

JESUIT MIGRANT SERVICE
SOUTHERN BORDER PROJECT
HUMAN RIGHTS OBSERVATORY ON THE SOUTHERN BORDER

**MOROCCO: ISSUES RELATED TO
INMIGRATION DETENTION**

**Submission to the Committee on the Protection of the Rights
of All Migrant Workers and Members of their Families**

36TH Session (27 Mar 2023 - 06 Apr 2023)

Southern Border Project

The Jesuit Migrant Service is a non-governmental organization dedicated to the promotion and defense of the rights of the migrant population, specifically this project aims to:

- Observe possible violations of human rights in the border area between Morocco and Spain, focusing on the cities of Melilla and Ceuta.
- Documenting these violations with the aim of influencing public administrations.
- Work with local actors in these border territories.
- Coordinate accompaniment processes for people traveling from border territories to the Spanish peninsula.

CONTEXT

Until the end of 2019, the Spanish Civil Guard patrolling the waters adjacent to the Chafarinas Archipelago transferred third country nationals to Melilla, following the provisions of the national law on foreigners, as well as the law on international protection. These migrants had left Moroccan territory, trying to arrive to Spanish territory by Chafarinas.

However, since 2019 this organization has documented cases of returns to Morocco of people coming from third countries currently experiencing conflicts that prevent their return (Syria or Yemen) and who were leaving in boats from Morocco. These people were returned to Morocco supposedly under the bilateral agreement between the two countries of 1992.

As it was pointed out, the *Guardia Civil* delivered the people detained in the island of Congreso (or in another minor place of Spanish sovereignty) directly to the Moroccan Security Forces, without taking them to Melilla for their police identification. Moreover, many of them declared their will to request International Protection before both authorities.

Both the return by the Spanish authorities and the reception by the Moroccan authorities is not done under any kind of regulation and in many cases the people returned to Morocco are being subjected to criminal proceedings with numerous charges, including prison sentences.

There is therefore no regulatory procedure or legal instrument that allows such return and corresponding reception and therefore these actions have been recorded by this organization. The corresponding complaints have also been filed with the competent Spanish authorities.

ARTICLE 16 OF THE CONVENTION, PROHIBITION OF ARBITRARY
DETENTIONS AND ARRESTS

This party understands that these summary returns constitute a violation of Article 16 of the Convention insofar as they are not carried out under any type of regulation, there is no information on the procedures that apply to this case and the guarantees that applicants for international protection have are not respected.

This non-observance of a human rights perspective by the Kingdom of Morocco of the returns described above includes the detention of persons who are handed over to this country for the mere fact of requesting international protection in the border territory, without being able to attribute any type of crime.

In these summary returns, the situation of women, minors or persons with illnesses or vulnerabilities that deserve consideration and respect for the principles of the Convention has not been taken into account.

In relation to these facts, we urge the Committee to request the following information from the Government of Morocco in order to assess the respect of Article 16 of the Convention:

(I) On the basis of what type of regulation is the practice of reception of persons coming from Spanish territory in these summary returns, as well as their subsequent detention, is protected.