in public policies and government plans to promote equality between the sexes.



3. Procedure

a) Presentation of the working session

The session starts with the trainer introducing the objectives of the session. Following on from the study of the legal framework in the previous sessions, this session supports another approach to non-discrimination. It provides an extensive overview of the function of promotion, dialogue and cooperation around non-discrimination issues related to migration and human rights. In particular, it aims to explore the political basis for preventing and combating all forms of racism, xenophobia and racial discrimination, including intersectional discrimination, at both the international and national levels.

b) Group exercise to debate actions at the political level to address the issue of racism and xenophobia

As a first step, a debate is launched to deepen the reflection on actions at political level to address the issue of racism and xenophobia at international and national level.

Exercise objectives

- To critically reflect on the effectiveness of existing political, international and national policies to prevent and combat all forms of discrimination (including intersectional discrimination), racism and xenophobia, developed at both international and national levels.
- To identify gaps in the protection of migrants' rights, especially in situations of multiple discrimination.
- To promote the generation of knowledge through a collective process.

The trainer divides the participants into two groups and sets out the tasks for each group, namely:

- For group 1: 'Defend the thesis that the migrant is in a situation of vulnerability, in relation to the volume and effectiveness of international policy frameworks for preventing and combating all forms of discrimination (including multiple discrimination), racism and xenophobia'.
- For group 2: 'Defend the thesis that the migrant is not in a vulnerable situation, in relation to the volume and effectiveness of national policy frameworks for preventing and combating all forms of discrimination (including multiple discrimination), racism and xenophobia (on Moroccan territory)'.

The trainer gives each group time to discuss and compile the main points to address in their presentation. To help the participants, the trainer distributes memo cards that



include all the international and national policy frameworks highlighted in the discussion (these cards can be found in Annexes 3 and 4). If the group is in favour of the existence of a status of vulnerability, it should reflect on ways of discussing the issue, and proposals for measures to be incorporated into the national action plans for better coexistence.

c) Plenary discussion of the different positions on actions at the political level to address the issue of racism and xenophobia

Goals

- Identify actions to improve the protection of migrants.
- Reflect on the importance of public policies.

The plenary discussion allows the different reflections of the two groups to be shared and stimulates reflection on possible measures to improve the protection of migrants. The aim of the debate is to raise awareness of the **heterogeneity of the international policy framework** with regard to preventing and combating racism and xenophobia and all forms of racial discrimination (including intersectional discrimination), as well as the existence of different interfaces between the international and the national level, and the ways in which legal and policy arrangements can be improved.

Despite this political arsenal, a certain number of **discriminations against** migrants in the law and several risk factors persist. Public policies to combat discrimination have not been able to significantly **change behaviour**. This implies that public opinion has not yet become aware of the extent of discrimination and its modes of action. Hence the need to discuss certain lines of thought.

d) Summary of the main elements to be addressed by public policies

Goals

- To take a deeper look at the role of public policies that address the integration of migrants.
- To identify the basic principles that should guide public policies which combat discrimination.

By itself, the legal arsenal, policies that promote the integration of migrants, employment policies, programmes and various specific measures – although they are essential to facilitate the enjoyment of people’s rights – cannot provide a response to prevention processes against discrimination as a whole. Indeed, the anti-discrimination policies to be put in place must be partnership-based and contractual, and require the collective and concerted mobilisation of all stakeholders to promote coexistence.



These are some elements that public policies must take into account:

- They need to sensitise society towards accepting diversity as an opportunity and a benefit by recognising the diversity of cultures as a source of collective enrichment. They also need raise awareness among public administrations that the diversity of Moroccan society is a reality and a richness. Public policies must also reflect society and its environment. This diversity is now a challenge for the country's social policy. It is also an asset for supporting change, innovation and creativity.
- They must seek to reduce the differences between territories and between people.
- Lastly, they need to produce knowledge and good practices on how prejudices work and manifest themselves, identify ways to measure them and their impact and set out ways to combat them.
- A global approach, which calls for multiple and systemic responses to everything that influences the way people look at each other, is thus essential for combating discrimination.
- This makes it imperative to move from the convergence of points of view and speeches to the concrete implementation of political measures on the ground between various partners. The aim is to promote good practices against discrimination and to mobilise trade unions, associations, police and customs authorities, etc., while providing training for those working in the field.
- When the legislative frameworks, public policies and institutions are in place and functioning to combat all forms of discrimination against migrants, then we can speak of compliance with the standards relating to non-discrimination and equality.
- The public service, companies and trade unions, for example, can be actively involved in combating discrimination and promoting diversity.
- Another avenue is to focus on discrimination that begins at birth, in terms of environment, residential space, housing, educational institutions and schools, and all the social conditions that facilitate the pursuit of an education. Professional pathways are heavily influenced by educational and social background (importance of social capital, relational networks, etc.).

e) Presentation of the theoretical framework regarding public policies to prevent and combat racism and xenophobia

Goals

- To present international and national policies aimed at combating all forms of discrimination, including intersectional discrimination.
- To understand the importance of harmonising policies aimed at combating discrimination at the international, regional, national and local levels



Finally, the various policies at international and national level that have been worked on in practice are presented in a summarised and orderly manner.

i. At an international level

Global Compact and Agenda 2030

The Global Compact for Migration recognises the need to ensure access to basic services for all migrants (as well as fostering fair and ethical recruitment practices and ensuring decent working conditions (Objective 6).

In Agenda 2030 and the Sustainable Development Goals, Goal 16 on peace, justice and strong institutions indicates targets for the situation of migrants in Morocco by the year 2030:

- 16.2. End abuse, exploitation, trafficking and all forms of violence against and torture of children.
- 16.3. Promote the rule of law at the national and international levels and ensure equal access to justice for all.
- 16.9. Provide legal identity for all, including birth registration.
- 16.10. Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.

The United Nations system

Beyond the legislative and oversight function, the United Nations system performs a third function, namely the promotion of dialogue and cooperation on migration and non-discrimination issues. These include the establishment of a global dialogue on issues relating to combating all forms of discrimination linked to migration leading to High Level Dialogues.

At the regional level

The 'African Ministerial Conference for an African Agenda on Migration' in 2018 saw significant progress in this area at the African level.

a) At the national level

Morocco has conducted negotiations and consultations on migration with various partners including the EU. Here is one example:



- The joint declaration signed between Morocco and the EU in 2013 establishing a 'Mobility Partnership' for better management of regular migration and for combating irregular migration.
- The financing agreement as part of the 'Support programme for the migration policies of the Kingdom of Morocco', signed between Morocco and the EU in December 2017.

As with the legislation, there is no specialised mechanism or institution for combating discrimination, particularly racial discrimination. There is no national action plan to combat racial discrimination. However, other national public policies, programmes, plans and measures exist. It is worth noting that:

- The respect for and promotion of fundamental human rights is a foundation of social cohesion and an engine of economic and social growth. It is enshrined at the highest level of the State and the government committed itself to this goal in its declaration for the 2021-2025 legislature following on from its 2017-2021 commitment.
- **National Action Plan for Democracy and Human Rights PANDDH (2018-2021).** The PANDDH was implemented in 2017 with the aim of supporting the process of political reforms, institutionalising human rights and implementing the participatory democracy of the Interministerial Delegation for Human Rights (DIDH). The justice system has been reformed to meet international standards of impartiality, independence and the primacy of human rights. Gender equality has been anchored in public policies. The constitutional right to submit petitions and motions and the consultation of NGOs enshrine citizen participation. The inclusion of migrants and refugees is now a priority for public policies that must ensure their socio-economic and cultural rights as part of an approach based on equity and equality. Migrants who are not in a regular situation have experienced difficulties in accessing social services despite the efforts of civil society. In particular, Sub-Saharan migrants who were isolated and had no means of subsistence experienced dramatic situations during the lockdown, despite the efforts of civil society and the financial aid from which very few benefited. The authorities have extended the right to stay until the end of the state of emergency.
- **National Public Administration Modernisation Plan (2018-2021).** The aim of this plan is to bridge the gap between the public administration and the citizens. It includes the development of a comprehensive system for handling citizens' complaints and grievances.
- **Civil status generalisation programme to guarantee legal identity to all.** This action is in line with the target 16.9 of Sustainable Development Goal 16, namely to 'provide legal identity for all' and is particularly important for migrants and refugees, including stateless persons, including children born in the migratory route.



- **Integrated public policy for child protection** (PPIPEM). The PPIPEM has promoted the inclusion of migrant children and unaccompanied and/or isolated children as a target group.

E. SESSION 4. THE ORGANIC BASES FOR PREVENTING AND COMBATING ALL FORMS OF DISCRIMINATION (INCLUDING INTERSECTIONAL DISCRIMINATION), RACISM AND XENOPHOBIA

1. Session objectives

At the end of this session, participants will be able to:

- understand the international organic bases for preventing and combating all forms of discrimination (including intersectional discrimination), racism and xenophobia against migrant women and men;
- identify the different control and supervision techniques;
- isolate the reporting system, the complaints or communications system, and the investigation system;
- check whether these techniques are provided for by international instruments or by decisions of the various bodies.

2. Focus

Focus

The United Nations system is primarily centred on state obligations and operates at the level of governments. However, its non-discrimination rights framework also provides for various complaint procedures that are open to individuals and groups requesting intervention by the United Nations in the face of a violation leading to situations of discrimination. Complaints procedures are mechanisms for bringing cases of alleged human rights violations to the attention of the United Nations.

Human rights complaints can be submitted through the following three mechanisms:

- **Claims** made by individuals under **international human rights treaties**. Individuals can bring claims relating to violations of the principle of non-discrimination by invoking five of the core international human rights treaties.
- Communications submitted by individuals subject to the **special procedures of the Human Rights Council**. Individual communications operate under thematic mandates and under country mandates of the special procedures of the Human Rights Council.



- The complaint procedure implemented by the Human Rights **Council**. The Council's complaint procedure applies to situations which, when examined, gives reason to believe that they reveal the existence of a series of flagrant and systematic violations of human rights and fundamental freedoms in all parts of the world and in any circumstance.

In certain circumstances, these different procedures can complement each other, and it is possible to have recourse to several of them.

Each procedure has its own requirements, advantages and limitations.

Key points

As is often the case with cross-cutting issues, no organisation in the United Nations system is responsible for ensuring comprehensive monitoring of the rights of migrant women and men or their protection. This function is assumed by various entities of the UN system:

- UNHCR has a monitoring function in relation to international refugee law under the mandate of Article 35, paragraph 1, of the Geneva Convention relating to the Status of Refugees.
- The mandate of the ILO covers the protection of migrant workers and the governance of labour migration (preamble, second recital).

The international community has entrusted OHCHR with the mission of promoting and protecting all human rights. It also ensures administration of the mechanisms relating to human rights.

The UN mechanism for protection against all forms of discrimination against migrants is divided into two main areas:

1-UN mechanism of protection against all forms of discrimination against migrants, emanating from the Charter

These mechanisms were revised with the creation of the Human Rights Council, which replaced the Human Rights Commission in 2006.

- Complaint filed under the confidential mechanism,
- Special procedures of the Human Rights Council,
- Universal periodic review (UPR).

2-UN mechanism of protection against all forms of discrimination emanating from United Nations treaty bodies

In the UN's international human rights system, the implementation of core human rights treaties is overseen by a 'treaty body' made up of elected experts chosen from state parties.

The treaty bodies responsible for supervising the implementation of human rights treaties to which States have acceded since the adoption of the UDHR, have decided in favour of the application to migrants and persons who are not nationals of a country of the principle of non-discrimination.



3. Procedure

a) Presentation of the working session

The trainer explains the objectives of the session and situates the session in the rest of the module. Following on from the study of the political bases, preventing and combating all forms of racism, xenophobia and racial discrimination, including intersectional discrimination developed both internationally and nationally, this session is intended to deepen knowledge of adequate mechanisms for combating all forms of discrimination against migrants.

b) Group exercise on case studies and plenary discussion of the various recommendations

Two game sessions are used to explore the various systems for monitoring international anti-discrimination standards for migrants through real-life case studies.

Exercise objectives

- To become familiar with international monitoring mechanisms, more specifically with the mission of the Special Rapporteur on contemporary forms of racism.
- To critically analyse some of the recommendations made to the Kingdom of Morocco.

The session is articulated on the basis of an excerpt forming part of the Special Procedures Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on Morocco. The rapporteur's visit was carried out in 2018, and the report was published in 2019. Morocco drafted its response in January 2020.

Text

(...) Recommendations for Morocco:

74. Empower all individuals to claim their rights, by ensuring effective access to justice and adequate remedies for all victims of racial and xenophobic discrimination and of racial, xenophobic and related intolerance. In this context, raise awareness about available avenues of redress and facilitate access thereto, including through the removal of language barriers and the provision of adequate and accessible information on rights and remedies available to groups and individuals in vulnerable situations.

75. Take concrete steps to improve accountability for all acts of racial discrimination and xenophobia, ensuring that allegations of such acts are thoroughly investigated, prosecuted and punished, even in cases where rights violations are not the result of deliberate government policy or action.



76. Strengthen preventative educational, training and awareness-raising measures to ensure that all public officials, including those responsible for the administration of public services, refrain from racism, racial discrimination, xenophobia and related intolerance.

77. Step up efforts to eliminate prejudice, negative stereotyping and stigmatization and take effective measures aimed at promoting tolerance and understanding, in line with article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination...

See full document: Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2019).

A/HRC/41/54/Add.1 (un.org)

First, the trainer asks participants what control mechanisms they know about and what their experience is with them. The mechanisms are written on a large sheet of paper so that they are visible to all participants and placed in two columns: UN mechanism for protection against all forms of discrimination emanating from the Charter of Human Rights and UN mechanism for protection against all forms of discrimination emanating from United Nations treaty bodies.

If necessary, the trainer can present some of the main mechanisms.

The trainer then organises the participants into pairs or small groups and distributes the work document among the groups. In addition, participants are asked to identify the document to which the distributed text belongs.

The participants are then invited to reflect on the proposed recommendations and to choose the one that seems to them the most important. Once selected, the group must propose six actions to implement the recommendation.

In the main group, each small group should present the recommendation that has been selected and the actions planned for the practical implementation of the recommendation. The other participants are invited to vote for the two actions which seem the most significant to them and to explain their vote.

c) Synthesis and presentation of the theoretical framework

Exercise objectives

- To present the UN mechanisms for protection against all forms of discrimination.
- To familiarise the participants with human rights complaints.
- To identify the requirements, benefits and limitations of human rights complaints.



The work carried out in the previous exercises makes it possible to present the various UN mechanisms for protection against all forms of discrimination. It also helps to present the different means by which human rights complaints can be made.

i. UN mechanisms for protection against all forms of discrimination

The UN mechanisms for protection against all forms of discrimination are divided into two main categories:

- UN mechanism for protection against all forms of discrimination emanating from the Charter of Human Rights.
- UN mechanism for protection against all forms of discrimination emanating from United Nations treaty bodies.

a. UN mechanism for protection against all forms of discrimination emanating from the Charter of Human Rights

These mechanisms were revised with the creation of the Human Rights Council, which replaced the Human Rights Commission in 2006. They are:

- **Complaint filed under the confidential mechanism that constitutes the 5/1 procedure**, intended to 'address consistent patterns of gross and reliably attested violations of all human rights and all fundamental freedoms occurring in any part of the world and under any circumstances'- Human Rights Council (HRC) Resolution 5/1 of 18 June 2007.
- **Special procedures of the Human Rights Council, appointing a rapporteur, working group or Special Representative of the UN Secretary-General**, to examine human rights violations committed in the specific context of a country or thematic issues in all regions of the world.
- **Universal Periodic Review (UPR)**, a state-led process, under the auspices of the Human Rights Council, to ensure compliance with the human rights obligations of UN member states.

These Charter-based mechanisms are important for migrants, as they apply to all member states, whether they have ratified international human rights treaties, including any instruments specifically intended to protect migrants. The last two mechanisms are particularly important to ensure adequate protection of the rights of migrants.

Especially since no organisation of the international system was responsible for ensuring global monitoring of the rights of migrants and their protection before 19 September 2016, the International Organisation for Migration (IOM), which was an intergovernmental agency (it was outside the United Nations system), will become 'United Nations



Migration Agency' thanks to the signing of the agreement making the IOM an organisation linked to the United Nations on 19 September 2016.

Nevertheless, this function is also assumed by various entities of the UN system, but in a partial way:

- UNHCR performs a monitoring mission in relation to international refugee law: Article 35, paragraph 1, of the Geneva Convention relating to the Status of Refugees.
- The mandate of the ILO covers the protection of migrant workers and the governance of labour migration (preamble, second recital).

b. UN mechanism for protection against all forms of discrimination from United Nations treaty bodies

In the UN system of human rights protection, the implementation of core human rights treaties is overseen by a 'treaty body' made up of elected expert persons selected from state parties.

The treaty bodies responsible for supervising the implementation of human rights treaties to which States have acceded since the adoption of the Universal Declaration of Human Rights have ruled in favour of their application to migrants and persons who are not nationals of a country of the principle of non-discrimination:

- **The Human Rights Committee** has clarified, in general comment No. 15 (1986), Status of aliens under the Covenant, paragraphs 1 and 2 concerning Article 2 of the International Covenant on Civil and Political Rights of the UN, adopted in 1966, that the latter applies to foreigners as well as to nationals.
- **The Committee on Economic, Social and Cultural Rights**, in General Comment No. 20 (2009) confirmed that the provision guaranteeing non-discrimination contained in Article 2, paragraph 2, of the International Covenant on Economic, Social and cultural prohibits unjustified distinctions based on nationality and immigration status. In the same General Comment, in paragraph 7, the Committee declares that the right to non-discrimination constitutes an immediate obligation (which goes hand in hand with the obligation to implement the fundamental content of the rights covered by the Covenant).
- **The Committee for the Elimination of All Forms of Racial Discrimination (CERD)** took the opportunity of the revision of its recommendation concerning discrimination against non-citizens to highlight the particular problems of discrimination faced by the latter. In its General Recommendation No. 30 (2004) on discrimination against non-citizens (CERD/G/GC/30), CERD elaborated on the meaning of Article 1, paragraph 2, of the Convention. CERD



emphasises that this article must be interpreted in such a way as to avoid weakening the fundamental prohibition of discrimination and, therefore, diminishing in any way the rights and freedoms recognised by international human rights law (paragraph 2). Furthermore, CERD noted the obligation imposed on States by Article 5 to guarantee equal exercise of these rights by nationals and non-nationals, with the exception of certain political rights, such as the right to vote and stand for election (paragraph 3).

- **The Special Rapporteur on the rights of non-citizens** confirmed, from 2003, by Doc. UN E/CN.4/Sub.2/2003/23 (26 May 2003), the application of the principle of equality and non-discrimination to distinctions between nationals and non-nationals
- The report presented by the **Special Rapporteur on the human rights of migrants** – UN General Assembly, 68th session, Doc. A/68/283 (5 August 2013), paragraph 28,) – reiterates this point of view by adding that any distinction must be proportionate, reasonable and pursue a legitimate aim.

ii. Human rights complaints

Human rights complaints can be submitted through the following three mechanisms:

- **Complaints submitted by individuals under international human rights treaties (complaints):** Individuals can bring complaints relating to violations of the principle of non-discrimination by invoking five of the core international human rights treaties.
- **Communications** submitted by individuals subject to the **special procedures of the Human Rights Council:** Individual communications operate under thematic mandates and under country mandates of the special procedures of the Human Rights Council.
- The **complaint procedure implemented by the Human Rights Council:** The Council's complaint procedure applies to situations which, when examined, gives reason to believe that they reveal the existence of a series of flagrant and systematic violations of human rights and fundamental freedoms in all parts of the world and in any circumstance.

In certain circumstances, these different procedures can complement each other, and it is possible to have recourse to several of them. Each procedure has its own requirements, advantages and limitations.



a. Submissions to a committee, also known as ‘communications’, submitted by individuals under international human rights treaties

International human rights instruments provide for the submission by particular persons of complaints to bodies established under human rights instruments. Treaty bodies, as they are often called, are committees composed of independent expert persons elected by States parties to the significant treaty. They are responsible for monitoring the implementation in the States parties of the rights set out in the instruments and for ruling on complaints involving these States.

b. Human Rights Council complaint procedure

Resolution 5/1 of 18 June, 2007 of the HRC established the new complaint procedure with the aim of examining situations of flagrant, systematic violations of all human rights and all fundamental freedoms committed whatever the region of the world. and the circumstances in which they are committed.

Communications alleging human rights violations are examined by the Working Group of the Advisory Committee, which is made up of five members. Where there is sufficient evidence of a pattern of grave and systematic violations, the case will be referred to the Working Group on Situations, which is made up of one representative from each regional group. This Working Group writes a report which will be transmitted to the HRC and which contains information on each country as well as recommendations as to the measures to be taken. The CDH deals with these cases at least once a year. It monitors the human rights situation in the states in question. In addition, it can transmit recommendations to OHCHR in order to offer assistance to the countries in question. Complaints submitted to the HRC must contain the information and meet a number of criteria.

c. Special procedures

Special Procedures are mechanisms set up by the HRC that deal with specific national situations or thematic issues in all regions of the world. The mandates of the special procedures generally mandate the holders of these mandates (the people appointed are independent experts who may call themselves special rapporteurs, special representatives, independent expert persons or members of working groups) to examine, to monitor, advise and report on human rights situations in specific countries or territories. Each mandate and the functions of each of the procedures are defined in the resolution that established them (country mandates, thematic mandates).

Typically, Special Procedures have the following functions:



- **Undertaking country visits to assess situations of human rights violations after state consent.** During the visits, the mandate holders meet with people representing the government, state institutions and civil society. The State must facilitate investigations in full freedom.
Reporting: These may follow visits to countries, and are always documented in reports describing the visit, the findings of the experts and recommendations for improving the human rights situation in the state visited. Usually, the experts follow up on the State's application of the proposed recommendations. Their findings are usually included in the annual report they prepare for the Board. One of the most significant thematic mandates is that of the UN Special Rapporteur on the human rights of migrants.
- **Requests (complaints, communications) under the special procedures:** Some (but not all) of the Special Procedures can receive individual complaints. With regard to the decision to intervene in relation to a situation denounced in a communication, it is up to the assessment of the person holding the mandate. People submitting complaints are invited to send updated information on the facts they are reporting. Communications are sent directly to national mandates and specific thematic mandates. Communications sent for thematic mandates may relate to violations committed in any country in the world, but the right violated must fall within the jurisdiction of the mandate contacted. For national mandates, communications may relate to any violation of a right committed by the country to which the mandate refers.



Requirements, benefits and limitations of human rights complaints	
Strong points	Specific limits and requirements
<ul style="list-style-type: none"> • Individual communications under special procedures can be used for individual cases as well as for a more general set of violations. • They can be a useful tool in cases of emergency, since they allow emergency or preventive action (under the name of emergency recourse). • Unlike UN treaty bodies, special procedures can be triggered even if a State has not ratified the significant instrument or treaty. • It is not necessary to have exhausted local remedies before applying to the special procedures, whereas a complaint can be presented simultaneously before a treaty body and under a special procedure. • The communication need not be made by the victim, although the source must be reliable. • When reliable information is received on a specific human rights violation, the rapporteur or working group with a mandate related to this right may decide at its discretion to intervene with the State, by sending a letter with a view to putting an end to or remedying the violation committed. If the violation affects several rights, the mandate holders generally coordinate their actions. • Procedural requirements are more relaxed and complainants are encouraged to send regularly updated information on the facts they have submitted. 	<ul style="list-style-type: none"> • There needs to be a special procedure in place to cover that specific aspect of human rights or that particular country (not all those with mandates under the special procedures are empowered to intervene in the case of individual complaints). • Special procedures are not binding mechanisms: the decision to follow the recommendations of special procedures mandate holders is left to the discretion of each State. • The procedures vary according to the mandate. Individuals or organisations wishing to submit a complaint under one of the special procedures mandates should first check whether there is a national mandate or a thematic mandate that corresponds to their case. They must also carefully consider the specific warrant criteria that must be met before the complaint can be accepted. The Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances, in particular, have specific criteria that differ from those of other mandates. • When a complaint from an individual is received, the decision to intervene is at the discretion of the special procedures mandate holder. It will depend on the criteria established by the latter and must comply with the Code of Conduct for Special Procedures Mandate-Holders. These criteria generally relate to: a) The reliability of the source, which should not be based exclusively on information disseminated by the media; b) The credibility of the information received, which must not have political motivations; c) The detailed nature of the information provided; d) The scope of the mandate itself.



Requirements, benefits and limitations of human rights complaints	
Strong points	Specific limits and requirements
<ul style="list-style-type: none"> Based on credible and reliable information received from victims of alleged human rights violations, special procedures mandate-holders can send communications to governments. These may take the form of urgent appeals, which call for peremptory measures because they result in loss of life or life-threatening situations or a serious violation appears to be in progress or imminent. They can also send letters of allegation if a violation is alleged to have already occurred, or there is legislation that may facilitate the commission of violations. This involves informing the State about these complaints and obtaining information on the measures adopted, particularly with regard to compensation. The letters sent by a rapporteur to the State and the answers given by the latter are confidential until the moment of their publication in the annual report which is periodically submitted to the Council. Depending on the response received, they may decide to pursue the investigation or make specific recommendations. In some cases, they may also decide to make a public statement about the case. Under the rules of the Human Rights Council, all special procedures are required to report on their activities to its annual sessions. Of all the mechanisms identified, special procedures are probably the most appropriate when urgent action is required, as they are able to react quickly. 	<ul style="list-style-type: none"> On the other hand, in order for visits to countries to be carried out, an invitation from the State is required (authorisation of the visit). Even if they do not lead to a binding result, they can put political pressure on States, through public actions. Special procedures only provide feedback on a communication if follow-up is required. However, it is possible to establish long-term contact with the mandates, as well as to request an appointment with the assistant for a special procedure or with the person holding the mandate themselves. Generally, the urgent actions taken by mandate-holders are quite successful and frequently succeed in getting the state to take steps to stop or remedy the violation in question.



MODULE III. Identification of cases of discrimination and complaint mechanisms available

A. INTRODUCTION

1. Presentation

The module aims to promote understanding of the importance of identifying and protecting people who are victims of racist and xenophobic incidents, to present the tools for the detection and identification of racial discrimination, racism and xenophobia and to familiarise the participants with the resources available for the protection of victims, including available judicial and extrajudicial complaint mechanisms. There will be a special focus on the cases of people who are victims of intersectional discrimination based on 'race', ethnicity and sex (protection mechanisms, denunciation, etc.).

The module is made up of three working sessions. The **first session** aims, first of all, to develop an understanding of the essentials for identifying victims of racial discrimination, racism and xenophobia, including victims of intersectional discrimination. This first session will allow participants to identify why it is important to detect and identify victims of discrimination, understand the identification process and list the agents involved in detection and identification.

The **second session** explores tools for detecting and identifying incidents of discrimination, racism and xenophobia against migrants, distinguishing between detection criteria, detection indices and detection indicators.

The **third session** explores the judicial and extrajudicial complaint mechanisms, as well as the protection resources that are available. Finally, the session reinforces the idea of creating a society that constitutes a space free from violence and that functions as a safe space for migrants in Morocco.



2. Module-specific objectives

- To understand and recognise the importance of detecting and identifying migrant victims of discrimination and racism.
- To present the tools for detecting and identifying victims of racism and xenophobia in the daily work of public officials.
- To present the tools for the protection and assistance of victims of racism and xenophobia in the daily work of public officials.
- To identify the judicial and non-judicial complaint mechanisms available for dealing with cases of racial discrimination.

3. Pedagogical objectives of the module

At the end of the training, participants will be able to:

- identify facilitation and instructional techniques adapted to the content of the training;
- know the fundamental elements for the identification of victims of discrimination, racism and xenophobia (criteria and indicators) with a special interest to people who are victims of intersectional discrimination based on 'race', ethnicity and sex;
- recognise the stakeholders in the process of detection and identification (participants and stages of the process) of migrant victims of discrimination, racism and xenophobia with a special focus on people who are victims of intersectional discrimination based on 'race', ethnicity and sex;
- distinguish the agents and processes of judicial and non-judicial protection of migrant victims of discrimination, racism and xenophobia;
- be aware of the provisions or agents for (short-term) care and (long-term) assistance of migrant victims of discrimination, racism and xenophobia.

4. Module structure

Module 3 of the course is divided into three different sessions:

Session 1: The basics of victim identification.

- The importance of case detection and identification at individual and societal level.
- The phases of case identification.
- Role and main stakeholders in case identification in Morocco.



Session 2: Tools for detecting and identifying incidents of discrimination, racism and xenophobia against migrants.

- Detection and identification criteria.
- Detection and identification indices.
- Indicators of bias.

Session 3: Complaint mechanisms

- Judicial complaint mechanisms.
- Extra-judicial complaint mechanisms.
- Protection resources available.

B. SESSION 1. THE BASICS OF VICTIM IDENTIFICATION

1. Session objectives

At the end of this session, participants will be able to:

- understand the importance of identifying and documenting instances of discrimination at the individual and societal level;
- know the phases in the identification as well as the main indicators for detecting and identifying victims of racism and/or xenophobia and racial discrimination;
- master the different procedures for filing a complaint following racist and/or xenophobic incidents and racial discrimination;
- present the principles of protection and assistance for victims of racism and/or xenophobia and racial discrimination.

2. Focus

Focus

Addressing discrimination is a task for society as a whole. The identification of victims involves numerous governmental, international and civil stakeholders. This is a fundamental process that provides assistance for protecting victims as well as monitoring and evaluating cases, leading to the generation of appropriate responses that reflect the magnitude of the phenomenon.



Key points

Identifying the victims of racial discrimination, xenophobia and related intolerance is the prerequisite for:

- a) recognising them as victims and, consequently, granting them assistance and judicial/non-judicial protection.
- b) measuring and evaluating discrimination at the national/international level.
- c) promoting the evolution of legal rules to respond to new forms of discrimination.
- d) promoting human rights and democracy.

3. Procedure

a) Presentation of the working session

The session begins with the trainer introducing the objectives of the session. This is to make it transparent to the participants and to situate the session in relation to the general context of the module. This working session aims to promote reflection on the reasons behind this type of discrimination and the forms it takes, as well as the key agents involved in it, in order to identify it. The session will enable the participants to understand the different steps involved in the detection and identification of victims of racial discrimination, xenophobia and related intolerance, as well as to identify the institutions and organisations that can be contacted and the reasons for referral of cases.

b) Group exercise and plenary discussion on the process of detecting and identifying racist incidents

Exercise objectives

- Present an overview of the process of detecting and identifying racist incidents based on three key questions: Why? How? What?

To situate the content of the session and to keep facilitating knowledge and discussion between the participants, a group exercise is undertaken.

This exercise allows participants to be more active in the learning process and to gain an understanding the different steps for detecting and identifying victims of racial discrimination, xenophobia and related intolerance.

In the main group, the facilitator divides the participants into three separate working groups. Each group receives the following questions written on a card:



- For group 1: 'Please identify **the reasons for** and importance of detecting and identifying migrant victims of discrimination and racism'.
- For group 2: 'Please identify **the process** of identification of migrant victims of discrimination and racism'.
- For group 3: 'Please list **the agents** involved in the detection and identification of migrant victims of discrimination and racism'.

At the end of the allotted time, each of the groups is responsible for presenting their conclusions on their respective question. The trainer facilitates the orderly involvement of the rest of the participants. Particular attention should be paid to discussions incorporating differences between the sexes into the importance of detection and identification, in the process and in the selection of agents involved in detection and identification.

The main ideas will be collated on a board/sheet to provide a visual framework that can be used to introduce the rest of the session content.

c) Discussion and synthesis around addressing racist incidents

Exercise objectives

- To reflect on the different dimensions and implications of addressing discrimination.
- To introduce the key elements of the different steps for detecting and identifying victims of racial discrimination, xenophobia and related intolerance.

The trainer can use the information collected in the table/sheet to compile all the information shared.

The trainer recalls that the identification of victims of racial discrimination, xenophobia and related intolerance is the prerequisite for:

- a) Recognising them as victims and, consequently, granting them assistance and judicial/non-judicial protection.
- b) Measuring and evaluating discrimination at the national/international level.
- c) Promoting the evolution of legal rules to respond to new forms of discrimination.
- d) Promoting human rights and democracy.



WHY?	<ul style="list-style-type: none"> • To grant victim status and right to protection. • To measure and evaluate discrimination so that actions can be taken to address it. • To promote the evolution of legal rules to respond to new forms of discrimination • To work in the promotion of human rights and democracy.
HOW?	<ul style="list-style-type: none"> • Detection. • Initial identification. • Final identification. • Complaint and non-jurisdictional mechanisms of jurisdiction. • Support for the victim.
WHO?	<ul style="list-style-type: none"> • Public institutions. • Non-governmental stakeholders. • International organisations.

The different situations of discrimination change over time, and the legislation does not have mechanisms to respond to all the situations of discrimination that arise in a given context. This is why the monitoring and documentation of the various incidents makes it possible to identify new forms of discrimination and to define effective public policies for prevention and for protection of victims, as well as to reflect on and develop legal standards adapted to the reality.

The identification process can be divided into three stages, namely: a) detection; b) the initial identification and c) the final identification. There are different tools that facilitate the recognition of a potential victim (to be explored in Session 2). Different stakeholders are involved in the different phases of the process. There are stakeholders involved in the detection, in the initial identification and in the final identification. The trainer can note here that combating discrimination is the responsibility of society as a whole, which means that different stakeholders (institutional, civil and international stakeholders) are involved in this process. The role of these stakeholders is complementary and requires coordination and mutual reinforcement. It is important that the identification provides the necessary protection to the victim, which must be a priority.

d) Theoretical presentation on complaints relating to racist incidents

Exercise objectives

- To dig deeper into the different dimensions and implications of prosecuting discrimination.
- To identify the different phases included in the identification process and the stakeholders.



Based on the collective reflections carried out in the preliminary exercises, the trainer delves into the different dimensions and implications of addressing discrimination.

1. The importance of identification

In addition to the reasons set out above justifying the identification of victims of racial discrimination, xenophobia and related intolerance, namely, the recognition of the status of victim and, therefore, guaranteeing the right to assistance and protection and the measurement and evaluation of discrimination at the national/international level, the trainer can note here that this recognition is also important from the subjective point of view of the victims and for reparation and recognition of their dignity. Although suffering a violent attack for racist and xenophobic reasons generates the maximum negative impact on victims – greater than suffering a violent attack not motivated by hate – racism and xenophobia generate negative impacts by their very existence. Racist and xenophobic discriminatory incidents lead to perverse consequences not only for the direct victims, but also for their families and all members of the targeted group. When institutions fail to act properly to prevent, investigate and eradicate racist and xenophobic incidents, affected communities' trust in public administration is shattered and social fractures can occur, resulting in additional and more intense incidents.

Racist manifestations can be classified on a continuum: racial discrimination, racist incident, hate crime/offence. The first two can include the administrative domain. However, when we talk about hate crimes, we are fundamentally inserting ourselves into the criminal field.

Racist incident

A racist incident is 'any incident which is perceived to be racist by the victim or any other person'. Any discrimination based on a person's racial origin, whether direct or indirect, is a racist incident²¹.

According to ECRI Recommendation No. 11, a racist offence would be an ordinary offence (such as murder, assault and battery, arson or insult) committed with a racist motivation and other offences in which the racist element is inherent in the offence (such as incitement to racial hatred or participation in a racist organisation).

²¹ European Commission against Racism and Intolerance (ECRI). ECRI General Policy Recommendation No. 11. Online version: <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.11>



Hate crimes

According to the Organisation for Security and Cooperation in Europe (OSCE), **hate crimes** are criminal acts committed because of a discriminatory motivation, which makes them different from other crimes. A hate crime is not a specific offence: it can be an act of intimidation, threats, destruction of property, assault, murder or any other criminal act.

For the OSCE, a racist crime can be committed for one of the following reasons, which can be considered as a starting point: (1) The crime is committed out of resentment, jealousy or desire for approval; (2) The criminal may not have a particular feeling towards the individual profile of the victim, but have hostile feelings or thoughts against the ethnic group to which the person belongs; (3) The perpetrator(s) has/have feelings of hostility towards people who do not belong to the group to which they belong; and (4) at an even more abstract level, the victim may even simply represent the idea of, say, immigration, so that the perpetrator is hostile to that idea.

Hate speech

Hate speech is a very common public manifestation of racism, xenophobia and intolerance. Hate speech has no precise definition in terms of human rights in international conventions. According to the Committee of Ministers of the Council of Europe, hate speech covers 'all forms of expressions that spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance'²².

With the appearance of new forms of media, hate speech is also present online and requires more reflection and regulatory actions and new ways to combat it. It must therefore be particularly monitored and controlled without disproportionately impinging on freedom of expression.

The identification and documentation of these discriminations also serve to generate public policies adapted to the particular realities of the context and is a fundamental element in the search for a plural and democratic society. Each territory must develop programmes and measures adapted to its own needs, according to its reality, its own dynamics and its specific problems. Although discrimination, racism and xenophobia each represent a unique phenomenon, they can only occur in very specific social and historical contexts. While it is useful to draw inspiration from successful experiences elsewhere, the best results will undoubtedly be obtained by adopting policies adapted to each particular situation.

²² Council of Europe. *Hate speech*. Available online: <https://www.coe.int/en/web/freedom-expression/hate-speech>



Methods of collecting information on discriminatory, racist and xenophobic incidents include complaints to the police, complaints to the administrations, complaints from NGOs, questionnaires to the entire population, questionnaires/interviews with potential victims and online reporting systems. Approaches such as the *testing* method (which consists of sending researchers of various origins into the field, and observing, for example, whether the behaviour of employers or owners of accommodation varies according to the ethnic origin of the candidates) are also appropriate methods for diagnosis.

Furthermore, the collection of ethnic/racial data by States is recommended by the 2001 Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as by many international organisations, including the European Union Agency for Fundamental Rights (FRA). Statistical data disaggregated by ethnic group can be essential for demonstrating discrimination, designing policies and developing positive strategies, but at the same time it raises serious ethical and legal questions. The existence of data also makes it possible to define a set of indicators to measure the evolution of public policies. We can define an indicator, in general, as a measuring instrument that allows us to highlight a specific phenomenon. If we stick to the social field and that of public policies, an indicator makes it possible to measure a specific social situation, in different ways, either by means of an objective value or by a subjective perception.

Ultimately, the best evaluation of the effectiveness of the programmes set up for better coexistence and to combat racism is the reduction of inequalities and discrimination in a given territory. Such an approach brings considerable economic advantages. Discrimination not only has a high social cost, but it also has an economic cost.

To go deeper: examples of methodology used by different networks working against racial discrimination and racist and xenophobic crimes

- Racist Violence Incident Recording Network (RVRN) in Greece.
Annual Report 2020:
https://www.unhcr.org/gr/wp-content/uploads/sites/10/2021/05/ENG_ETHSIA_EKTHESH.pdf
- Network of counselling centres for victims of racism in Switzerland.
Report on racial discrimination in Switzerland based on data from the DoSyRa racism documentation and monitoring system:
<https://network-racism.ch/fr/rapports-sur-le-racisme/index.html>
https://network-racism.ch/cms/upload/220502_humanrights_Rassismusbericht_2021_fr_online.pdf



- Irish Network Against Racism:
<https://inar.ie/ireport-reports-of-racism-in-ireland/>
Responding to racism. How to report racism and where to find help. ENAR Ireland:
<https://inar.ie/wp-content/uploads/2019/10/Responding-to-racism-guide-FINAL-2.pdf>
[P. 37: How to report racism: useful tips.]
- Results report of the Service for Victims of Racial or Ethnic Discrimination:
<https://asistenciavictimasdiscriminacion.org/wp-content/uploads/2021/11/MEMORIA-ANUAL-2020.pdf>

2. Detection of victims of discrimination

The **initial detection** must always be based on the victim's own perception of having been discriminated against. **The initial identification** of victims takes place before the legal and/or extrajudicial process (see Session 3, complaint mechanisms) and allows the collection of a sufficient number of tangible pieces of evidence to prove that the statement, act or abstention is discriminatory. To carry out this work, professionals can rely on a predefined list of clues that indicate the direction of the search (places and situations conducive to the identification of indicators) and on a predefined list of indicators of a potential situation of discrimination (including multiple forms of discrimination). This then requires an in-depth investigation that allows the exploration of indications that may suggest that a person is a potential victim of discrimination (including multiple forms of discrimination).

The final identification makes it possible to provide reparation to the victim, both through the legal recognition of the status of victim and through other reparation processes. It is up to each institution, depending on their role, to determine whether the person who has been detected as a presumed victim is a victim of discrimination (including multiple forms of discrimination).

- The purpose of the legal process is the judicial and legal recognition of a situation of racial discrimination (including multiple forms of discrimination), xenophobia or all forms of intolerance. After the legal process, the victim is legally recognised as a victim of racial discrimination (including multiple forms of discrimination), xenophobia or all forms of intolerance by the courts.
- The purpose of the extra-legal process is to provide reparation to the victim through mediation mechanisms. The victim is recognised as such, and the process contributes to a general awareness so that the forms of discriminations that they have faced are not repeated.

Outreach and support work should be done throughout the identification process. The reparation due to the victims of racist and xenophobic discrimination, both direct and indirect, necessarily involves taking their needs into account as soon as the



victimisation occurs and, if necessary, after the filing of the complaint. Health care services, social services, law enforcement and legal services are directly involved in this process. A myriad of personal characteristics (sex, age, religion, culture, socioeconomic status, personal support network) and those related to the violence suffered make each victim a person with unique needs. The personalisation of support services is absolutely necessary to guarantee restoration, which is why the assessment of needs becomes one of the first actions that administrations must develop.

The reparation of the victim is oriented towards the restitution of the violated right and the guarantee that the violation will not be repeated. To achieve this, it will be necessary to ensure that victims are treated with respect, fairly and with recognition of the harm they have suffered. This presupposes that all stakeholders involved in the care of victims are aware of the effects that racist and xenophobic crimes have on victims and that they are able to act by providing the necessary support and follow-up, especially in the early stages.

Migrants, especially those who are victims of hate incidents, will need information on existing resources, reporting channels, institutions and organisations they can turn to in case of need. This need for information will be present, in the case of a complaint, throughout the investigation and the judicial or extrajudicial procedure. Care must be taken to ensure that information reaches victims in a way that they understand and when they need it.

Accompaniment throughout the reporting procedure and the judicial or extrajudicial procedure protects victims of racist and xenophobic crimes against secondary victimisation. Guaranteeing the choice of this accompaniment, as well as participation in the process and in decision-making, is necessary for the proper restoration of people's dignity.

Victims may have particular needs for safety and protection, including the need to avoid retaliation after filing a complaint. It must be ensured that public officials use all the mechanisms provided by law to guarantee this protection. Social services and other agencies can play a key role in providing any practical support victims may need.

Victims of racist and xenophobic crimes often suffer from psychological scars. Early support is essential to alleviate these sequelae. However, the processes of coping with trauma differ from person to person, so these needs for psychological support may arise at different times. Furthermore, it is rare for victims of hate crimes to seek this type of support directly: the stigma attached to the need for psychological support and the very characteristics of victims of hate crimes are linked to this difficulty in expressly recognising this need. For these reasons, with regard to psychological services, the recommendation is that they should be offered proactively at different times and over time.



3. Stakeholders in charge of the detection and identification of victims

The correct identification and quantification of racist and xenophobic incidents, as mentioned before, requires the collaboration of civil society and the trust of potential victims in the system. Furthermore, the people closest to migrants are those who can more easily recognise situations of risk and warn the competent authorities so that they can act quickly and avoid serious racist and xenophobic conflicts. Due to their characteristics, it is also likely that some people, such as migrant women, may have more difficulty accessing public institutions, but may have easier access to civil society organisations. The creation of partnerships with civil society is a strategic tool in combating racism and xenophobia. The provision of comprehensive care to people who have been the object of hatred and discrimination can and often does require the collaboration of a multitude of institutions, entities and associations. If this collaboration is not carefully designed and organised, when transitioning from one service to another, it can increase the likelihood of secondary victimisation. This can occur, for example, when the person is required to repeat their account of the events to several people – losing valuable information or by omitting important information on health, or the motivation for the crimes – and even ‘losing’ the victim, who risks not receiving the care they needs. This is a particular risk in the case of people without a home or stable address. It is therefore important to insist on the networking of all services, including police, health, legal, social and psychological services, which goes beyond individual contacts between organisations or individuals.

The CLARA project – Local Learning Communities against Racism and Xenophobia

The CLARA project is a social innovation and research project in Spain that aims to combat racism, xenophobia and hate crimes and incidents through capacity building of local authorities, mainly local police, and communities. This project, co-funded by the Rights, Equality and Citizenship Program (2014-2020) of the European Union, uses local learning communities (CLAP) as an innovative pedagogical and methodological approach suitable for achieving the objectives defined in the project – training, identification and intervention on discriminatory incidents related to racism, xenophobia and other forms of intolerance.

The task of the CLAPs is to build trust and understanding between police organisations and civil society organisations in order to establish channels of collaboration in combating racism.

Find out more: <https://proyecto clara.es/el-proyecto>

Complaint mechanisms and the stakeholders involved in each of them will be explored in more depth in Session 3. For now, the trainer must remember that there are specialised stakeholders in each part of the process and that the work of civil society, international institutions and institutions must be coordinated and complementary.



3.1. Agents in charge of detection and preliminary identification:

- a) Victim.
- b) Persons close to the victim and/or members of the community.
- c) Public institutions (Police, Gendarmerie, Courts, General Inspectorates of the Ministry of Health or Ministry of Education, CNDH, IMR, etc.).
- d) Territorial representations of the Ministry of the Interior (mouqadem, Caid, etc.).
- e) Representatives of civil society organisations (GADEM, Law and Justice, other organisations working in the field of migration and/or promotion of human rights).
- f) Representatives of international organisations (IOM, UNHCR).

3.2. Agents in charge of the final identification of victims:

- a) Staff of ombudsman institutions.
- b) Participants with the status of Judicial Police Officers.
- c) Prosecutors.
- d) Investigating judges.
- e) Commissioners of Police, Officers and Chiefs of Police Stations.

3.3. The other agents in charge of the protection and identification of victims:

- a) The mediator (IMR in Morocco).
- b) National Human Rights Institutions (CNDH in Morocco).
- c) The Interministerial Delegation for Human Rights (DIDH).
- d) Government officials, such as customs officers.
- e) Labour inspectors.
- f) Civil society organisations.
- g) The Ministry of Health.

C. SESSION 2. TOOLS FOR DETECTING AND IDENTIFYING INCIDENTS OF DISCRIMINATION, RACISM AND XENOPHOBIA AGAINST MIGRANTS

1. Session objectives

At the end of this session, participants will be able to:

- Know the stages of the process and the tools for detecting and identifying incidents of discrimination, racism and xenophobia against migrants in the daily work of public officials by sector.



- Identify the criteria for detecting and identifying incidents of discrimination, racism and xenophobia towards migrants.
- Identify clues for detecting and identifying incidents of discrimination, racism and xenophobia towards migrants.
- Identify certain indicators of prejudice for the detection and identification of incidents of discrimination, racism and xenophobia towards migrants.

2. Focus

Focus

To identify incidents of racial (including multiple) discrimination, xenophobia and related intolerance, as well as to measure and assess discrimination at the national level, criteria, indices and indicators (general and specific) of discrimination.

Bias indicators help law enforcement identify crimes as racist and xenophobic hate crimes, and therefore develop an appropriate response.

Key points

Discrimination is unequal treatment based on a criterion prohibited by law (sex, age, state of health, etc.) and in an area (detection index) cited by law (access to a service, hiring, etc.). It is the law that specifies the situations in which it is forbidden to treat people differently according to the criteria previously defined.

To date, several prohibited criteria of discrimination are set by law. Thus, treating a person differently because of their origins, sex, age, state of health, opinions is prohibited by law and international conventions approved by Morocco. The law also makes it possible to isolate detection indices, i.e., areas where discrimination can take place.

3. Procedure

a) Presentation of the working session

The trainer presents the objectives of the session. This session is intended to explore the tools for detecting and identifying incidents of racism and xenophobic discrimination against migrants and to reflect on the existing limits in relation to the identification of intersectional discrimination.



b) Dynamics of group work and plenary discussion around the criteria, indices and indicators for identifying racist incidents

Exercise objectives

- To know the tools for detecting and identifying incidents of discrimination, racism and xenophobia towards migrants.
- To check whether the legal instruments related to discrimination in Morocco have succeeded in taking care of migrants who find themselves at the intersection.

The session begins with an interactive group exercise. **Initially**, each group is invited to identify the **criteria of discrimination** identified in the legal standards, as well as the references **of detection indices** (that is to say, the areas covered by the law) included in the Moroccan texts and which were presented in module II (see sheets in annexes 4 and 5). The trainer provides time for group discussion. In a **second step**, the trainer shows a sheet where the criteria and indices of discrimination are systematised.

Prohibited criteria of discrimination	Detection indices
'Race', colour, sex, nationality, language, religion, opinion, social rank, family situation, state of health, disability, political opinion, trade union membership, ethnic group, nation, 'race', religion, marital status.	Organisation and operation of penitentiary establishments; trade union practice; employment: hiring, conduct and distribution of work, professional training, salary, promotion, granting of social benefits, disciplinary measures and dismissal; sports competitions or events.

Once the group discussion has been finalised, a plenary debate will be led by the trainer to compile the various prohibited criteria for single forms of discrimination and the detection indices. The trainer can encourage the group to discuss the existence or absence of prohibited grounds for multiple forms of discrimination. The same goes for the presence or absence of internationally prohibited criteria which are not prohibited by Moroccan legislation.

In a second phase, the group is divided into two and presented with cases of racist incidents. Each group is asked to identify some of the elements that allow them to identify racial or xenophobic discrimination (indicators of prejudice) and other intersecting discriminations.



Case 1. Hate crimes

In a school, a fire took place, which the police initially took for simple arson. However, the school is mostly attended by children from the sub-Saharan community, and the investigation reveals the existence of previous incidents such as graffiti such as 'no blacks here'. In addition, the parents of the pupils talk about stones being thrown at children and insults being hurled at them by the young people from the district at the school exit.

Case 2. Harassment in the rental building²³

Mariam and Mamadou, a couple of Senegalese origin, have lived for four years with their three children in a rental building located on the outskirts of a Moroccan town. A neighbour who had recently arrived in the building repeatedly made very unpleasant and contemptuous remarks about the woman and her children: 'Go back where you came from, you n-.' Mariam and her children began by trying to ignore their neighbour and did not respond to his provocations. But when the mother of the family found their clothes trampled on several times in the laundry room, her husband tried to talk to the neighbour to clarify the situation. The neighbour immediately reacted aggressively: 'Get the hell out, you n-!' After being verbally attacked by the neighbour on several occasions, the couple contacted the property management commissioned by the owner of the apartment. Management refused to intervene. They claimed not to be able to do much, without giving further explanation. Mamadou seized the next opportunity to ask his neighbour for an explanation. In a harsh tone, he demanded that he stop these acts. Three days later, the property management informed Mariam and Mamadou in writing that their lease has been terminated, on the grounds that Mamadou had seriously insulted his neighbour.

At the end of the exercise, a compilation of all these bias indicators is made (these can be compared to the questions proposed by the OSCE presented in the theoretical section).

c) Synthesis of the criteria, indices and indicators for the identification of racist incidents

Goals

- To establish the concepts of criterion, detection index and bias indicator.
- To emphasise the multidimensional nature of the discrimination suffered by migrants.

²³ Adapted from Swiss Confederation. Anti-racism service. Practical cases. Available online: <https://www.edi.admin.ch/edi/fr/home/fachstellen/frb/droit-et-conseil/cas-pratiques-tires-de-la-vie-quotidienne.html>



The trainer uses the wrap-up phase to gather all the information from the plenary discussion. The opportunity can be taken to synthesise and summarise the information on a large sheet of paper. This information can be supplemented during the theoretical explanation phase.

The trainer points out that discrimination is unequal treatment based on a criterion prohibited by law (sex, age, state of health, etc.) and in an area (detection index) cited by law (access to a service, hiring, etc.). It is the law which specifies the situations in which it is forbidden to discriminate according to the criteria previously defined.

To date, several prohibited criteria of discrimination are set by law. Thus, treating a person differently because of their origins, sex, age, state of health, opinions is prohibited by law and international conventions approved by Morocco. The law also makes it possible to isolate detection indices, i.e., areas where discrimination can take place.

However, it is important to emphasise that the law is not enough. On the one hand, the law is still weak in identifying certain forms of discrimination and more particularly multiple forms of discrimination. Moreover, and although a legislative response that is adapted to the realities of each country and guarantees respect for human rights is essential to effectively combat racism and xenophobia, legislative changes are not enough. Adequate training of those responsible for ensuring compliance with the law and awareness-raising among public officials and the rest of society are essential to guarantee the effectiveness of the laws.

Detection index

Area of action of discrimination.

Criteria

Reference element for judging, estimating and defining something (sex, age, origin, etc.).

Bias indicator

An element that identifies one or more motivations (racial, sexist, xenophobic) in the commission of a crime.



d) Presentation of the theoretical framework on criteria, indices and indicators for the identification of racist incidents

Goals

- To explore the tools for detecting and identifying incidents of discrimination, racism and xenophobia against migrants.
- To check whether the legal instruments related to discrimination in Morocco have succeeded in taking care of migrants who find themselves at the intersection.
- To identify the legal instruments related to discrimination in Morocco, where the victims are declared guilty because the very criterion of discrimination is considered by the Moroccan legislator as a crime.

i. Criteria and indices of discrimination

In Morocco, legal instruments have been revised to include prohibited grounds for one-way discrimination. Each person has several levels of identity and can define themselves, or be defined by others, according to a number of criteria, including sex, nationality, ethnicity, social status, sexual orientation, disability or religion.

- **The prohibited discrimination criteria under Moroccan law are** age, sex, origin, membership or non-membership, real or supposed, of an ethnic group, nation or so-called 'race', the state of health, disability, political opinions and trade union activities.
- **Among the discrimination criteria prohibited by international instruments (*hard and soft law*)** we can distinguish: age, sex, origin, membership or non-membership, real or supposed, of an ethnic group, nation or alleged 'race', pregnancy, medical condition, disability, genetic characteristics, sexual orientation, gender identity, political opinions, trade union activities, philosophical opinions and beliefs or affiliation or non-affiliation, real or supposed, to a particular religion.

Other forms of discrimination, in particular **multiple ones**, are not really taken into account by the texts and policies put in place. Some cases may refer to situations involving multiple forms of discrimination. A sub-Saharan migrant who is discriminated against because of their ethnic origin can also be discriminated against based on social status because they are part of a group of irregular migrants, and are therefore condemned to work in the informal sector. Such discrimination can, and often does, create cumulative disadvantages. Women can often be victims of discrimination due to sex and ethnic and/or racial origin at the same time.



In certain legal instruments, **the discrimination criterion itself can be penalised**, and become a crime. The penalties provided for in Articles 489 and 490 of the Moroccan Criminal Code attest to the discriminatory effect against people on the basis of their sexual orientation and gender identities and expressions – depriving them not only of legal protection in the event of discrimination, but also other fundamental rights.

Similarly, Article 490 of the Criminal Code has a strong discriminatory impact on children born out of wedlock. Article 148 creates obstacles to the enjoyment by children born out of wedlock of the same (parental) identity as other children born or born in wedlock.

The detection indices (areas) covered by the law are access to employment, access to housing, access to goods and services, education and training. Other **places and situations for the detection of incidents of discrimination include:**

- On the street, in social centres or public places by the police or social workers.
- In the street by NGOs and local associations working in the field.
- At border posts.
- In social services premises by social workers and/or health personnel.
- In the premises of hospitals or emergency services by health personnel and/or social workers.
- In access to private goods and services: housing, credit, etc.
- In access to public goods and services: school, health care, civil status, social services, justice, In detention services and migrant internment or assembly centres by prison staff, social workers etc.
- In access to a place open to the public: prefecture, municipality, police station, etc.
- In access to social protection.
- In access to education and training: condition of registration, admission, evaluation, etc.
- In access to public places: the street, social centres or public places such as bus stations, buses, etc.
- Refusal to sit next to passengers of a certain or perceived ethnic origin in public transport, metros and buses.
- Verbal attacks and insults in the streets and on social networks.
- Violent physical attacks, assaults, throwing stones at people, including returnees.

ii. Indicators of racist incidents

Racist and xenophobic motivations can often go unnoticed if not properly investigated. There are many indicators that can help identify racist or xenophobic bias in potential hate crimes. These indicators, called 'bias indicators', can help law enforcement identify



crimes as racist and xenophobic hate crimes, and therefore develop an appropriate response. These indicators can be associated with different elements:

Assessment of the victim and witnesses

One of the main indicators of the existence of a hate motivation is the victim's perception of it, which is based on their personal experience of the prejudice, on the impressions left by the circumstances and the perpetrators of the aggression, and various other factors. Sometimes, the assessment by the witnesses also provides important elements on the apparent motive of the person responsible for the attack.

In several OSCE countries, including Canada and the United Kingdom, any crime that a victim, witness or police believe has a hate motive is mandatorily listed and treated as a potential hate crime.

The attitude of the aggressor

People who commit hate crimes often display their prejudices before, during or after their crime. The message they wish to send to their victims and to others generally takes different forms, ranging from insults to graffiti. In most hate crimes, it is the words spoken or the symbols used by the attackers themselves that will constitute formal proof of the existence of a hate motive.

The characteristics of the victim and the person who commits the aggression

Although the common representation of hate crimes is that of attacks directed against minorities, the reality is sometimes different. Depending on the circumstances, hate crimes can be committed by a minority against another minority, or even by a minority against a majority: the latter case can occur when a population, a minority over the whole of a territory, is a majority locally. Certain circumstances may reveal a hate crime:

- The 'race', religion, ethnic or national origin, disability, gender or sexual orientation of the victim and their attacker are different.
- The victim belongs to a strong minority group in the region where the incident took place.
- The victim was attacked when they were outside the area where their community lives.



The characteristics, attitude and origin of the alleged aggressors, which include indicators such as:

- words, gestures, and other behaviours that take place before, during, or after the incident and may reveal prejudice or hateful feelings against the victim's group or community;
- clothing, tattoos or insignia representative of certain extremist movements, such as the use of swastikas or other Nazi symbols, or the wearing of paramilitary-style uniforms;
- the fact that the incident occurred during the incursion of members of a majority population into an area mainly occupied by minorities (this feature is historically represented by pogroms, in which attacks were carried out against a minority population, usually confined to specific neighbourhoods or regions);
- the fact that the victim belongs to a minority and is attacked by a group made up of members of another population;
- the existence of historical animosity between the community to which the victim belongs and that of their attacker.

Certain **characteristics of the victim** may also be indicators of hate crimes:

- the victim is identifiable as being 'different' to those who commit the aggression and, often, to the majority community, by physical, clothing, linguistic or religious criteria;
- the victim is a prominent figure, such as a religious leader, activist or spokesperson for a community that has suffered ongoing discrimination;
- the victim was married to or in the company of a person belonging to a minority group;
- the **behaviour** of the attackers (such as giving the Nazi salute, or participating in rallies or demonstrations organised by hate groups) suggesting the possibility that they are members of a hate organisation;
- the aggressor has already been guilty of crimes with the same characteristics, with victims belonging to the same minority, or to other minority groups.

Deprivations of material goods which suggest the existence of a heinous motive.

The meaning that a particular building or place has for a prejudiced community is a first indicator of potential hate motivation.

The **property** in question has a religious or symbolic meaning for a particular community. For instance it could be a church or a synagogue, a cemetery, a war memorial or any other monument in memory of historical figures from this community or it is central to the life of a particular community, for instance a school, community centre or store.



They differ from other surrounding properties in that they are owned or managed by members of a particular community. Often they have already been the target of similar attacks.

Involvement of a hate organisation

The abuser's membership in an organisation advocating an ideology based on prejudice and the fact that they already have a history of violence, represent an important indicator in favour of a thorough investigation into the motivation of the act. In some countries, association with hate groups or participation in their activities are considered criminal acts, and offences committed by their members are separately recorded and prosecuted. Racist and xenophobic crimes are classified by some States in the category of 'extremist crimes'.

Indicators of the involvement of organised groups include:

- The presence, at the scene of the incident, of objects or other elements implicating hate groups (graffiti, specific clothing).
- The incident targeting a group was preceded by threats, or a hate organisation claims responsibility for it.
- The incident coincides with a date that hate organisations consider important (for example, the anniversary of the birth of a symbolic leader).
- The incident occurs during or shortly after an event organised by a hate group, or follows a proselytising action or other demonstration in the vicinity.

Circumstances of the incident

The time and place where the incident occurred can also be indicators of hate crimes. Some things to consider are:

- The incident took place in or near a place commonly associated with members of a minority group (centre for refugees and asylum seekers, home for the disabled).
- They differ from other surrounding properties in that they are owned or managed by members of a particular community.
- They have already been the target of similar attacks.
- The incident occurred in or near a place of worship, cemetery, private home or establishment associated with a minority group or regarded as an 'outsider' in a given neighbourhood.
- The incident took place on public transport, and represents an attack perpetrated by unknown persons on a person belonging visibly to a minority, whose appearance distinguished them from other passengers.



- The incident occurred on a date of particular significance to the target group (religious holidays, commemorations of important historical events).
- The incident took place shortly after a change in the presence of a minority in a given place (a family belonging to a minority previously absent from the neighbourhood moved in, or a refugee centre was opened).

Other hate crime indicators include:

- The existence of similar previous incidents, which occurred in the same area, and whose victims also belonged to the group that was targeted.
- The fact that the victims were harassed or threatened by post or telephone because of their membership in a group.
- The fact that a prior incident or crime may have resulted in retaliation against members of the group allegedly responsible.

Theft of valuables

In most known cases, victims of attacks motivated by prejudice or feelings of hostility also suffer other damages. Often, the fact that valuables – money, mobile phone – were stolen from them during the attack is often used to deny the heinous nature of the incident. It is therefore important to determine whether the victim was chosen on the basis of identity criteria linking them to an ethnic, religious or other particular group.

Nature of the violence

Whatever the form of the hate crime, whether it involves physical assault or property damage, its perpetrators are often trying to convey a message.

Significant indicators include the following facts:

- The incident was accompanied by extreme or unusual violence, or humiliating or particularly degrading treatment, such as the sexual abuse of victims of homophobic crimes.
- The violence took place in a public place, or is intended to have a public impact, in the form of recordings broadcast by the perpetrators of the crime.
- The abuse inflicted on the victims involves mutilation, such as burning or scarification reproducing racist symbols, or, when damage is caused to material goods, the degrading and profaning nature is underlined by the use of elements such as blood or excrement, intended to reinforce the message of the perpetrators of the crime.

The following questions can help identify racist or xenophobic hate crimes (OSCE, 2021):



Questions to help identify indicators of bias (OSCE, 2021)

- Did the victims or witnesses perceive that the incident was motivated by racism and xenophobia?
- Are there comments, writing, gestures or graffiti that reveal prejudice? This may include the use of racist or xenophobic slurs, tropes, stereotypes and biases.
- Was the offence committed in a place of religious, cultural or professional significance, such as an anti-racism association, cultural club or other places likely to be frequented by people of a racial or ethnic origin specifically or by refugees or other migrants?
- Have the properties been the target of racist or xenophobic incidents or hate crimes in the past? Did the property damage include racist phrases?
- What was the nature of the violence, and did the actions focus on the symbols of particular racialised or ethnic groups?
- Was it possible to 'visually identify' the victim as belonging to a particular racial or ethnic group? Does the suspect belong to a different racial or ethnic group than the victim?
- Was the victim a refugee or another type of migrant? Does the victim receive aid or a housing allowance for refugees or migrants?
- Does the suspect belong to a hate group?
- Was any graffiti or symbols, such as Nazi symbols or the Celtic cross, among others, found at the scene of the crime or incident?
- Did the incident take place on a date significant to the person who committed it or the communities affected for historical, political or religious reasons?
- Was the incident related to or took place in an area of current or past conflict of an inter-ethnic nature?
- Is there another explicit motivation? The absence of motivation could lead to a motivational conclusion based on bias.

Racist and xenophobic crimes should be monitored and recorded as a separate crime category. Where a crime is committed for a variety of prejudicial motives, each type of prejudice must be recorded and addressed during the investigation and prosecution. Data on racist and xenophobic hate crimes should be collected and disaggregated by sex in order to obtain a more detailed picture of how women and men encounter these crimes, as well as to identify appropriate measures to fight them. When investigating and addressing racist and xenophobic hate crimes, it is important to take into account the victim's multiple identity characteristics (such as religion, ethnicity and sex), as these can lead to various consequences for individual victims.



To go deeper: OSCE documents and other publications to identify racist and xenophobic hate crimes (in French and other languages):

- Brochure 'How to recognise racist and xenophobic hate crimes':
<https://www.osce.org/files/e/documents/8/9/511312.pdf>
- Hate Crimes: Prevention and Responses. Reference guide for NGOs in the OSCE area:
<https://www.osce.org/files/f/documents/a/3/93639.pdf>
- Understanding Hate Crimes Against Muslims and Responding to the Safety Needs of Muslim Communities:
<https://www.osce.org/files/f/documents/f/2/479104.pdf>
- Hate crime data collection and monitoring mechanisms:
<https://www.osce.org/files/f/documents/f/2/479104.pdf>
- Prosecuting hate crimes: a practical guide:
<https://www.osce.org/files/e/documents/0/0/124532.pdf>

D. SESSION 3. COMPLAINT MECHANISMS

1. Session objectives

At the end of this session, participants will be able to:

- Understand the judicial complaint mechanisms in Morocco for incidents of discrimination, racism and xenophobia against migrants.
- Understand the extra-judicial complaint mechanisms in Morocco for incidents of discrimination, racism and xenophobia against migrants.
- Identify the complementarity between judicial and extra-judicial complaint mechanisms.

2. Focus

Focus

In Morocco, there are two possible remedies which constitute complaint mechanisms in the event of discrimination. The first way is to file a complaint at the police station and enter the judicial process. Apart from the court, other extra-judicial complaint mechanisms exist in Morocco in the event of discrimination via institutions mandated to mediate.



Key points

- Users, including migrants in an irregular situation, can resort to institutional mediation with the Institution of the Mediator of the Kingdom against an administrative act or decision with a discriminatory connotation emanating from a public service.
- The CNDH can intervene in the event of a systematic violation of the basic rights of migrants.
- With its new electronic portal 'Tafa3oul' (interaction) for the management of complaints, the DIDH facilitates the reception and processing of complaints via the 'interaction' space of the DIDH or via the link: <https://interaction.didh.ma/>
- Complaints can also be addressed to the general inspectorates of ministries such as health or education.

3. Procedure

a) Presentation of the working session

The trainer presents the objectives of the session. This session is intended to explore complaint mechanisms for incidents of discrimination, racism and xenophobia against migrants in Morocco.

b) Group exercise on complaint mechanisms

Exercise objectives

- To present concrete examples of discrimination and existing mechanisms to report them.
- To reflect on the usefulness of complaint mechanisms in Morocco according to the type of racist incident experienced.

To situate the content of the session and to keep facilitating knowledge and discussion between the participants, a group exercise is undertaken.

This exercise allows participants to be more active in the learning process and to reflect on the different complaint mechanisms depending on the type of discrimination experienced by migrants.

In the main group, the facilitator divides the participants into three separate working groups. Each group receives a case of discrimination and the following questions written on a card:



- 'Identify the type of racist incident (direct, indirect or hate crime)'.
- 'Identify **the complaint mechanism(s)** that can be used by victims in Morocco'.
- 'Identify **the protection resource(s)** victims may need'.

At the end of the allotted time, each of the groups is responsible for presenting their conclusions in relation to the questions. The trainer facilitates the orderly involvement of the rest of the participants. The main ideas will be collated on a board/sheet to provide a visual framework that can be used to introduce the rest of the session content.

Case 1. Discriminatory attitude in a public service (e.g., health sector)

Nayah, a sub-Saharan woman from Ghana, gave birth in Morocco in a public hospital. However, a hospital official refused this mother her son's birth certificate because she does not have a valid residence permit.

She is experiencing direct racial discrimination committed by a public institution. Nayah may need legal assistance and translation services.

Nayah can choose to contact the CNDH or the Institution of the Mediator of the Kingdom to report a discriminatory attitude. In the case of the Institution of the Mediator of the Kingdom, she can choose between filing her appeal by internet, on the web page of the institution or its mobile application and she can also go directly to one of its help centres that exist in the main regions of the country. The Mediator of the Kingdom is able to intervene to resolve the problem, including asking the authorities concerned for explanations.

Case 2. Discrimination in the employment sector

Mamounata is a Chadian woman in an irregular situation who works for a company as a domestic service. She has not received her salary for months.

She is experiencing direct racial discrimination. Mamounata may need legal assistance and translation services. She may also need accommodation and she is considering returning home, but she does not have the means to do so (voluntary return service).

She can choose to file a complaint with the labour inspectorate, which is also able to receive complaints regardless of the employee's administrative situation.

She can also go to court. To lodge a complaint, she must first go to a police station or a gendarmerie post. Although there are no 'special brigades' to collect complaints relating to discrimination, all judicial police officers are obliged to register them and to note the offences incriminated by any act of discrimination. Under the supervision of a royal prosecutor, the judicial police are required to open an investigation, gather evidence and bring to justice the perpetrators of acts such as the one involving the Chadian cleaning lady who was not paid for months.



Case 3. Recurring discrimination

Samir is a Syrian migrant who was refused the renewal of his residence permit even though he has the documentation in order.

He is experiencing alleged recurring direct racial discrimination. Samir may need legal assistance.

Samir can choose to appeal to the CNDH, which can intervene in the event of systematic violation of the basic rights of migrants. Again, the complaint can be filed via the Internet on the CNDH website or in one of the regional branches of this institution.

Once the group discussion is over, a discussion in the main group will be facilitated by the trainer to complete and discuss the possible complaint mechanisms for each case.

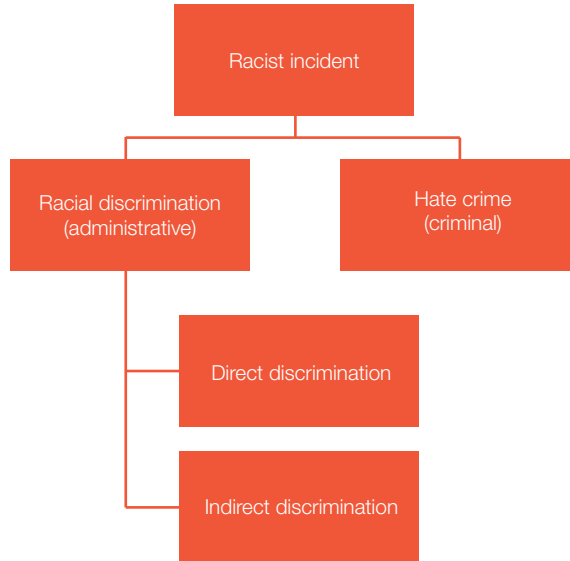
c) Summary of complaint mechanisms

Goals

- To establish the concepts explored in the previous activity.
- To present the complaint mechanisms that exist in Morocco.

Racist incidents or events can have different natures. Although they all have the common characteristic that they are an attack on human dignity and therefore none of the racist manifestations are tolerable, they can be typified according to their nature and their effects on people and groups that experience racial discrimination.

The differentiation arises in terms of legal consequences in countries that have regulated penalties for racist incidents, and these can usually be administrative or criminal in nature. In the first case, we refer to racial discrimination and in the second case, to hate crime.



To ensure coexistence, all acts of discrimination must be identified and victims must obtain redress. In Morocco, there are different complaint mechanisms, those that go through judicial channels and those that go through extra-judicial channels, through the mediation of institutions empowered to do so. It is the personal decision of each victim to use the available mechanisms.

d) Presentation of the theoretical framework for making complaints about racist and xenophobic incidents

Goals
<ul style="list-style-type: none">• To identify the different complaint mechanisms that exist in Morocco.• To understand how these mechanisms complement each other.• To highlight the importance of protection and to raise awareness of the main protection resources available in Morocco.

In Morocco, there are two possible remedies constituting complaint mechanisms in the event of discrimination: justice and mediation. Whether the purpose is justice or for mediation, complaint mechanisms in the event of discrimination must ensure the same



rights for all. They also contribute to a general awareness to avoid the repetition of the forms of discrimination experienced.

It is important to remember here that legal assistance is provided by public institutions and structures related to protection. All migrants, depending on their administrative situation, have the right to lodge a complaint in the event of violence and must be able to benefit from the protection of the police. Sometimes the authorities require migrants to provide documents (identity card, accommodation certificate, marriage document, etc.) that they do not have and refuse them services on this basis, even though these documents are not required by law. In addition, language problems limit access to justice for many migrants. In this sense, among the recommendations of the special rapporteur are to ensure the full application of Articles 21, 73, 74 and 120 of the Code of Criminal Procedure and to guarantee interpretation services, in particular by training more sworn interpreters, and to ensure that litigants belonging to vulnerable categories and who do not speak Arabic can benefit from the proper administration of justice.

The **course of the legal procedure** in matters of discrimination differs depending on the outcome:

- The aim of the civil-administrative route is to obtain compensation for the harm suffered by the victim, in particular damages. The courts that rule in civil matters are the common law courts but also the administrative courts. The mechanism used to prove that there has been discrimination is 'the reversal of the burden of proof', i.e., the victim must bring together material elements leading to the presumption of discrimination.
- The criminal route aims to punish the perpetrator of discrimination prohibited by law, for example by a prison sentence, a fine, or other additional penalties. Following the victim's complaint or the reporting of the facts, the police or gendarmerie services carry out the investigation under the authority of the king's prosecutor. If there is sufficient evidence at the end of the investigation, the prosecutor may decide to prosecute the discriminator in the competent court. The person prosecuted is presumed innocent until the court rules on their guilt. It is up to the prosecutor, the victim and/or the person defending them (lawyer, association) to demonstrate the discriminatory intent of the perpetrator.

Outside of court, other extra-judicial complaint mechanisms exist in Morocco in cases of discrimination. These are the institutions mandated to carry out the intermediation.

- The Institution of the Mediator of the Kingdom allows users of a public service, including migrants in an irregular situation, to resort to institutional mediation with these services against an administrative act or decision with discrimination emanating from a public service.



- The CNDH can intervene in the event of a systematic violation of the basic rights of migrants.
- The DIDH announced the launch of its electronic portal 'Tafa3oul' (interaction), dedicated to the management of complaints. This initiative is an application of the commitments contained in the report of the Special Review on the protection of human rights, presented on 14 December 2021. The portal will make it possible to receive and process complaints relating to allegations of violation of the rights and freedoms which are the subject of said report, and which include the freedoms of thought, belief, opinion and expression, of the press, of the constitution association, assembly and demonstration, as well as arbitrary detention, exposure to torture and fair trial. The services of this electronic portal, allowing the reception and processing of complaints, are accessible via the 'interaction' space of the DIDH or via the link: <https://interaction.didh.ma/>

Alongside the identification of a racial incident, it is important that protective mechanisms are put in place proactively to support the victim according to their specific needs. The notion of protection reflects all the concrete measures aimed at enabling people at risk to enjoy the rights and assistance provided for by international conventions. Protection involves recognising that individuals have rights and that the authorities who exercise power over them have obligations. It involves defending the legal existence of individuals, alongside their physical and social rights.

Protection of victims may include (but is not limited to): legal assistance, housing and medical care, psychological assistance, establishment of visa options, voluntary return and psychological assistance, actions aimed at reintegration, and actions in the field of national and transnational security and cooperation.

The support chain is centred on the victim after detection.

The support chain is divided into three different stages:

1. Initial identification of the victim and identification of needs.
2. Emergency care measures; the short term.
3. Long-term support measures: Reinsertion or reintegration.

Considerable efforts have been made in recent years to improve the protection of migrants. For example, the Entraide Nationale (EN) has trained its social workers on immigration and asylum issues to improve care for this category. Thus, one hundred social workers were trained during the first half of 2018 compared to 200 in 2017. In addition, 2,525 migrants benefited from EN's social and humanitarian assistance programme over the period 2017-2018.



In many cases, it is important to seek resources to solve immediate problems (housing, access to health care or legal aid). Moroccan legislation is protective in terms of health and legal assistance, regardless of administrative status. Support towards empowerment allows the victim to strengthen their professional capacities (guidance towards training in professionalising and job-providing sectors) and/or access to employment (development of job search capacities based on skills specific to the person, promotion of access to internships, etc.). Children need to be guaranteed access to the Moroccan education system and untrained adults need to be guaranteed literacy and basic skills. While many training programmes have been set up and access to the education system is free regardless of administrative status, access to employment and to certain qualifying vocational training depends on the administrative status of migrants.

Protection resources for the most vulnerable migrants

With regard to protection services for female victims of violence, Law 103-13 adopted in 2018 to combat violence against women provides for enhanced protection of female victims of violence. However, and despite the progress made in recent years and the planned creation of multifunctional spaces (EMF), resources for the care of victims are still limited, mainly in terms of accommodation. This is even more visible in the case of victims of trafficking, where the complexity of care increases.

Similarly, the child protection policy (PIPPEM) mentions migrant children, but the development of territorial units for the identification, referral and follow-up of cases is still very weak and their level of development depends on the regions.



MODULE IV. Access to justice for migrants and its relation to the enjoyment of rights in general

A. INTRODUCTION

1. Presentation

The module aims to present the modalities of access to justice for migrants, the existing barriers and its impact on the individual and societal levels on the victims. It also addresses the role of institutions and civil society in preventing and combating racism, xenophobia and racial discrimination.

The objective of the training is to encourage reflection on the role of institutions and civil society in guaranteeing a justice system that embraces diversity, is proactive and advocates against all forms of discrimination, including intersectional discrimination, towards migrants.

The module is made up of three working sessions. The **first session** focuses, primarily, on explaining the regulatory framework that governs migrants' access to justice. This first session will allow participants to identify the rights which are recognised to migrants by the Moroccan state in the field of justice, to present some data on the development of access to basic services for migrants in the last few years and to facilitate reflection on the limits of this regulatory framework and on the possible elements for improvement.

The **second session** explores the different obstacles and barriers that prevent the full realisation of migrants' right to justice of migrants, including intersectional forms of discrimination.

The **third session** is devoted to understanding the role of institutions and civil society organisations in preventing and combating discrimination, particularly racism and xenophobia, as a way of preventing recourse to justice, but also to avoid discrimination



within the justice system. Participants will actively reflect on some key actions that can be taken by both institutions and civil society and how these two structures work in a complementary way to ensure that migrants can fully enjoy their rights.

2. Module-specific objectives

- To be familiar with the regulatory framework of access of migrants to justice in Morocco.
- To identify the characteristics of acts of racism and xenophobia and discrimination in Morocco against migrants in terms of access to justice, including intersectionality with sexist acts against migrant women and girls.
- To understand and recognise the impact of limitations on access to justice on the effective enjoyment of essential rights.
- To be familiar with the role of institutions, security authorities and civil society in preventing and combating discrimination and in particular racism and xenophobia to promote the effective enjoyment of rights.

3. Pedagogical objectives of the module

At the end of the training, participants will be able to:

- analyse the challenges of the regulatory framework for migrant persons' access to justice in Morocco;
- identify the obstacles, barriers and discrimination suffered in access to justice by migrants, taking into account the intersectionality of discrimination;
- understand the consequences of barriers to access to justice on the enjoyment of other rights, as well as their impacts on individual and societal levels;
- be able to understand the importance of actions for preventing and combating discrimination when it comes to guaranteeing the rights of migrants;
- understand the role and the main actions carried out by institutions and civil society organisations in combating discrimination, particularly racism and xenophobia.

4. Module structure

Module 4 of the training consists of 3 different sessions:

Session 1: Regulatory and political framework on access to justice for migrants in Morocco.



- Conditions of access to justice in Morocco.
- Links between access to justice and the administrative situation of migrants in Morocco.
- Regulatory texts.

Session 2: Obstacles, barriers and discrimination in access to justice for migrants.

- Discrimination based on administrative status, 'race', sex and age of migrants, including intersectional discrimination, for access to justice.
- Consequences of access to justice on victims and on society.
- Effects of limits on access to justice on the exercise of other rights.

Session 3: Involvement of institutions and civil society in preventing and combating discrimination, particularly racism and xenophobia, taking into account the intersectionality of discrimination.

- The role of institutions (ministries and national institutions) and judicial and security bodies in preventing and combating discrimination, particularly racism and xenophobia.
- The different aspects of the intervention of Moroccan institutions in preventing and combating discrimination, particularly racism and xenophobia.
- Identification of the methods of intervention of civil society in order to remedy the problems of discrimination, racism and xenophobia towards migrants in Morocco.

B. SESSION 1. REGULATORY AND POLITICAL FRAMEWORK ON ACCESS TO JUSTICE FOR MIGRANTS IN MOROCCO

1. Session objectives

At the end of this session, participants will be able to:

- Understand and integrate the regulatory framework governing the right to justice for migrants in Morocco.
- Develop a critical analysis of the existing regulatory framework.



2. Focus

Focus

In recent years, Morocco has made efforts to ensure universal access to justice and has initiated a reform of the justice system aimed at its modernisation. One of the objectives of the National Immigration and Asylum Strategy (SNIA) was to 'provide legal assistance to immigrants' and to propose the creation of new legislation about migration.

Key points

Access to justice is granted for all persons by law. The same applies to the right to legal aid. However, in practical terms, the administrative situation plays a major role in people's access to justice.

3. Procedure

a) Presentation of the working session

The session begins with the trainer introducing the objectives of the session. This is to make it transparent to the participants and to situate the session in relation to the general context of the module. This working session aims to carry out an in-depth reflection on the right to justice from an integral point of view and to present the normative framework governing migrants' right to justice in Morocco. It also analyses how access to justice is informally linked to access to other aspects such as the administrative status of the person.

b) Group exercise and plenary discussion

Exercise objectives

- To understand the right to justice from a holistic perspective.
- To reflect on the link between the right to justice and administrative rights, as well as its importance for the most vulnerable migrants.
- To assess participants' knowledge of the legal and regulatory framework governing the right to justice for migrants.

To situate the content of the session and to continue to promote knowledge and exchange between the participants, in the main group, the facilitator opens the session by involving the participants in a critical debate on the existence of laws and their effective application. To launch the debate, the main questions are presented. The trainer



facilitates the orderly involvement of all participants. Particular attention should be paid to gender mainstreaming discussions in law enforcement.

The main ideas will be collated on a blackboard/sheet to provide a visual framework that can be used to introduce the rest of the session content.

(GROUP1) RIGHT TO JUSTICE

- What is the right to justice?
- Through what key elements and principles is the right to justice articulated?
- Do migrants have the right to access justice in Morocco? Under what conditions?
- Do you know what regulatory provisions regulate migrants' access to justice?
- Do you know what public policies have been put in place to support migrants' effective access to justice?
- Based on your personal and professional experience, do you know if the law is still applied?
- If there are difficulties for law enforcement, and if so, what are they?
- Are these difficulties the same for all migrants? What is the specific situation for women?

c) Overview of the reality of access to justice for migrants

Exercise objectives

- To reflect on the different dimensions and implications of the right to justice.
- To remind participants that access to justice is closely linked to the administrative situation.
- To reflect on the incomplete applicability of the regulatory framework on access to the personal and professional experience of participants.

The information collected in the blackboard/sheet allows the trainer to gather all the information shared and decide which aspects of the normative framework are best to dig deeper into.



REVIEW OF SDG16 TARGETS: PEACE, JUSTICE AND STRONG INSTITUTIONS²⁴

- 16.1. Significantly reduce all forms of violence and related death rates everywhere
- 16.2. End abuse, exploitation, trafficking and all forms of violence against and torture of children
- 16.3. Promote the rule of law at the national and international levels and ensure equal access to justice for all
- 16.4. By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime
- 16.5. Significantly reduce corruption and bribery in all their forms
- 16.6. Develop effective, accountable and transparent institutions at all levels
- 16.7. Ensure responsive, inclusive, participatory and representative decision-making at all levels
- 16.8. Broaden and strengthen the participation of developing countries in the institutions of global governance
- 16.9. By 2030, provide legal identity for all, including birth registration
- 16.10. Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements
 - 16.a. Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime
 - 16.b. Promote and enforce non-discriminatory laws and policies for sustainable development

In general, it should be noted that the legislative provisions in Morocco do not make access to justice conditional on the administrative situation of migrants. However, it is important to remember that the existence of a law does not mean the effective enjoyment of this right and this makes it necessary to put specific policies in place.

It is important to be aware of the existing regulatory framework and also to examine and recognise the gaps in the effective enjoyment of access to justice for these migrants according to their administrative status. It is also important to be aware of the existing barriers beyond legal norms. These barriers will be explored in Session 2.

²⁴ Sustainable Development Goals. Goal 16: Peace, Justice and Strong Institutions. Online version: <https://www.un.org/sustainabledevelopment/peace-justice/>



d) Theoretical presentation of the normative framework related to access to justice for migrants

Goals

- To introduce the context including the Moroccan normative framework regulating the access of migrants to justice.
- To review the main legislative provisions that regulate migrants' access to justice according to their administrative situation.

Based on the collective reflections carried out in the preliminary exercises, the trainer presents the normative framework that currently exists in Morocco.

Migrants in Morocco have the right of access to justice. The following texts favour these guarantees:

- Constitution of 2011. Articles: 22,23, 24, 30, 117, 118, 120.
- Law 27.14 on combating trafficking in human beings: specific guarantees of fair trial.
- Code of Criminal Procedures: general guarantees linked to a fair trial.
- It is important to highlight the advances contained in Law 103-13 adopted in 2018 to combat violence against women and which addresses violence against women and girls. This law guarantees the right of access to justice for any female victim of violence regardless of her condition.
- Similarly, it should be noted that the Ministry of Justice has issued three circulars intended for Crown prosecutors emphasising the importance of facilitating access to justice.

In addition, migrants and refugees may benefit from legal assistance including the provision of a lawyer, a translation service and exemption from legal costs under Article 1 of the Decree of 16 November 1966 relating to legal aid.

Despite these provisions, migrants' access to justice in Morocco is clearly conditional on their administrative status. Thus, although in theory anyone who is the victim of a crime on Moroccan soil can have access to justice services, it is only possible to file a complaint if they are in a regular administrative situation.



CONDITIONS FOR ACCESSING THE RESIDENCE CARD

Pending the adoption of draft law 72-17, the framework law governing the situation of migrants on Moroccan territory is *Law 02-03 relating to the entry and stay of foreigners in the Kingdom of Morocco, and to irregular emigration and immigration*²⁵.

In addition — and pending the approval of the bill relating to asylum — this question is officially addressed in a decree dating from 1957²⁶. Despite the opening of the BRA, refugee status recognition procedures depend almost entirely on the United Nations High Commissioner for Refugees (UNHCR). Once refugee status has been granted, applications are forwarded to the BRA, which may or may not recognise them²⁷.

Article 6 of Law No. 02-03, establishes that *'a foreigner staying on Moroccan territory, aged over eighteen, must hold a registration card or a residence permit'*²⁸. In principle, all foreigners are required to apply for a registration card, with the exception of agents and members of diplomatic and consular missions or persons staying on Moroccan territory with a travel visa, during the first 90 days of their stay. The duration of the registration cards varies between 1 and 10 years and is subject to renewal. The registration card can allow its holder to stay, study or work, depending on the approved modality. After a minimum of 4 years of proven continuous residence in the territory, a residence permit may be requested under certain conditions.

In the case of asylum seekers, once their request has been approved by the UNHCR and they are recognised as refugees by this agency, the request is transmitted to the BRA which, if their status is recognised, grants them a residence permit (this procedure is however complex, see Session 2 on obstacles and barriers).

Finally, children born on Moroccan territory are guaranteed the right to filiation under Article 3 of Law No. 37-99 which stipulates that the procedure must be carried out within a maximum period of 30 days after birth. However, barriers are also encountered in this area.

It should also be noted here that Morocco has made a major effort since the new Constitution of 2011 to guarantee the right to justice. The 'Charter for the reform of the judicial system' developed by an advisory body (High Authority for National Dialogue on the Reform of the Judicial System), chaired by the Minister of Justice, constitutes a roadmap for the work on six strategic objectives: a) consolidation of the independence of the judiciary, b) ethical improvement of the judicial system, c) strengthening of the protection of rights and freedoms by justice, d) improvement of the effectiveness and efficiency of justice, e) development of the institutional capacities of the judiciary; and f)

²⁵ Ministries of Justice (2003), Official Bulletin, Law No. 02-03 relating to the entry and stay of foreigners in the Kingdom of Morocco, and to irregular emigration and immigration, November 2003.

²⁶ Kingdom of Morocco. Decree No. 2-70-647, Modifying Decree No. 2-67-1266 of 29 August 1987 setting the terms of application of The Convention Relating to the Status of Refugees, signed in Geneva on 28 July 1951.

²⁷ PNPM (2017), *Status of access to services for migrants in Morocco*.

²⁸ Ministries of Justice (2003), Official Bulletin, Law No. 02-03 relating to the entry and stay of foreigners in the Kingdom of Morocco, and to irregular emigration and immigration, November 2003.



modernisation of the judicial administration. However, although the initial timetable foresees the implementation of this reform between 2014 and 2020, to date the reform of the justice system remains incomplete. These last years have also seen the birth of a new legal arsenal which has made it possible to harmonise Moroccan legislation with the new constitutional principles.

The Constitution has also served as a beacon to guide a new approach to the migration issue, embodied in the National Strategy for Immigration and Asylum (SNIA), with the development of numerous provisions to guarantee the access of migrants and refugees to basic rights, including the right to justice.

C. SESSION 2. OBSTACLES, BARRIERS AND DISCRIMINATION IN ACCESS TO JUSTICE FOR MIGRANTS

1. Session objectives

At the end of this session, participants will be able to:

- Identify the obstacles, barriers and discrimination suffered in access to justice, taking into account the intersectionality of discrimination, based on 'race' and sex.
- Understand the consequences of barriers to access to justice on the enjoyment of other rights, both on an individual and societal level.
- Be proactive in finding solutions and proposing improvements.

2. Focus

Focus

Migrants face multiple barriers to accessing justice services. Certain practices are necessary because of the non-applicability of the regulatory framework in force.

Key points

Obstacles and barriers to the realisation of the right to justice depend on many factors that intersect with migrant status, namely: administrative status, sex, origin, age, family situation or state of health, among others.

The administrative situation is a key element in the enjoyment of the right to justice. Moreover, the structural limitations in the protection systems also affect the access of the most vulnerable people to this right.



3. Procedure

a) Presentation of the working session

The trainer presents the objectives of the session. Although there is a common framework that governs access to justice, real access depends on many factors, including administrative status, origin, age, sex or state of health. This session explores how these different elements interact to determine access to justice. More generally, this section is intended to highlight barriers and their consequences for access to other rights and for individuals and society.

b) Group exercise on barriers to access to justice for migrants

Exercise objectives

- To discover the discriminatory practices that some migrants and refugees face, including intersectional discrimination, in accessing justice in Morocco.
- To perceive the psychological difficulties related to the hardships experienced by the migrant population.

The session begins with a participatory group exercise to reflect on the different profiles that make up the migrant population in Morocco and to identify the different situations of vulnerability to which they are exposed and the difficulties in accessing justice. The trainer creates small groups and each group receives a sheet with the profile of a migrant person (see Annex 6 with all the sheets). Depending on the characteristics present in the sheet, each group is invited to think about the different risks this person faces, the possible obstacles encountered to guarantee their right to justice and what situations of discrimination they may be exposed to during their progress through the institutions, as well as the risks associated with this lack of justice, particularly in terms of protection.

Example Sheet 1

Gender: Female

Age: 32 years old

Administrative status: Without documents. Irregular administrative situation

Place of residence: Tangier

Native country: Cameroon (Anglophone)



Family situation: Single, mother of two children
Living conditions: Precarious, without fixed income
Religion: Christian
Problem: She lives with her two children in an apartment rented without a contract. Overnight, her landlord demanded that she pay double the rent. Furthermore, when she refused, he made threats, including sexual threats.
To complete
Obstacles to guaranteeing the right to justice: <i>For example, as she does not have a regular administrative situation, she cannot in principle lodge a complaint. In addition, she is exposed to obstacles such as the language barrier, lack of trust in the authorities and fear of deportation because she does not have documents. She may also be afraid of reprisals.</i>
Potential situations of discrimination: <i>For example, racial or xenophobic discrimination on the part of agents or prejudice because she is a sub-Saharan single mother.</i>
Risks of lack of access to justice: <i>For example, lack of protection and risk of violence or return, risk of staying on the street with the children, psychological effects of threats, fear of staying in the neighbourhood, isolation in her community, etc.</i>

The trainer allows time for a group discussion and preparation for the exercise. Once the discussion is finalised, the teams should present their conclusions. Subsequently, a debate in the main group will be led by the trainer to mention the risks faced, the obstacles to guaranteeing the right to justice and the possible discriminatory acts identified which hinder the effective enjoyment of the right to justice.

c) Plenary discussion around access to justice for migrants

Goals
<ul style="list-style-type: none"> • To explore the causes of the barriers faced by migrants according to the different profiles. • To make participants aware of the significant effects of barriers to access to justice on the lives of migrants. • To propose recommendations to facilitate equal access to justice.

The collective discussion makes it possible to identify the origin of the barriers faced by migrants according to their profiles and certain characteristics such as age, family situation, administrative situation, sex or country of origin. The trainer facilitates a collective reflection on all the possible barriers and discriminations that limit access to justice, as well as on the associated risks.



Secondly, the debate can focus on the types of intervention that can be undertaken to better ensure the rights of migrants. Specifically, it could address the needs in terms of improving legislation and the role that civil society actors could play to promote access to justice for migrants in Morocco.

d) Overview of the reality of migrants' right to justice

Goals

- To reflect on the different dimensions of the right to justice.
- To explore the causes of the barriers faced by migrants depending on the different profiles.
- To emphasise the multidimensional nature of the discrimination suffered by migrants.
- To reflect on intersectional discrimination, especially that suffered by migrant women.
- To reflect collectively on actions to promote access to justice, at the institutional and societal level.

The trainer uses the wrap-up phase to gather all the information from the plenary discussion. The opportunity can be taken to synthesise and summarise the information on a large sheet of paper. This information can be completed during the theoretical explanation phase.

It is important to remember in this sequence that the real enjoyment of rights and in particular access to justice, depends not just on the conditions of access in legal terms, or on the administrative situation of the person, but also on other factors related to stereotypes and prejudices against foreigners which are the basis of racial discrimination, including intersectional discrimination.

Indeed, discrimination is often latent, diffuse and based on multiple criteria. It is linked to prejudices and stigmatisations in which racial and/or ethnic origin are combined with gender and others such as the socio-economic difficulties of populations or the reputation of the residential environment. Any policy to combat discrimination must be transversal and must take into consideration the racial question, the gender question and the territorial approach.

Thus, if we consider the different vulnerability factors, we can identify different categories according to administrative status, family situation, sex, age, country of origin (and in particular the language spoken), ethnicity or place of residence (urban or rural).

Moroccan public policy for combating discrimination against migrants is designed in a cross-cutting manner and takes into consideration the migration issue and the territorial approach, but it is important to make a critical analysis and to suggest that participants



think of alternatives for allowing the effective enjoyment of access to rights. The aim is to remove progressive barriers that may prevent a person from accessing their rights, including justice services to ensure protection of the person and redress of rights.

e) Presentation of the theoretical framework around the barriers faced by migrants in exercising their right to justice

Goals

- To identify the main obstacles and barriers for migrants' access to the enjoyment of their rights, including their right to justice.
- To identify the discrimination suffered by migrants, including intersectional discrimination.

When migrants want to access justice services, they may face different types of barriers and obstacles. The limits to the enjoyment of their rights are linked, on the one hand, to certain structural weaknesses of the judicial system, which can also affect the Moroccan population; on the other hand, they are linked to the situation of vulnerability or extreme vulnerability in which many of these people find themselves and, finally, certain discriminatory situations concerning individual practices which are not in accordance with the principles of the laws in force.

Numerous studies highlight the various obstacles and barriers faced by migrants in Morocco (see table with reference documents below). Below is a description of some of the main obstacles faced by migrants in accessing justice, as described by the available documentation.

Lack of information and lack of application of standards

In general, there is a lack of information about the rights of migrants at the level of duty-bearing institutions, civil society in general and migrants themselves. Indeed, there is a general belief that irregular migrants cannot access the courts or even the police.

The obstacle of administrative documentation

Although regular administrative status is not a prerequisite for access to justice under Moroccan law, in practical terms the lack of a residence permit represents an obstacle, particularly when filing a complaint, since some courts ask for this document before a person can be heard.



Moreover, the reality is that people in an irregular administrative situation mistrust the authorities and fear of being expelled from the country, which greatly affects their ability to exercise their rights, particularly when the police or justice system are involved.

The two administrative regularisation processes carried out in 2014 and 2018 generated a strong response from irregular migrants. Beyond the regularisation process, people who have entered Moroccan soil irregularly have little chance of regularising their administrative situation.

Regularisation procedures also remain complex for refugees and, in July 2020, only half (51%) of heads of households had a residence permit²⁹.

The absence of a legal administrative situation clearly affects not only access to justice but also access to other rights: health, education, work and/or protection, among others. In addition, migrants, and in particular those in an irregular administrative situation, are exposed to fear of expulsion or internal displacement to other cities in the South. On the other hand, and although the law does not require minors under the age of 18 to have a residence permit, the absence of regular administrative status exposes migrant children to other vulnerabilities such as deportation or detention or difficulty in accessing health or protection services.

Moreover, with regard to the registration of children born in Morocco, the lack of information on the procedures or the difficulty of accessing them (for example for women living in the forests) makes it difficult to carry out the procedure. In the event of expiry of the 30-day period stipulated by law, there are remedies, but these are, however, long and complex procedures³⁰.

Difficulties of access linked to the conditions of vulnerability of migrants: language and economic resources.

Migrants face numerous obstacles related to their precarious conditions as foreigners. In addition to the knowledge of the judicial system and the rights that has already been mentioned, the main barrier to accessing justice concerns language, especially in services that are generally Arabic-speaking.

In addition, access to justice often requires economic resources to cover administrative costs or the hiring of support services such as lawyers in the case of unavailability. This

²⁹ HCP (2020). Survey on the impact of Covid-19 on the socio-economic and psychological situation of refugees in Morocco.

³⁰ See Annex 4 with details of procedures for registering children in the civil registry in Morocco.



is often impossible for migrants in vulnerable situations. Even paying transport or communication costs to get to or contact the various players involved can be problematic.

Some profiles are especially vulnerable, in particular separated or unaccompanied children who find themselves in situations of extreme vulnerability and who have more difficulty knowing the resources available, understanding the procedures and accessing the same services without accompaniment. The first barrier is the Criminal Code, which does not recognise children aged between 16 and 18 as being in a difficult situation.

In addition, migrant women are more frequently confronted with violence and have more difficulty in contacting these services, especially when they also have to take care of their children.

Limitations in specialised services and in protection and support structures for accessing the judicial system.

A major obstacle to migrants' access to their rights is linked to the structural weaknesses that the judicial system presents, particularly in its capacity to adapt to vulnerable people and the lack of available legal assistance services. This is more serious when the victim needs protection throughout the judicial process, as in the case of female victims of violence or trafficking, who will need to be protected and assisted during the process.

In this sense, Law 103-13 adopted in 2018 to combat violence against women provides for a strengthening of the protection of female victims of violence. However, and despite the progress made in recent years and the planned creation of multifunctional spaces (EMF), resources for the care of victims are still limited, mainly in terms of accommodation. This is even more visible in the case of victims of trafficking, where the complexity of care increases.

Similarly, the child protection policy (PIPPEM) mentions migrant children, but the development of territorial units for the identification, referral and follow-up of cases is still very weak and their level of development depends on the regions. As a result, migrant children who are victims of violence will have specific barriers to access justice, given the lack of protection services.

The fear that the community will be stigmatised

Irregular migrant women who are victims of violence may not be able to report these cases to the police or the courts, for fear that their 'response' will have negative consequences for the whole community, in terms of the action of the security forces, such as mass arrests and deportations, but also in terms of stigmatising the whole community. Indeed, when the aggression is committed by a member of the victim's community,



there is fear of the stigmatisation of the entire community and not only of the individuals who committed the offence.

Moreover, when it comes to associations, some associations do not know who to contact and how to report cases of violence and violations of the rights of victims, particularly foreigners, without having to involve their association and avoiding possible reprisals.

Reference documents

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D. SESSION 3. INVOLVEMENT OF INSTITUTIONS AND CIVIL SOCIETY IN PREVENTING AND COMBATING DISCRIMINATION, PARTICULARLY RACISM AND XENOPHOBIA

1. Session objectives

- To familiarise the participants with the role of institutions in preventing and combating discrimination, particularly racism and xenophobia.
- To identify the different aspects of the intervention of Moroccan institutions in preventing and combating discrimination, particularly racism and xenophobia.



- To familiarise the participants with the role of civil society associations in preventing and combating discrimination, including intersectional discrimination, particularly racism and xenophobia.
- To identify the modalities of civil society intervention in order to remedy the problems of discrimination, including intersectional discrimination, racism and xenophobia towards migrants in Morocco.
- To familiarise the participants with the role of institutions, security bodies and civil society in preventing and combating discrimination, particularly racism and xenophobia, to promote the effective enjoyment of rights.

2. Focus

Focus

The complementary nature of the obligations of institutions, including the security forces, and the responsibilities of civil society to implement actions that serve to prevent discriminatory acts and practices against migrants and the protection of migrants, including facilitating access to justice.

The institutions have obligations in monitoring and promoting the rights of migrants. Civil society has a role of responsibility and plays a role of lobbying and advocacy, as well as support for victims of racist and xenophobic incidents. They are also key players in the creation of alliances.

Key points

It should also be noted that civil society is a key player in the preservation of the rights of migrants in Morocco. The groups mentioned above are able to work in parallel and/jointly with national institutions for preventing and combating discrimination, including intersectional discrimination, and in particular, racism and xenophobia against migrants in Morocco. However, they also play a role in facilitating access to justice and providing support throughout the legal chain until the outcome of the case.

3. Procedure

a) Presentation of the working session

This session is focused on the initiation of reflection and planning of the intervention of Moroccan institutions for the prevention of and fight against discrimination, particularly racism and xenophobia, as well as the role of civil society in terms of advocacy, lobbying and consultation. To this end, the trainer explains the importance of the technique of action planning and consultation between intervening organisations to the participants.



b) Group exercise on the actions to be implemented to combat racism and xenophobia

Goals

- To place the participants in a situation where they make decisions in relation to the public policies to be implemented to combat and prevent racism, xenophobia and racial discrimination.
- To understand the link between the roles of institutions and civil society.

This involves doing group work in order to plan actions by civil society and public institutions to improve access to the rights of migrants and prevent discrimination, including intersectional discrimination, particularly in the area of access to justice. To do this, two large tables and chairs are made available to the participants along with a large sheet of paper indicating the two main lines of planning (Stop or Start).

To begin the activity, the trainer divides the participants into groups: some groups representing government departments and another representing civil society organisations. Subsequently, the trainer asks the participants to think of an action in the areas, in accordance with their mandate, to respond to each of the following elements: STOP (something you plan to stop doing); and START (a thing to start doing). Each group is called upon to lead 15-minute internal discussions and propose planning on the intervention in terms of preventing and combating discrimination, including intersectional discrimination, particularly racism and xenophobia. Afterwards, each group appoints its spokesperson to present the planning of the above-mentioned elements for 7 or 8 minutes.

c) Plenary discussion around actions to combat racism and xenophobia in the field of justice

Goals

- Reflect collectively on actions in the area of preventing and combating discrimination, particularly in access to justice.
- Identify the complementary role between institutions and civil society in upholding a society free from discrimination.

The first part of the debate will be devoted to the presentation, discussion and analysis of the interventions of each spokesperson. Each group will present their ideas regarding the planning of the intervention of the bodies involved in preventing and combating discrimination, including intersectional discrimination, particularly racism and xenophobia. It is important to justify the choices of the proposed plans.



Secondly, the participants must reflect on the complementary nature between the actions proposed by the institutions and those proposed by the civil society group.

a) Synthesis of the actions to combat racism and xenophobia in the field of justice

Goals

- To establish the group's knowledge and point out the synergies between institutions and civil society in Morocco.

The synthesis phase can be used to bring together all the proposals put forward by the different groups and to indicate how civil society and institutions could ensure their implementation. During this phase, the trainer should emphasise the complementary role of civil society and institutions and the different ways in which they can work together.

d) Presentation of the theoretical framework around actions to combat racism and xenophobia in the field of justice

Goals

- To consolidate the vision of complementary roles between social society and institutions.
- To identify the main actions and competences of the institutions.
- To present actions carried out by civil society organisations in the field of promoting the rights of migrants, particularly in access to justice.

Institutions have important competences in:

- aligning national regulatory frameworks with international commitments;
- defining public policies aligned with the law and international guidelines in the areas of human rights;
- detecting and identifying acts and practices of discrimination against migrants;
- implementing resources for the protection of vulnerable people in particular children, including migrant children;
- raising awareness of these practices and acts;
- preparing diagnostic studies on discrimination, including intersectional discrimination, particularly racism and xenophobia towards migrants in Morocco;
- developing mechanisms for preventing and combating discrimination;
- coordinating working meetings and establishment of partnerships with civil society associations;
- establishing sex-disaggregated data collection mechanisms;
- evaluation and transparency.



For example, the work developed by the Moroccan institutions as part of the Project '*Living together without discrimination: an approach based on human rights and the gender dimension*', is an example of the work of the institutions in the prevention and combating racism and xenophobia in different aspects: revision of the legal framework, improvement of complaint mechanisms, training of public officials, support for civil society and raising awareness of the population in general and media professionals especially.

Efforts have been made by the Moroccan government in terms of access to justice, including in terms of traceability of the course of complaints filed. In this sense, the 'E-Justice' programme launched in 2011 by the Ministry of Justice, has promoted the gradual digitalisation of legal proceedings, from the filing of the complaint to the receipt of the judgement. The 'e-Complaint' site put online in Arabic and French, is accessible from the official portal of the Ministry of Justice 'www.justice.gov.ma' is also a good example.

On the other hand, we must be aware of the importance of the involvement of civil society associations and their key role in the implementation of the Moroccan migration policy of 2013. Broadly, the role of civil society includes:

- detection and identification of acts and practices of discrimination, including intersectional discrimination, against migrants (see module on complaint mechanisms);
- the creation of awareness campaigns for this purpose;
- the adoption of well-defined influence strategies aimed at preventing and combating discrimination, particularly racism and xenophobia (lobbying and advocacy, legal support, legal action, building alliances and others);
- data collection and preparation of alternative/parallel reports;
- consultation with institutions and development of political impact campaigns;
- support of vulnerable people throughout the chain of protection and the legal circuit to ensure the elimination of barriers. Organisations therefore play a very important role in supporting and directing migrants to legal services or in carrying out administrative procedures such as the registration of new-born babies.



The Global Compact for Migration and Civil Society

Resolution A/71/L.58 on modalities detailing the process leading to the adoption of the Global Compact stresses that the process must be open and inclusive and emphasises the importance of taking into account the contributions of all significant stakeholders, including civil society (paragraph 6). Furthermore, in paragraph 7, it 'emphasises the importance of contributions that take into account different realities, and therefore encourages effective contributions from and the active participation of all relevant stakeholders, at all stages of the preparatory process and at the conference itself, including by the sharing of best practices and concrete policies, for example, through the convening of national multi-stakeholder consultations and participation in global, regional and sub-regional platforms'³¹.

Morocco has a very dynamic civil society. However, there is still work to be done for Moroccan associations to integrate migrants into their services in a transversal way. With regard to specific care for migrants, IOM and UNHCR are establishing strong partnerships with civil society on the ground to provide assistance to migrants and capacity building for civil society. Other bilateral cooperation agencies and the EU also finance incentives and services to ensure the support and protection of migrants. In addition, various organisations of migrant people have developed in recent years in the country, and they are working to defend their rights, including access to justice. Here are some examples that illustrate the role of civil society:

- Organisations play a key role in raising awareness. For example, through awareness caravans aimed at raising awareness of the rights of migrants. GADEM has developed a guide for migrants and people working in the field of migration³².
- The Rights and Justice association has launched a Legal Aid programme for Refugees in Morocco (AJRM). This project is funded by the Euro-Mediterranean Foundation for Human Rights Defenders (FEMDH), the British Embassy in Morocco, the Arab Fund for Human Rights and Assistance to Refugees in Africa and the Middle East (AMERA) UK.
- UNHCR provides free legal assistance to officially recognised refugees and asylum seekers whose background meets certain criteria (sexual assault, theft, harassment or threats).

31 IOM, Global Compact for Migration: Civil Society Engagement. Online version: <https://www.iom.int/global-compact-migration-civil-society-engagement>

32 GADEM. Practical legal guide on the legal framework relating to the status of foreigners in Morocco. Online version: <https://gadem-guide-juridique.info/>



MODULE V. Training facilitation techniques (pedagogy and andragogy)

This last module presents a series of tools related to instructional design for the facilitators in charge of delivering the training. It is thus a transversal module and is intended to better facilitate the delivery of the four modules and hence the transmission of knowledge and learning throughout the training cycle.

1. PRIMARY OBJECTIVE

To familiarise the participants with the principles of instructional as a way of promoting transmission, learning and moderation.

2. SPECIFIC OBJECTIVES

- To clarify the pedagogical approach and the andragogical approach in a learning path.
- To explain the foundations and fundamental principles of andragogy.
- To identify the role of the trainer in a training course based on the andragogical approach.
- To become familiar with the andragogical delivery methods of adult training.
- To master tools and methods for needs analysis and evaluation in the field.



3. THE FUNDAMENTAL STEPS IN THE ANDRAGOGICAL PROCESS

Step 1	<p>At the start of each session, the trainer must announce and explain:</p> <ul style="list-style-type: none">• The close relationship between the content and the objective of each session.• The relationship between the content, the objective of the session and the expected impact on the educational practices of the trainees.
Step 2	<p>The trainer is also required, at the end of each session, and during the session, to organise a time for communication and feedback to verify the achievement of the announced objective. This verification is done by questioning:</p> <ul style="list-style-type: none">• The acquisition of knowledge specific to andragogy.• The acquisition of practices specific to andragogy.• The acquisition of educational methods specific to andragogy.
Step 3	<p>The trainer:</p> <ul style="list-style-type: none">• capitalises on the participants' achievements.• strengthens the participants' weak points.

4. ANDRAGOGY: DEFINITION, FOUNDATIONS, THEORETICAL CONTRIBUTIONS AND HISTORICAL OVERVIEW

A. Definition, complementarity and difference between andragogy and pedagogy

The definitions

Andragogy

The term first made an appearance in 1833 in Germany, where it was coined by the German Alexander Kapp. Andragogy is the method used for adult education. The origin of the word comes from the ancient Greek language, aner or andros which means man 'the male' and agogos which means 'guide'. Andragogy is the set of techniques necessary for the dissemination of knowledge and education in an adult environment. The art of teaching, the art of transmitting knowledge, teaching methods for adults.



Pedagogy

Etymologically the term pedagogy means: science whose object is the education of children, this meaning is replaced by another more recent one which is educational method. The concept of pedagogy finds its origin in the Greek language which means child, but also to lead, lead, raise, these terms bring us back to the action of accompanying the participants. Pedagogy is a pairing formed by an adult who has the role of transmitting knowledge and a child in a situation of learning the knowledge transmitted.

B. The theoretical foundations of andragogy and historical overview

Adult training has become a necessity in the context of industrialisation and the rapid development of skills in this field. Thus, andragogy is part of four schools of learning which are:

Behaviourism	This centres the action on the humanist dimension. Its founders are Thorndike, Hull, Pavlov, Tolman, Watson, Guthrie and Skinner. The latter describe the operation of learning as a process of changing the behaviour of individuals through external exhortations.
Cognitivism	This makes the intellect the focus of learning. Its founders are Koffka, Piaget, Kholer, Gagné, Lewin, Ausubel and Brunner. The concept of learning is seen by the founders of cognitivism as a result of a set of mental processes of internal changes by which individuals give meaning to stimuli.
Humanism	This is an approach that makes the social individual the focus of learning. It was developed by Maslow and Rogers. This approach sees the learning process as a personal process of potential self-realisation, which takes into account both physiological and fundamental needs for self-fulfilment in a simultaneous manner.
Social learning	This emphasises life experience and experiential learning. It was developed by Bandura and Rotter. This approach sees learning as a consequence of social and personal interaction with others, where observation and comparison with other members of the group in society are crucial for the development of people and individuals.



C. Place, educational methods and role of andragogy in adult education

Andragogy takes its legitimacy in the course of adult training through its educational methods which work on aspects and determinants specific to the adult person, which are the motivation, the objective or the goal of the training.

About motivation

Andragogy is built on the four schools of thought, by trying to fit them into educational approaches and steps. Thus, for behaviourists, this is a training facilitation approach, and we can consider that the motivations for involvement in a training approach may be external, but that they are also of an internal cognitive nature and respond to a personal need. Humanists opt more for a combination of affective and cognitive needs, while practitioners of social learning emphasise personal and social interactions, the environment and social behaviour between individuals and groups.

Objective/goal of the training

The objective or purpose of adult education has also been a subject much discussed by the different schools of thought in andragogy, but they are all part of the desire for change and the development of the person and the individual. However, above all it is seen as a field of application and change of personal and professional attitude.

Behaviourists support the idea that adult education aims at attitude change through aspirational orientation, whereas cognitivists see the objective of adult education as the development of abilities. For humanists, learning is a personal act aimed at realising the individual's self-potential, ranging from the most basic needs of a physiological order to the most elaborate needs involving self-fulfilment.

Performance

Behaviourists emphasise performance to better understand and better manage the personal, the professional and the social. Humanists are distinguished by an approach that is much more in line with increasing the empowerment and self-regulation of people and individuals. The interactionists at the helm of the 'social learning' school of thought think in terms of behavioural changes and acquiring the strength to adopt new roles and new behaviours.



D. The degree of practicability of andragogy in different contexts

The question of the practicability of andragogy or the implementation of a training process for adults in several contexts has long been an issue. In the meantime, andragogy has proved its worth in all professional fields. The practice of instructional has centred on the notion of need, personal development, and the impact on the initial situation for a positive change.

Need as a determinant of adult education

Depending on the specific needs of each context, one of the dimensions can be exploited and highlighted more than the others, however the three dimensions remain essential for the success of adult education. Andragogy can be an educational approach in all contexts and all forms of professional, social or personal training.

Skills as a determinant in adult education

Based on the theoretical foundations of adult education, these aim primarily at providing adults with new theoretical knowledge and skills for social and professional development. This is done by exploiting human capital as a source and factor in the evolution of society. Thus, the academic approaches in the field of adult education cast a wide net and cover all areas. The currents of thought that forge this discipline are functionalism, humanism, critical literacy or awareness and reflexivity.

Personal development as a determinant of adult education

The main thrust of these approaches is to focus on the notion of human capital in personal, social and professional development. The aim of these approaches is the development and consolidation of skills, of interpersonal, social and professional competences, which are intended to create a change in the 'learner' that allows them to adapt easily to the new demands of everyday life and of their environment.

The exploration of the human as a determinant of adult education

The practicability of adult education / andragogy has become a strong part of the functionalist approach as a major paradigm for change. It was constructed in the functionalist economic domain. However, it focuses not only on the acquisition of knowledge by people, but also on the utilisation of people, so that the idea that the practicability of adult education is limited to specific areas is unfounded. Andragogy tries to change people first and then give them the necessary tools that can help them in their progress as they develop in new areas and in new professions and above all enable them to carry out new tasks.



5. MILESTONES AND FORMATIVE SPIRIT OF ANDRAGOGY

1. Milestones and formative spirit of andragogy

1.1. Awareness as a determining factor in adult education

Awareness of self and the Other

The spirit of andragogy also firmly aims at making people aware of their considerable capacity for adaptability and their capacity for continuous learning and renewal in all areas of life. The awareness-raising approach in the instructional approach finds its origins in the humanist current which highlights the goodness of the human being, as well as in the awareness-raising educational approach which was developed and practised by the Brazilian educator Freire (1973) during his work with discriminated minorities.

Awareness in the andragogic approach

The Brazilian educator Freire differentiates between 'banking' education, which aims at developing knowledge and skills that primarily exploit the cognitive aspect without impacting on the emotional aspect, and 'liberating' education. This theory was based on the distinction between oppressed groups and oppressive groups, hence the interest of the dimension of reflexivity in andragogy / adult education.

1.2. Reflexivity in andragogy

The dimension of reflexivity in andragogy aims to act on behaviours through reflection and analysis of cultures and resistance to change in certain communities or groups that quite often accept and normalise behaviours that have been arbitrarily acquired and integrated.

Reflection occupies a large place in adult education / andragogy, and its foundations are in the work of Brookfield (1991). It is defined as a process of change with three stages:



The stages of reflection

Step 1	<ul style="list-style-type: none">• The first step is to make learners aware of their accepted and integrated reality as evidence or a constant postulate; whether this reality is personal, social or professional, it can be questioned, questioned and reflected in a way reasoned. The objective is to reject or reformulate a set of arbitrarily acquired practices or ideas.
Step 2	<ul style="list-style-type: none">• The second stage is where learners think of alternatives, of other perspectives for action and behaviour in order to free themselves from a set of practices specific to their hared sense of self which is itself built on ideological ideas or cultural heritage. This step advocates the construction of a new vision and approach to the learner's reality.
Step 3	<ul style="list-style-type: none">• In the third stage of this process, learners manage to detect the totalitarian character of a set of values, practices or gestures in the personal, professional and social domain.• The awareness of certain behaviours through reflection impacts the human in their personal and social dimension and thus impacts their daily life.

2. The basic principles of andragogy

The fundamental principles of andragogy are:

The choice of participation and involvement of the people being trained

According to the founders, Knowles, Holton and Swanson, trainees need to understand the usefulness of new skills and knowledge for their professional and personal progress. Hence, they need to become aware of the advantages linked to their new learning but also the distrust that can be caused by their ignorance.

Considering the personality and uniqueness of the learners

The need for self-affirmation is a determinant of investment in adults, and the recognition of their abilities is also a determinant of their involvement and adherence



Respect for learner autonomy and self-management

Respect for the autonomy and self-management of learners in a training course for adults is fundamental. They will be the architects of their training process, based on their own rhythms and needs.

Considering the skills and professional experiences of learners

Eduard C. Lindeman (9 May, 1885-13 April 1953), one of the pioneers of adult education, explains in his book 'The Meaning of Adult Education' that the learning of knowledge is not limited only to school knowledge, but that life is a source of multiple forms of knowledge. These forms of knowledge should be taken into consideration in adult education courses. Thus, any training intended for adults must start from their experience, their initial situation, and the engineering of the training must be identified with it, hence the importance of using methods of group participation, problem solving and role playing (simulations).

The relevance and functionality of learning

The quality of the learning of new skills or knowledge is evaluated by its impact on the experience of the people being trained as well as on their professional activities. Learning must respond to a specific and predetermined need. It must act in the context of an immediate change, hence the importance of its functionality, and the change must be felt in the day-to-day professional management and in the professional career development of the people receiving training.

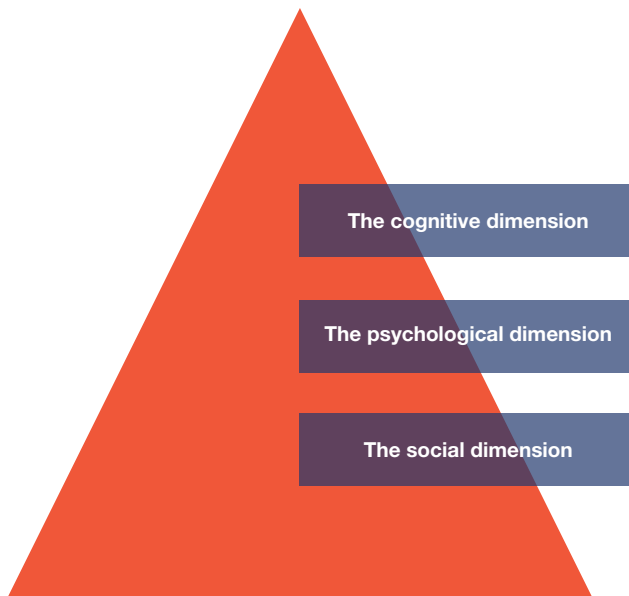
The importance of involvement and motivation

For Malcolm Shepherd Knowles, founder of andragogy in opposition to pedagogy, motivation is essential in adult education, and it even constitutes one of the fundamental oppositions with pedagogy which is constructed in a linear way over time in a school context. The motivation for the learning of the people trained comes from a reality and a tangible and palpable professional or personal need. Professional reasons are usually the acquisition of a new skill for better professional management, a promotion or a salary increase. The personal or subjective reasons are self-esteem, personal satisfaction, better quality of life or social advancement. Motivation in adult training is the initiator of training requirements.



3. The three educational dimensions of andragogy / adult education

Andragogy as an educational approach for adults takes into consideration the three essential dimensions specific to the person in its learning process. These are:



Andragogy in its approach takes the person as a whole. At their own level, these three dimensions each constitute the foundation of educational approaches to adult education. Taking the person as a whole is one of the levers of adult education. There are several reasons for this:

- The **first reason** is that the person in adulthood needs to confirm themselves as an autonomous and independent person, capable of assuming their choices and decisions.
- The **second reason** is the adult person's possession of professional experience, which is also a source of knowledge and self-affirmation. This professional experience is also a resource to be invested in the framework of training, because the needs and objectives are determined primarily to strengthen and consolidate it.



- The **third reason** is that the person has a life and a social allegiance that influences them and somehow predetermines their behaviour within the group and within society.

It is also said that allegiance can also be a brake or a facilitator of personal, professional and social advancement. Hence the interest in working on the interactions of all these dimensions in adult education, which aims to change the person at the personal, professional or social level. Adult education must act on the possible resistance to change on all three levels.

6. THE PLACE AND ROLE OF THE TRAINER IN THE ANDRAGOGICAL METHOD

1. The place and role of the trainer

Theorists in andragogy establish a horizontal relationship between the person who trains and the people who are trained. This person is essentially a guide, facilitator, unifier. The main role of the teacher or trainer is to create the right climate for the inculcation and appropriation of knowledge and skills beyond the structuring of the learning experience.

The teacher or trainer is the main dynamo of the training. This person is the relay between the training and the learner; they facilitate the learner's personal development as well as the acquisition of new knowledge and skills.

The teacher or trainer is part of a process of transition and emergence of new behaviours and new roles for learners.

Ultimately, their role is also that of a friend/companion.

2. The trainer and the choice of educational methods

It is also up to the trainer to choose the educational methods as well as the choice of the method of facilitation. Their role in this area is based on different aspects:

- The choice of methods.
- Accompaniment, personalisation, speech and space management.
- The preparation of identification and analysis tools specific to the training.
- The trainer must also prepare the methods and tools for evaluating and capitalising on skills.
- The trainer must also do some introductory work in the practice of andragogy.



The choice of methods

Depending on the content and the objective, the trainer must combine a set of methods to achieve their objective. The educational methods will be chosen according to their usefulness and relevance in the training process. The same applies to verifying the applicability of the practical methods to the cases studied. As in any training course, the trainer practices the inductive method, the deductive method and the interactive method. They can also make use of differentiated educational methods such as personalisation of training, individualisation, self-study, or distance learning. In each choice of method, the trainer must take into consideration:

- The feasibility of the methods.
- The applicability of the methods.
- The relevance of the methods.

Accompaniment, personalisation, speech and space management

The trainer manages proximity and interactivity with the group throughout the training. Any classic positioning that refers to the notion of class must be avoided.

The preparation of identification and analysis tools specific to the training

The trainer must also prepare the tools for identifying and analysing professional needs:

- Help with self-assessment, self-diagnosis, self-regulation:
- Feedback, identification of needs, orientation.
- Positioning in the context of training.
- The diagnosis of the trainees' individual needs in relation to the content of the training.
- The integration of needs into the content of the training.

The trainer must also prepare the methods and tools for evaluating and consolidating skills

- Evaluation and its role in training.
- Evaluating and consolidating skills: preparation of the guide.
- Feedback, identification of new skills, consolidating.
- Assessment as part of training.
- Self-assessment as part of training.
- Consolidating new skills.



About the role of the adult learner

According to the different approaches of andragogy, the role of the learner is essential: learners actively participate in their own learning. By virtue of their application and their adherence to their training, it acts on their professional and behavioural experiences. They impact their own cognitive and intellectual development. They develop a capacity for self-regulation and autonomy of choice.

7. METHODS AND TOOLS FOR IDENTIFYING AND ANALYSING PROFESSIONAL NEEDS

1. Educational methods of facilitation in andragogy

Andragogy can make use of pedagogical methods such as the inductive method, the deductive method, simulation, role-playing games and others. However, it differs from pedagogy by the principle of the involvement of the participants, by the empowerment of the learning process and the personalisation of courses.

As andragogy is based on the principle of personalisation, involvement and motivation, it is distinguished in its approach by three educational methods:

1.1. Self-assessment / self-placement

- Self-assessment is a method that puts the learner at the centre of the learning action.
- Self-assessment allows learners to position themselves freely and autonomously in measuring the degree of their knowledge in a field.
- Self-assessment allows learners to express their opinion on learning. Self-assessment is a way of focusing on yourself without outside advice from anyone else.
- Self-assessment allows learners to focus their starting and ending points on a line of training so that they can bring themselves up to speed with the knowledge. Self-assessment requires a form of rigour and objectivity on the part of learners. Self-assessment makes them responsible.

Learners from their own results.

Self-assessment quite often makes use of an educational tool which traces the relationship with the objectives of the training and sets the degree of the learner's relationship with knowledge.



The elements of the self-assessment:

Training objective Knowledge/skills	Not acquired	In process of acquisition	Acquisition	Other	
Training objective Knowledge/skills	No knowledge	Initiation	Familiarisation	Mastery	Other

1.2. Self-diagnosis / reflective diagnosis

Etymologically, diagnosis comes from the Greek word diagnosis. The diagnosis is a set of approaches and tools to identify tangible and verifiable indicators of the strengths and weaknesses of a project or an organisational system. There is also diagnosis by either self-diagnosis or reflective diagnosis, which is done primarily and almost exclusively by the people affected by the difficulties or dysfunctions. This last form of diagnosis is one of the foundations of the andragogical approach or learning in adults.

- Self-diagnosis or reflective diagnosis is built on the principle of change, so it works from an approach of reversing existing practices and behaviours in favour of new ones that are more appropriate and more operational.
- Self-diagnosis allows the learner to make a free and individual distinction between the presupposed real or false causes of a professional difficulty or a malfunction of a system.
- Self-diagnosis allows learners to respond to their current situation of skills or knowledge in the sphere of knowledge or expertise (behavioural/behaviours).

Key points

If a diagnosis is carried out by an expert, then it is referred to as a 'diagnosis on'. There is also a collective or partnership diagnosis that is done with the people directly concerned, that they present their opinion and their analysis as well as the possible solutions for the changes envisaged.

2. The practice of self-diagnosis

The self-diagnosis / reflective diagnosis is conducted by the people concerned at several levels:



Level 1: critical analysis of the context and professional practice

Firstly, the analysis of existing situations in relation to the objectives desired or to be achieved in the future (consultations will be necessary between the people or players concerned if the project involves a whole group in order to harmonise and adjust their needs).

Level 2: the reflectiveness of the individual and professional personality

Self-diagnosis or reflection makes a lot of use of the mirror effect. The person must see themselves as an object of reflection and meditation during their own diagnosis. They must analyse themselves as a system with strengths and weaknesses, not only at the level of cognitive knowledge but also at the level of emotions and social patterns. They must consider themselves as a whole in their action and their interaction with the people around them and their environment. They must be able to decentralise themselves and question their practices in order to define their needs in relation to their own objectives or to the objectives of the project. They are not a professional or individual personality fixed and constant in time and space, they are not in the process of execution, they are more in the process of commitment and reflection on possible solutions.

Level 3: interactivity between acquired knowledge and personal action

To change our habits, our social norms, our ideas and our way of being or thinking, whether personal or professional, we must not only acquire the necessary knowledge or memorise them, but we must essentially put them into practice in order to adopt them. Changing a behaviour, a way of being or thinking, is a mental operation following a personal and social commitment. Any system of thought is a construct but is reversible by the individual

Reflective diagnosis is a pillar of the andragogical approach. It aims for change at all levels, but it starts from its main protagonists who are human beings, women and men.

3. The constituent elements of self-diagnosis / reflective diagnosis

For a training cycle for adults	Identification of individual strengths and difficulties	Identification of needs to create change	Translating needs for skills and knowledge	Constructing a training course	Measuring the impact of change In terms of results	Indicators of change
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4. Self-regulation: the construction of personalised pathways

Self-regulation or self-regulated learning is an essential basis of andragogy. This principle aims to place adults in a learning situation in a voluntary and autonomous way. The principle of self-regulation is strongly linked to the other two principles, adherence and motivation, because by working on these last two principles we can instill autonomy and perseverance in the learners so that they can achieve their goals.

Self-regulation in andragogy is built on five principles:

1. The involvement of learners in the development of their training content.
2. The empowerment and empowerment of learners in decision-making regarding the development of their training course.
3. Consideration of the cognitive and intellectual capacities of each person trained. Consideration of their needs and motivations.
4. The individualisation of training courses and the construction of dense or light courses according to needs, the motivations, the time required but also according to the availability and aptitudes of the people trained in a training course.
5. Consideration of the notion of time and space in a training course, the question of context and the adaptability of training courses to the constraints of professional, personal and daily life.

8. TOOLS

Tool 1: Checklist to properly position the role of the trainer in an andragogical method.

	Description to be completed by the trainer
The place and role of the trainer	
The trainer's relationship with the trainees	
Facilitation of the group and transmission of theoretical knowledge	
Facilitation of practical workshops by the trainer	
Relationship management in the group	
Relationship management in the group	
Space and time management	
Others	



Tool 2: Presentation of the training session and initial evaluation for consultation with the learners

	Description	The suitability of the setting
The place and role of the trainer		
Facilitation of the group and transmission of theoretical knowledge		
Facilitation of practical workshops by the trainer		
Facilitation of practical workshops by the trainer		
Relationship management in the group		
Relationship management in the group		
Space and time management		
Others		

Tool 3: Setting up the training session

Steps	Content
Identification of the need in the field of training	
Identification of the overall objective to be achieved	
Identification of the educational objective	
Identification of the content in relation to the need and the objective	
Choice of educational and facilitation methods in relation to the sub-sessions of the training	
Measurement of the time reserved for each sub-session	



Tool 3: Role-playing – Setup

The preparation of the role play follows the following steps:

- a) Choice of the person representing the group, the person who will play the trainer.
- b) Consensus work on the form of the presentation.
- c) Agreement on ethical issues (not of the person who is in the situation being performed).
- d) The role of the aide-mémoire guide in part 1 is to harmonise the questions and the methods for evaluating the compliance of the presentation with the requirements of the instructional method.

The final evaluation of the training consists of two moments:

1. A moment of immediate feedback from the learners.

2. A written evaluation, (filling in a written report on the training) of:

- Outcome of the training, methodology, role of the trainer and the learners.
- Evaluation on the acquisition of knowledge and attitudes.



Annexes

ANNEX 1. SWOT ANALYSIS

Weaknesses	Threat
<ul style="list-style-type: none"> • Service area reserved for SP access issues • Cultural and language barriers at PS • Migrants not regularised • Not covered for care at the hospital level • Free caesarean section not applicable to CALI • untrained HR • Lack of structures for people • Imbalance between demand and supply • Frequent moves 	<ul style="list-style-type: none"> • Insufficient network of associations • Culture of migrant women (especially maternal and child health) • Population insufficiently aware of migrant rights • Merger approach among some divisions • Risk of deviance • Cultural and religious conflict
Strengths	Opportunities
<ul style="list-style-type: none"> • Moroccan citizen/foreigner = user • Equitable justice • Integration of migration into SP programmes • Same care package for Moroccan citizens • Medical coverage for regularised migrants (RAMED) • Reception centre territory coverage • Free orientation service • 174 qualification centres • Cooperating network of associations • Legal arsenal • Existence of a procedural guide • Existence of a diversified offer • International cooperation • Cultural acceptance • Stability through regularisation • NAIS strategy 	<ul style="list-style-type: none"> • Referral of complaints that do not fall within the scope of competence • Partnership relationships • Full integration • Adaptation to Moroccan culture • International convention on migration • Commitment of the Entraide National in the SNIA • Directional note for the reception of migrants and asylum seekers since 2015 • Partnerships with international organisations



ANNEX 2. CASES OF DISCRIMINATION IN EUROPE

1. Cases of direct discrimination

CASE 1

An employer publicly states that, as part of its recruitment policy, it will not employ workers of a certain ethnic origin because it considers that its customers do not trust them when they offer to serve them. According to the Court, those statements are sufficient to establish a presumption of the existence of a **directly discriminatory recruitment policy** within the meaning of Article 8(1) of Directive 2000/43. It is then up to that employer to prove that there has been no violation of the principle of equal treatment. It can do this by demonstrating that its company's actual recruiting practice does not match these statements. It is up to the referring court to verify that the facts of which this employer is accused have been established and to assess whether the evidence provided by it in support of its assertions that there has been no breach of the principle of equal treatment are sufficient.

CASE 2

Sub-Inspector of the National Police Corps, attached to the Seville Cavalry Unit. Knowing that each year a group of officers was mandated to take part in a procession in Malaga, he sent a letter to his superior to ask that, in the event that it was his turn during Holy Week 1998, he be excused to attend these religious acts because he considered that forcing him to attend would violate his right to religious freedom, recognised in Article 16,1 CE. His request was denied, reminding him that the National Police Corps is the elder brother of a sacramental brotherhood, so every year a group of officers parades in the procession to ensure order and security of the course of the activity. The sub-inspector was eventually assigned to this service, and he performed it correctly, although he did not stop appealing the decision of his superiors to understand that his right to religious freedom had been violated. After going through different courts, the case reached the Constitutional Court. In the sentence, the doctrine on religious freedom is quoted, in addition to noting the content of Article 16,3 CE on the 'neutrality of public powers, inherent in the non-confessional nature of the State'. There is no room for 'confusion between religious and state functions'. The Court held that the only way to force a police officer to attend a religious event such as an Easter procession is to provide effective policing, which is not the case here. The use of cavalry, uniform, sabres and spears, etc. indicates that it is indeed 'a special service whose main purpose is not to ensure public order, but to contribute to raising the solemnity of a Catholic religious event'. It is emphasised that the service is not provided for the other brotherhoods, but only for that which has designated the National Police as its elder brother, which constitutes the essential basis for the presence of the agents in the parade. It is therefore concluded that the service has a religious character, which 'amply justifies the refusal of any person who does not profess the Catholic religion to participate in the manifestations of the worship of this religion, such as parades in processions'. Consequently, the sub-inspector's right to freedom of religion was violated by forcing him to participate in the Holy Week procession, recognising 'his right not to participate, if he so wishes, in activities with a religious content'.



CASE 3

The Provincial Inspectorate of Labour and Social Security of Barcelona sanctioned an electricity company because of a job offer published on 27 February 2000 in which the requirement to hold a position was 'To be aged between 35 and 45'. The judgement of the Superior Court of Justice of Catalonia, of 10 November 2006, confirmed the administrative penalty of €3,000 imposed by the Labour Authority on a company which had published a job offer in which it demanded that candidates be between 35 and 45 years old, among other conditions. The company argued in its defence that it was a position of 'maximum responsibility' and considered 'that the experience of the person to be selected and, above all, their personal maturity, their emotional stability and their career path are essential and fundamental conditions for occupying the position offered'. The court considered that 'we are in the presence of discriminatory behaviour based on age, because 'it is not inferred that the normal functions to be performed by the position required according to the report provided by the applicant herself could not normally be exercised by persons between the ages of 35 and 45'.

CASE 4

Judgement of 29 September 1998 of the Criminal Division of the Supreme Court. Article 512 of the Criminal Code was applied for the first time to the owner of a car dealership in Murcia who expressly refused to serve a black person ('I don't serve black people like you, nor gypsies nor Moors').

CASE 5

A case related to school and school board rules occurred in February 2010, when a 16-year-old girl decided to wear the hijab. Over the next few months, four of her teachers at the secondary school, where she was in the fourth grade, gave her warnings for breaking school rules, which do not allow students to wear head coverings, and the principal ended up forbidding her to attend classes when wearing a headscarf. Shortly after, the school allowed the girl to return (veiled), but this only lasted five days, until the school board ratified the school rules. The young girl changed schools on the proposal of the Education Department, which reformed its regulations to prevent her from attending classes with her head covered. The family appealed the school's sanction to the Madrid region's education ministry, on the grounds that the headscarf 'does not prevent the identification' of the girl and that the wearing of the hijab 'is a manifestation of religious freedom guaranteed by the Constitution'. However, the Direction of the Territorial Zone of Madrid-West ratified the measure, as well as the Vice-Ministry of Organisation of Education. The family challenged this resolution of the Deputy Minister in court and the appeal was dismissed. The Court understood that with this decision, the school was complying with its rules. 'We cannot speak of a violation of the principle of the dignity of the person by the mere fact of prohibiting them from attending classes with their heads covered, but rather it is a rule of coexistence in terms of the clothes to be used by all students'.



CASE 6

Case of Williams Lecraft v. Spain: findings of the United Nations Human Rights Committee of July 2009. On 6 December 1992, at Valladolid station, a National Police officer asked Ms Williams Lecraft, a Spanish woman of black 'race' or ethnicity, to identify herself, but not the other people who were there. Specifically, he did not demand the identification of her husband and son, who were not of black 'race' or ethnicity. Moreover, the officer himself admitted that he had identified her because he had been ordered to arrest people 'like her'. Ms Williams lodged a complaint and asked the State to pay her compensation for the moral and psychological damages she had suffered due to what she considered to be blatant discrimination. After the rejection of her claim in the ordinary courts, she appealed to the Constitutional Court which, in its decision STC13/2001, of 29 January 2001, with the dissenting opinion of Judge JD González Campos, rejected the appeal. The court argued, in summary, that the police had used the racial criterion not in itself-which would have been discriminatory-but simply as an indication of a greater statistical probability that the person concerned was not Spanish, and that this was reasonable in the context of checks on foreigners, aimed at ensuring compliance with the regulations. Ms Williams then took the case to the UN Human Rights Committee, which concluded: 'The Committee considers that it is legitimate to carry out identity checks in general for the purposes of protecting public security and preventing crime or with a view to controlling illegal immigration. However, when the authorities carry out such checks, the mere physical or ethnic characteristics of the persons concerned should not be taken into consideration as an indication of their possible illegal status in the country. Nor should they be conducted in such a way as to target only people with certain physical or ethnic characteristics. To do otherwise would not only undermine the dignity of those concerned, but would also contribute to the spread of xenophobic attitudes among the general population and would be incompatible with an effective policy against racial discrimination'. (Paragraph 7.2). It continues in paragraph 7.4: 'In this case, it appears from the file that it was a general identity check. The author claims that no other person around her was subjected to it and that the police officer who interrogated her referred to her physical characteristics to explain why he asked her, and not the other people nearby, to show identity papers. These allegations have not been refuted by the administrative and judicial bodies to which the author complained, nor before the Committee. In these circumstances, the Committee can only conclude that the author was selected for such an identity check solely on the basis of her racial characteristics and that these constituted the decisive element in suspecting her of unlawful conduct. The Committee also notes its case law according to which any difference in treatment does not constitute discrimination if the criteria for differentiation are reasonable and objective and if the object sought is lawful under the Covenant.' For all these reasons, the Committee ultimately censured Spain for violating the International Covenant on Civil and Political Rights, which led to the Spanish government issuing an apology to Ms Williams, both in writing and in person through the Minister of Foreign Affairs at the time. It should be noted that, according to Article 10.2 of the Constitution, 'the standards relating to the fundamental rights and freedoms recognised by the Constitution shall be interpreted in accordance with the Universal Declaration of Human Rights and international treaties and agreements on the same subjects ratified by Spain'.



CASE 7

Threats on social networks. A social media group called 'Ibarra must die' and claimed to be raising money to hire a hitman. Esteban Ibarra is the president of the 'Movimiento contra la Intolerancia' and has acted as a prosecutor in numerous hate crime cases, including the trial against Hammerskins-Spain. Following the exposure of the group, it was closed, but others were opened: 'I hate Esteban Ibarra' or 'I also think Esteban Ibarra must die' from which racist comments were made about him, including wanting to fund his assassination and encouraging violence against him. Another group of 793 participants called 'I hate Esteban Ibarra' has also been detected. It promotes violence, racism and xenophobia, and numerous cases of aggression on the Internet have been reported. 'Movimiento contra la Intolerancia' informed the government authorities and reported these groups to the Provincial Information Brigade of the Madrid Police Prefecture, which filed the corresponding complaint with the court and investigated the perpetrators and promoters of these sites and groups on the Internet. Moreover, the author of another website and the Internet 'game' 'Kill Esteban Ibarra', was sentenced to 2 years in prison for the crime of incitement to hatred and violence.

CASE 8

A user of the Acceder employment programme worked in a hair salon in Atarfe, a town in Granada. Everything was going normally until she mentioned that she was going to marry a young man from an area called Pinos Puente. The hair salon owner told her that if that was the case, she could not employ her anymore. The worker told her that she had nothing to worry about because there were adequate means of transport to get to work without problems, the young woman thinking that she was referring to this problem. The owner told her that was not the reason, but that she was going to marry a Romani person from Pinos Puente. Seeing the attitude of the owner of the hairdressing salon, the victim decided to quit her job. This is a case of direct discrimination in employment by association, since the difference in treatment in the employment relationship is determined not by the attitude of the worker but by her personal relationship with a Roma person. In this case, the role played by prejudices and negative stereotypes towards the Roma community is significant, since the employer does not even know the person who is the reason for her rejection, but she interprets that most negative events that occur in the disadvantaged neighbourhood are caused by the presence of members of the Roma community.

CASE 9

A young man of Roma ethnicity had worked for several years for a local metal carpentry, although he had no employment contract. During a traffic accident that the worker suffered with the company's van, he forgot his mobile phone inside the vehicle, which was removed by the tow truck. At the end of the day, the manager reproached the worker for not being locatable throughout the day, using expressions such as 'when the gypsy doesn't do it to you at the entrance, he does it to you at the exit'. From then on, the victim perceived a change in attitude towards him, which degenerated into an atmosphere that led him to leave the company after some time. This is a case of **harassment at work** based on the ethnic origin of the employee, which is prohibited by Directive 2000/43.



CASE 10

A young Romani person took the national police exam after a period of preparation. He passed the theoretical tests, the physical tests and the psychopedagogical evaluation. During the medical examination (he had had one a few days before to make sure everything was in earlier) everything was going well until at some point the doctor in charge of the examination referred to his origin, given his darker skin colour. The young man told him he was Spanish. The doctor insisted on asking him if he had any family in Latin America and the young man replied no, that the complexion of his skin could be linked to the fact that he was of Romani origin. From then on, the tone of the conversation completely changed, he became distant, and he even started inappropriately referring to him in the informal second person. When he received the test results, he ended up with the qualification of unfit because, according to the medical report, the young man had flat feet (which is not true if we compare this with the examination that the young man had previously undergone) and he was 10 kg overweight (which was also not the case and could be proven by the same report). The equal treatment department of the FSG lodged an administrative appeal against this decision, and the case is currently before the courts. This is a case of direct discrimination in access to public employment.

CASE 11

Two Roma men went to a company to look for a job as a security guard. The first of them, who did not correspond to the physical profile usually attributed to the Roma community, asked the director of the company if it was possible to find a job, and the director replied that even if it was difficult, there would be a chance. When it was the turn of the second man, who has received specific training for this job and who corresponded to the physical stereotype attributed to the Roma community, he asked the same question, but was told that there is no chance, claiming that 'things are very bad'. This is a clear example of how people are treated totally differently on the sole basis of physical perception linked to prejudices and stereotypes. This is a case of direct discrimination in access to employment prohibited by Directive 2000/43/EC.



CASE 12

A group of six Roma friends, one of whom works for the FSG, walked into a bar in Valladolid and order drinks. The waitress started to take pre-orders, but the manager asked her not to continue. One of the friends, who overheard the conversation, demanded an explanation from the manager, but the only thing he said was that his boss had forbidden him to serve people like them. When the girls asked if he means they are Romani people, the manager replied that they were, and the friends left the bar. When they went out into the street, they found a local police officer, and reported the incident. The police officer contacted the manager immediately, and advised them to file a complaint at the police station, and a complaint at the consumer office. Despite the complaint filed by one of them, the case was closed administratively, but was treated as a misdemeanour trial, with the hearing taking place on 21 March 2007. The FSG produced a legal report on the case, but it was not admitted as evidence at the hearing. On 21 March 2007, a dismissal decision was issued on the grounds that it had not been sufficiently proven that the group of friends had not been served solely because of their ethnicity, even though the manager had initially confirmed the facts. During the trial, however, he said he did not serve them because the bar was full. The women decided not to appeal to a higher court, so the FSG also dismissed the case.

2. Cases of indirect discrimination

'**The Dutch restaurant case**' concerns access to a restaurant that has specific regulations regarding dress code in order to attract a sophisticated, older, elegantly dressed clientele. The guidelines of the regulations include the following passage: 'proper attire is mandatory'. 'Sports shoes and caps which, together with other clothing, do not correspond to the dress code of the restaurant are prohibited. The final assessment of this rule remains the decision of the host'. Based on this regulation, the restaurant asked four young women who wore a headscarf according to their interpretation of the Muslim faith to remove the headscarf.

As they refused to comply with this request, they were refused entry to the restaurant. The case was brought before the Dutch Equal Treatment Commission, which ruled that the dress code constituted indirect discrimination on grounds of religion because it disproportionately affected Muslim women. The commission concluded that while the purpose of the restaurant's rules was legitimate, the means of achieving it were neither appropriate nor necessary. According to the commission, the regulations were not appropriate because they excluded well-dressed persons, such as the applicants. Also, the regulation was not necessary because alternative and lesser means could have been used, for example a definition of the type of attire that the restaurant would consider to be inappropriate, for example baseball caps or sports clothes.



The case of Cyprus concerning the requirement of knowledge of the Greek language. The case concerned a regulation of the quasi-governmental Cypriot tourist agency, according to which the manager of any tourist office in Cyprus must have a good knowledge of the Greek language. The Cyprus Equality Authority received a complaint from a tourist board which had been refused an operating license because it did not employ a Greek-speaking manager. The Equality Authority concluded that the requirement in question constituted discrimination on the basis of language, while constituting indirect discrimination on the ground of racial or ethnic origin. In its considerations, the equality body referred not only to the Cyprus Equal Treatment and Employment Act, but also to Regulation (EEC) No 1612/68 (170), which prohibits any discrimination based on nationality and which forms part of the Community legislation on the free movement of persons. The equality body has therefore recognised the link between racial/ethnic origin and nationality. However, as mentioned above, Community law on free movement can only be applicable if there is a specific case involving a cross-border element, and this is precisely what is not required in the context of social community law. It is not known whether this condition was fulfilled, i.e., whether the manager who did not know the Greek language was in fact a non-Cypriot citizen of another EU member state.

The Colemans case on discrimination by association. The case involved Mr. Redfearn, a white driver employed by a Serco bus company. After being elected as a councillor for a racist right-wing party (the BNP), Mr Redfearn was removed from his position. The employer argued that the employee's political views could be detrimental to the bus company's passengers, the majority of whom (70-80%) were of Asian origin, and create tension among its employees, 3% of whom were also of Asian origin (both the bus driver and passengers were disabled, but this does not appear to have played a role in the discrimination issues raised in this case). As UK law does not cover discrimination on grounds of political opinion, and furthermore, national unfair dismissal law did not apply in this particular case, Mr Redfearn brought a complaint of discriminatory dismissal for racial reasons. First, he alleged direct discrimination against him on the basis of 'race' due to the racial and ethnic origin of the bus company's passengers. He then also alleged discrimination based on the ethnicity of members of his party, and later even claimed that it was direct discrimination. For the purposes of this case, it should be noted that only the argument regarding the 'race' of the party members was directly related to the employee himself. In other words, Mr Redfearn argued that the term 'race-based' included not only his own 'race', but also the 'race' of others, which affected him in some way or other.

With regard to the allegation of direct discrimination linked to the ethnic origin of the passengers on the bus, the Court of Appeal noted that, according to British law, discrimination 'on grounds of race' is not limited to unfavourable treatment because of the colour or race of the applicant themselves. However, 'it is accepted that A may be capable of discriminating against B because of the colour or the "race" of C' (173). However, the Court considered that it could not go so far as to consider that 'it constitutes



an act of direct racial discrimination for an employer, which seeks to improve racial relations in the workplace, to dismiss an employee where it has been found that he has committed an act of racial discrimination, such as racist abuse against a co-worker or a client of the employer'. Otherwise, accepting it would be tantamount to considering that any less favourable treatment resorted to because of concerns about someone's racist views or behaviour in a multi-ethnic workplace would constitute 'race-based' discrimination. The Court also did not accept the argument of direct discrimination on the basis of the ethnicity of party members.

Limits and potential of the concept of indirect discrimination

https://www.migpolgroup.com/_old/public/docs/146,LimitsandPotentialoftheConceptofIndirectDiscrimination_EN_09,08.pdf

Racial discrimination

Example:

You have just arrived in France from another country and you are looking for a new job. You have found one that you really want to apply to, but the job description specifies that you must have a degree from a French university. You do not have this qualification and therefore feel that you cannot apply for the job.

This could be an example of indirect racial discrimination, as although the French qualifications rule applies to all applicants, it disadvantages those who have studied abroad. These individuals may have the exact same or even higher knowledge but cannot apply due to the nature of their qualifications. However, if the employer can prove that there is a specific need for the employee to have French qualifications, for accreditation reasons for example, this is not considered indirect discrimination.

Religious discrimination

Example:

You are a practising Muslim and pray at traditional prayer times throughout the day. However, your employer tells you to take your breaks at times that do not coincide with the times when you should pray.

Although the Equality Act does not require employers to facilitate prayer times, nor to grant time off for the observance of religion, it does prohibit indirect discrimination on religious grounds, so this could be an example. If your boss has no legitimate reason to require you to take your break at some point, you may have grounds for indirect discrimination.



ANNEX 3. SHEETS WITH THE DEFINITION OF EACH LEGAL INSTRUMENT OF HARD AND SOFT LAW

Sheet 1

International Convention on the Elimination of All Forms of Racial Discrimination, entered into force on 4 January 1969, in accordance with the provisions of Article 19, the States Parties to this Convention, Considering that the Charter of the United Nations is based on the principles of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action, in co-operation with the Organization, for the achievement of one of the purposes of the United Nations which is 'to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion',

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Considering that all human beings are equal before the law and are entitled to equal protection of the law against any discrimination and against any incitement to discrimination,

Considering that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 (General Assembly resolution 1514 (XV)) has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end,

Considering that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 (General Assembly resolution 1904 (XVIII)) solemnly affirms the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations and of securing understanding of and respect for the dignity of the human person,

Convinced that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere,



Reaffirming that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples and the harmony of persons living side by side even within one and the same State,

1. Convinced that the existence of racial barriers is repugnant to the ideals of any human society,

Alarmed by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation,

Resolved to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations, and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination,

Bearing in mind the Convention concerning Discrimination in respect of Employment and Occupation adopted by the International Labour Organisation in 1958, and the Convention against Discrimination in Education adopted by the United Nations Educational, Scientific and Cultural Organization in 1960,

Desiring to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end,

Have agreed as follows:

1. In this Convention, the term '**racial discrimination**' shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

Main idea

The convention lays down a general principle of non-discrimination with a one-dimensional aspect (single-input).



Here the prohibited criteria of discrimination do not intersect, do not accumulate and do not interact:

- 'Any distinction, exclusion, restriction, preference' is written in the singular and not in the plural, which implies that it is a distinction of 'race', a distinction of sex, a distinction of language, a distinction of religion or a distinction of colour.
- The prohibited criteria of discrimination are mentioned separately.

So, we are talking about single input.

Sheet 2

The Charter of the United Nations (CUN), signed in San Francisco in 1945, addresses the theme of international economic and social cooperation in its chapter IX. It declares, in its Article 55, that the United Nations will promote 'universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion'.

Main idea

The Charter thus only lays down a very general prohibition of one-dimensional (single-input) discriminations.

The prohibited criteria of discrimination do not intersect here:

- 'Without distinction' is written in the singular and not in the plural, which implies that it is a distinction of 'race', a distinction of sex, a distinction of language or a distinction of religion.
- The criteria do not accumulate and do not intersect, but are mentioned separately.

Sheet 3

The 2 International Covenants of 1966 relating to: civil and political rights (ICCPR – Article 26 – and relating to **economic, social and cultural rights** (ICESCR) – Article 2.

1. They state that the States parties to the said Covenants of 1966 undertake to guarantee that the rights enunciated in these covenants will be exercised 'without discrimination of any kind' and set out around ten prohibited criteria without, however, considering that they may interact with each other.



Main idea

They therefore only envisage a single-input conception of discrimination.

Some of the provisions of the two pacts drafted in non-prescriptive terms may, insofar as they have an essentially programmatic dimension, come under the category of soft law. The supervisory bodies cannot, in principle, find a breach by the State of an obligation if it is not formalised. The 'normative density' that the supervisory bodies are able to infuse into them should be taken into account. Moreover, the question arises as to whether the supervisory bodies might not be tempted to pursue a policy of 'normative activation' that is all the more dynamic given that their supervisory 'pronouncements' (findings, observations, etc.) would be devoid of any binding force. For example, the right to housing (is a general principle which may imply a right to housing for all, including migrants, refugees, etc.) has an essentially programmatic dimension; the multiplication of the use of the 'right from/to' presupposes the distinction between legally enforceable rights and rights which are only the legal expression of a public policy or a government programme.

Sheet 4

The **UNESCO Convention against Discrimination in Education** states:

1. For the purpose of this Convention, the term 'discrimination' includes any distinction, exclusion, limitation or preference which, being based on '**race**', colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:

- a) Of depriving any person or group of persons of access to education of any type or at any level.
- b) Of limiting any person or group of persons to education of an inferior standard.
- c) Subject to the provisions of article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons or groups of persons.
- d) Of inflicting on any person or group of persons conditions which are incompatible with the dignity of man.



2. For the purposes of this Convention, the term 'education' refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given.

Main idea

To lay down a general principle of non-discrimination in a one-dimensional value (single input).

Here the prohibited criteria of discrimination do not intersect, do not accumulate and do not interact:

- 'Any distinction, exclusion, restriction, preference' is written in the singular and not in the plural, which implies that it is a distinction of 'race', a distinction of sex, a distinction of language, a distinction of religion or a distinction of colour.
- The prohibited criteria of discrimination are mentioned separately.

So, we are talking about single input.

Sheet 5

1. The principle of non-refoulement, enshrined in Article 33 of the **1951 Refugee Convention**, prohibits the expulsion and return of refugees in any way to the borders of territories where their life or freedom may be threatened because of their 'race', religion, nationality, membership of a particular social group or political opinion. Refoulement can take several forms, including non-admission at borders and interdiction on the high seas.

Main idea

Instruments that set out the specific rights of certain subjects of law (asylum seekers, refugees, etc.) as a separate legal category are called Category Instruments. They lay down a general principle of non-discrimination with a unidimensional (single-input) value. This is the case for the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and regional instruments provide for **only one prohibited criterion** of discrimination.



Sheet 6

The New York Declaration for Refugees and Migrants addresses large movements of refugees and migrants. It covers all refugees. Under international law, a refugee refers to a person who finds themselves outside their country of origin and who cannot return there because they have a well-founded fear of being persecuted because of their 'race', his religion, nationality, membership of a particular social group or political opinion. A person needs international protection when their country of origin cannot or does not want to provide them with protection against the harm they fear. This definition is core to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and is also echoed in regional instruments. It has a broad scope and permanent validity. **It encompasses both people fleeing individual persecution, and those fleeing armed conflict or violence related to one or more of the above grounds.** It includes people fleeing state and non-state players, and has served as the basis for providing protection, including to people fleeing war, conflict, human rights abuses, gang violence events, domestic violence and other forms of abuse.

Main idea

This declaration establishes a principle of multiple-input discrimination by the use of the expression '**one or more of the grounds set out above**'.

Member States pledged to address multiple and intersecting forms of discrimination against refugee and migrant women and girls.

Sheet 7

The International Convention on the Rights of the Child (CRC).

Article 2.1 of the Convention on the Rights of the Child explicitly prohibits discrimination of a child on the basis of 'child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status'.

Main idea

Despite the well-established principle of non-discrimination, this convention pays less attention to how a child experiences discrimination. In addition to discrimination based on group, age and the grounds of discrimination included in the Convention on the Rights of the Child, children face a variety of child-specific grounds of discrimination



that are not explicitly included in the provisions of the CRC. This convention establishes a general principle of non-discrimination with unidimensional value (single input).

Sheet 8

The **Committee on the Elimination of Racial Discrimination (CERD)** clearly emphasises the State's obligation to seriously investigate allegations of discrimination in the workplace. Thus, in *Yilmaz-Dogan v. Netherlands*, the CERD considered that the State had violated the applicant's right to work, referred to in Article 5-e-i, insofar as the presumed discriminatory nature of the arguments put forward by her employer to dismiss her had not been examined.

The applicant, a Turkish national, had been dismissed because she was pregnant. In a letter in which he tried to justify his decision, the employer made detailed distinctions between his Dutch employees and those he called 'our foreign workers'.

The CERD considered that the Convention had been violated, because the Dutch court which examined the young woman's complaint had not taken into consideration the alleged discriminatory nature of this letter.

Main idea

This is an example of how the **CERD** intends to apply the principle of combating multiple forms of discrimination (criteria of nationality, sex and pregnancy).

In the context of the protection of (migrant) foreign nationals, the Convention guarantees the rights not only of nationals of States that have ratified the treaty, but also of any other person on the territory of one of these States. This case is an example of how **CERD** intends to enforce this principle.

Sheet 9

The **CERD** is concerned about situations of denial of access to social services which constitute de facto cases of racial or ethnic discrimination (Discrimination and access to social services – Article 5-e-iv). For example, the Committee expressed concern about an Asylum and Immigration Bill published in 1995 in the United Kingdom which, if passed, risked withholding a number of social services from people allowed to stay in the UK, including asylum seekers, and other people who have been granted permanent residence but have not been naturalised.



CERD stated in particular: 'It is very concerning that most of the people who would be affected would be people from ethnic minorities.'

Main idea

General principle of multiple-input non-discrimination.

Sheet 10

The International Convention (No. 97) on the Protection of All Migrant Workers and Members of Their Families.

Article 1: 'The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status'.

Article 7: 'States Parties undertake, in accordance with the international instruments concerning human rights, to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind such as to sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status'.

Main idea

The list of prohibited grounds of discrimination is more extensive than that found in other human rights instruments, including the International Covenant on Human Rights, Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

Sheet 11

The **Special Rapporteur's end-of-mission statement on contemporary forms of racism, racial discrimination, xenophobia and related intolerance at the end of her mission to the Kingdom of Morocco** recommends 'providing humanitarian assistance urgently to all persons who are victims of extreme human rights violations in the context of migration, regardless of race, ethnic origin, national origin, descent or immigration, in particular for people at risk of intersectional discrimination based on sex, gender or sexual orientation, disability or other status'.



Main idea

Establishes the principle of intersectional discrimination based on sex, gender or sexual orientation, disability or any other status.

Sheet 12

In the excerpt from the **Report of the Committee on the Elimination of Racial Discrimination of the UN General Assembly**: 'The notion of "intersectionality: enables the Committee, in practice, to broaden the prohibited grounds of discrimination and to deal with situations of double or multiple discrimination — as in the case of discrimination based on sex or religion when it is combined with discrimination based on one or more of the grounds listed in Article 1 of the Convention'.

Main idea

The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which took place in Durban August to 7 September 2001, became a fundamental historical event for the consequent dissemination of the concept on an international scale.

We have to wait until 2009 to find the first occurrence of the term 'intersectionality' in UN documents in French, in particular in this extract.

Sheet 13

Human Rights Committee, Findings FA v. France, 16 July 2018, No 2662/2015.

Human Rights Committee, Findings Sonia Yaker v. France, 17 July 2018, No 2747/2016.

Human Rights Committee, findings Hebadj v. France, 17 July 2018, No 2807/2016.

The **Human Rights Committee** adopted three findings in 2018 in which it considers that France has violated the right to freedom of religion (Art. 18 of the International Covenant on Civil and Political Rights) and the right to non-discrimination (Art. 26 of the Covenant). The first concerns the Baby Loup case, which involves the dismissal for serious misconduct of an employee of an association daycare who refused to remove her headscarf as required by the daycare's internal regulations.



The second findings date from 17 July 2018 and cast doubt on the application of the French law on the concealment of the face in public space adopted in 2010³³, which has received a recognition of conventionality from the European Court of Human Rights³⁴.

Main idea

These findings refer to the right to freedom of religion and the right to non-discrimination against women. Nonetheless, its findings highlight the step taken by the Human Rights Committee in the Baby Loup case, by which this instrument of soft law was able to grasp the concept of intersectionality applied to discrimination.

CRC allows it to include recent developments in order to establish an indicative non-exhaustive list of child-specific grounds of discrimination that the Committee on the Rights of the Child (CRC Committee) develops through its General Comments and Concluding Observations (Besson, 2005). Sexual orientation, gender identity (Committee on the Rights of the Child, 2019) and HIV/AIDS (Committee on the Rights of the Child, 2003) are examples.

Main idea

Establishes the principle of multiple forms of discrimination (age and sexual orientation, age and gender identity, etc).

Sheet 14

Optional protocol to the convention on the elimination of all forms of discrimination against women of 1999. It is mentioned that women in particular are subject to 'discrimination in the workplace'.

Main idea

The use of the plural here seems to refer more to the succession of discriminatory acts of which a woman would be the victim at work than to the combination, accumulation or connection of discriminatory criteria. In this sense, this text implicitly recognises the existence of multiple acts of discrimination or at least of one category of them, namely successive discriminations. The 'post-CRENSHAW' international texts have more of a

33 Com. dr. h., findings *Sonia Yaker v. France*, 17 July 2018, no. 2747/2016; Com. dr. h., findings *Heb-adj v. France*, 17 July 2018, no 2807/2016.

34 Eur. dr. h., Gde Ch., judgement *SAS v. France*, 1 July 2014, no. 43835/11.



tendency to recognise multiple forms of discrimination. This text is part of the specific human rights instruments that implicitly recognise the existence of a category of multiple forms of discrimination (successive discrimination).

Sheet 15

The **Convention on the Rights of Persons with Disabilities** (CRPD) of 13 December 2006 also deals with multiple forms of discrimination. The CRPD prohibits discrimination on the basis of disability in the field of employment. It provides a non-exhaustive list of situations including 'in particular the conditions of recruitment, hiring and employment, job retention, promotion and occupational safety and health conditions'. This offers a renewed vision of the protection of human rights, in particular because of its more recent wording. Indeed, Article 5 of the said Convention, which promotes equality and non-discrimination, stipulates

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

In Article 6, which deals specifically with for women with disabilities, it is stipulated that '1. States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms'.

With regard to children with disabilities, the Convention states:

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.



2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.

3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

Main idea

The Convention offers a renewed vision of the protection of human rights, in particular because of its more recent wording. The wording of the Convention differs slightly from that used in older texts. The latter prohibited 'any' discrimination, or 'such' discrimination whereas the 2006 Convention uses the plural. This use can be interpreted as an implicit prohibition covering discrimination based on several criteria.

Moreover, this Convention is much more explicit as regards the inclusion of multiple forms of discrimination in its Article 6, concerning 'disabled women'. The very title of this article is very evocative since it very clearly combines two prohibited criteria, namely sex and disability. In the first paragraph of this article, the Convention further stipulates that 'States Parties recognize that women and girls with disabilities are subject to multiple discrimination (...)'.

At present, international law is still lagging behind in the recognition of multiple discrimination, while European law is more flexible in accepting the concept.

This use can be interpreted as an implicit prohibition of discrimination based on several factors.

Sheet 16

The **Declaration on the Elimination of All Forms of Discrimination**.

The Universal Declaration of Human Rights (UDHR) of 1948 lays down a general principle of non-discrimination with a unidimensional value. Its Article 7 provides that 'All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination'. Its Article 23 states in particular that everyone 'without any discrimination, has the right to equal pay for equal work'.



Main idea

This customary instrument for combating all forms of discrimination thus in no way envisages a multifactorial approach to discrimination. It enshrines a principle of single-input discrimination.

Sheet 17

In its general recommendation XXV, the **Committee on the Elimination of Racial Discrimination (CERD)** observes that '(t)here are circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than men' and that 'some forms of racial discrimination have a unique and specific impact on women'.

And to add that in the absence of consideration or explicit recognition of the disparities presented by the experience of men and women in the sphere of public as well as private life, '(s)uch racial discrimination will often escape detection'.

These aspects are illustrated in the second paragraph of CERD General Recommendation XXV:

Certain forms of racial discrimination may be directed towards women specifically because of their gender, such as sexual violence committed against women members of particular racial or ethnic groups in detention or during armed conflict; the coerced sterilization of indigenous women; abuse of women workers in the informal sector or domestic workers employed abroad by their employers.

Racial discrimination may have consequences that affect primarily or only women, such as pregnancy resulting from racial bias motivated rape.

In some societies women victims of such rape may also be ostracized. Women may also be further hindered by a lack of access to remedies and complaint mechanisms for racial discrimination because of sex-related impediments, such as misogyny in the legal system and discrimination against women in private spheres of life.

Main idea

It envisions a conception of multiple-input discrimination. Several criteria interact: sex and 'race'; sex and ethnicity; sex and nationality.



ANNEX 4. SHEETS WITH THE LEGISLATIVE PROVISIONS IN MOROCCO RELATING TO DISCRIMINATION³⁵

Sheet 1

Right to a civil status: Civil status and the generalisation of legal identity

This is governed by Law No. 37-99 relating to civil status and implementing Decree No. 2-99-665 of 2 chaabane 1423 (9 October 2002). This is a right for the child born on the territory, as well as a duty for the parent, and it concerns both Moroccans and foreigners (Article 3 of Law No. 37-99 relating to civil status).

The national plan for the modernisation of public administration (2018-2021) and the programme for the generalisation of civil status to guarantee legal identity to all.

A few steps to obtaining a birth certificate

A. 'Classic' procedure

What is the issue?

The birth certificate is issued by the hospital where the child was born. It indicates the place, the date, the time, the weight of the baby, the name of the doctor who performed the delivery and the name of the mother. In general, it is given at the same time as the discharge slip when leaving the hospital. This is the most important piece of the civil status registration file. Any obstacle to the issuance of this opinion constitutes an infringement of the rights of the child. If the birth notice is withheld, it is possible to ask the judge of the administrative court to refer the matter to a bailiff who will issue a judicial notice of withholding. This document allows you to continue the civil status registration procedure without the birth certificate. Please note that the intervention of a bailiff is not free (about 200 dhs).

If the birth notice is withheld, it is possible to ask the judge of the administrative court to refer the matter to a bailiff who will issue a judicial notice of withholding. This document

³⁵ The content of the sheets has been drafted following the principles of inclusive language adopted by the project 'Living together without discrimination'. However, the terminology relating to conventions and institutions, as well as citations, retains its original form, even if this does not correspond to the principles of inclusive language adopted by the project.



allows you to continue the civil status registration procedure without the birth certificate. Please note that the intervention of a bailiff is not free (about 200 dhs).

B. Special case: birth outside the hospital

Steps to obtain the administrative birth certificate in the event of a birth outside the hospital:

- Going to a health facility: the mother and child must go to a health facility as soon as possible to check their state of health. At the conclusion of this examination, the structure issues an exit slip or a medical certificate, which specifies that the delivery took place outside the hospital.
- The issuance of the administrative birth certificate by the Moqatâa. To issue this document, the Moqatâa requires several elements:
 - The Moqadem investigation. The Moqadem must issue a document attesting to the place of residence of the person in the district concerned by this Moqatâa, and that the woman has indeed had a child. Most of the time, the investigation boils down to a verification based on proof of place of residence (telephone/electricity/lease bill in the name of the person concerned).
 - Physical examination of the mother. A physical examination may be requested. It is then carried out by a civil registrar (woman) who checks that the mother has milk or that her belly bears signs of pregnancy.
 - The testimonials. The mother must present herself at the Moqatâa to the Caïd with the person who accompanied her during the delivery and who will sign a certificate attesting to having participated in her delivery (indicating the place and the date). The mother must also present two witnesses (men) who can certify the relationship between the mother and the baby. These three people must establish a written testimony of the facts. In the absence of witnesses, the person present during the birth can make a sworn statement and legalise it.

Declaring your child to the Moroccan authorities is important but it is also necessary to declare it to the consular authorities of the country of origin of the child. To be able to leave Morocco, the person must have a birth certificate from their country of origin. This also allows them to obtain a birth certificate in that country and in all its consular representations abroad. The declaration to the consular authorities is therefore essential; in particular it enables the allocation of a family record book.



Case of intersectional discrimination based on race, ethnicity and sex related to the birth of children

Black-skinned non-Moroccan women in an irregular administrative situation have problems registering their children in the civil registry in Morocco. These difficulties are also experienced by Moroccan single mothers. In this specific case, although the consequences for the children are similar (impediment to identity), the difficulties experienced by non-citizen women with black skin and Moroccan women are based on a different combination of factors. Although the two groups can be perceived as being in a precarious situation and be discriminated against on the grounds of sex and social status, black-skinned non-Moroccan women also face discrimination related to skin colour and ethnic/racial origin. As this factor is specific to them, it gives rise to multiple and intersectional forms of discrimination (in these cases based on sex, social status and racial and ethnic origin)³⁶.

Sheet 2

Right to marry and choose spouse - Right to inherit

At the level of personal status

- The accumulation of discrimination against migrant women in Morocco.
- Morocco has ratified the Convention on the Elimination of All Forms of Discrimination against Women.
- Around 15% to 20% of sub-Saharan migrants in transit in Morocco are women. They are in a situation of increased vulnerability, as they experience violence throughout their migration process, which necessitates 'having a patron' to protect them. But this 'protection' often induces dependence, even servitude and the risk of being mistreated (various forms of violence from different perpetrators: groups of delinquents and/or human trafficking networks, etc.). Beyond that, women are sometimes also mothers, a situation that adds to their difficulties and day-to-day vulnerability. It is important to underline the significant improvements concerning discrimination against women in general and against migrant women in particular, as part of recent reforms.

³⁶ State of discrimination in Morocco, Civil Council for combating all forms of discrimination, 2020. Online version : <https://www.gadem-asso.org/etat-des-lieux-des-discriminations-au-maroc-rapport-du-cc-2020/etEtatdeslieuxdesdiscriminationsauMarocConseilcivildeluttecontretouteslesformesdediscrimination,2018>. <https://www.gadem-asso.org/wp-content/uploads/2018/05/Rapport-Conseil-civil-fran%C3%A7ais-1-compress%C3%A9.pdf>



- From the **Moudawana (Family Code)**: Matrimonial capacity for adult women, rights for women in the event of divorce, and the institutionalisation of new formulas for the dissolution of marriage (by mutual consent, for reasons of discord, by judgement). However:
 - » In terms of **guardianship**: The woman can only be the legal guardian of the children in the event of the death of the father or his legal incapacity (Art. 236), if the latter has not designated a legal guardian during his lifetime (Art. 237). In the event of divorce, the father remains the legal guardian of the children even when custody is granted to the mother. She loses custody of her children over the age of seven on the grounds of her remarriage (Art.175 Section 1) if the new spouse is not a parent of the child with whom he has an impediment to marriage or he is his legal representative (Art.175 Section 3). The custodial mother can only travel abroad with the child after authorisation from the legal guardian (Art.179).
 - » From the **Code of Nationality**: enshrining of the principle of equality between the father and the mother in matters of transmission of nationality to their children and consideration of the interests of the child in matters of nationality. Nevertheless, discrimination persists, particularly in the Family Code.
- In **inheritance matters**. The principle structuring inheritance legislation is based on the inequality between male descendants, who inherit twice the share of female descendants.

The Family Code tends to reduce the problems of conflict of laws and to overcome the difficulties posed by the old personal status code. Under this new code, foreigners in Morocco are often challenged by the application of Muslim legal rules in matters of personal status. Thus, the provisions of this code apply (Art.2):

 - » to all Moroccans, even those with another nationality;
 - » to refugees, including stateless persons, in accordance with the Geneva Convention of 28 July 1951 relating to the situation of refugees;
 - » any relationship between two people when one of the two parties is Moroccan;
 - » to any relationship between two Moroccans when one of them is a Muslim.

Moroccans of the Jewish faith are subject to the rules of Moroccan Hebrew personal status. Religion is one of the prohibitive elements of marriage. The marriage of a Muslim woman with a non-Muslim is prohibited as well as the marriage of a Muslim with a non-Muslim woman, unless she belongs to the 'People of the Book' (Art. 39). The



administrative and formal procedures for the conclusion of a marriage certificate between Moroccans or of a mixed marriage are determined by Article 65 of the aforementioned code.

In addition to the documents required of Moroccans, foreigners must be in possession of a marriage permit and a certificate of suitability for marriage or its equivalent.

The civil status of foreigners in Morocco is still governed by the Dahir of 12 August 1913 on the civil status of French citizens and foreigners in the French protectorate in Morocco. BO of 12/09/1913.

The conclusion of an act of marriage, divorce or legal separation between foreign parties is carried out according to their national law (Art.8 and 9).

Sheet 3

Public/fundamental freedoms

Trade union freedom

With regard to trade union action in all the countries of the world, the involvement of trade unions alongside migrant people has constituted an important added value, not only for the defence of their rights, but also as bodies for the integration of migrant women and migrants in democratic civic action. In Morocco, the emergence of a trade union group of migrants within the Democratic Labour Organisation (ODT) is an excellent initiative in this respect.

It is a framework which allows trade unions to:

- take the vulnerability of migrant workers into consideration and integrate this issue into their trade union action;
- develop awareness campaigns to encourage migrant workers to join trade unions;
- support migrants in their efforts to find fair settlements of labour disputes.

Freedom of association

The right to meetings and public gatherings is guaranteed to foreigners by virtue of Dahir No. 1-58-377 of 15 November 1958, that of associations by Dahir No. 1-58-376 of 15 November 1958 regulating the right to association as amended and supplemented by Dahir No. 1-02-206 of 23 July 2002 promulgating Law No. 75.00.



Foreigners are free to form and participate in public associations under the same conditions as those required for nationals (Art.23). Unions and federations of foreign associations are subject to the same provisions applied to Moroccan associations and must, in addition, be authorised by decree.

The dissolution of a foreign association is pronounced by judicial means in accordance with the same procedure provided for Moroccan associations (Art.77).

The same sanctions apply to both Moroccans and foreigners for any violation of the provisions of the code of association, but foreigners may be banned from Moroccan territory if they participate in the maintenance or the direct or indirect reconstitution of the association or grouping of a combat group character and private militias (article modified by Dahir laying down Law No. 73/1/283 of 10 April 1993).

The Law on Associations prohibits the formation of associations on racial grounds and provides for the dissolution of associations that encourage any form of racial discrimination.

Law No. 36-04 on political parties

Law No. 36-04 relating to political parties, Article 4 of which prohibits any formation of a political party on a discriminatory basis, in particular religious, linguistic, ethnic or regional, or in general, on any discriminatory basis or contrary to human rights.

Press and publishing code

In Morocco, foreigners enjoy press rights. The third section of Law No. 77-00 forming the press code is devoted to foreign newspapers or writings, which are in principle governed by the same provisions applied to national ones (Art. 28), with a few exceptions.

No newspaper or periodical may be created, published or printed without a prior authorisation decree having been issued upon written request addressed to the government authority responsible for communication.

The authorisation is deemed null and void if the publication of the newspaper or periodical does not occur within one year of obtaining the authorisation or if its publication is interrupted for one year.

Any violation of these provisions is subject to penalties that apply to the owner, the director and the printer who are, where applicable, jointly and severally liable for the fine.



Administrative seizure of copies published without authorisation and, in the event of conviction, the judgement will order their confiscation and destruction.

The publication of foreign newspapers or periodical writings or otherwise, printed in Morocco, may be prohibited by reasoned decision of the Prime Minister, when they undermine the Islamic religion, the monarchical regime, territorial integrity, respect for the King or public order.

Law No. 88-13 relating to the press and publishing, Article 72 of which punishes direct incitement to hatred or discrimination:

Article 38: Those who, either by speeches, cries or threats made in public places or meetings, or by writings, printed matter sold, distributed, offered for sale or exhibited in public places or meetings, or by placards or posters exhibited to the public, or by the various means of audio-visual and electronic information, directly provoke the perpetrator or perpetrators to commit the said action shall be punished as an accomplice to the said action, if the provocation is followed by action. This provision will also apply when the provocation has only been followed by an attempted crime.

Article 39: Those who, by one of the means set out in the preceding article, have directly provoked either theft, or crimes of murder, pillage and arson, or destruction by explosive substances, or crimes or misdemeanours against the external security of the state. Those who, by the same means, directly provoke one of the crimes against the internal security of the State shall be punished by one to three years' imprisonment and a fine of 5,000 to 100,000 dirhams if the provocation is not followed by action. The same penalties shall be imposed on those who, by any of the means set out in Article 38, advocate the crimes of murder, pillage or arson, or theft, or a crime of destruction by explosive substances.

Article 39a: Anyone who has, by any of the means set out in Article 38, incited racial discrimination, hatred or violence against one or more persons because of their race, origin, colour or ethnicity or religious, or supported war crimes and crimes against humanity will be punished by imprisonment of one month to one year and a fine of 3,000 to 30,000 dirhams or one of these two penalties only.

Freedom of expression

The Rabat Action Plan, which distinguishes between freedom of expression and incitement to hatred, also contains extremely significant criteria and recommendations for social media and many other aspects of the digital world. I am convinced that this precision, this expertise, this transnational dimension and this solid legal basis are key elements that we will need as we move forward in the digital world.



Defamation and insult

Within the meaning of Articles 442 and 443 of the Criminal Code and Article 83 of Law No. 88-13 relating to the press and publishing, the following definitions apply:

- Defamation: Any allegation or imputation of a fact detrimental to the honour or reputation of the person or body to which the fact is imputed.
- Insult: Any outrageous expression, term of contempt undermining dignity or invective which does not contain the imputation of any fact.

The direct publication or reproduction of defamation or insult is punishable, even if the said publication is made in dubious form or if it is aimed at a person or body not expressly named, but whose identification is made possible by the terms of the incriminated speeches, cries, threats, writings or printed matter, placards or posters, as well as the published, reproduced or broadcast contents. Thus, Article 85 of Law No. 88-13 on the press and publishing punishes defamation committed against individuals with a fine of 10,000 to 100,000 dirhams and any insult with a fine of 10,000 to 50,000 dirhams.

Protection of public order

Article 72 of Law No. 88-13 on the press and publishing punishes anyone with a fine of 20,000 to 200,000 dirhams who publishes, disseminates or transmits, in bad faith, false news, allegations, inaccurate facts, fabricated or falsified documents attributed to third parties, when their actions disturb public order or cause fear among the population, regardless of the means used, in particular by speeches, cries or threats uttered in public places or meetings, by writings, printed matter sold, distributed, offered for sale or exhibited in public places or meetings, by placards or posters exposed to public view, or by the various means of audio-visual or electronic information and any other means using an electronic medium for this purpose.

To put it simply, the mere fact of disseminating information, an image or a video whose credibility is not verified and which could by its nature disturb public order or create a state of social unrest or a movement of panic; is subject to legal proceedings punishable not only by fines, but also by imprisonment. Hence there is a need to be very careful about the nature of the publications that are shared on social networks. Protection of privacy and image rights.

According to Article 89 of Law No. 88-13 on the press and publishing, it is an infringement of privacy to attribute to a person, whose identification is made possible, unfounded allegations or disclosure of facts, photographs or videos of an intimate nature of persons or related to their private life, unless the latter is closely related to public life or has an impact on the management of the public affairs



This invasion of privacy is punishable by a fine of 10,000 to 50,000 dirhams if the publication is made without the prior agreement or prior consent of the person concerned. Any publication made in the absence of prior agreement and consent with a view to violating the privacy of individuals and defaming them is liable to a fine of between 10,000 and 100,000 dirhams.

Similarly, Article 447-1 of Law No. 73-15 amending and supplementing certain provisions of the Penal Code punishes anyone who knowingly and by any means, including computer systems, intercepts, records, broadcasts or distributes speech or information transmitted in a private or confidential setting without the consent of the authors, with imprisonment of six months to three years and a fine of 2,000 to 20,000 dirhams. The same penalty is imposed on anyone who knowingly and by any means captures, records, disseminates or distributes a photograph of a person in a private place without their consent.

Sheet 4

Employment, health, safety and work integration

Non-discrimination and equality of opportunity and treatment at work

Morocco has ratified ILO Convention No. 111 concerning discrimination in employment and occupation, which is one of the two fundamental conventions of the ILO guaranteeing non-discrimination and equality of opportunity and treatment at work.

Morocco has ratified the optional protocol for the elimination of discrimination against women. The Committee has integrated the intersectional approach both into its doctrine and into its case law. The Committee considers that discrimination based on sex or gender 'is inseparably linked to other factors [...]. States Parties must legally provide for these overlapping forms of discrimination and the cumulative effect of their negative consequences [...] and they must prohibit them'.

For the first time of the principle of non-discrimination between men and women in matters of employment and wages and of sexual harassment in the workplace has been enshrined as serious misconduct.

The establishment of non-discrimination on the basis of race, colour, sex, disability, marital status, religion, political opinion, union affiliation, national ancestry or social origin, which has the effect of violating or impairing the principle of equal opportunity or equal treatment in employment or occupation, including, but not limited to, hiring, conduct and distribution of work, vocational training, wages, promotion, granting of



benefits, discipline, and termination of employment. It follows in particular from the preceding provisions.

It recognises the existence of a category of multiple discrimination.

Dahir No. 1-03-194 of 14 Rajeb 1424 (11 September 2003) promulgating Law No. 65-99 relating to the Labour Code

Article 9

Any infringement of the freedoms and rights relating to the exercise of trade union activities within the company, in accordance with the laws and regulations in force, as well as any infringement of the freedom to work with regard to the employer and the employees belonging to the company, is prohibited. [Any discrimination based on race, colour, sex, disability, marital status, religion, political opinion, trade union affiliation, national extraction or social origin, having the effect of violate or impair the principle of equal opportunity or equal treatment in matters of employment or the exercise of a profession, in particular, with regard to the hiring, conduct and distribution work, professional training, salary, promotion, granting of social benefits, disciplinary measures and dismissal is also prohibited. The preceding provisions entail:

The right for women to enter into an employment contract; the prohibition of any discriminatory measure based on the union membership or activity of employees; the right of women, whether they are married or not, to join a trade union and to participate in its administration and management.

The situation of immigrant workers is currently governed by Dahir No. 1-03-194 of 14 Rajeb 1424 (11 September 2003) promulgating Law No. 65-99 relating to the Labour Code which applies to all employees in Morocco, whether they are nationals or non-nationals, which entails the protection of all workers in Morocco by guaranteeing them universally recognised rights, in particular the right to organise.

In the preamble to the Labour Code, the legislator determines several objectives of this law, including the establishment of the principle of equality in labour relations. It thus prohibits discrimination in matters of employment and professions and specifies that the provisions of this law are applicable throughout the national territory without discrimination between employees based on race, colour, sex, disability, marital status, religion, political opinion, union membership or national or social origin.

This principle is also enshrined in Article 9, which prohibits any attack on the freedoms and rights relating to trade union activity within the company, and any discrimination based on the same bases which violates or alters the principle of equality of opportunity or



treatment in matters of employment or the exercise of a profession, in particular, with regard to hiring, the conduct and distribution of work, professional training, salary, promotion, granting of benefits, disciplinary measures and termination.

In the same sense, Article 478 imposes the same prohibitions ‘on private recruitment agencies’. The situation of foreign workers is essentially and directly governed by Chapter V entitled ‘Employment of foreign employees’. Employers wishing to recruit a foreign employee must obtain authorisation from the government authority responsible for employment, which will grant them a visa attached to the employment contract (Art.516). This authorisation can be withdrawn at any time. The employment contract reserved for foreigners must conform to the model set by the government authority responsible for labour (Art.517) and must stipulate that in the event of refusal to grant the authorisation, the employer undertakes to bear the cost of the return of the foreign employee to their country or the country where they resided (Art.518).

The security deposited by contractors for work carried out on behalf of the State, local authorities, enterprises and public establishments may only be refunded to them, and the personal security they have provided may only be cleared on production of an administrative certificate issued by the prefectural or provincial delegate responsible for labour certifying payment of the costs of return of foreign employees recruited outside Morocco, as well as the sums owed to their employees (Article 519).

Any employer committing the following acts will be punished with a fine of 2,000 to 5,000 dirhams:

- who has not obtained the authorisation provided for in Article 516 or who has employed a foreign employee without said authorisation;
- who employs a foreign employee whose contract does not conform to the model provided for in Article 517 – who violates the provisions of Articles 518 and 519.

In addition, Decree No. 2-17-567 of 25 October 2017, determining the conditions and procedures for issuing and withdrawing the artist’s card and the professional card to technicians and administrators working in the artistic field, has authorised foreign artists residing in Morocco to obtain an artist’s work permit or a professional work permit. This would allow them to access the job market and introduce their talents to professionals in the artistic field.

The professional integration of migrants and refugees.

The implementation of Law No. 112-12 on cooperatives, which made it possible to apply the procedures for creating cooperatives to foreigners in the same way as to



Moroccans. Self-employment is a promising dimension for the professional integration of migrants and refugees. In the same vein, the development of the legal framework in terms of foreigners' access to employment offers prospects for migrants and refugees, particularly in terms of self-employment through the access of migrants to self-employed status.

Examples of actions to facilitate equitable access of legal immigrants and refugees to employment.

Efforts have been undertaken to improve the accessibility of ANAPEC services for the benefit of migrants and refugees, in particular the development of the 'Welcome ANAPEC' mobile application and the updating of the ANAPEC website to further strengthen the communication and information on related services. In addition, in 2017 the services of ANAPEC were extended through six new agencies.

The measures deployed to facilitate the procedure for granting work contract visas for foreigners in general and regularised migrants in particular, in particular by setting up a Taechir line and 6 local portals in several cities.

The establishment of mechanisms to facilitate the economic integration of refugees in Morocco, thanks to a framework agreement signed on 18 May 2018, between the MDCMREAM, the CGEM and the UNHCR.

Law 19.12 on domestic workers, 2016.

Article 3 stipulates that in the event of hiring foreign domestic workers, the provisions of the labour code will be applied, including in the case of employment through private recruitment agencies (Article 41). This same article prohibits intermediation by natural persons to prevent abuse, human smuggling and human trafficking. However, the law excludes people who are not Moroccan nationals in terms of hiring, referring the procedure to the Labour Code. Migrant women are covered by the other articles.

Two decrees supplemented the law in 2017, namely:

- The Decree (No. 2-17 355) relating to the 'model of contracts for domestic workers' makes it possible to define the criteria and commitments of the two parties (employer and employee) and
- the Decree (No. 2-17-356) which draws up the list of dangerous work prohibited for workers aged 16 and 18, in addition to that appearing in Article 6 of the said law.



This law is a gateway to addressing the situation of migrant women domestic workers, many of whom are working in domestic service under difficult or even discriminatory working conditions. However, significant challenges still exist, as a significant portion of female migrant domestic workers still work under irregular conditions.

Commercial Code and law relating to foreigners

The right to exercise a commercial activity is recognised for foreigners by the provisions of Dahir No.1-96-83 of 1 August 1996 promulgating Law No.15-95 forming the Commercial Code (BO of 10/3/1996). While the commercial capacity of Moroccans is essentially governed by the rules of personal status, a foreigner is deemed to have reached the age of majority to trade from the age of 20, even if their national law provides for a higher age of majority (Article 15).

However, when a foreigner is under the age of majority required by Moroccan law and is deemed to have reached the age of majority by their national law, they can only trade after authorisation from the president of the court of the place where they intend to trade and registration of this authorisation in the trade register (Art. 16). Registrations are made according to the same procedures whether for natural persons or Moroccan or foreign companies [Articles 42, 45, 47 and 75]. Similarly, the procedures for registration in the commercial register do not differ (Art.43-46).

Civil Service Code

In terms of the Civil Service Code, foreigners are excluded from the civil service in Morocco, except for the employment of non-nationals in the context of technical and cultural cooperation. Moroccan nationality is one of the first conditions for access to public employment set by Article 21 of the general status of the public service [Dahir No.1-58-008 of 4 Chaabane 1377 (24 February 1958) on the general status of the public service. BO of 11/04/1958.]

Independent professions

Certain independent professions are reserved for Moroccan men and women, particularly notaries [Dahir of 4 May 1925 (10 Choual 1343) relating to the organisation of notaries (Art.7).

This text, which has never been repealed, is completely outdated insofar as the profession of notary, which was initially reserved for French nationals, is now exercised in reality by Moroccans who are judicial officers (Dahir No.1-80-440 of 17 Safar 1401 (25 December 1980) promulgating Law No.41-80 on the creation and organisation of a body of judicial officers (Art.4). BO No.3564 of 18/02/1981).



In addition to Moroccan nationality, the Muslim religion is compulsory for the candidacy for the profession of copyist. Dahir No.1-01-124 of 29 Rebia 11422 (22 June 2001) promulgating Law No.49-00 relating to the organisation of the profession of copyist (Art.3).

The principle of reciprocity conditions the exercise by foreigners of several liberal professions, including mainly: the profession of lawyer, legal expert, translator approved by the courts, chartered accountant.

The third category of independent professions can only be exercised by foreigners on the basis of an authorisation from the administration after the fulfilment of certain conditions. These are mainly: medicine, veterinarian, architect, engineer surveyor-topographer.

Social and environmental standards

The concept of Corporate Social Responsibility (CSR) is often reduced to the ability of companies, both national and international, to provide support for local development in the form of philanthropy or sponsorship. However, this concept has strongly evolved at the international level. Currently the 'Guiding Principles on Business and Human Rights, which were adopted unanimously in June 2011 by the United Nations Human Rights Council, represent the only normative framework in this area with a universal character.

The principles clarify the responsibilities of each stakeholder, States and companies, in the face of human rights abuses in the context of economic activities.

To be effective, this text must be transposed in the States through a National Action Plan. Morocco is one of the few countries to have launched a process aimed at achieving such a plan. Morocco has adhered to the 'Guiding Principles for Multinational Enterprises'.

The innovative nature of these Principles resides in the obligation for adhering States to set up a dispute resolution mechanism (of an extrajudicial nature) called the OECD National Contact Point (NCP). In Morocco, the NCP is well established and now needs to be known and understood by civil society stakeholders, who could use it to promote the principles of development that respects rights, the environment and good governance.

Health and safety at work

Morocco has made great progress in terms of health and safety at work and the prevention of occupational risks. The National Institute for Working Conditions (INCVT) was created in May 2020 and adopted a 2020-2021 occupational health and safety programme.



The new Tripartite Social Agreement (government, unions, CGEM) commits its signatories once again to these two demands.

For their part, the rights of people with reduced mobility and their integration into the world of work continue to lag. Law 07-92 relating to the social protection of disabled persons stipulates that ‘no citizen may, because of a disability from which they suffer, be deprived of obtaining a job in the public or private sector...’ and requires a 7% quota in the public sector. However, no legal framework obliges the private sector to take steps to ensure these people’s access to employment.

The mode of integration into the labour market is very precarious. According to the HCP, 15% of employed persons are in unpaid employment, 31.3% are in rural areas and 31% in urban areas.

The informal market absorbs most of the immigrants, refugees, asylum seekers and undocumented immigrants. Even for some highly skilled people, working in the informal sector is the only way to live. The chances for the population of highly qualified immigrants to find a job are very low since the unemployment rate of young Moroccan girls and boys with diplomas is very high.

As part of the social compliance programme (2010), the Ministry of Labour and Professional Integration supports companies in obtaining the social label when all the criteria are met (minimum age, social protection and medical, works council). For its part, the Ministry of Industry, Trade, Green Economy and Digital assists companies in the adoption of standard NM5/00/610 (forced labour, trade union freedoms, non-discrimination in terms of jobs, minimum age at work, health and safety at work, etc.). There is a growing awareness of corporate responsibility vis-à-vis the impacts of its decisions and activities on society and the environment. Since the adoption in 2006 of the CSR Charter (Corporate Social Responsibility) of the General Confederation of Moroccan Enterprises (CGEM) and its revision in 2017, more and more companies are subscribing to the CSR with regard to its strategic and operational issues for their own resilience, the loyalty of their customers and the well-being of their employees. There are currently more than ninety-four companies with the CSR label, including 39% in industry and 61% in services.

Right to health, medical care, social security and social services

The Special Rapporteur reported that some migrants and refugees, in particular migrants and refugees of sub-Saharan origin, reported having been victims of racist and xenophobic stereotypes when accessing health care. It should be noted that the twelve regional health inspectorates have not recorded any complaint concerning restrictions in access to care, including racist and xenophobic stereotype practices (Ref. Response from Morocco).



Access to the right to health for foreigners is governed by the new Hospital Law of 2011, which sets out the principle of equal access to health services, and guarantees the right to treatment for all cases of emergency, regardless of their legal status. It stipulates in its Article 57 that:

'non-Moroccan patients or injured people are admitted, whatever their status, under the same conditions as nationals'.

It concerns migrants in an irregular situation, refugees, etc.

A partnership agreement was also signed between several ministerial departments involved in the establishment of a medical assistance system for migrants, parallel to the RAMEL system applicable to Moroccan citizens.

A circular from the Ministry of Health (Circular 108 of 12 Dec. 2008) lays down the principle of free monitoring of pregnancy, deliveries and caesareans in public structures. This circular was supplemented by the Note of 1 June 2009 intended for university hospitals, which lays down the principle of free childbirth for women referred by the public health system. The prefectural hospitals generally treat people for free. However, it has happened that the CHUs refuse to issue the birth certificate if the fees have not been paid, even if the mothers have followed the public route (referral by a birthing centre).

Sheet 5

Nationality and the intersectional dimension

Right to a nationality

Access to Moroccan nationality is organised by Dahir No. 58/1/250 of 6 September 1958 as amended by Law No. 62.06 promulgated by Dahir No. 1-07-80 of 23 March 2007.

Maternal filiation established in Article 6:

- Any child born in Morocco to foreign parents who were themselves born there after the entry into force of this Dahir, provided they have a habitual and regular residence in Morocco and if, in the two years preceding their majority, they declare that they want to acquire it.
- Any person born in Morocco of foreign parents and having a habitual and regular residence in Morocco, whose father was born in Morocco, when the latter



is connected to a country whose majority fraction of the population is constituted by a community whose language is Arabic or whose religion is Islam and who belongs to this community, and if he declares that he opts for it.

- Any person of Moroccan nationality who has had kafala (care) of a child born outside Morocco to unknown parents for more than five years may submit a declaration for the purpose of acquiring Moroccan nationality for the child (Art.9).
- A child subject to kafala may personally present their declaration for the purpose of acquiring Moroccan nationality during the two years preceding their majority (art.9).

A foreign woman who is married to a Moroccan, after a habitual and regular residence in Morocco of the household for at least five years.

Section 2 : Naturalisation

Article 11 : Conditions of naturalisation

Subject to the exceptions provided for in Article 12, a foreigner who applies for the acquisition of Moroccan nationality by naturalisation must prove that they meet the conditions set out below:

1° - have a habitual and regular residence in Morocco during the five years preceding the filing of his application, and reside in Morocco until the decision is taken on this application;

2° - be of legal age at the time of filing the application;

3° - be sound in body and mind;

4° - be of good conduct and morals and not have been convicted for: - criminal offence; - dishonourable offence; - acts constituting an offence of terrorism; - acts contrary to the laws of legal residence in Morocco; - or acts leading to loss of commercial capacity, not erased in all cases by rehabilitation;

5° - show proof of sufficient knowledge of the Arabic language;

6° - prove sufficient means of existence. A commission responsible for ruling on applications for naturalisation is created, the composition and operating procedures of which are determined by the administration.



Article 12: Derogations

Notwithstanding the condition provided for in Paragraph 3 of Article 11, a foreigner whose infirmity or disease was contracted in the service or in the interest of Morocco can be naturalised.

Notwithstanding the conditions provided for in Paragraphs 1, 3, 5 and 6 of Article 11, a foreigner who has rendered exceptional services to Morocco or whose naturalisation is of exceptional interest to Morocco may be naturalised.

Article 12 states that:

‘Notwithstanding the condition provided for in Paragraph 3 of Article 11, a foreigner whose infirmity or disease was contracted in the service or in the interest of Morocco can be naturalised. Notwithstanding the conditions provided for in Paragraphs 1, 3, 5 and 6 of Article 11, a foreigner who has rendered exceptional services to Morocco or whose naturalisation is of exceptional interest to Morocco may be naturalised.’

One of the conditions of naturalisation:

‘appears to constitute discrimination on the basis of disability, both under the Moroccan Penal Code and under the Kingdom’s international commitments. Indeed HM the King of Morocco announced in a letter addressed to the Advisory Council on Human Rights (CCDH) dated 10 December 2008 that Morocco ratifies the international convention for the promotion of the rights of people with disabilities.’

Article 13: Act of naturalisation

Naturalisation is granted by Dahir, in the cases provided for in Article 12. It is granted by decree taken in cabinet council in all other cases.

The act of naturalisation may, at the request of the person concerned, modify the surnames and first names of the latter.

Naturalisation, Article 11 stipulates that the foreigner who makes the request cannot be naturalised if they do not fulfil the above conditions.



Sheet 6

Right of every person, whether alone or in association, to property

SNIA Programme 4: Lodging

Access to housing is an essential factor for the successful social integration of migrants and refugees in the host country. This SNIA programme aims to promote access to decent housing for migrants, particularly those with low incomes. It aims to achieve a specific objective which is to promote the right to housing of regular immigrants and refugees under the same conditions as Moroccans (OSP7). In this sense, since 2015 migrants have been able to benefit from social housing offers in the same way as Moroccans.

These are:

- Housing with low real estate value at 140,000 MAD including tax.
- Social housing at 250,000 MAD excluding tax.
- Housing for the middle class beyond 250,000 MAD including tax.

Sheet 7

Special Rapporteur – Interim Recommendations

Morocco has shown leadership in key areas regarding the achievement of racial equality. Notwithstanding recognition of these achievements, serious challenges persist and important work remains to be done to ensure racial equality and the right of all persons to be free from racial discrimination.

My report to the Human Rights Council will include a more comprehensive analysis of my findings and recommendations. In the interim, I recommend that Moroccan authorities and other key stakeholders adopt the following concrete measures aimed at combating racism, racial discrimination, xenophobia and related intolerance:

To the Moroccan authorities:

- Adopt a comprehensive legal and policy anti-discrimination framework that fully implements ICERD's racial equality provisions according to CERD's recommendations, including a compliant definition of unlawful racial discrimination in keeping with Morocco's obligations under international human rights law.



- Ensure adequate and effective access to justice for all victims of racial and xenophobic discrimination, and of racial, xenophobic and related intolerance.
- Collect reliable and disaggregated data based on indicators that accurately reflect the racial, cultural and ethnic diversity of the Moroccan population, including linguistic diversity that is better reflected by metrics that track oral language usage, in addition to literacy.
- Adopt without delay the Organic Law required to implement Amazigh's Constitutional status as an official language, and take interim measures to prevent and mitigate all forms of linguistic and cultural discrimination in all spheres pending the adoption of the requisite Organic Law.
- Intensify efforts to ensure that Amazigh are not subject to racial discrimination in the enjoyment of their human rights, including with regard to education, access to employment and health services, land rights, and the freedom of opinion and expression, of peaceful assembly and of association.
- Complete the 2017 migrant regularization process, and resume the review of applications and appeals in localities where this process has been suspended.
- Ensure additional, systematized pathways to migration, including pending the finalization of the national migration and asylum bills currently under review by parliament.
- Strengthen measures to eliminate administrative and other structural barriers to the integration of refugees and migrants.
- Strengthen preventative educational, training and awareness measures to ensure that those responsible for the administration of public services refrain from racism, racial discrimination, xenophobia and related intolerance, and more generally, to eliminate the racist stereotypes which may still prevail within society.
- Ensure that the national human rights-based policy on migration is implemented evenly at all local levels.
- Eliminate all practices of racial profiling and all other racially discriminatory immigration enforcement practices, including the forced displacement, arbitrary arrest and detention, regional containment of, and excessive use of force against black, sub-Saharan Africans.
- Provide emergency humanitarian support for all persons experiencing extreme human rights violations in the migration context, irrespective of race, ethnicity, national origin, descent, or immigration status, especially for those at risk of intersectional discrimination on the basis of sex, gender, sexual orientation, disability or other status.
- Invite the Special Rapporteur on the human rights of migrants to conduct a country visit.
- Ensure that all Moroccans, including those belonging to religious minorities, enjoy the right to freedom of thought, conscience and religion on an equal basis.



End-of-mission statement by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance at the end of her mission to the Kingdom of Morocco.

Rabat, 21 December 2018.

Recommendations of the Special Rapporteur on intersectional discrimination

III. Racial equality, discrimination and intolerance in Morocco

Overview of the legal and institutional framework and the measures implemented. Applicable international human rights law

- ‘Achieving substantive racial equality also requires an intersectional analysis of the problem of racial discrimination and intolerance. An intersectional approach takes seriously the different experiences of racial discrimination that individuals endure because of their race, ethnicity, national origin, or culture, in combination with their sex, gender, sexual orientation, disability status, age and any other social category’ (Art. 11).
- *National framework for action on racial equality and anti-racial discrimination*
- Although the Government Plan for Equality (2017-2021) emphasises the promotion of equality between the sexes, it does not explicitly attack intersecting forms of discrimination, in particular based on race (Art. 21).
- *Amazighs*
- The rapporteur highlighted the fact that Amazigh women suffer multiple and intersecting forms of discrimination based on their sex and ethnicity (Art. 32).

IV. Conclusion and recommendations

A. For the Moroccan authorities

‘Provide emergency humanitarian support for all persons experiencing extreme human rights violations in the migration context, irrespective of race, ethnicity, national origin, descent, or immigration status, especially for those at risk of intersectional discrimination on the basis of sex, gender, sexual orientation, disability or other status’ (Art. 85).



Sheet 8

Morocco's response to the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance following her mission to the Kingdom of Morocco

B – Migrations and refugees

With regard to the section on the situation of migrants and refugees, the authorities would like to provide general comments and clarifications, in particular regarding concerns about a number of issues based on individual testimonies that have led to generalised and unfounded assessments, especially those relating to the use of racial profiling, discriminatory barriers to integration of migrants, racial stereotyping, restrictions on freedom of movement, excessive use of force, as well as the lack of due process in forced relocation movements of migrants and forced expulsions of regular migrants, including pregnant women and children.

25. First of all, it should be noted that the 'use of racial profiling' does not correspond to any reality in Morocco and the arrest of irregular migrants has never been based on colour or any other consideration. Moreover, in 2018, of all the people arrested for attempted irregular emigration, 21% were nationals. In this regard, the colour element is not considered by the authorities.

26. The principle of equal treatment of nationals and foreigners legally established in the national territory is enshrined in the provisions of the Constitution of the Kingdom of 2011. In this direction:

- Article 23 of the Constitution of the Kingdom prohibits 'any incitement to racism, hatred and violence'.
- Article 30 of the Constitution stipulates that 'foreigners enjoy the fundamental freedoms recognised for Moroccan citizens, in accordance with the law. Those who reside in Morocco can participate in local elections by virtue of the law, the application of international conventions or practices of reciprocity. The conditions for extradition and for granting the right of asylum are defined by law'.

27. Racist and xenophobic acts in public are punishable by the provisions of the Criminal Code (Article 431-1 to 5). This is the criminalisation of any distinction made between natural persons on the basis of national or social origin, colour, sex, family status, state of health, disability, political opinion, trade union membership, membership or non-membership, real or supposed, of a given ethnic group, nation, race or religion.



28. The Special Rapporteur pointed out that police rarely investigate complaints made by migrants. It should be noted that the police services investigate all complaints, including those lodged by migrants.

29. Also, the importance of the efforts made by the Moroccan government in terms of access to justice should be noted, including in terms of traceability of the course of complaints filed. In this sense, the 'E-Justice' programme launched in 2011 by the Ministry of Justice, has promoted the gradual digitalisation of legal proceedings, from the filing of the complaint to the receipt of the judgement. The 'e-Complaint' site, put online in Arabic and French, is accessible from the official portal of the Ministry of Justice: www.justice.gov.ma

30. Similarly, it should be noted that the Ministry of Justice has issued three circulars intended for Crown prosecutors emphasising the importance of facilitating access to justice.

31. Regarding the movement of migrants, it should be emphasised that it is not a question of forced movement, but of legal measures deployed by the public authorities within the context of the legal resettlement of migrants intercepted during attempts at clandestine migration to a third countries, from Morocco, in application of the provisions of Law 02. A/HRC/41/54/Add.3503 relating to the entry and stay of foreigners in the Kingdom of Morocco, irregular emigration and immigration.

32. Article 41 of Law 02-03 stipulates that 'when a foreigner who does not hold a residence card must, because of their attitude or their background, be subject to special surveillance, the administration may prohibit him from residing in one or more provinces or prefectures or indicate to them, within the latter, one or more constituencies of their choice'.

33. From a logistical point of view, the resettlement of a person in an irregular situation, in places that the administration chooses, is not done using law enforcement vehicles (National Police or Royal Gendarmerie). The persons concerned are transported with respect for their dignity in passenger coaches. Contrary to claims of people being taken to areas close to the border, Moroccan authorities are not moving any migrant people to the desert and no one is imprisoned.

34. It is important to clarify that the main objective of resettlement operations is the removal of the persons concerned from human trafficking and smuggling networks, and that there is no relocation to a distant part of the national territory, let alone to a remote area. No deportation to the land border with Algeria is carried out by the Moroccan authorities.



35. Vulnerable persons, particularly pregnant women and minor children, are the subject of protection and special attention from the services in charge of law enforcement and magistrates of the Public Ministry, in accordance with the laws and regulations in force. Moreover, a national programme of assisted voluntary returns of migrants to their countries of origin has been set up in partnership with the International Organisation for Migration (IOM), since 2005.

36. Concerning the integration of migrants, the national strategy for immigration and asylum (SNIA) sets itself as its main and priority objective the achievement of a judicious integration of migrants and refugees, legally established on the national territory, into the fabric socio-economic, educational and cultural of Morocco.

37. The implementation of programmes for the integration of migrants and refugees is based on the principle of equality with regard to the conditions of access to health care, education, culture, sport and leisure, housing, vocational training and employment. In this regard, with regard to access to housing, the competent authorities have opened access for migrants to social housing programmes (purchase of housing on credit) and the development of guidelines for emergency housing for migrants in vulnerable situations, in particular unaccompanied minors and female victims of violence.

38. In terms of access to health care, a series of measures have been taken, starting with the establishment of a medical assistance scheme for migrants and refugees, the launch of the 2019-2025 strategic health plan, the integration of migrants into national public health programmes and the organisation of medical caravans by associations and civil society.

39. In addition, it should be clarified that access to the right to health for foreigners is governed by the new Law on hospitals of 2011, which sets out the principle of equal access to health services, and guarantees the right treatment for all emergencies, regardless of the person's legal status. Thus, a partnership agreement was also signed between several ministerial departments concerned with the establishment of a medical assistance system for migrants, parallel to the RAMEL system applicable to Moroccan citizens.

40. The Special Rapporteur reported that some migrants and refugees, in particular migrants and refugees of sub-Saharan origin, reported being victims of racist and xenophobic stereotypes in access to health care. It should be noted that the twelve regional health inspectorates have not registered any complaints concerning restrictions in access to care, including racist and xenophobic stereotypical practices.

Medical Assistance Scheme

A/HRC/41/54/Add.36



41. In the same context, it is important to point out that the access of foreigners to employment in Morocco is governed by the Labour Code, which provides in its Article 9 for the principle of equal treatment in the field of employment. This same Labour Code provides for special provisions in favour of foreigners (Articles 416; 421) which essentially aim to protect this category against informal employment.

42. Regarding the access of migrant children to education, this has been the subject of several efforts by the Kingdom of Morocco, even before the launch of the new migration policy in 2013. The Ministry of National Education has published several circular notes promoting the enrolment of migrant children in schools, regardless of their residence status. The challenges encountered by migrant children in accessing school are linked rather to ignorance of the legal framework governing foreigners' access to education.

43. Furthermore, the Special Rapporteur expressed concern that efforts to prevent Africans, including black migrants, from reaching Europe have created a situation of grave human rights concern in Morocco. In this context, it is important to specify that the security component of the national immigration and asylum strategy (SNIA), relating to border surveillance and the management of irregular migratory flows, is implemented in compliance with the provisions of international legal instruments and national legislation in force. The competent Moroccan authorities are relentlessly combating criminal networks for the smuggling of migrants and human trafficking, which take advantage of the vulnerability of Moroccans and foreigners undertaking irregular migration and asylum seekers from third countries.

44. The public authorities responsible for combating cross-border networks for smuggling migrants have deployed a comprehensive system in the cities of the North of the Kingdom for managing the strong migratory pressure that has been ongoing for almost two years.

45. This mechanism that has been put in place concerns the dismantling of criminal networks that manipulate potential candidates for irregular migration to foreign countries from Morocco, whether they are Moroccans or foreigners and regardless of their country of origin.

46. This mechanism has enabled the competent Moroccan authorities, who act strictly legally, to free many victims from the grip of criminal trafficking networks that thrive on the misery and vulnerability of migrants. In this regard, 229 trafficking networks were dismantled in 2018 and 40 networks since January 2019.

47. The Kingdom of Morocco places the international dimension of migration governance in an approach of shared responsibility, within the framework of the Euro-African Dialogue on Migration and Development (Rabat Process), initiated in 2006, and, more



recently, under the objectives of the 'Global Compact for Safe, Orderly and Regular Migration', signed in December 2018, in Marrakesh.

48. The Special Rapporteur recounts criticisms of the two regularisation operations, one of the pillars of the migration policy launched in 2013, in particular the introduction of stricter criteria which would have had the consequence of excluding many migrants from the process.

49. The Moroccan authorities would like to note the human dimension that guided the two exceptional regularisation operations. The competent authorities have treated the criteria set out in the ministerial note for the regularisation of residence status with great flexibility, given that residence can be proven by any means, including the presentation of a medical certificate or any document confirming the presence of the person in Morocco for the same period. In addition, the memorandum mentions the standard of chronic diseases, in which migrants benefit from the regularisation of their status regardless of any other condition.

50. Similarly, the National Appeals Commission, chaired by the National Human Rights Council, issued a series of CIC recommendations on the applications rejected before the regional commissions, resulting in the settlement of more than 6,000 applications and the response of the authorities to the settlement of all claims concerning women and children, as well as unaccompanied children who entered the national territory after the expiry of the legal period specified in the ministerial memorandum.

A/HRC/41/54/Add.37

C. Moroccan religious minorities

51. With regard to the point relating to the situation of Moroccan Christians and Bahais. It should be emphasised that the Moroccan Constitution guarantees everyone their rights to freedom of belief and association and to practice their religious rituals, within the framework of respect for the law and the regulations in force.

52. As a result, no illegal restrictions or alleged harassment have been imposed on the religious elements co-existing in the Kingdom. They all enjoy the protection of the law and the benevolence of the authorities, as long as their actions do not undermine the values of the nation and do not pose risks to the cultural stability of the country.

IV. Conclusions and recommendations

53. The Moroccan authorities note with satisfaction that the recommendations formulated by the Special Rapporteur have already been integrated into the process of



structural reforms that the country is going through, and a large part of which has already been implemented, while reiterating the irreversible desire to be part of an interactive and constructive approach with all the UN mechanisms.

54. In this context, it should be noted that with regard to recommendation 78, the House of Representatives adopted draft organic law no. 26,16 on the gradual implementation of making the Amazigh language an official language.

Similarly, with regard to recommendation 71, the Moroccan authorities wish to note the role that the Authority for Parity and the Fight against All Forms of Discrimination (APALD), currently being set up, will play in combating all forms of discrimination. Its main objectives will be:

- To contribute to the development of the foundations necessary to establish equality between men and women in various fields.
- To combat all forms of discrimination based on sex.
- To contribute to the establishment of mechanisms for achieving equality between men and women.

55. The Moroccan authorities do not subscribe to Recommendation 79 and wish to reiterate to the Special Rapporteur the absence of any de facto discrimination against Amazigh citizens.

56. Regarding recommendation 84 the Moroccan authorities, as stated above, racial profiling does not exist as a mechanism or practice in Morocco and it is not part of the national security and immigration policy.

57. Finally, the Moroccan authorities wish to reaffirm their unfailing commitment to combating racism and discrimination in all its forms, as well as its constant support for the work of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Office of the High Commissioner for Human Rights on the matter.

Sheet 9

Right to move freely and to choose one's residence within a State, Right to leave any country, including one's own, and to return to one's country.

Law 02-03, by protecting certain categories of people from deportation and/or expulsion, captures the intersectional aspect of spatialised discrimination. Expulsion (Art.25) which can be pronounced by the administration if the presence of a foreigner on



Moroccan territory constitutes a serious threat to public order. Deportation to the border (art.21) which is ordered by the administration in cases where the foreigner is in an irregular situation on Moroccan territory.

Protected categories: Pregnant women and children (migrant minors) are part of these categories protected by law (Art. 26 and 29) as well as ‘a foreigner residing regularly in Morocco under a residence permit (...) or the international conventions’ (Art 26). Similarly, the law states that ‘no foreigner may be deported to a country if they establish that their life or freedom are threatened there or that they are exposed to inhumane, cruel or degrading treatment there’. (Art. 29).

The protective provisions of these two articles are undermined by the omnipresent notion (covers about ten articles) of ‘public order’.

Article 27 brushes aside the protective provisions of these two Articles 26 by indicating that ‘when the expulsion constitutes an imperative necessity for the security of the State or for public security, it may be ordered by derogation from Article 26 of this law’.

Retention ‘in premises not under the penitentiary administration’

Article 34 of Law No. 02-03 provides for the possibility of retention ‘in premises not under the penitentiary administration’, of a foreigner ‘who is not in a position to comply immediately with the decision refusing them authorisation to enter the territory’ under the same conditions as foreigners subject to a removal measure

The waiting area is also the geographical location of this deprivation of freedom

The definition is given in paragraph 2 of Article 38 of Law No. 02-03. The waiting area ‘extends from the embarkation and disembarkation points to those where people are checked. It may include, within the port or airport, one or more places of accommodation providing the foreigners concerned with the necessary services’, i.e., from leaving the plane or boat to the point where the police check travel documents, passing through corridors and transit lounges.

Material conditions for staying in the waiting area

Article 38 of Law No. 02-03 provides that the waiting area may include ‘one or more places of accommodation providing the foreigners concerned with the necessary services’ without defining these services. These should be suitable for a stay that can last up to 20 days and therefore allow at least eating, sleeping and washing. The company that transported the foreigner must bear their living expenses, in application of Article 37 of Law No.02-03.



The offence of illegal residence

A foreign person may be in an irregular situation on Moroccan territory for various reasons: Irregular entry into Moroccan territory and non-regularisation of their administrative situation. Irregular entry into Moroccan territory drastically limits the possibilities of regularisation and what Law No. 02-03 makes irregular administrative status an offence liable to criminal prosecution. The penalties incurred differ according to the reason for the irregularity of the situation, regardless of the foreigner's personal, family and social situation.

When a foreign person in an irregular situation is checked by the police, they can therefore be referred (presented) to the public prosecutor who will decide whether or not to prosecute them in court.

Finally, Article 50 of Law 02-03 created an offence of irregular emigration and immigration (which targets both nationals and foreigners), punishable by a fine of 3,000 to 10,000 dirhams and/or a sentence of one to six months in prison. Irregular immigration consists of entering Morocco outside the official border posts. Irregular emigration consists not only of leaving the territory outside the official border posts, but also of presenting falsified or usurped documents at the border posts. This last offence, introduced under pressure from the EU, aims to deter both Moroccans and foreigners from crossing into Europe from Morocco.

Appeals against decisions refusing entry

Moroccan law does not define any special appeal procedure against a decision to refuse entry to the territory. Therefore, the common law action for annulment on the grounds of misuse of power applies.

Articles 20 to 25 of Law No. 41-90 establishing courts provides for three possibilities:

- an administrative appeal, free of charge (i.e., addressed to the administrative authority which made the decision)
- or a hierarchical one (i.e., addressed to the hierarchical superior of the official who made the decision, in this case the Minister of the Interior) may be introduced within 60 days of notification of the decision.
- An administrative appeal introduced before the expiry of this period suspends it until the new decision of the administration, which can be in 'express' (in writing) or 'implicit' form (no response from the authority within a period 60 days). This new decision opens a new period of 60 days to make a legal appeal, i.e., before a judge.



Sheet 10

Right to education and vocational training under soft law

1. Right to take part, on equal terms, in cultural activities.
2. Right of access to all places and services intended for public use, such as means of transport, hotels, restaurants, cafés, shows and parks.
3. Strategic Vision 2015-2030 for school reform, designed in a participatory manner by the Higher Council for Education, Training and Scientific Research (CSEFRS) laid the foundations of a new school for Morocco by 2030, namely: equity and equal opportunities, quality and promotion of the individual.
4. This vision was reinforced by a legal framework in 2019 (framework law 51,17) which refers to all the targets of SDG4 (Quality education) for the implementation of this strategy.
5. The government plan for inclusive education aimed at generalising the education of children with special needs was launched in 2019.
6. The 'Community Schools' programme (2009), to reduce the school dropout rate and provide quality education in rural areas, plans to create 150 'Community Schools' by the end of 2022.
7. As of circular No.13-487 (09 October 2013) from the Ministry of National Education, Vocational Training, Higher Education and Scientific Research, the children of immigrants, whatever their situation, and of refugees have had the possibility of integrating public and private schools and non-formal education.
8. The programmes to fight illiteracy, deployed by the National Agency for the Fight against Illiteracy (ANLA), target the reduction of the illiteracy rate to 10% in 2026 and to 0% for young people aged 15 to 24 for the same year.
9. The INDH provides support through its Program 4 'Boosting the human capital of the next generations'.
10. The 'Education and Culture' programme aims to integrate migrants and refugees into Moroccan society by giving them the same rights as Moroccans. It also aims to enable them to participate in the social and cultural life of the host country and to promote coexistence and the diversity of cultures.



11. Worth noting here is that circular No.13/487 of the Ministry of National Education, Vocational Training, Higher Education and Scientific Research (MENFPESRS), authorises immigrant and refugee children to access public and private schools. and non-formal education in Morocco.

12. After the publication and application of the circular of 9 October 2013, and on the basis of the achievements of the Moroccan experience and especially that of civil society associations and international NGOs specialised in reception, assistance and promoting the rights of migrants, a set of activities and measures were taken in 2017-2018 to guarantee the registration of migrant children and to overcome certain constraints encountered.

These are:

- Development and validation of an 'educational integration scheme for migrant and refugee children', which determines the steps and procedures for identifying, supporting, guiding and enrolling these children regardless of their nationality and their administrative situation, involving national, regional and local players and stakeholders.
- Inclusion of migrants and refugees in the MENFPESRS Ministerial Decision No. 014/2018 of 11 May 2018 on measures and procedures for the start of the 2018-2019 school year.

13. In order to raise awareness and inform about the right to education of migrants and refugees, the MENFPESRS has developed and broadcast audio-visual spots incorporating testimonies of migrant children as part of the awareness campaign for the registration of children who do not attend school or have dropped out in non-formal education at the start of each school year, starting in the year 2015/2016.

14. The MENFPESRS educational monitoring programme takes into account children from migration in the 'Caravan' and 'Child to Child' operations for the identification, awareness and referral of children not attending school. This last operation was possible thanks to the mobilisation of schools by the MENFPESRS.

15. The Royal Initiative 'One million schoolbags', which falls within the framework of social support for disadvantaged students, has been extended to migrant children from the 2013-2014 school year. The Department of National Education is currently working on the adaptation of the Massar platform, in order to collect information on actual beneficiaries. Access to the services offered by boarding schools and school canteens is open to immigrant and refugee students, in the same way as Moroccan students, in accordance with Ministerial Decision 15.161 of 01/19/2015.



16. Non-formal education (NFE) aims to guarantee education for all children, girls and boys, who are out of school, and enable them to develop their personal integration projects, minimise the dropout rate and combat early school leaving. The integration of immigrants and refugees into the NFE programme is ensured by civil society associations, as part of a tripartite partnership established between the MDCMREAM, the MENFPESRS and the partner associations.

17. The MDCMREAM and the MENFPESRS represented by the Directorate of Non-Formal Education (DENF), the AREFs of Rabat Salé and Kenitra held scoping meetings in 2018 for the development of a pilot project relating to the creation of a 'Second Chance-New Generation School centre of AREF Rabat-Salé-Kenitra (E2CNG)' in partnership with GIZ. This project aims:

- To upgrade the basic skills of recruits (mathematics, physics, languages, communication).
- To provide young migrants with a professional background in a study and living environment that is conducive to their adaptation to the requirements of coexistence.
- To provide support for the cultural integration of migrants and refugees and for coexistence (Actions 1,9, 1,10, 1.11 and 1.12).

18. The organisation of the third edition of the week of migrants in Morocco which took place from 12 to 20 December 2017 which was characterised by the holding of events, intercultural and artistic demonstrations intended for both migrants and Moroccans in different regions of the Kingdom.

19. Many activities organised as part of the week of refugees from 18 to 23 June 2018 have raised public awareness, through artistic events, around the situation of refugees, the enhancement of their talents, cultural diversity and coexistence. To this end, training days on educational tools related to coexistence for the benefit of a dozen associations were led by.

20. The Moroccan Agency for International Cooperation (AMCI) has contributed, for its part, to the realisation of several socio-cultural activities in favour of foreign students pursuing their higher education in Morocco. To this end, for 2018, it has set up thirty events aimed at promoting the integration of 4,555 foreign students in cultural and sports activities. In the same vein, and with a view to opening up to the university environment and in particular foreign student associations, the MDCMREAM has developed a partnership with the Confederation of Foreign African Pupils, Students and Trainees in Morocco (CESAM) for the organisation of the 36th edition of the week of the foreign student in Morocco under the theme: 'South-South cooperation, a lever for the development of Africa'. This cultural and sporting event was intended as a meeting



place for cultural rapprochement between the sub-Saharan student communities in Morocco and to promote the values of mutual understanding between students.

21. Several associations have held events aimed at promoting the artistic talents of migrants and refugees. For instance, the Moroccan Agency for International Cooperation (AMCI) has contributed to the realisation of several activities socio-cultural vocation for foreign students pursuing their higher education in Morocco. To this end, for 2018, it has set up thirty events aimed at promoting the integration of 4,555 foreign students in cultural and sports activities.

22. In the same vein, and with a view to opening up to the university environment and in particular foreign student associations, the MDCMREAM has developed a partnership with the Confederation of Foreign African Pupils, Students and Trainees in Morocco (CESAM) for the organisation of the 36th edition of the week of the foreign student in Morocco under the theme: 'South-South cooperation, a lever for the development of Africa'. This cultural and sporting event was intended as a meeting place for cultural rapprochement between the sub-Saharan student communities in Morocco and to promote the values of mutual understanding between students. Moreover, several associations have organised events aimed at promoting the artistic talents of migrants and refugees, in particular through exhibitions.

23. Decree No. 2-17-567 of 25 October 2017, determining the conditions and procedures for issuing and withdrawing the artist's card and the professional card to technicians and administrators working in the artistic field, has authorised foreign artists residing in Morocco to obtain an artist's work permit or a professional work permit. This would allow them to access the job market and introduce their talents to professionals in the artistic field.

Sheet 11

Discriminatory remarks and threats – National legislative framework

The concept of 'hate speech' was firmly established in the Moroccan legal and political lexicon in the 2000s to define the subject of various criminal policies, some of which are defined by the Press Code, others by the Penal Code and certain others by the Audio-visual Law.

Moroccan legislation provides strong provisions against this kind of speech in various legal texts.



The articulation of freedom of expression and the prohibition of incitement to national, racial or religious hatred is indicative of the permanent tension that structures three fundamental contemporary issues: the relationship between human rights and politics, the dialectic of national unity and cultural diversity, and the dialogue or conflict of civilisations: The prohibition of incitement to national, racial or religious hatred is dealt with by imposing a prohibition on incitement to national, racial or religious hatred in exclusive connection with freedom of expression:

In the Constitution

- Prohibit and combat all discrimination against anyone, based on sex, colour, creed, culture, social or regional origin, language, disability or any personal circumstance whatsoever.
- Grant to international conventions duly ratified by it, within the framework of the provisions of the Constitution and the laws of the Kingdom, in respect of its immutable national identity, and from the publication of these conventions, primacy over the internal law of the country, and harmonise the significant provisions of its national legislation accordingly.
- Article 19: Men and women enjoy equal rights and freedoms of a civil, political, economic, social, cultural and environmental nature, set out in this Title and in the other provisions of the Constitution, as well as in the conventions and pacts duly ratified by Morocco, in compliance with the provisions of the Constitution, the constants of the Kingdom and its laws. The State works to achieve parity between men and women. To this end, an Authority for parity and combating all forms of discrimination is created.
- Article 20: The right to life is the first right of every human being. The law protects this right.
- Article 22: The physical or moral integrity of anyone cannot be harmed, in any circumstances whatsoever, and by any party whatsoever, private or public. No one should inflict on others, under any pretext whatsoever, cruel, inhumane, degrading treatment or treatment that violates human dignity. The practice of torture, in all its forms and by anyone, is a crime punishable by law.
- Article 23: Any incitement to racism, hatred and violence is prohibited. Genocide and all other crimes against humanity, war crimes and all serious and systematic violations of human rights are punishable by law.

The Criminal Code does not condemn racist remarks but indicates in its Article 443 that 'Any outrageous expression, term of contempt or invective which does not contain the imputation of any fact, is an insult:



Article 444

Any defamation or public insult is repressed in accordance with Dahir No. 1-58-378 of 3 Joumada I1378 (15 November 1958) forming the Press Code [151].’

- The Press Code condemns comments and threats of discrimination against foreigners in Morocco when it comes to ‘speeches, cries or threats made in public places or meetings,’ but it does not apply to individuals. or non-journalistic professionals

The Press Code thus specifies in its Articles 38 – 40:

- Article 38: ‘Those who, either by speeches, cries or threats made in public places or meetings, or by writings, printed matter sold, distributed, offered for sale or exhibited in public places or meetings, or by placards or posters exhibited to the public, or by the various means of audio-visual and electronic information, directly provoke the perpetrator or perpetrators to commit the said action shall be punished as an accomplice to the said action, if the provocation is followed by action. This provision will also apply when the provocation has only been followed by an attempted crime.
- Article 39: ‘Those who, by one of the means set out in the preceding article, have directly provoked either theft, or crimes of murder, pillage and arson, or destruction by explosive substances, or crimes or misdemeanours against the external security of the state. If this provocation is not followed by action, it will be punished by one to three years’ imprisonment and a fine of 5,000 to 100,000 dirhams. Those who, by the same means, will have directly provoked one of the crimes against the internal security of the State. The same penalties shall be imposed on those who, by any of the means set out in Article 38, advocate the crimes of murder, pillage or arson, or theft, or a crime of destruction by explosive substances’.
- Article 39a: ‘Anyone who has, by any of the means set out in Article 38, incited racial discrimination, hatred or violence against one or more persons because of their race, origin, colour or ethnicity or religious, or supported war crimes and crimes against humanity will be punished by imprisonment of one month to one year and a fine of 3.000 to 30.000 dirhams or one of these two penalties only’. Article 40: ‘Any provocation, by any of the means set out in Article 38, which is intended to incite soldiers on land, at sea or in the air, as well as agents of the public force, to fail in their duties and in the obedience they owe to their superiors in everything that the latter order them to do in order to execute the laws and regulations, shall be punishable by imprisonment for a term of two to five years and a fine of between 5,000 and 100,000 dirhams’.



In the draft law (2018) amending and supplementing the Press and Publishing Code which aims to avoid double punishment, in particular in relation to the Criminal Code, includes in the Aspect II: Protection of the rights and freedoms of society and individuals

5/ Prohibition of incitement to hatred, discrimination and violence. The prohibition of direct incitement to hatred, discrimination on the basis of race or sex, incitement to harm minors. There are also plans to combat negative stereotypical images of women, in addition to glorification of and incitement to terrorism.

In the Criminal Code and Law 0303 against terrorism, the provisions of which are incorporated into the Criminal Code:

Chapter one a50 – Terrorism:

- Articles 218-253: Anyone who advocates acts constituting terrorist offences by means of speeches, cries or threats made in public places or meetings or by means of writings or printed matter sold, distributed or offered for sale or displayed in public places or meetings, or by means of posters displayed to the public by the various audio-visual and electronic media, shall be punished by imprisonment for a period of between 2 and 6 years and a fine of between 10,000 and 200,000 dirhams. Any person who, by any of the means provided for in the first paragraph of this article, propagates, advocates or promotes a terrorist person, entity, organisation, gang or group shall be punished by the same penalty.

In Law No. 77-03 on audio-visual communication, as supplemented and amended:

- Article 9: Without prejudice to the sanctions provided for by the texts in force, broadcasts and repeats of programmes or parts of programmes must not be likely to: glorify and serve the exclusive interests and cause of political, ethnic, economic, financial or ideological interest groups; glorify violence or incite to racial discrimination, terrorism or violence against a person or group of persons on the grounds of their origin, their membership or non-membership of a particular ethnic group, nation, race or religion

National case law

Two significant facts emerge from the study of national case law regarding the prohibition of incitement to nationalist, racial or religious hatred. The very limited number of case law cases strictly relating to nationalist, racial or tribal hatred reflects the following characteristics and specificities: the primacy of recourse to traditional mechanisms for resolving conflicts of a tribal nature, the limited number of modern legal remedies and



information for citizens about their existence, the weakness of national policies relating to the prevention of incitement to nationalist, racial or ethnic hatred.

Most of the case law relating to freedom of expression and freedom of the press relates essentially to violations and political restrictions of these freedoms and much less to the prohibition of incitement to nationalist, racial or religious hatred. These violations and restrictions are in fact justified by the political authorities through considerations relating to the defence and protection of national unity or what is postulated as the national identity religion. Article 20 of the ICCPR thus risks being the subject of a selective reading favouring ethnic, national or religious criteria according to variable political criteria.

'A judgement was rendered on 12 January 2007 by the Court of First Instance of Ouazazate, in the context of a lawsuit brought against a journalist for incitement to discrimination. The published article was seen as harmful to African people. The editor, who was questioned by the prosecutor, confirmed an error in the choice of the title of the published article. The newspaper devoted 3 pages to a letter of apology. The newspaper containing the article has been removed from newsstands and bookstores.'

National soft law

In the specifications of the public sector

Principles of public service audio-visual communication: freedom of expression and the right to information are two major pillars of public service broadcasting. The national operator therefore adheres to the principles of editorial independence and pluralism of expression of the various currents of thought and opinion, while guaranteeing the rights of opposition, in accordance with the legal provisions in force.

Article 3 – General rules governing public service audio-visual communication – The public service work is based on the following rules:

- Ensure accuracy, fairness, objectivity, honesty, integrity, neutrality and editorial independence from commercial, sectarian, political and ideological interests, particularly in the provision of information.
- Not advocate violence or incite racial discrimination, terrorism or violence against a person or group of persons, in particular because of their origin, sex, membership or non-membership of a particular ethnic group, nation, race or religion.



In the ethical commitments of all operators

In all of its programmes, the operator takes particular care not to advocate or serve the interests of any political, ethnic, economic, financial or ideological group; Under no circumstances does it broadcast programmes that explicitly or implicitly glorify violence or incite racial discrimination, terrorism or violence against a person or a group of people, in particular because their origin, their sex or their affiliation or lack thereof with a specific ethnic group, nation, race or religion.

In addition, and in accordance with Article 183.3, the operator must, in all circumstances, have control over the antenna in its services. It has a duty to ensure this in advance.

In the specifications of private radio stations:

From the Medi 1 TV Specifications: Article 7 states on the issue of antenna control that the operator retains control of its antenna in all circumstances. Within its internal control system, it must take the necessary measures to ensure compliance with the principles and rules laid down by the Dahir, the Law, these specifications and its code of ethics. The operator checks all recorded broadcasts or parts of broadcasts, prior to their broadcast. With regard to broadcasts produced live, it informs its station manager, its presenters or journalists and its production and broadcasting managers of the measures to be taken to permanently maintain or, if necessary, to instantly restore control of the antenna. Article 11 concerns the neutrality and independence of programmes and information. The operator undertakes to guarantee the neutrality of the information broadcast in all the programmes presented by its service. For this purpose: - It must observe professionalism in disseminating or processing information, in particular by ensuring, in a spontaneous manner, the accuracy and credibility of the information, as well as the plurality of its sources, by making reference, if possible, to these sources and their nature. Commentary on facts and public events should be free of hyperbolic or contemptuous expressions. - When the floor is given to guests or to the public, the operator must ensure the balance, seriousness and rigour of the speeches while respecting the pluralistic expression of the various currents of ideas and opinion



ANNEX 5. LEGAL INSTRUMENTS AND PROHIBITED CRITERIA OF DISCRIMINATION

	Ancestry	Gender	Race/Ethnicity	Colour	Disability	Marital status	Political opinion	Religion	Union membership	Age	Social or union origin	Language	National ancestry	Fortune	Birth
Constitution		X		X	X						X	X			
L. 88-13 Press article 72, Hate speech			X E	X				X							
L.36-04 political parties based on a.4			E					X			X	X			
L.23-98 a. 51: Inmates		X	X	X			X	X			X	X			
L09-09 demonstration athletic a. 308-5		X	X		X	X	X	X	X		X		X		
a. 36 C. work L 65-99 licensing		X	X	X	X		X	X					X		
Art 9 C. work		X	X	X	X	X	X	X	X						
a. 478 C. work Agencies Recruit pve		X	X	X			X	X					X	X	X
C. Criminal a. 431		X	X	X	X	X	X	X	X		X				



	Ancestry	Gender	Race/Ethnicity	Colour	Disability	Marital status	Political opinion	Religion	Union membership	Age	Social or union origin	Language	National ancestry	Fortune	Birth
Framework L 51.17 education system preamble+Article 4		X	X	X						X			X	X	
Internal hospital regulations of 2011		X	X										X		
L. 65-00 medical coverage		X				X									
L.19,12 On domestic workers		X	X							X			X		
L. 65-15 Social protection establishments		X											X		
L.63-13 violence relating to combating violence against women		X	X		X	X				X			X		
Family code 2004		X								X					
Framework L 97-13 on children with disabilities A.36.5 and 36.6		X			X					X					



	Ancestry	Gender	Race/Ethnicity	Colour	Disability	Marital status	Political opinion	Religion	Union membership	Age	Social or union origin	Language	National ancestry	Fortune	Birth
L.2.14 combating human trafficking		X	X										X		
a. 478 C. work Agencies Recruit. pve		X	X	X			X	X					X	X	X
C. Criminal a. 431		X	X	X	X	X	X	X	X		X				
Framework. L 51.17 education system preamble+Article 4		X								X				X	
Internal hospital regulations of 2011		X	X										X		
L. 65-00 medical coverage		X				X									
Art 9.2 C. work		X	X	X	X	X	X	X	X		X		X		
Art 36 C. work		X	X	X		X	X	X			X		X		
Art 478 C. work		X	X	X			X	X			X		X		
Art 516 C. work		X											X		
Art 521. C. work		X	X										X		



ANNEX 6. MIGRANT PROFILE SHEETS

Example Sheet 1
Gender: Female
Age: 32 years old
Administrative status: Without documents. Irregular administrative situation
Place of residence: Tangier
Native country: Cameroon (Anglophone)
Family situation: Single, mother of two children
Living conditions: Precarious, without fixed income
Religion: Christian
Problem: She lives with her two children in an apartment rented without a contract. Overnight, her landlord demanded that she pay double the rent. Furthermore, when she refused, he made threats, including sexual threats.
To complete
Obstacles to guaranteeing the right to justice: <i>For example, as she does not have a regular administrative situation, she cannot in principle lodge a complaint. Furthermore, she is exposed to obstacles such as the language barrier, lack of trust in the authorities and fear of deportation/refoulement because she does not have documents. She may also be afraid of reprisals.</i>
Possible situations of discrimination: <i>For example, xenophobic or racial discrimination from agents or being prejudiced because she is a sub-Saharan single mother.</i>
Risks of lack of access to justice: <i>For example, lack of protection and risk of violence or return, risk of staying on the street with the children, psychological effects of threats, fear of staying in the neighbourhood, isolation in her community, etc.</i>



Example Sheet 2

Gender: Man
Age: 26 years old
Administrative status: Without documents. Irregular administrative situation
Place of residence: Rabat
Native country: Senegal (French speaking)
Family situation: Single
Living conditions: Precarious, without fixed income, lives in a shared room
Religion: Muslim
Problem: Mamadou was offered a job in the market for 30 DH a day. He worked for two months but he doesn't have a work contract. Every week, his employer pays him. One day he was asked to stay 12 hours in the heat and when he was working, crates of fruit fell on him, breaking his arm. He remains unemployed and the employer does not want to pay him this week's work. The employer threatens Mamadou with reporting him to the police.
To complete
Obstacles to guaranteeing the right to justice: <i>For example, as he does not have a regular administrative situation, he cannot in principle lodge a complaint. Moreover, as he does not have a work contract, he does not have medical insurance to get treatment. Furthermore, he is exposed to obstacles such as lack of trust in the authorities and fear of deportation/refoulement because he does not have documents.</i>
Possible situations of discrimination: <i>For example, racial or xenophobic discrimination by health care providers; experience of prejudice from police or judicial officers.</i>
Risks of lack of access to justice: <i>For example, he runs the risk of homelessness because he cannot afford to pay the rent; risk of not being treated; risks having problems because of his irregular administrative situation.</i>



Example Sheet 4
Gender: Unaccompanied child
Age: 17 years old
Administrative status: Regular administrative situation (asylum seeker)
Place of residence: Tangier
Native country: Ivory Coast (French speaking)
Family situation: Single
Living conditions: Help from UNHCR, lives in a room in a rented house.
Religion: <i>Muslim</i>
Problem: <i>He has just been attacked in the street by a group of Moroccan children who live in his neighbourhood and who have a racist motivation.</i>
To complete
Obstacles to guaranteeing the right to justice: <i>He is afraid of having problems with the police because he thinks that the UNHCR can withdraw its help. He does not speak Arabic. He is suspicious of the police and does not know his rights.</i>
Possible situations of discrimination: <i>Discrimination in access to information; risk of discrimination by justice officials.</i>
Risks of lack of access to justice: <i>Attacks can be repeated over time; he may develop psychological problems.</i>



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Partners:

