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Towards a Humanized Border Governance in Africa: Protecting Vulnerable Migrants and Displaced Persons (The Cases of Morocco, Algeria, Tunisia, and Libya)

Rumo a uma Governança de Fronteiras Humanizada na África: Proteção de Migrantes Vulneráveis e Pessoas Deslocadas (Os Casos de Marrocos, Argélia, Tunísia e Líbia)

Hacia una Gobernanza Fronteriza Humanizada en África: Protección de Migrantes Vulnerables y Personas Desplazadas (Los Casos de Marruecos, Argelia, Túnez y Libia)

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Abstract

Migration governance in North Africa stands at the intersection of sovereignty, security, and humanitarian responsibility. Morocco, Algeria, Tunisia, and Libya occupy strategic positions along major migration routes linking sub-Saharan Africa to Europe, working simultaneously as countries of origin, transit, and destination. Over the past two decades, border management in these states has increasingly been shaped by securitization dynamics, externalization policies, and geopolitical pressures. While states retain the sovereign right to control their borders, an excessively security-driven approach has often generated protection gaps and heightened vulnerabilities for migrants, asylum seekers, refugees, and displaced persons. This article advances the concept of humanized border governance as a normative and strategic framework that reconciles border control with international human rights and refugee protection obligations. Drawing on international and regional legal instruments, including the 1951 Refugee Convention, African Union displacement frameworks, and core human rights treaties, the study analyzes institutional practices, legal deficiencies, and structural vulnerabilities in the four North African contexts. Through a comparative assessment, it highlights challenges such as the absence or weakness of national asylum systems, arbitrary detention, collective expulsions, and the inadequate identification of vulnerable groups. The article argues that humane border governance does not undermine state sovereignty; rather, it enhances institutional legitimacy, reduces irregular migration dynamics, and strengthens regional stability. It proposes structural reforms centered on independent asylum authorities, protection-sensitive border procedures, accountability mechanisms, and reinforced regional cooperation within the African Union framework. Ultimately, the study identifies that North Africa can develop a balanced regional model in which sovereignty and solidarity coexist, transforming borders from zones of exception into spaces governed by law, dignity, and shared responsibility.

Keywords: humanized border governance; migration securitization; vulnerable migrants; asylum systems in North Africa; refugee protection.

Resumo

A governança migratória no Norte da África situa-se na interseção entre soberania, segurança e responsabilidade humanitária. Marrocos, Argélia, Tunísia e Líbia ocupam posições estratégicas ao longo das principais rotas migratórias que conectam a África Subsaariana à Europa, funcionando simultaneamente como países de origem, trânsito e destino. Nas últimas duas décadas, a gestão de fronteiras nesses Estados tem sido cada vez mais moldada por dinâmicas de securitização, políticas de externalização e pressões geopolíticas. Embora os Estados mantenham o direito soberano de controlar suas fronteiras, uma abordagem excessivamente orientada pela segurança tem frequentemente gerado lacunas de proteção e ampliado vulnerabilidades para migrantes, solicitantes de asilo, refugiados e pessoas deslocadas. Este artigo propõe o conceito de governança de fronteiras humanizada como um marco normativo e estratégico capaz de conciliar o controle fronteiriço com as obrigações internacionais de direitos humanos e de proteção aos refugiados. Com base em instrumentos jurídicos internacionais e regionais, incluindo a Convenção de 1951, relativa ao Estatuto dos Refugiados, os marcos da União Africana sobre deslocamento e os principais tratados de direitos humanos, o estudo analisa práticas institucionais, deficiências jurídicas e vulnerabilidades estruturais nos quatro contextos norte-africanos. Por meio de uma avaliação comparativa, destacam-se desafios, tais como a ausência ou a fragilidade de sistemas nacionais de asilo, as detenções arbitrárias, as expulsões coletivas e a identificação inadequada de grupos vulneráveis. O artigo sustenta que uma governança fronteiriça humanizada não enfraquece a soberania estatal; ao contrário, fortalece a legitimidade institucional, reduz dinâmicas de migração irregular e

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reforça a estabilidade regional. Propõe-se um conjunto de reformas estruturais centradas na criação de autoridades de asilo independentes, em procedimentos fronteiriços sensíveis à proteção, em mecanismos de responsabilização e no fortalecimento da cooperação regional no âmbito da União Africana. Em última análise, o estudo identifica que o Norte da África pode desenvolver um modelo regional equilibrado no qual soberania e solidariedade coexistam, transformando as fronteiras de zonas de exceção em espaços regidos pelo direito, pela dignidade e pela responsabilidade compartilhada.

Palavras-chave: *gobernanza fronteriza humanizada; securitización de la migración; migrantes vulnerables; sistemas de asilo en el Norte de África; protección de los refugiados.*

Resumen

La gobernanza migratoria en el Norte de África se sitúa en la intersección entre soberanía, seguridad y responsabilidad humanitaria. Marruecos, Argelia, Túnez y Libia ocupan posiciones estratégicas a lo largo de las principales rutas migratorias que conectan África Subsahariana con Europa, funcionando simultáneamente como países de origen, tránsito y destino. Durante las últimas dos décadas, la gestión fronteriza en estos Estados ha sido cada vez más moldeada por dinámicas de securitización, políticas de externalización y presiones geopolíticas. Si bien los Estados conservan el derecho soberano de controlar sus fronteras, un enfoque excesivamente orientado a la seguridad ha generado con frecuencia vacíos de protección y ha incrementado las vulnerabilidades de migrantes, solicitantes de asilo, refugiados y personas desplazadas. Este artículo propone el concepto de gobernanza fronteriza humanizada como un marco normativo y estratégico capaz de conciliar el control fronterizo con las obligaciones internacionales en materia de derechos humanos y protección de refugiados. Basándose en instrumentos jurídicos internacionales y regionales, incluida la Convención de 1951 sobre el Estatuto de los Refugiados, los marcos de desplazamiento de la Unión Africana y los principales tratados de derechos humanos, el estudio analiza prácticas institucionales, deficiencias jurídicas y vulnerabilidades estructurales en los cuatro contextos norteafricanos. Mediante una evaluación comparativa, se destacan desafíos, tales como la ausencia o debilidad de sistemas nacionales de asilo, la detención arbitraria, las expulsiones colectivas y la identificación inadecuada de grupos vulnerables. El artículo sostiene que una gobernanza fronteriza humanizada no socava la soberanía estatal; por el contrario, fortalece la legitimidad institucional, reduce las dinámicas de migración irregular y refuerza la estabilidad regional. Se proponen reformas estructurales centradas en autoridades de asilo independientes, procedimientos fronterizos sensibles a la protección, mecanismos de rendición de cuentas y un fortalecimiento de la cooperación regional en el marco de la Unión Africana. En última instancia, el estudio identifica que el Norte de África puede desarrollar un modelo regional equilibrado en el que soberanía y solidaridad coexistan, transformando las fronteras de zonas de excepción en espacios regidos por el derecho, la dignidad y la responsabilidad compartida.

Palabras clave: *gobernanza fronteriza humanizada; securitización de la migración; migrantes vulnerables; sistemas de asilo en el Norte de África; protección de los refugiados.*

1 Introduction

Migration governance has become one of the most urgent political and humanitarian challenges of the 21st century. Throughout Africa, and particularly in North Africa, border management is increasingly influenced by security imperatives, geopolitical pressures, and externalization policies. However, the strengthening of border control mechanisms has often come at the expense of human rights protection, especially for vulnerable migrants and displaced persons.

Morocco, Algeria, Tunisia, and Libya occupy strategic positions along the main migration routes linking sub-Saharan Africa to Europe. These countries are not only transit zones but also countries of destination and, in some cases, countries of origin. The increasing securitization of borders in these states raises fundamental questions: how can states reconcile sovereign control of their borders with their humanitarian obligations? What would a framework for “humanized border governance” actually look like?

This article argues that a shift towards more humane border governance in North Africa is both a normative imperative and a strategic necessity. By examining the legal frameworks, institutional practices, and policy gaps in Morocco, Algeria, Tunisia, and Libya, it proposes ways to reconcile security imperatives with the protection of vulnerable populations.

1.1 Conceptual Framework: From Securitization to Humanized Border Governance

Border governance has traditionally been anchored in the classical principles of statehood: territorial integrity, sovereignty, and national security. Since the late twentieth century—particularly after the end of the Cold War and more intensively after the attacks of September 11, 2001—migration management has increasingly been framed through a security lens (Buzan; Wæver; Wilde, 1998). Irregular migration, transnational trafficking networks, organized crime, and terrorism concerns have reinforced what scholars describe as the “securitization” of migration (Buzan; Wæver; Wilde, 1998).

Under securitized paradigms, migration is treated primarily as a threat to public order and national stability. This approach often prioritizes border control technologies, surveillance systems, deterrence policies, and restrictive entry measures (IOM, 2022; European Commission, 2020). While states undoubtedly retain the sovereign right to

control their borders under international law (UNITED NATIONS, 1951), an exclusively security-driven model risks marginalizing human rights standards and international protection obligations (UNHCR, 2011).

In response to these tensions, an alternative paradigm has emerged: humanized border governance. This framework does not reject state sovereignty nor advocate for open borders. Instead, it proposes a balanced model in which border management remains lawful and regulated, while fully integrating international human rights and refugee protection standards (UNHCR, 2011; UNITED NATIONS, 1966a).

A humanized border governance framework rests on five interrelated pillars:

1.2 Human Rights Compliance

At its core, humanized governance requires strict adherence to international human rights law and refugee law. Fundamental principles include:

- The principle of non-refoulement, enshrined in the 1951 Refugee Convention, which prohibits returning individuals to territories where they face persecution, torture, or serious harm (UN, 1951).
- Respect for due process guarantees in administrative and judicial procedures related to entry, asylum, detention, or removal (UNITED NATIONS, 1966a; UNITED NATIONS, 1966b).
- Protection against arbitrary detention and collective expulsions (UNHCR, 2011; Amnesty International, 2023).

Human rights compliance transforms borders from zones of legal exception into spaces governed by the rule of law (HRW, [2022]).

1.3 Protection-Sensitive Border Management

Protection-sensitive border management integrates screening and referral mechanisms at border points to identify persons in need of international protection (UNHCR, 2011). It ensures that border officials are trained not only in security procedures but also in recognizing indicators of vulnerability, trafficking, or asylum claims.

1.4 Differentiated Treatment of Vulnerable Groups

Certain categories require specific safeguards, including:

- Women at risk of gender-based violence
- Unaccompanied or separated children
- Victims of trafficking
- Asylum seekers and stateless persons

International instruments such as the Convention on the Rights of the Child emphasize that the best interests of the child must be a primary consideration in all actions concerning minors (UN, 1989).

1.5 Regional and International Cooperation

Migration is inherently transnational. Effective and humane border governance therefore requires structured cooperation between states, regional organizations, and international agencies (AU, 1969; AU, 2009). Information sharing, joint training, responsibility-sharing mechanisms, and harmonization of standards contribute to more predictable and rights-consistent outcomes (IOM, 2023).

1.6 Accountability and Oversight Mechanisms

Independent monitoring bodies, national human rights institutions, parliamentary review mechanisms, and judicial remedies are essential to prevent abuses and ensure compliance with domestic and international norms (Amnesty International, 2023; HRW, [2022]).

2 Migration Dynamics in North Africa

North Africa has become a complex migratory space, characterized by emigration, transit, and settlement. Mixed migration flows—including economic migrants, asylum seekers, refugees, and victims of human trafficking—are compounded by regional instability and socioeconomic disparities.

2.1 Case Study:

2.1.1 Morocco

Morocco, once a transit country to Europe, has become an increasingly important destination country. The 2013 National Immigration and Asylum Strategy launched regularization campaigns granting legal status to tens of thousands of migrants.

However, the United Nations High Commissioner for Refugees (UNHCR, 2023) highlights persistent challenges in Morocco regarding the protection of refugees and asylum seekers, including reliance on UNHCR for registration and status determination, limited access to valid documents and essential services, and significant delays in asylum procedures. These difficulties complicate access to public services and legal settlement, despite joint efforts by the Moroccan government and UNHCR to strengthen migration governance.

2.1.2 Algeria

Algeria remains a transit country and, to a lesser extent, a host country for refugees and migrants, including those from sub-Saharan Africa. In the absence of a comprehensive national legal framework for asylum, access to protection procedures is primarily provided by UNHCR, and this dependence, along with limitations in access to formal protection mechanisms, exacerbates gaps in safeguards for refugees and asylum seekers (UNHCR, 2023).

Reports from human rights organizations raise concerns about the forced returns or relocation of irregular migrants to southern border areas, often in remote desert regions. These practices can create protection gaps, particularly for undocumented migrants who lack access to legal remedies and formal identification procedures.

In Algeria, migration governance remains primarily security-focused, with limited institutionalization of protection mechanisms.

2.1.3 Tunisia

Tunisia has experienced a sharp increase in departures to Europe in recent years, positioning it simultaneously as a country of origin, transit, and partial destination. The political transitions following the 2011 revolution, coupled with economic fragility and rising unemployment, have intensified migratory pressures.

Recent political instability and the economic crisis have further complicated migration governance. Reports from civil society and international observers (UNHCR and other reports, 2023–2025) have highlighted concerns related to arbitrary detention practices, limited procedural safeguards, and inadequate institutional mechanisms for identifying and protecting asylum seekers and victims of human trafficking.

Although Tunisia has begun discussions on its asylum legislation, the lack of a fully operational national asylum system continues to expose asylum seekers to legal insecurity. The migration context is also marked by cooperation agreements with European states focused on containment and returns, thus reinforcing the security dimension of border management.

Tunisia therefore faces a dual challenge: internal socio-economic instability and expectations regarding the control of external migration.

2.1.4 Libya

Libya represents one of the most critical migration contexts in the region. The persistent political fragmentation since 2011, the effective control of vast areas by militias, and the weakness of state institutions have fostered an environment where migrants, refugees, and asylum seekers are exposed to serious human rights violations. In many cases, undocumented individuals are arrested and detained without due process, often in unofficial centers or those run by armed groups, without access to effective legal protection—which constitutes de facto arbitrary detention.

In these contexts, forced labor, extortion, sexual violence, torture, and forms of human trafficking are widely documented by both the United Nations and international organizations; these abuses are perpetrated by criminal networks, sometimes in collusion with state or quasi-state actors.

At the same time, the absence of a functional national asylum framework that meets international standards and the reliance on agencies such as the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) for assistance exacerbate protection gaps, making migrants particularly vulnerable to exploitation and abuse (UNHCR, 2023; IOM, 2023; and observations from human rights organizations).

2.2 Vulnerabilities at Borders

Border areas often constitute zones of heightened legal and physical vulnerability. Migrants, asylum seekers, and displaced persons are frequently exposed to cumulative risks stemming not only from their irregular status but also from weak institutional safeguards, limited control, and security-driven repressive practices. 3.1 Cumulative and Structural Vulnerabilities

Migrants and displaced persons face multiple, intersecting forms of vulnerability:

- Exposure to Trafficking Networks: Restrictive entry routes and the limited number of regular pathways increase dependence on transnational trafficking networks. This dependence exacerbates the risk of trafficking for forced labor, sexual exploitation, or debt bondage.
- Gender-Based Violence: Women and girls are particularly vulnerable to sexual violence, exploitation, and coercion during transit and detention.
- Child exploitation and risks for unaccompanied minors: Unaccompanied or separated children face increased risks of disappearance, forced labor, and recruitment by criminal networks. The lack of guardianship mechanisms exacerbates these dangers.
- Lack of access to legal remedies: A lack of information, language barriers, and the absence of effective legal assistance limit migrants' ability to challenge detention or removal decisions. • Prolonged administrative detention: In many contexts, migration-related detention occurs without clearly defined time limits, individualized assessments, or judicial oversight.
- Refoulement and collective expulsions: Summary returns without adequate vetting procedures can violate the principle of non-refoulement and due process guarantees.

These vulnerabilities are not accidental; they are often structurally linked to governance deficiencies and the prevalence of repressive migration control.

3 Legal and Normative Frameworks

Migration governance in North Africa is embedded in a dense network of international and regional legal instruments. The four countries—Morocco, Algeria, Tunisia, and Libya—are all, to varying degrees, subject to binding treaty obligations and soft law norms.

3.1 International Refugee and Human Rights Law

A central pillar of the normative framework is the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, which define the concept of a refugee and codify the principle of non-refoulement. While ratification status and practical implementation vary among the countries in the region, the Convention establishes minimum standards of protection that States are obligated to respect.

Furthermore, these four countries are parties to fundamental international human rights treaties, including instruments protecting civil, political, economic, social, and cultural rights. These treaties apply to all persons within the jurisdiction of a State, regardless of their nationality or migration status. Consequently, migrants and asylum seekers are entitled to procedural safeguards, protection against arbitrary detention, and guarantees against torture and ill-treatment.

3.2 African Union Instruments

At the regional level, the African Union has developed complementary legal instruments relating to population displacement. The 1969 OAU Convention relating to the Status of Refugees broadens the definition of a refugee in the African context, and the Kampala Convention provides a binding framework for the protection and assistance of internally displaced persons.

These regional standards reflect Africa's historical experience with large-scale population displacements and strengthen collective responsibility and solidarity among Member States. However, their implementation largely depends on national legislative and institutional frameworks.

In North Africa, the gap between international ratification and effective national integration is a recurring challenge. Formal adherence to treaties does not automatically guarantee:

- The adoption of implementing legislation
- The establishment of independent asylum authorities
- Legally binding rights

- The administrative capacity to conduct fair status determination procedures.

In several countries, the absence or weakness of comprehensive national asylum legislation leaves asylum seekers in a legal vacuum. Without codified procedures for determining refugee status, clear appeal mechanisms, and defined rights attached to status recognition, migrants often remain in prolonged legal uncertainty. This "legal vacuum" increases their vulnerability to detention, informal removal practices, and restricted access to employment, education, and healthcare.

4 Towards a Humanized Border Governance Model

North Africa is at the crossroads of global migration governance. Moving from a security-centric framework to a humanized border governance model requires structural, legal, and institutional reforms. The objective is not to weaken border control, but to ensure that sovereignty is exercised in accordance with international obligations and standards of human dignity.

4.1 Strengthening National Institutions and Capacities

To establish humanized border governance, States must:

- Create independent and effective asylum authorities: adopt comprehensive asylum legislation and establish specialized, independent, and accountable bodies. Procedures must include systematic registration, individual interviews, reasoned decisions, and appeal mechanisms to guarantee legal certainty and protection against arbitrariness.

- Establish vulnerability-sensitive screening mechanisms: Official and informal points of entry must have early identification systems to identify asylum seekers, victims of trafficking, unaccompanied minors, and individuals with specific medical or psychological needs.

- Train border agents in human rights and protection: Capacity-building programs must include international refugee law, anti-trafficking standards, child protection, and gender-sensitive approaches. This professionalization reduces abuses and strengthens institutional legitimacy.

4.2 Regional Cooperation and Coordination

The regional dimension is essential for managing mixed migration flows and harmonizing protection standards:

- Strengthen coordination within the African Union: Utilize continental frameworks to harmonize standards, share responsibilities, and develop collective responses to displacement crises, while disseminating best practices and establishing peer review mechanisms.

- Develop regional protection mechanisms for mixed flows: establish regional referral systems and common standards to meet the needs of refugees, economic migrants, and victims of trafficking.

- Improve information sharing while protecting personal data: cross-border cooperation must incorporate strict data protection standards to prevent misuse, particularly in contexts involving asylum seekers or politically sensitive cases.

5 Conclusion

Conclusion: North Africa is at a strategic crossroads in global migration governance. The experiences of Morocco, Algeria, Tunisia, and Libya illustrate the tension between national security, state sovereignty, and humanitarian obligations. While security dominates the political discourse, the persistent vulnerability of migrants and displaced persons underscores the urgent need for a balanced, human rights-based approach.

Truly humanized border governance requires more than symbolic commitment: it demands systemic institutional reform, including independent asylum authorities, robust border control and protection mechanisms, and professional training for personnel. Legal clarity and the full integration of international human rights and refugee protection standards are essential to ensuring the coherence and effectiveness of national practices. Regional coordination, particularly within the framework of the African Union, offers an opportunity for harmonized policies and shared responsibility, strengthening the legitimacy and resilience of governance systems. Protecting migrants is not incompatible with effective border control; on the contrary, it strengthens it, reduces irregular migration, weakens smuggling networks, and builds trust between states and civil society.

North Africa has the opportunity to develop a regional model that reconciles sovereignty and solidarity, demonstrating that state control can coexist with protection-based approaches. To achieve this, principles must be translated into concrete policies, measurable results, and sustainable institutional practices that benefit both migrants and regional stability. Regular and regulated migration pathways, such as mobility programs, humanitarian visas, and functioning asylum systems, reduce reliance on irregular routes and strengthen state control. Regional cooperation also promotes intelligence sharing and coordinated responses to human trafficking, while placing the protection of victims at the forefront.

Aligning border governance with international standards strengthens the diplomatic and institutional credibility of states, facilitating bilateral and regional cooperation as well as economic and geopolitical partnerships. A balanced and predictable approach, integrating security and human rights, allows for the creation of resilient systems capable of adapting to migration flows and avoiding cyclical crises.

Finally, the differences between North African countries—Morocco with structured reforms, Algeria and Tunisia with hybrid frameworks, and Libya marked by systemic failures—underscore the need for a coherent regional approach. Humane border governance, reconciling sovereignty and protection obligations, forms the basis for safe, legal, and human rights-respecting migration in North Africa.

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