

MARCH 2024

POLICY BRIEF



**ADDRESSING SEXUAL
EXPLOITATION AGAINST
WOMEN IN TRANSIT ALONG
THE CENTRAL AND WESTERN
MEDITERRANEAN ROUTES:
FROM NORTH AND WEST
AFRICA TO EUROPE**

ABOUT POLITICS4HER



Politics4Her is a global intersectional feminist platform and youth-led movement advocating for the inclusive participation of young women and girls in politics, civil society and other decision-making bodies.

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TRIGGER WARNING

This policy brief includes words and phrases that should be avoided as it discusses sensitive topics related to sexual exploitation against women. You may come across some that you consider discriminatory, or that have been used historically to oppress certain people or groups. These may cause distress to people who have experienced discrimination based on their identity. Given the nature of this policy brief, we understand that many of the issues discussed are personal and emotive for many people. While naming oppressions is necessary to deconstruct them, we recognize that this can take a toll on those who are directly affected. Please take care in the reading of the policy brief and prioritize your well-being.

This policy report primarily discusses the experiences and challenges faced by women in the context of migration. However, we want to expressly acknowledge the diverse spectrum of gender identities beyond the binary. Throughout this brief, we strive to use inclusive language that respects and acknowledges various gender identities and expressions. We understand the importance of recognizing and affirming the rights and experiences of everyone, regardless of gender identity.

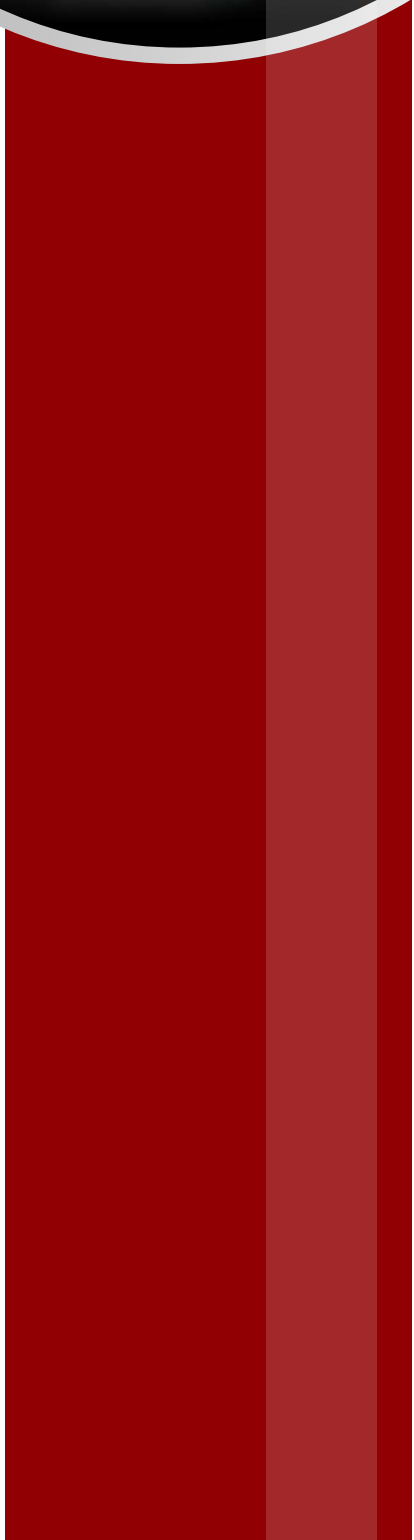


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EXECUTIVE SUMMARY

Sexual exploitation against women in transit along the Central and Western Mediterranean routes poses a grave humanitarian concern, demanding urgent attention from international organizations, national governments, and regional bodies.

This policy brief examines the multifaceted challenges faced by migrant women and girls, ranging from legal and institutional gaps to cultural barriers, exacerbating their vulnerability to sexual violence and exploitation during their transit.

The brief offers actionable recommendations to enhance protection mechanisms, strengthen legal frameworks, and promote gender-sensitive approaches to migration policy. It underscores the imperative for concerted action to safeguard the rights and dignity of migrant women and girls along migration routes.

INTRODUCTION

The Central and Western Mediterranean routes have long served as pathways for migration and transit from North and West Africa to Europe. These routes, while offering hope and opportunities for many seeking refuge from conflict, persecution, or economic hardship, unfortunately also harbor dark shadows of sexual exploitation and abuse, particularly against women. Sexual exploitation along these transit routes has emerged as a grave humanitarian concern, negatively impacting the aspirations of those embarking on perilous journeys in search of safety and better lives.

The vulnerability of women to sexual exploitation during migration is a multifaceted issue, intertwined with broader complexities of migration dynamics, gender inequality, and the absence of adequate protection mechanisms. Despite efforts by various stakeholders to address this scourge, the problem persists, exacerbated by factors such as porous borders, insufficient legal frameworks, and the presence of criminal networks profiting from human misery. North and West African women transiting through the Central and Western Mediterranean routes face heightened vulnerability due to the intersection of race, gender, and socioeconomic factors. Discrimination, gender inequalities, and economic marginalization converge to limit their choices and increase their susceptibility to sexual exploitation by smugglers and traffickers.

This policy brief aims to delve into the intricacies of sexual exploitation against women in transit along the Central and Western Mediterranean routes, shedding light on its root causes, manifestations, and consequences. It will also delve into the existing regional and national level legal and policy frameworks concerning human trafficking (the most common manifestation of sexual exploitation against women in transit). This brief will conclude by proposing a set of actionable policy recommendations aimed at mitigating the prevalence of such exploitation and safeguarding the rights and dignity of women migrants and refugees.

By confronting this issue head-on and implementing targeted interventions, there is a real opportunity to make tangible progress in addressing the systemic and intersecting injustices faced by women in transit, thereby upholding the principles of human rights, dignity, and equality for all individuals, regardless of their migration and residence status.

What is sexual exploitation?

"Exploitation is where the line between smuggling of migrants and trafficking of women is blurry" (UNODC, 2021). The UNHCR defines sexual exploitation as an actual or attempted abuse of someone's position of vulnerability (such as a person depending on others for survival, food rations, school, books, transport, or other services), differential power or trust, to obtain sexual favors, including but not only by offering money or other social, economic or political advantages. It includes trafficking and prostitution. According to the UN Glossary, sexual exploitation also includes acts such as transactional rape, solicitation of transactional rape, and exploitative relationships.

METHODOLOGY



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@Euro-Med Human Rights Monitor

This study employed a comprehensive qualitative methodology to investigate sexual exploitation against women in transit along the Central and Western Mediterranean routes. This included a thorough literature review to understand the scope and complexity of the issue, supplemented by data analysis from various secondary sources.

The case studies of four transit countries (Egypt, Libya, Morocco, and Tunisia) were examined to provide contextual understanding and an assessment of the existing legal frameworks and policy initiatives relevant to addressing sexual violence against women. Based on these findings, actionable recommendations were developed to address the root causes of vulnerability and enhance protection mechanisms for migrant women and girls.

CONTEXTUAL BACKGROUND



Migration is inevitable. Every year, thousands of young women and girls are on the move from their country of origin to Europe or other African countries to seek a better future. As these women and girls attempt to make their transit, they face serious human rights violations and cases of sexual and gender-based violence (SGBV). **Reports show that at least 1 in 3 young women and girls have faced a form of sexual violence in their transit.** They indicate that sexual violence and exploitation are widespread and the reported cases are increasing at an alarming rate since more and more female migrants are being used as 'a tradable commodity'.

In one of the studies conducted by the Women's Refugee Commission (2019), data shows that over 90% of the women and girls that transited along the Mediterranean route from Africa to Italy were raped at some point in their journey.

Females are targeted to be sexual victims just because of their gender and it is most likely not related to their SOGIESC (sexual orientation, gender identity, gender expression, and sex characteristics). They are often subjected to rape, forced prostitution, and sexual abuse by smugglers, traffickers, fellow migrants, and even security forces or law enforcement agents tasked with their protection.

	IOM's report	UNHCR's report	MMC's report	UNODC Observatory Data	Médecins du Monde's report
Percentage of female migrants/refugees reporting sexual violence (including as witnesses)	19%	19%	18%	34%	53%
Percentage of male migrants/refugees reporting sexual violence (including as witnesses)	6%	6%	4%	12%	19%

Table 1. Women are almost three times more likely to be subjected to sexual exploitation than men, along the Western and Central Mediterranean routes combined (UNODC, 2021)

In a report on "Human Trafficking through the Central Mediterranean Route" (IOM, 2017), the United Nations Migration Agency reports that a significant proportion of migrant women and girls arriving on Europe's shores in Italy could potentially be sex trafficking victims who faced sexual exploitation at some point in their journey. This is especially true for young women and girls coming from Nigeria since over 80% of them were sex trafficking victims. The profile is generally female migrants aged 13-24 coming from Central Africa; the girls are often silenced and show "obedient" or "controlled" behavior.

Research shows that most sexual exploitation occurrences are rooted in unequal power dynamics (Tan et al., 2022), where the intersectional vulnerabilities of a migrant are used against them for one of the following reasons:



01. Lack of access to decent work, social, and legal protection during their transit

Female migrants often find themselves in a challenging position in which they do not have any financial stability and therefore are raped and obligated to perform sexual favors in exchange for necessities like having a place to sleep, eat, and arrange safe passage.

02. Under-documentation status and fear of deportation

Perpetrators often use the threat of deportation as a tool of coercion. Women and girls with an illegal status often fear being deported or detained which makes them more likely to be forced to have unwanted sex, trapping them in cycles of exploitation and abuse.



03. The normalization of GBV

Most female migrants are aware of the risk of being raped. However, due to the lack of viable alternatives, they are left with no choice but to take certain precautions, like taking contraceptives, to prevent unwanted pregnancies along the way.

04. The fear of disclosure due to cultural differences

Throughout their journey, women are in new places that they don't yet understand. Since the understanding of a "sexual exploitation victim" is often diverse from one community to another, it leads to women getting pushed back and not disclosing what happened.

BARRIERS TO JUSTICE AND ACCESS TO SERVICES AND SUPPORT

One of the central issues affecting the measurement of sexual exploitation and violence along these routes is that it tends to be under-reported due to the reasons mentioned above. Therefore, female migrants continue to face significant barriers to justice and a lack of access to protective services, which exacerbate their vulnerability to sexual exploitation and hinder their recovery and pursuit of justice. Moreover, the transient nature of these migrants' journey complicates their ability to access or receive continued support, leading to a situation where many survivors remain without the care and assistance they critically need.

The intersection of gender, migration status, and race exacerbates these vulnerabilities, underscoring the necessity for a targeted, culturally sensitive, and accessible approach to support services for these women.

The barriers to justice and access to services and support are the following:

01 Legal and institutional gaps

Many transit countries lack comprehensive legal frameworks specifically addressing the rights and protections of female migrants. Even in countries where laws exist, institutional weaknesses, overwhelmingly increasing numbers of migrants, and corruption can impede their effective enforcement.

02 Lack of education

Women and girls without proper or have limited education often lack knowledge and understanding of their legal rights or the means to access legal recourse under the law of the transit or destination countries. The complexity of these legal systems makes it nearly impossible for them to initiate legal proceedings.

03 Cultural and language barriers

Migrants may face difficulties communicating in the transit country's language and failing to assess the need for an interpreter, making it hard to report abuse or seek help. Cultural differences can also deter women from accessing services due to fear of stigma or misunderstanding.

04 Limited access to healthcare and psychological support

The trauma from sexual exploitation requires specialized healthcare and psychological support, which is often scarce or inaccessible in transit countries. Lack of resources, identification, or healthcare provision specifically tailored to migrants' needs can leave women without crucial support.

05 Fear of detention or deportation

Women who are in a country without legal status may be reluctant to report sexual exploitation due to fear of detention, deportation, or reprisals from perpetrators, who are often part of or connected to trafficking networks.

06 Isolation and Lack of social support

Being far from home and often on the move, female migrants may not have access to a supportive community or network. Isolation can make them more susceptible to exploitation and less likely to seek or find assistance.

07 Lack of trust in authorities

Experiences of or hearsay about corruption, abuse, or indifference among law enforcement and other authorities can lead migrant women to distrust the very institutions meant to protect them.

08 Dependency on perpetrators

In some cases, women may depend on their exploiters for survival or continuation of their journey, making it incredibly difficult to escape the cycle of abuse and seek help.

The situation is worse in conflict areas since almost no response services are available to survivors. Due to the limited access to medical care, psychosocial support, and other specialized protection services and even dignity kits, survivors remain unattended, suffering severe physical and emotional consequences with no care.



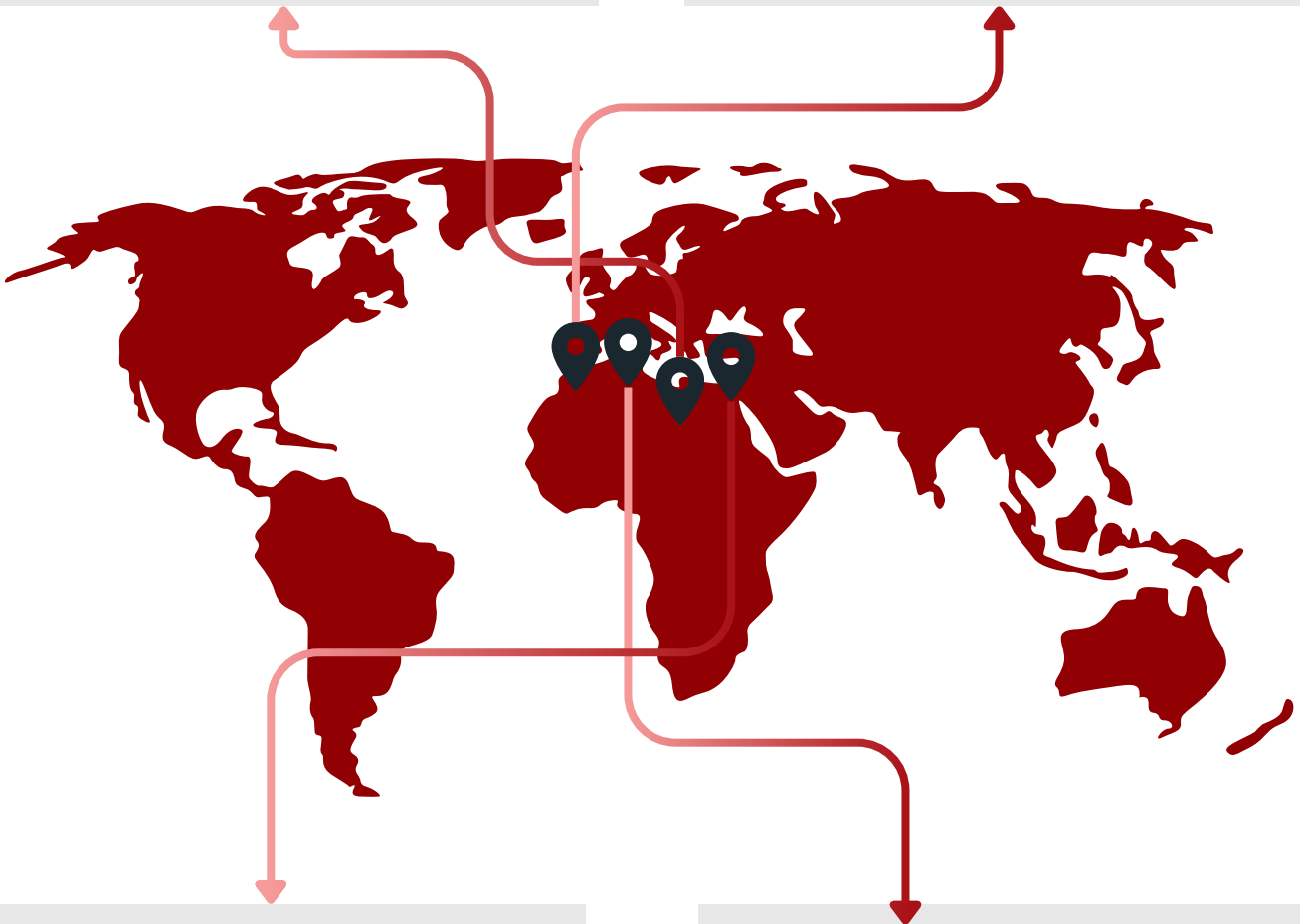
FOCUS COUNTRIES OF TRANSIT

Libya

Detention centers in Libya, often controlled by militias, have been reported by human rights organizations and the media to be places where sexual violence and exploitation are spreading. Female migrants are particularly vulnerable to rape, forced prostitution, and trafficking within these centers that are supposed to be a safe space or by smugglers and traffickers operating with impunity due to the country's political instability.

Morocco

As a key transit and destination country, Morocco has seen an increase in female migrants' vulnerabilities in the past decade. A cross-sectional survey results show that over 68.7% of female migrants have been victims of SGBV more than once. NGOs operating in Morocco have reported cases where women in transit have faced sexual exploitation in and around the country and lacked access to legal recourse or protective services (Acharai et. al., 2023).



Egypt

Reports of sexual violence against women in detention facilities and by smugglers in Sinai are increasing. Even though Egypt has laws against human trafficking, the enforcement and protection for migrants, especially women, can be inconsistent, and access to justice and support services is limited for those with irregular migration status.

Tunisia

Tunisia has increasingly become a point of departure for migrants heading to Europe. With the increasing number of migrants, the risks of exploitation in informal camps and detention increase as well. While Tunisia has taken steps towards improving migrants' rights and has mechanisms to combat trafficking, gaps in protection and support for migrant women remain.

REGIONAL (EU) LEGAL & POLICY FRAMEWORKS

The European Union policies and legal frameworks on combating human trafficking (one of the most common forms of sexual exploitation against women in transit) have shifted their focus to prioritize the human rights of victims, emphasizing the need for states to provide them with adequate protection and support services. These policies now embrace a multi-disciplinary approach that extends beyond traditional law enforcement measures. They encompass a broad spectrum of prevention, protection, and victim support measures aimed at addressing the complex challenges of trafficking effectively (Prpic, 2023).

Nevertheless, significant room for improvement remains to achieve a more comprehensive and inclusive approach to addressing sexual exploitation against women in transit by taking into consideration their intersecting vulnerabilities. Further efforts are required to ensure the effective implementation of these policies and legal frameworks by addressing underlying socio-economic factors and fostering stronger collaboration among stakeholders.



REGIONAL (EU) LEGAL & POLICY FRAMEWORKS

2005 Council of Europe Convention on Action against Trafficking in Human Beings

This is one of the most prominent international instruments against trafficking, which mandates that States must identify and protect victims of trafficking. It entered into force in 2008 and has been ratified by the 27 EU Member States. Its applicability extends beyond that of the UN Protocol, encompassing both transnational and domestic trafficking in human beings, regardless of ties to organized crime. Furthermore, combating trafficking is integrated into the European Agenda on Migration and the European Agenda on Security, with interconnections to various policy areas both within and beyond the EU.

EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016 and the EU Anti-Trafficking Directive

EU anti-trafficking policies, outlined in the EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016, along with legislative measures such as the EU Anti-Trafficking Directive (Directive 2011/36/EU), focus on several key priorities, such as ensuring the identification, protection, and assistance of trafficked individuals, enhancing cooperation among key stakeholders and promoting policy coherence, and strengthening knowledge and responses to emerging concerns related to all forms of human trafficking.

The Anti-Trafficking Directive acknowledged the distinct purposes for which women and men are frequently trafficked, emphasizing the need for gender-specific assistance and support measures.

The Anti-Trafficking Directive is by far the main EU instrument addressing human trafficking, and it builds on the Council of Europe's Convention on Action against Trafficking in Human Beings as well as the UN Trafficking Protocol.

HUMAN TRAFFICKING

REGIONAL (EU) LEGAL & POLICY FRAMEWORKS

Victims' Rights Directive

Under EU law, victims of human trafficking possess various rights, encompassing access to assistance and healthcare, labor rights, justice accessibility, legal representation, and compensation entitlements. Directive 2012/29/EU (the Victims' Rights Directive) mandates Member States to guarantee that victims of crime, particularly those of human trafficking, who frequently necessitate specialized support and safeguarding due to heightened risks of secondary victimization, intimidation, and reprisals, receive suitable information, assistance, and protection.



EU Action Plan for the Western Mediterranean and Atlantic routes

This plan aims to strengthen the EU's partnerships with key countries along these routes, in close coordination with its Member States as part of the Team Europe approach. One of the primary focuses is on implementing the Anti-Smuggling Operational Partnership (ASOP) with Morocco, which will include providing targeted financial assistance, budget support operations, and capacity building to support Morocco's efforts in combating migrant smuggling and human trafficking.

The 2024 Draft EU Directive on Violence against Women violates the principles outlined in the Istanbul Convention, ratified by the EU in October 2023, which emphasizes equal treatment for all women irrespective of their residence status.

2024 Draft EU Directive on Violence against Women

The new EU Directive, slated for voting by both the EU Council and the European Parliament in February-March 2024, lacks provisions for safeguarding undocumented women from facing immigration enforcement if they seek assistance from law enforcement agencies regarding violence and exploitation. This agreement showcases the EU's prioritization of migration control over the protection of a marginalized group: undocumented or precariously-resident women who are disproportionately vulnerable to violence and abuse due to their status. This directly contravenes the EU's established regulations on victims' rights (Victims' Rights Directive) and data protection (General Data Protection Regulation), both of which mandate unbiased rights and safeguards for all individuals without discrimination.

NATIONAL-LEVEL LEGAL AND POLICY FRAMEWORKS

1- Morocco

Morocco's existing legal framework concerning refugees and asylum seekers originates from 1966 and lacks provisions for asylum or any rights for individuals seeking asylum. Despite the completion of a review of the draft asylum law in February 2019, the law has yet to be enacted, leaving hundreds of asylum seekers to navigate complex procedures administered by the UNHCR and the Office for Refugees and Stateless Persons.

According to the US Department of State's 2023 Trafficking in Persons Report, the availability of specialized shelters and services for trafficking victims remained inadequate, with the government failing to report any financial or in-kind support to civil society organizations offering victim services. Despite advancements in developing a victim identification guide and the National Referral Mechanism (NRM), comprehensive victim identification and referral procedures were still lacking for the majority of the reporting period. The absence of proactive screening and identification measures left certain populations, such as undocumented migrants, at risk of facing penalties solely for unlawful acts resulting directly from trafficking, including immigration violations.

'In Morocco, the data on SGBV against migrant women and girls is scarce, so the scale of the problem is unclear.' (Khalis et. al., 2023). It is interesting to note that Morocco is not a Party to the Smuggling of Migrants Protocol. Morocco has made efforts to regularize migrants and provide access to services, but challenges remain, especially for those in irregular situations. Agencies like the UNHCR continue to provide support but due to the underfunding, they can only prioritize the most extreme cases.

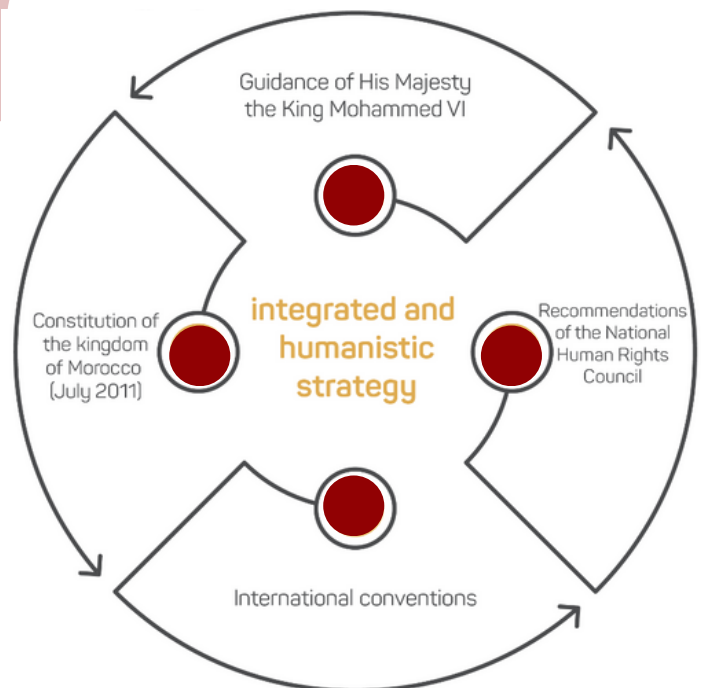


Fig. 1. The Moroccan National Strategy on Migration and Asylum is embedded in a defined frame of reference (Ministry of Foreign Affairs and Cooperation, Morocco)

THE NEW POLICY ON IMMIGRATION AND ASYLUM (2013)



After more than a decade of advocacy efforts by civil society, King Mohammed VI of Morocco announced a comprehensive plan to address migration and asylum issues in late 2013 (Jacobs, 2024). This new policy on immigration and asylum (2013) involved establishing a dedicated ministerial department for migration affairs, initiating a program to regularize the status of undocumented individuals in Morocco, issuing the first round of refugee and asylum seeker identification cards, and adopting the National Strategy on Immigration and Asylum (SNIA) on December 18, 2014, by the Council of Government. While this new approach has facilitated the acquisition of residency cards for undocumented migrants, asylum seekers, and refugees in Morocco, significant challenges persist in accessing resources and overcoming legal barriers.



MOROCCAN LAW NO. 27.14 (2016)

Moroccan Law No. 27.14 was enacted in 2016 to address human trafficking comprehensively by amending both substantive and procedural aspects of the Penal Code. This included the criminalization of various forms of human trafficking, including the smuggling of migrants. Subsequently, an executive decree issued in 2018 provided clarity on how the law would be implemented, outlining the roles and composition of the national committee responsible for coordinating efforts to combat human trafficking. These measures were part of Morocco's commitment to finalizing the procedures for its accession to the Global Action against Trafficking in Persons and the Smuggling of Migrants (Zaanoun, 2023). Article IV of the law mandates the State to provide, to the best of its abilities, protection, healthcare, psychosocial support, temporary accommodation, legal assistance, social integration, and assistance for voluntary return to the countries of origin for trafficking survivors.

UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME



Morocco is a State party to the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Morocco is also a Party to several key international human rights instruments, including the Convention for the Suppression of the Traffic in Persons and of the Exploitation and the Prostitution of Others, the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105) and the Worst Forms of Child Labour Convention, 1999 (No. 182), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.



TITLE II OF ACT NO. 02-03

Title II of Act No. 02-03 concerning criminal provisions on irregular emigration and immigration (articles 50–56) partially tackles the issue of combating human trafficking. In instances where irregular migration is organized or facilitated routinely or by criminal groups or networks, the law imposes penalties of 15 to 20 years of imprisonment if those transported to or from Moroccan territory suffer permanent incapacitation. Moreover, life imprisonment is prescribed in cases where the transported individuals for illegal migration face death.

NATIONAL-LEVEL LEGAL AND POLICY FRAMEWORKS



2- Egypt

The absence of a cohesive and systematic legal framework addressing refugees directly in Egypt creates a gap that particularly affects African refugee women. The numerous stakeholders involved in implementing, protecting, and advocating for refugee rights in Egypt have proven ineffective and counterproductive for black refugee women. They struggle to confront the complex oppression they face due to their identities, including sexual violence, labor exploitation, discrimination, and racism, all simultaneously and more (Mohamad, 2020). Black female refugees are particularly vulnerable to various forms of violence and exploitation, yet many hesitate to report incidents of sexual violence and abuse to the police due to fear. African refugees and aid workers have highlighted the prevalence of abuse experienced by refugee women employed as domestic workers in Egyptian households. These abuses range from rape and physical violence to unpaid wages. Compounding this issue, even if they desire to seek police protection, they are hindered by their inability to provide the necessary legal documentation.

Egyptian authorities do not recognize the UNHCR blue and yellow cards, illustrating another example of legal gaps that hinder the implementation of protective measures for refugee women. Given the limited employment opportunities available to African refugee women, many are compelled to seek work in the informal sector, often as maids, cooks, cleaners, nannies, and other domestic roles. This situation is particularly concerning because these women already face vulnerability stemming from their lack of legal protection, the hostile and racist working environments they encounter, and the informal nature of their employment, which lacks regulation and labor laws. Consequently, these women are at heightened risk of experiencing sexual violence and exploitation.



"Refugee women and girls, particularly Sudanese and other sub-Saharan Africans, faced the greatest risk of sexual and gender-based violence. Refugees who found work often took low-paying jobs in the informal market, such as domestic servants, and were vulnerable to financial and sexual exploitation by employers."
(US Embassy in Egypt, 2022)

EGYPTIAN LAW NO. 64 (2010)



Egyptian Law No. 64 (2010) criminalizes human trafficking. The law defines the crime in Article 2, aligning with the principles outlined in the Palermo Protocol. Article 5 of the law stipulates strict penalties for offenders, including imprisonment and fines ranging from 50,000 to 200,000 Egyptian pounds. The law explicitly states that exploiting the victims' vulnerabilities or needs is one of the methods of committing this crime (Dawood, 2020).

ARTICLE 17 OF THE EGYPTIAN PENAL CODE

Article 17 of the Egyptian Penal Code is problematic in regards to rape crimes because it provides the judge with the power to use amnesty if the crime circumstances require public action by the judges, leading to further injustice. Furthermore, in the majority of Arab countries, the rapist is exempt from prosecution if he marries the victim. The Egyptian Criminal Code took proactive steps in 1999 to repeal Articles 290-291, which granted exemption from punishment to abusers who married their victims (UNDP, 2018).

ARTICLE 267 OF THE PENAL CODE

Rape (other than of a spouse)- Article 267 of the Penal Code Law No. 58 of 1937 criminalizes rape (sexual intercourse with a female without her consent). Articles 268 and 269 criminalizes indecent assaults.



LAW NO. 64 OF 2010

Law No. 64 of 2010 on Combating Trafficking in Humans provides comprehensive measures to address human trafficking. This law also provides for gender equality and/or protection from gender-based violence and is substantially compliant with international standards.

LAW ON COMBATING PROSTITUTION

Prostitution and sex work are criminalized by the Law on Combating Prostitution No. 10 of 1961. However, this law does not provide for gender equality and/or protection from gender-based violence.

NATIONAL-LEVEL LEGAL AND POLICY FRAMEWORKS

3- Libya

Libya is a party to the Organized Crime Convention and has ratified the Smuggling of Migrants Protocol. Yet, Libya is one of the countries with the highest rates of migrants reporting exploitation, violence, degrading, and inhumane treatment. **According to a March 2020 report, 85% of the 3000 migrants who arrived in Italy after transiting through Libya between 2004 and 2020 were subjected to torture and inhumane treatment in Libya** (Reques et al., 2020).

The criminalization of irregular presence or entry into the concerned country, as well as violence stemming from authorities, can impede effective prosecution. In Libya, for instance, reports indicate that detention centers housing migrants and refugees are operated either by officials or by militias, paramilitary groups, or criminal organizations. Many of these detentions are conducted without legal authorization, lacking proper legal processes and imposing indefinite periods of confinement without the opportunity for detainees to challenge their deprivation of liberty.

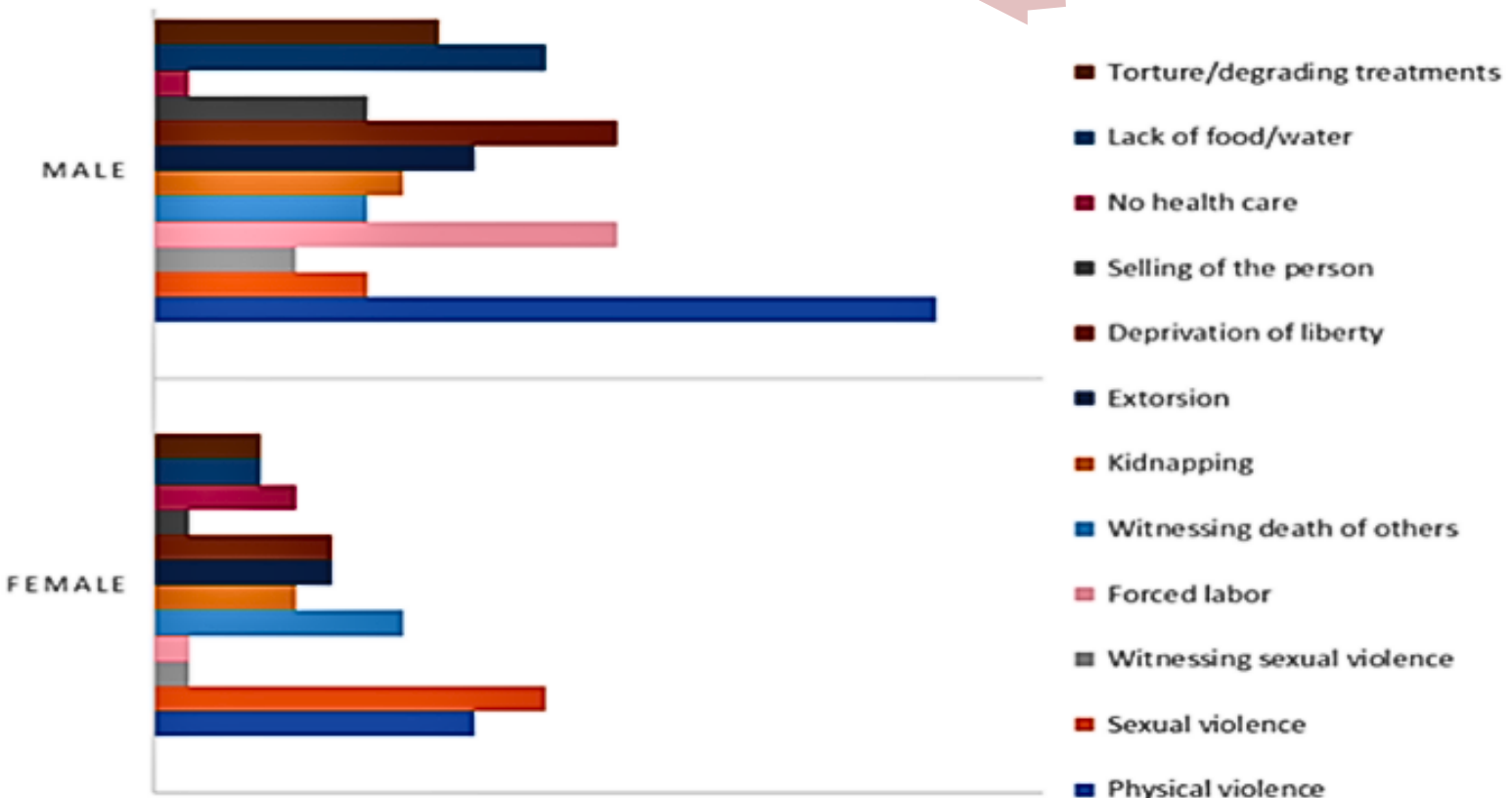


Fig. 2. Reported abuses by type and gender- Western and Central African routes (UNODC, 2020)

Note- Many migrants interviewed passed through Libya

Additionally, the ongoing crisis in Libya significantly restricts prosecutors' authority and resources to conduct thorough investigations. Arrests of smugglers are infrequent, and prosecution of perpetrators is rare, with instances of collusion observed between officials and smuggling groups. Consequently, crimes committed against migrants often go unpunished in this environment (UNODC, 2021).

Aggravated migrant smuggling may either constitute or lead to sexual violence and exploitation against women. However, current laws in Libya do not provide exemptions for victims from criminal responsibility if the incriminating acts result from sexual violence. Essentially, this means that any smuggled migrant who experiences rape or other forms of sexual violence, including sexual exploitation, forced abortion, or clandestine abortion after rape, may face prosecution. Consequently, victims of sexual violence among migrants are hesitant to report the abuse to authorities due to the fear of legal repercussions.



**Human
trafficking law**

**Rape (other
than of a
spouse) law**

**Sex work and
anti-prostitution
laws**

Libya does not have comprehensive anti-trafficking legislation. The Penal Code punishes international trafficking of women for sexual exploitation in some circumstances. Under the Penal Code, forcing a woman to be a prostitute or to compel a woman to emigrate with the knowledge that she will be sexually exploited into prostitution, is an offense. However, the Penal Code does not address trafficking involving deception, fraud, or abuse of power, as well as other types of slavery, servitude, and forced labor.

Article 407 of the Penal Code criminalizes rape as an offence against honour and morals, instead of a 'crime against the individual'. The penalty for having carnal connection through threats or force is imprisonment for a period not exceeding ten years. The Penal Code also exonerates a rapist if he marries his victim and does not divorce her for a period of three years.

Sex work and prostitution are prohibited by the Penal Code, and the Law against adultery and zina, Law No. 70 of 1973.

NATIONAL-LEVEL LEGAL AND POLICY FRAMEWORKS



4- Tunisia

Within Tunisia's intricate socio-legal landscape, the issue of migration, particularly concerning refugees and asylum seekers, presents a multifaceted challenge. While Tunisia has pledged its commitment to international refugee conventions and enshrined the right to political asylum in its Constitution, the absence of a comprehensive national asylum law or system creates significant gaps in protecting the rights of those seeking refuge within its borders. The UNHCR is the responsible body for refugee status determination and registration, issuing identity cards to asylum seekers and refugees. However, without corresponding legal status or access to essential services, these individuals find themselves in precarious situations, lacking the necessary support and protection. Moreover, the influx of EU funding to manage migration contrasts sharply with Tunisia's failure to establish clear migration policies or enact laws addressing asylum and refugee rights. As a result, the country grapples with a disjointed approach to migration management, leaving many stranded without adequate legal frameworks for protection. Southern Tunisia has become a focal point for intercepted migrants, where overcrowded shelters run by UNHCR and IOM provide short-term accommodation.

However, **insufficient capacity and funding cuts result in poor hygiene and outbreaks of diseases, exacerbating the dire situation. Beyond the legal complexities, migration carries gendered implications, particularly evident in the experiences of sub-Saharan migrant women.** Dr. Hajer ARAISSIA's research underscores the pervasive violence and exploitation faced by these women, ranging from physical abuse to sexual exploitation and trafficking. As underscored by HRW, Tunisia serves as a country of origin, transit, and destination for victims of human trafficking, with the majority being women of sub-Saharan origin.

The absence of a legal framework leaves migrant women in Tunisia vulnerable to exploitation, particularly gender-based violence and sexual trafficking



According to USDOS, the majority of identified human trafficking victims in 2022 were women and children, totaling 488 individuals, or 87% of the cases reported. In the same report, it also highlighted how female victims of forced labor are further exploited by nightclub owners and forced into commercial sex after promises to pay off their debts.

THE PENAL CODE OF TUNISIA



The Penal Code of Tunisia criminalizes prostitution outside regulated conditions, while a Decree from April 30, 1942, establishes specific regulations for legal sex work. Under these regulations, sex workers are required to undergo health screening, pay a special tax, and register with the Interior Ministry. They must operate within licensed brothels in designated areas and are subject to police supervision, needing permission to leave these areas. Additionally, they are granted limited leave per month, tied to their menstrual cycles, and must undergo bi-weekly medical examinations for sexually transmitted diseases. Exiting the profession requires proving an ability to earn a living through "honest" means and obtaining police permission, posing obstacles for those wishing to leave sex work.

ORGANIC LAW NO. 61 OF 2016

Organic Law No. 61 of 2016 on Preventing and Combating Trafficking in Persons in Tunisia implements international obligations under the Palermo Protocol. This law prohibits all forms of exploitation, particularly of women and children, addressing prevention, prosecution of perpetrators, and protection and assistance for victims. Penalties for trafficking range from 10 years to life imprisonment. The law defines key terms such as trafficking in persons, forced labor, sexual exploitation, and victimization. It establishes a National Committee to Combat Trafficking in Persons, tasked with developing a national strategy, issuing guidelines for monitoring trafficking, coordinating efforts, raising awareness, providing training, and supporting public services for trafficking survivors.

LAW NO. 58 OF 2017

Law No. 58 of 2017, enacted on August 11, 2017, is designed to eliminate all forms of violence against women, including sexual violence. Sexual violence is defined within the law as any act or statement aimed at subjecting a woman to sexual desires through coercion or other means, irrespective of the perpetrator's relationship with the victim. **According to UNCHR, female refugees and asylum-seekers, have equal rights to protection from sexual violence. This ensures that all women, regardless of their nationality or status, have access to essential services such as medical assistance and specialized police stations dedicated to combating violence against women.**



The legal and policy frameworks in Morocco, Egypt, Libya, and Tunisia exhibit notable gaps and inadequacies in effectively addressing sexual exploitation perpetrated against migrant women, refugees, and asylum-seeking women. Despite commitments to international conventions and occasional legislative measures, these countries continue to grapple with systemic challenges that leave vulnerable populations unprotected and marginalized.

In **Morocco**, while efforts have been made to establish policies and laws regarding migration and asylum, the implementation and enforcement remain deficient. The absence of a comprehensive asylum law leaves asylum seekers navigating complex procedures with limited rights and protections. Additionally, the lack of specialized shelters and services for victims of trafficking and sexual exploitation exacerbates their vulnerability.

Similarly, **Egypt's** legal framework falls short of protecting African refugee women from sexual exploitation and abuse. The failure to recognize UNHCR documentation deprives refugee women of essential legal protections, rendering them vulnerable to various forms of violence and exploitation in the informal sector. Despite criminalizing human trafficking, gaps in the legal system, such as lenient penalties for offenders and problematic provisions in rape laws, contribute to a culture of impunity and hinder survivors from seeking justice.

Libya's existing legal and policy frameworks also present significant challenges in combating sexual exploitation of women migrants, with detention centers operated by various groups lacking proper oversight and subjecting detainees to deplorable conditions. The absence of comprehensive anti-trafficking legislation and exemptions for victims from criminal responsibility further perpetuates the cycle of abuse and exploitation.

In **Tunisia**, despite legal frameworks addressing trafficking in persons and violence against women, gaps persist in protecting migrant women from sexual exploitation. The absence of a comprehensive national asylum law leaves asylum seekers and refugees without legal status and vulnerable to exploitation. Moreover, regulations governing sex work impose additional barriers for women seeking to leave the profession, exacerbating their vulnerability to exploitation and trafficking.

Addressing these gaps requires comprehensive reforms, including the enactment of robust asylum laws, strengthened protections for victims of trafficking and sexual exploitation, and improved access to essential services and support mechanisms for survivors.

POLICY RECOMMENDATIONS

RECOMMENDATIONS FOR IOM AND UNHCR:



1 Enhance Victim Identification and Support Services: IOM and UNHCR should collaborate to improve victim identification mechanisms along migration routes, with a focus on training staff to recognize signs of exploitation and providing comprehensive support services, including medical care, psychosocial support, legal assistance, and safe accommodation, to survivors of sexual exploitation.

2 Strengthen Cross-Border Cooperation: IOM and UNHCR should facilitate cooperation and information-sharing among transit and destination countries to combat human trafficking and sexual exploitation. This includes harmonizing legal frameworks, establishing joint investigative mechanisms, and enhancing coordination among law enforcement agencies, border authorities, and civil society organizations.



RECOMMENDATIONS FOR NORTH AFRICAN GOVERNMENTS:

1 Strengthen Legal Frameworks: North African governments should enact and enforce comprehensive legal frameworks that criminalize all forms of human trafficking and sexual exploitation against migrant, refugee, and asylum-seeking women and girls, provide adequate protection and support services to survivors, and ensure accountability for perpetrators, including law enforcement officials involved in exploitation.

2 Improve Access to Justice: North African governments should ensure that migrant women have equal access to justice, regardless of their immigration status, by removing barriers such as fear of detention or deportation, language barriers, and lack of awareness about legal rights.

3 Enact Comprehensive Legislation for Migrant Rights: North African governments should enact comprehensive legislation that explicitly outlines the rights and protections afforded to migrants, regardless of their immigration status. This legislation should encompass fundamental human rights principles, including access to healthcare, education, legal representation, and fair working conditions.

POLICY RECOMMENDATIONS



RECOMMENDATIONS FOR THE EU:

1 Promote Gender-Sensitive Policies and Practices: The EU should mainstream gender-sensitive policies and practices into its migration and asylum frameworks to ensure that the specific needs and vulnerabilities of migrant women are adequately addressed.

2 Provide Adequate Funding for Victim Support Services: The EU should allocate sufficient funding to support victim support services, including shelters, counseling, legal assistance, and healthcare, for survivors of sexual exploitation and trafficking.

CONCLUSION :

In conclusion, addressing sexual exploitation against women in transit along the Central and Western Mediterranean routes requires concerted efforts from multiple stakeholders, including international organizations, national governments, and regional bodies. The policy brief has shed light on the pervasive challenges faced by migrant women and girls, who are disproportionately vulnerable to sexual and gender-based violence during their journeys. From the lack of legal protections and access to services to the prevalence of exploitation in transit countries, the brief has underscored the urgent need for action to safeguard the rights and dignity of migrant women. Addressing sexual exploitation against women in transit requires a holistic approach that tackles the root causes of vulnerability while ensuring accountability and protection for survivors. It is imperative for North and West African countries and EU and its member state to uphold their commitments to human rights and take proactive measures to prevent and respond to sexual violence and exploitation.

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