

Médecins Sans Frontières

VIOLENCE and IMMIGRATION

Report on illegal sub-Saharan immigrants (ISSs) in Morocco.

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INTRODUCTION

This report presents an overview of the various patterns of violence committed against illegal sub-Saharan immigrants (ISSs) in both Morocco and Spain. It focuses on the repercussions that violence has on the health of this collective, revealing the vulnerability of ISSs as the Moroccan, Spanish and European authorities fail to meet their obligations in protecting them from all forms of violence, physical or mental harm, threats and intimidation. Furthermore, the report shows that vulnerability has increased amongst a people who are already in danger due to armed conflict, political persecution or the extreme poverty from which they are seeking asylum.

In part I of the report we give some background to the phenomenon of sub-Saharan immigration and its transit through Morocco en route to Spain, followed by the quantitative and qualitative results of medical aid work carried out by Médecins sans Frontières (MSF) teams across Morocco¹. This includes not only the number of pathologies and most frequent consultations for ISSs attended by MSF, but also the causes, of which violence is the most predominant.

Part II contains a series of personal accounts of the circumstances in which the various conditions treated by MSF (both individual and collective) occurred. These have been grouped according to models/patterns of violence and violations of human rights. Details are given regarding the causes, geographical locations of attacks and other forms of violence inflicted upon the most vulnerable groups of ISSs.

We have also included legal references to national laws and to international treaties and conventions ratified by Morocco and Spain. Although most of these are instruments to protect human rights that are applicable to ISSs, they are neither complied with nor put into practice, revealing the gap that exists between the theoretical legal framework and what we are actually seeing.

The report concludes with a series of petitions, aimed chiefly at Moroccan and Spanish authorities and political leaders, including the consequences violence has on the health and dignity of ISSs and proposes methods to avoid them.

The aim of this report is to:

- **Raise awareness about the lack of protection and defence available to this human collective.** These men, women and children, mainly from countries in sub-Saharan Africa, are fleeing situations of extreme vulnerability.
- **Illustrate the violence used by Moroccan and Spanish security forces against ISSs.** This is occurring despite the legal framework set out in international rulings that has been adopted and ratified by the countries directly involved² as well as current national laws³.

¹ MSF currently has a coordination team in Rabat and medical units operation in Nador, Tangier and Oujda.

² Universal Declaration of Human Rights, 1951 Geneva Convention relating to the Status of Refugees, the 1967 New York Protocol relating to the Status of Refugees, the 1969 OAU Convention which governs the internal problems of refugees in Africa, the 1954 Convention relating to the Status of Stateless Persons (not ratified by Morocco), the 1984 International Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, (of which Morocco is a State

- **Discuss the existence of other forms of aggression in addition to those mentioned previously which further jeopardise ISSs**, such as violence committed between groups, by human-trafficking networks and by common criminals.

Party but does not recognise the competence of the Committee to receive and consider communications from States (Declaration article 21) or from individuals (Declaration, article 22), among others.

³ Law 02-03 relating to foreigners entering and staying in the Kingdom of Morocco, to emigration and to illegal immigration, Law 4/2000 relating to the rights and freedoms of foreigners in Spain and their social integration and implementing regulation. See also legislation on Spanish and Moroccan asylum.

PART I: MEDICAL CONSEQUENCES OF THE VIOLENCE USED AGAINST ISSs

1. BACKGROUND

Although historically Spain and Morocco have themselves generated immigration and transit into other countries, over the last ten years they have become host countries for tens of thousands of ISSs⁴. In Morocco the migration process is currently bi-directional as its own population migrates whilst at the same time it is also becoming a major host country for many ISSs⁵.

The human drama that unfolds every day as immigrants attempt to cross the Mediterranean and the frightening and increasing numbers of those who die have become familiar occurrences in recent years.

Although this drama has become somewhat commonplace, its backdrop – tainted with violence, dissuasion, exclusion and exploitation, makes it one of the most alarming phenomena in current times. It is characterised by the use of extremely violent dissuasive measures, seen in both national border control policies and the European border shutdown strategy. It also be linked to the vested financial interests of human-trafficking networks or of common criminal groups, as this report sets out.

We are unable to accurately gauge the scope of the situation but it is thought that 6,300 people⁶ have lost their lives on Spanish and Moroccan coasts in the last ten years, although only 1,400 have been officially reported. Official sources put the number of fatalities in Morocco and Spain (including the Spanish enclaves of Ceuta and Melilla) at 289 in 2004, whilst the unofficial estimation is around 500⁷. These figures would be considerably higher if they included the ISSs who died during their epic journeys across the transit countries of North Africa and the Sahel, the number of which we do not know.

The unstoppable rise in migration goes hand in hand with an increase in the degree of violence used in measures to control it. Torture and inhuman, degrading treatment⁸ adds to the suffering and marginalisation of people who in their search for a better life already expose themselves to extreme, often inhumane, conditions of subsistence and instability.

⁴ Morocco is not the only North African country to receive sub-Saharan and Asian immigrants (although it is the main host). Algeria is host to around 7,200 immigrants, out of a total foreign population of about 97,600; Tunisia has around 30,000 and Libya is home to some 100,000 Sudanese and over 40,000 sub-Saharan immigrants. Lahlou, Mehdi *The Maghreb – a new immigrant destination*; World HMI Congress (Human Movements and Immigration). Barcelona Forum 2004.

⁵ Figures on illegal immigrants in Morocco vary hugely according to the source, ranging from 6,000 to 15,000. The fact that ISSs are hidden and highly volatile makes it impossible to obtain reliable data. As an indication, in the province of Laayoune alone, around 4,000 ISSs were arrested in 2004.

⁶UNITED for Intercultural Action (pan-European network against racism), <http://www.united.non-profit.nl/pdfs/deathlist2005.pdf>.

⁷ APDHA, (Human Rights Association of Andalusia), *Report on illegal immigration in 2004*, p9.

⁸ "Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person (...) or intimidating or coercing him or a third person, (...) for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity" Art. 1 International Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

2. CONSEQUENCES FOR THE HEALTH OF ISSs

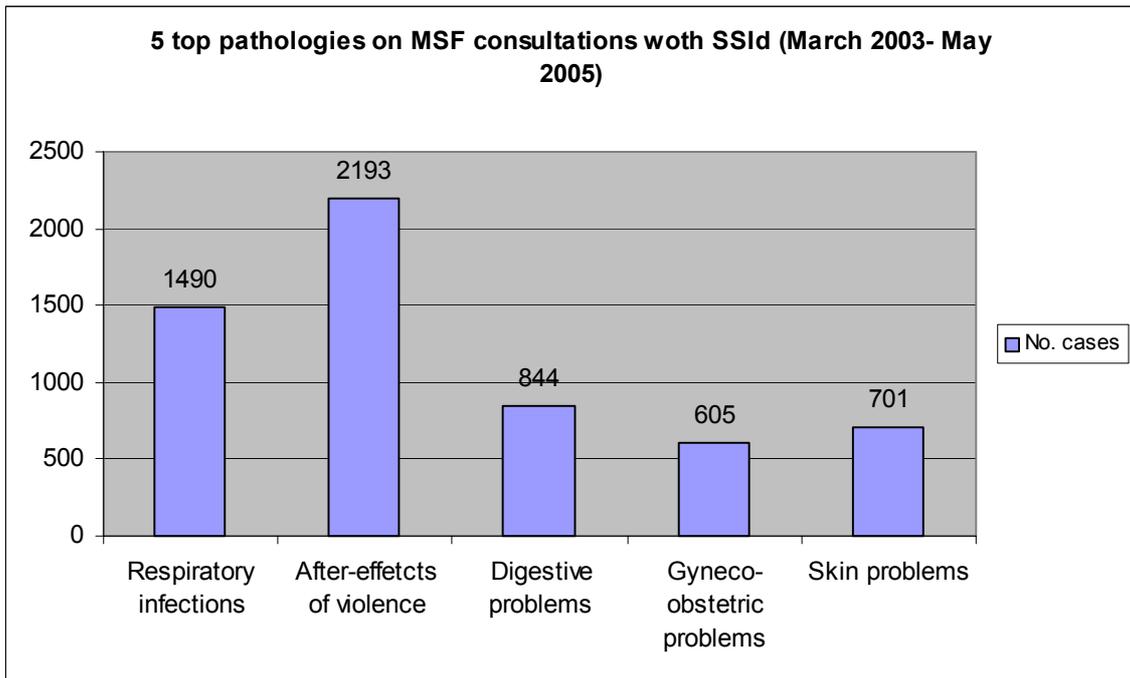
Since early 2003, MSF has been carrying out purely medical and humanitarian work with immigrants in Morocco with the aim of improving the living conditions of ISSs whose situations are extremely precarious. Furthermore, with the support of the Moroccan health authorities, MSF is working to improve access to medical care and health services for sub-Saharan immigrants with health problems. At the moment we are working mainly in the northern regions of Tangier, Nador and Oujda. The invaluable support given by Moroccan health professionals has made access to medical and health services possible.

In 24 months MSF has carried out 9,350 medical consultations which have focused on treating and preventing infectious and potentially epidemic pathologies, offering curative and preventive treatments to the most vulnerable immigrant groups (giving priority to pregnant women and children), Cases were referred to the following Moroccan programmes: mother and child health, the expanded programme of immunisation, AIDS, TB, sexual and reproductive health, and family planning, to name but a few.

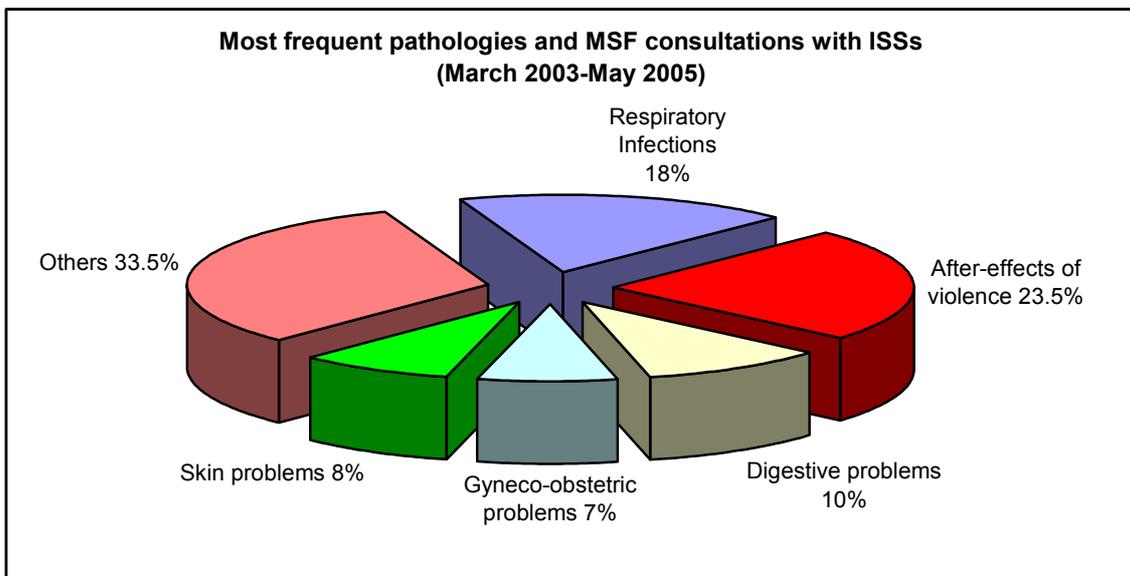
With regard to medical emergencies, MSF has treated injuries, serious trauma cases and the consequences of direct or indirect violence used against ISSs. At present MSF is providing aid for a fluctuating population of between 1,500 and 2,000 immigrants⁹, most of whom are of sub-Saharan origin¹⁰. Because of the transient nature of this population group, it is very difficult to extrapolate these figures from other ISS groups that are either resident or in transit in other parts of the country such as Casablanca and Rabat. Nevertheless, the statistics gathered by MSF on the basis of the cases registered by its own teams speak for themselves and reveal the alarming extent of violence used against this collective group.

⁹ In Tangier, 81-88 % are men, 9-15% women, 1.2-2% pregnant women and 3-4 % are children.

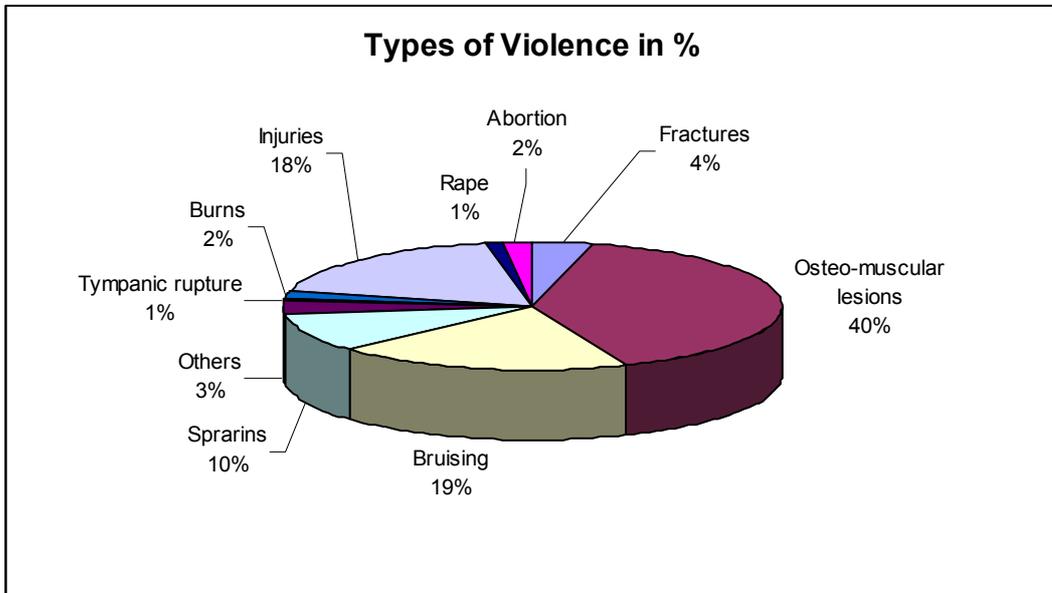
¹⁰ Most of whom come from: Nigeria, Mali, Guinea-Conakry, Cameroon and Senegal.



Between April 2003 and May 2005, out of a total 9,350 medical consultations with ISSs, 2,193 were related to violence. This means that approximately 23.5% of the people treated in Tangier, Nador and Oujda, medinas, outskirts (such as Mesnana) and forests (Bel Younech, near Ceuta, and Gourougou, near Melilla), were direct or indirect victims of violent acts.

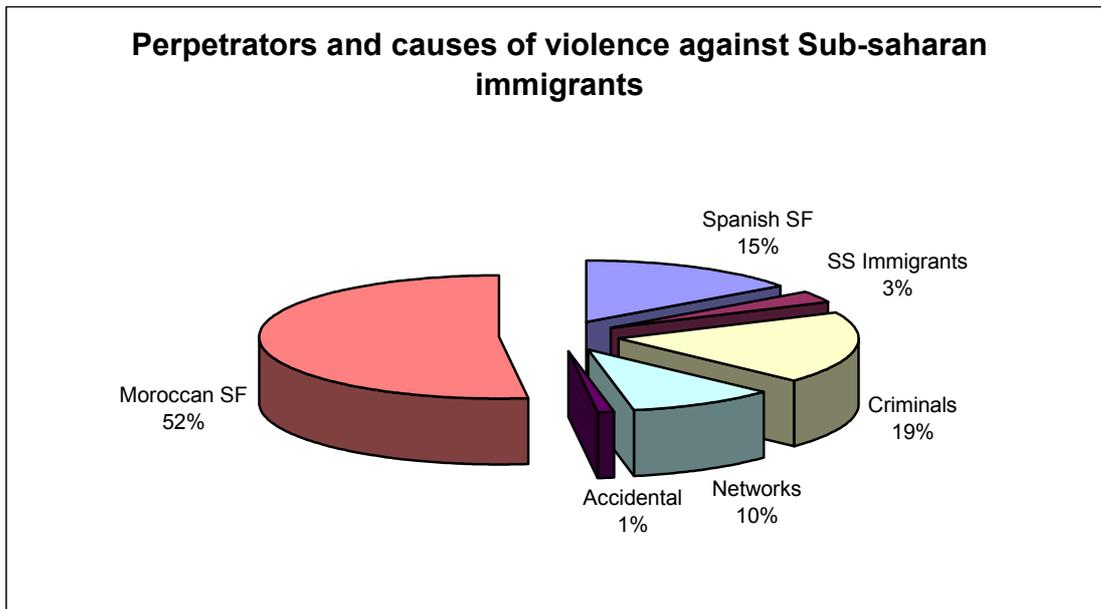


Various models and patterns of violence can be seen from the statements taken by our medical teams in the field (see section two of this report). The physical consequences of these range from serious cases of trauma caused by falls from fences around the border areas or whilst fleeing from the Moroccan security forces, to bullet wounds, beatings, attacks by dogs, and even deaths and sexual violence.



Many of the sub-Saharan immigrants who come to our medical teams for treatment for these injuries state that their assailants were ***institutional or governmental officials from Morocco and Spain***. Our patients say that they have been victims of an excessive use of force in addition to humiliating and cruel treatment whilst being detained or chased by certain members of the Moroccan security forces (SF) and the Spanish security forces in Ceuta and Melilla.

The declarations made by ISSs also reveal that ***other officials and persons use violence against ISSs***. Some attacks are attributed to members of human-trafficking networks who are notorious for their use of strict discipline and terror and for whom paybacks, disappearances and torture are part of their normal code of conduct. Others refer to hostile attacks (such as violent muggings) from members of Moroccan common criminal groups who aim to strip ISSs of their few possessions. To a lesser extent we have also found sub-Saharan immigrants committing violence against their own people, mainly against women or individuals from different groups or nationalities. Lastly, we have also registered some cases of sexual violence perpetrated against women and minors by the various aforementioned parties.



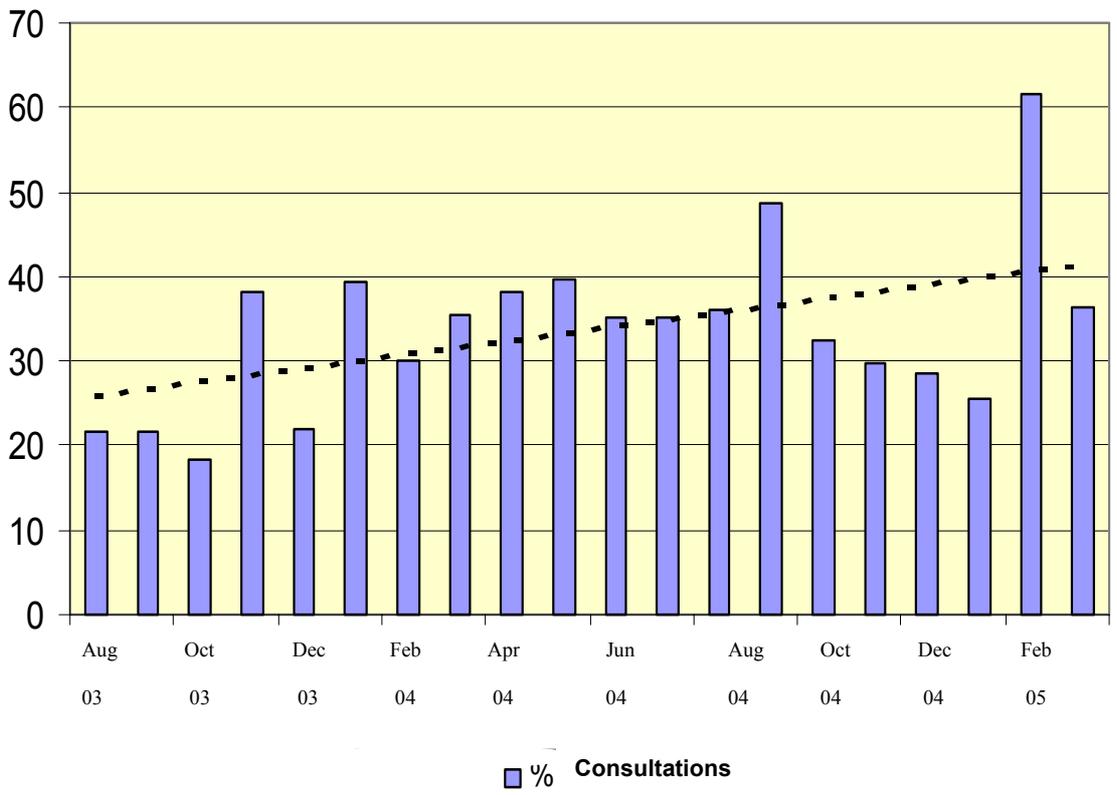
The distribution of violent acts¹¹ committed against ISSs is somewhat uneven with the security forces of both countries accounting for over 65% of cases, whilst criminal groups and human-trafficking networks represent almost 30%.

The number of after-effects found amongst adult ISSs resulting from violent acts varies, as does the percentage of such cases in relation to the total number of consultations given by our medical teams. Figures vary according to access and the time of year in question. There is a correlation between injuries caused by violence and the extent to which pressure is exerted on immigrants by security forces.

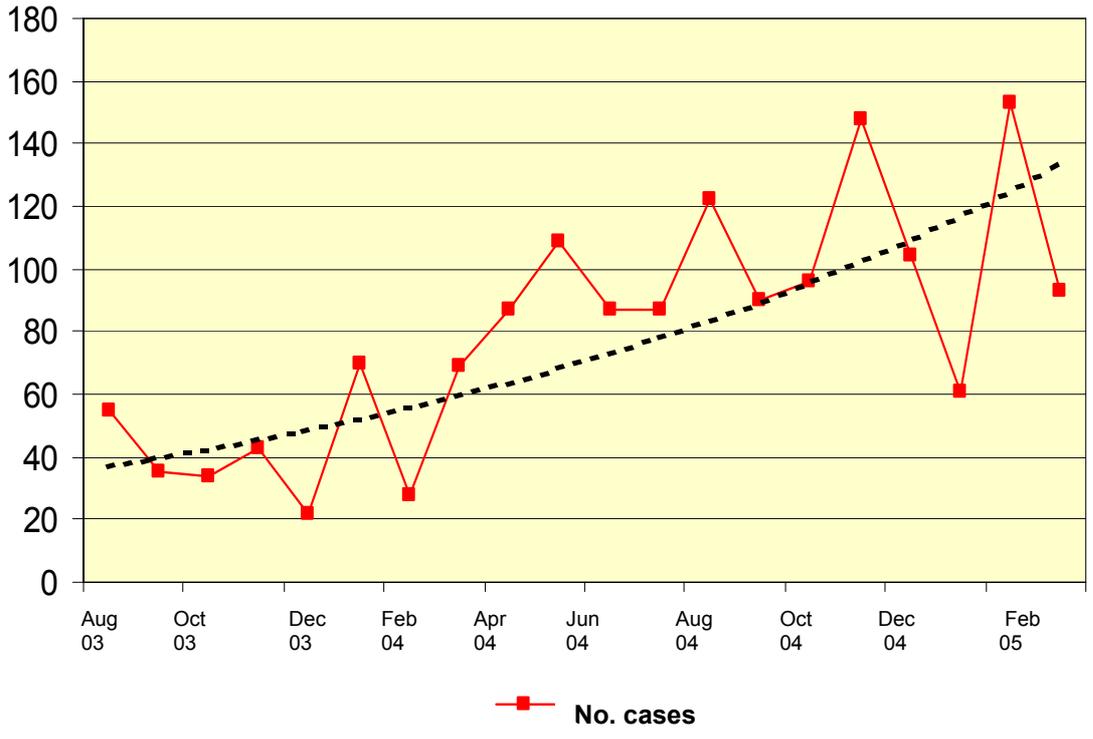
As a consequence of the violent spiral in which sub-Saharan immigrants are trapped, we have observed a clear deterioration in mental health status. Included amongst other manifestations are: depressive and obsessive symptoms; cases of anxiety and irritability; loss of memory; migraines and fatigue-characteristic of the Ulysses Syndrome and exacerbated by the sense of being uprooted; a lack of expectations of success, and loss of the ability to make choices.

¹¹ This graph refers to the incidents deemed to be most serious registered between 07/2003 and 03/2005

Percentages consultations and after-effects of violence



No. Consultations on after-effects of violence



PART II:
**MODELS AND PATTERNS OF VIOLENCE AND VIOLATIONS OF HUMAN RIGHTS
INFLECTED ON ISSs (REGISTERED AND DOCUMENTED CASES)**

The statements given below concern injuries that have had a negative bearing on the physical integrity, life, mental health and dignity of the people affected. The cases are based on the systematic documentation of injuries and clinical signs that ISSs seek treatment from MSF for. In addition to a physical examination, we gather statements from the victims themselves in which details are provided of the circumstances surrounding their injuries.

The personal information and photos included in this report have been changed to protect the identities and guarantee the anonymity of the people who have given them. MSF teams have merely recorded the accounts of the circumstances in which the injuries were caused and MSF presumes that the statements made are true accounts of how the lesions and clinical signs observed occurred.

These cases are little more than a representative sample of the various patterns inherent to such forms of violence – violence that we are witnessing time and time again in our daily work and that has increased dramatically in recent months.

1. THE FIGHT AGAINST ILLEGAL IMMIGRATION: VIOLENCE AS A MOROCCAN SECURITY FORCE STRATEGY

One of the immigration control measures used by Moroccan security forces (SF) in recent years has been to organise systematic raids in areas frequented by ISSs, whether urban (Tangier, Oujda, Rabat), peri-urban (Oujda) or rural (the hills and forests of Gourougou and Bel Younech, close to Ceuta and Melilla respectively).

The attacks, mass arrests, persecution and harassment carried out by the SF during these raids are a collective form of violence inflicted upon ISSs. Morocco has either ratified or adheres to the main international human rights treaties, specifically: the International Convention on the Protection of the Rights of All Migrant Workers and their Families; the Convention against Torture and other Cruel, Inhuman or Degrading Punishment or Treatment; the International Pact on Civil and Political Rights; the International Pact on Economic, Social and Cultural Rights; and the International Convention on the Elimination of All Forms of Racial Discrimination.

The acts described below constitute serious breaches of the obligations set out in these international treaties, and their repercussions are even more serious given the extreme living conditions experienced by ISSs, both in forests and in surrounding urban areas.

1.1 Raids and arrests

Numerous immigrant statements describe how security officials, sometimes accompanied by civilians, use excessive force during arrests causing serious injuries (wounds, fractures, bruising or burns). Injuries are also sustained indirectly (such as loss of limbs near train

tracks) when ISSs flee in an attempt to avoid an arrest which in the best case scenario would see them being returned to the border.

1.1.1 Intimidation of ISSs in forests and rural areas

Immigrants speak of as many as two raids a day, several days a week and several weeks a month, in which excessive use of force includes attacks using dogs, helicopters, horses, tear gas and ad hoc alliances with criminals and vagrants. The cases reported have occurred mainly in Nador, the forests close to Melilla (Mount Gourougou) and, to a lesser extent, the forests of Bel Younech (Ceuta).

Nador. Mount Gourougou (12-14 January 2005). In the early hours of the morning over 1,200 Moroccan security force officials¹² arrest 270 ISSs in one of the biggest raids reported. To do so they used 25 jeeps, 3 helicopters and the Mounted Guard in what amounted to a true manhunt.

Statement. JJJ, a 24-year-old Cameroonian, is abruptly woken by the cries of his fellow migrants. He has just enough time to take his blanket and look for a place to hide from the police and soldiers pursuing him. A group of vagrants working with the soldiers find him and start throwing stones at him while the others alert the soldiers. JJJ tries to escape but is hit on the knee by a stone and falls to the ground. JJJ tries to get up and run but cannot. The soldiers take him to the police station, from where he will be returned to the Moroccan-Algerian border a few hours later.

Of the 18,319 illegal ISSs arrested and taken back to the Moroccan-Algerian border in 2004, 2,850 were in the region of Nador¹³.

Ceuta. Bel Younech Forest (9-10 February 2005). More than 600 Moroccan SF officials raid various ISS camps in the middle of the night, destroying and burning everything in their path and seizing the few valuable objects they come across. The camp is raided again the following day and again a few hours later, resulting in 210 people being arrested and returned to the border.

Statement. KKK is a 20-year-old ISS from Ivory Coast. During a raid he and other immigrants hide in one of the forest shelters but are discovered by several agents with dogs. Terrified, he attempts to flee but falls on a rock and hurts his knee. The soldiers leave him where he is, bleeding and unable to walk. Four days after the accident KKK is treated in the forest by an MSF medical team for a deep, infected lacerated and contused wound to the pretibial zone of the lower left leg.

¹² Including 470 Auxiliary Force agents, 350 gendarmes and 120 members of the National Security.

¹³ MAP (Moroccan Press Agency).

1.1.2 Excessive use of force in urban and peri-urban areas

Raids and arrests also take place, though less frequently, in the outskirts (medinas) of cities such as Tangier and Rabat and anywhere else on Moroccan territory where ISS camps become too evident. As in the previous case, arrests often entail numerous accidents as the ISSs flee, some of which are provoked.

Tangier and Rabat. The old medinas (January-March 2003). The old medinas of Tangier and Rabat were once hotspots for ISSs, mostly of Nigerian origin, living in hostels and rented houses. In January and March the main hostels known at that time were raided.

***Statement.** AST, a 28-year-old Nigerian man, and his fellow immigrants are taken by surprise in their hostel room by two police officers. In the confusion that ensues, AST tries to escape through the window but falls the 10 metres to the street below and loses consciousness. He is taken to hospital with craniocerebral trauma caused by the fall and kept in Mohamed V Hospital for 20 days.*

***Statement.** BRJ, a 27-year-old Nigerian woman, is hit by a police officer to immobilise her during a raid. BRJ is later admitted to the trauma unit at Avicene Hospital with a fractured ankle aggravated by osteomyelitis. One month later the traumatologists recommend amputation. BRJ's 'boss' refuses, discharging her from the hospital and taking her to Taza where she stays for three months. Eventually she reaches Tangier, where traumatologists at Mohamed V Hospital once again advise amputation. The boss refuses a second time so they re-operate, preserving the lower limb. Following abandonment, BRJ suffers chronic osteomyelitis and is unable to move without a wheelchair. She is dependent upon a charity to live.*

1.1.3 Unjustified blocks and checks on means of transport

Many sub-Saharan immigrants' statements speak about the existence of orders being sent to staff at train and bus stations aimed at obstructing free movement. For instance, they are refused train and bus tickets, and immigrants or those seen as "suspicious" are reported or handed over to SF at road checkpoints.

Despite this, many ISSs use the train, both to get to Morocco initially and later to restart the cycle when they are returned to the Algerian border. In attempts to avoid the Moroccan SF, ISSs also stow away in indescribable conditions in lorries or in the boots of private cars.

Taurit train station (24 August 2004). In addition to the huge risks that ISSs run, the tight control and overzealousness shown by some security force officials can give rise to serious incidents with dramatic consequences.

Statement. At 9pm, FRK and LNC, who are Ghanaian and Nigerian respectively, are travelling from Oujda to Rabat with other immigrants. When the train has already set off, an official tries to detain them by seizing them roughly. During the struggle FRK is thrown under the wheels of the train which amputates both legs (left tibia and right femur) and he loses consciousness. FRK wakes up the following day in a ward in Taourit Hospital where he will stay for four months under the close watch of police officers. 20-year-old FRK fears he will be taken back to the Moroccan-Algerian border and abandoned.

Statement. MBR, a 27-year-old Nigerian, is travelling on the roof of a Oujda-Rabat train. After several exhausting hours he is overcome by fatigue and falls between the carriages. Both MBR's legs are crushed under the train and must be amputated.

1.2 Legal/administrative irregularities and detention conditions during the process of returning ISSs

When an *illegal immigrant* is found by the police or other authorities responsible for domestic security, they are charged with breach of immigration laws and must appear before the judicial authority who will determine whether or not they are 'sent back'. Under Moroccan immigration law, two administrative measures are possible: being returned to the border or being expelled¹⁴ (if the detainee is a serious threat to public order). If neither of these steps can be taken within 24 hours of the arrest, the authorities are legally obliged to establish a domicile for the detainee or remand him/her in a non-penitentiary centre for "*the time that is strictly necessary*" only. However, because there are no such non-penitentiary centres in Morocco, ISSs are crowded into cells at police stations (Tangier, Nador, Oujda, etc.) where they are kept until they are taken back to the Moroccan-Algerian border and abandoned in no man's land.

This constitutes a mass breach of not only national law but also of international law. Specifically, article 10 of the International Covenant on Civil and Political Rights, which states that "*All persons deprived of their liberty will be treated with humanity and with respect for the inherent dignity of the human being*"¹⁵, also sets out that "detainees' conditions and needs" be considered, including those related to health¹⁶.

Statement. Mount Gourougou, February 2004. Cameroon-born YKM is arrested along with another nine ISSs during a raid. When they are taken to the police station at Beni Enzar (a town near Nador), they are all accused of throwing stones at police officers. Before being referred to the main gendarmerie in Nador, YKM and the others state that they were punched,

¹⁴ Law 02 – 03 relative to foreigners entering and staying in the Kingdom of Morocco, and to illegal emigration and immigration, Chapters III, IV and V, Articles 21 to 32.

¹⁵ This is a non-derogatory right guaranteed by conventional and common law that is provided for in article 5 of the Universal Declaration of Human Rights, article 7 of the International Covenant on Civil and Political Rights and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

¹⁶ In addition to this binding law, the UN Body of Principles for the Protection of All People Under Any Form of Detention or Imprisonment and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, also lay down directives.

kicked and beaten. They are kept in remand for three days without water and with only a piece of bread to eat each morning. YKM is sentenced to eight months imprisonment with no lawyer to defend him. During the eight months, YKM shares a 7m² cell with 68 other prisoners where he sleeps on the floor with only a blanket. Because he is ill, YKM goes to the prison infirmary to ask that his treatment is continued. Before being taken back to his cell he states that he was beaten again and handcuffed. He is eventually released in November and goes back to Mount Gourougou.

1.3 Returning particularly vulnerable ISSs (wounded, sick, minors and pregnant women) to the border

Following arrest, the subsequent stage is being “returned to the border”, which according to Moroccan law¹⁷ is the border through which the ISS entered Morocco. If that is not possible, they are referred to the country from which they have a travel permit, or, lastly, to a third country that will legally accept them¹⁸. Every time an ISS is taken to the Algerian border, these stipulations are broken by the Moroccan authorities.

A number of parties are exceptions to the general rule: these measures cannot be applied to refugees and asylum seekers, minors, or pregnant women. Although the state is legally allowed to use its discretion where public security is concerned (art. 27), such measures must not be implemented whenever they would entail “*inhuman or degrading punishment or treatment, or jeopardising life or freedom*”. This, therefore, also covers all persons with serious wounds or illnesses. If a person also requires hospitalisation, they must give an address where they can stay until they are repatriated, which can only take place when they are physically well enough again.

Despite all of this, MSF has witnessed pregnant women, juveniles and even seriously ill persons (patients with chronic pathologies such as TB or AIDS) being taken to the Moroccan-Algerian border where they are abandoned regardless of appeals made to the Moroccan authorities to release them immediately on medical and humanitarian grounds¹⁹. From the border, ISSs attempt to reach Algeria (Maghnia) or to go back to Morocco (Oujda), both of which entail travelling through the perilous ‘No Man’s Land’.

Moroccan-Algerian border. ‘No Man’s Land’. This is a semi-desert area where there is no water, food or shelter. ISSs are subject to extreme temperature variations here, ranging from -6°C in winter to 43°C in summer. Furthermore, people/goods-trafficking abounds here and the area is rife with Moroccan, Algerian and Nigerian criminal groups whose primary goal is to attack ISSs and rob them of the few possessions they have managed to hold on to following their arrest. In some accounts we have heard, these factors can be compounded if the ISS has an illness or serious wound.

Law 02 – 03 relative to foreigners entering and staying in the Kingdom of Morocco, and to illegal emigration and immigration, Chapters III, Articles 21 to 24.

¹⁸ Art. 29 Law 02-03.

¹⁹ Gabriela Rodríguez Pizarro, UN Special Rapporteur for the Human Rights of Migrants supports this in her Report to the Commission for Human Rights of 15 January 2004 (E/CN.4/2004/76/Add.3). Available at: <http://daccessdds.un.org/doc/UNDOC/GEN/G04/102/87/PDF/G0410287.pdf?OpenElement> (a 09/06/2005)

Statement. *Oujda, 15 January 2005. FTM is a young Nigerian woman who seeks aid from MSF after giving birth in a nearby forest. Her newborn baby is suffering from an infection of the umbilical cord. On being referred to the hospital maternity ward, FTM and her son are transferred to a penitentiary unit where they stay for five days. They are then taken to the Moroccan-Algerian border and abandoned.*

Statement. *ERN, 29, from Cameroon, single and the father of a 4-year-old, leaves his country in May 2002 to try to reach his brother in France. Due to the conditions on the way and his immunological state of health (ERN is an HIV/AIDS carrier), he contracts pulmonary TB during the winter of 2003.*

In spite of the difficulties caused by his illegal status, ERN starts treatment for both conditions and improves considerably. On April 20 2004, ERN is arrested by Moroccan SF during a raid in Bel Younech and taken to the Tetuan police station where is remanded in custody for 24 hours without food or drink. Despite MSF's efforts to ensure the continuity of treatment for both illnesses, ERN is taken to the Moroccan-Algerian border where he is abandoned. His health deteriorating seriously, ERN tries to get back to Oujda where he is found by an MSF team after having been attacked by thieves. From there MSF evacuates him to the infectious diseases ward at Ibn Rochd Hospital in Casablanca. Nine months later (17/01/05), ERN is arrested a second time and taken back to Tetuan. In spite of a number of attempts made by the MSF team, the outcome is the same: ERN is taken from Ben Harrich Hospital in Tetuan back to the Moroccan-Algerian border in the middle of winter where he is abandoned. At the time of writing, ERN is in Maghnia (Algeria).

2. CHECKPOINTS AND PATROLS AT MOROCCAN-SPANISH BORDER AREAS (CEUTA Y MELILLA)

Of all the places, stages of journeys and times when ISSs are victims of violence, it is the Moroccan-Spanish border areas where the majority of incidents occur. Such incidents involve both the Spanish and Moroccan SF and include arrests, excessive use of force, degrading treatment and abuse, sexual violence, extrajudicial expulsions and expulsions of persons at risk.

2.1 Direct violence: persecution and aggression around border fences

In recent months MSF teams have seen a clear rise in fractures and cases of trauma caused during incidents provoked by third parties when ISSs attempt to penetrate the Spanish border. Furthermore, there is a direct correlation between these types of injuries and the completion of extension work to the fence that divides the Moroccan-Spanish border, which has been raised from a height of 3 metres to between 4.5 and 5 metres. By way of example, in November 2004 at the border around Ceuta our medical team evacuated 6 people with fractures, 2 of which were very serious. We have also seen a

number of ISSs with initially mild wounds and injuries that have worsened through infections because of their precarious living conditions.

2.1.1 Violence perpetrated by Moroccan security forces and bodies

As a State Party to the vast majority of international treaties for human rights, the Moroccan security forces and bodies are obliged to respect these as well as their own domestic laws. ISSs are particularly vulnerable to having their most basic human rights violated at the moment when trying to cross the border from Morocco into Spain or, if they succeed, when they are illegally returned by the Spanish authorities (both outcomes place them in the hands of the Moroccan SF).

As is evident from the accounts we have gathered, the Moroccan SF²⁰ is preventing the state from effectively protecting against all violence, bodily harm, threats or intimidation – the fundamental principle of international agreements.

Statement. *Fence between Melilla and Ceuta, 22 February 2004. ABK, 32 from Senegal, and two others are discovered by several auxiliary force agents. Claiming legitimate defence, one of the agents opens fire and hits ABK in the right forearm, causing partial loss of bone mass and soft tissue in addition to a comminuted fracture. ABK is evacuated to Hassani Hospital in Nador where is admitted to a penitentiary unit for three months and later held in prison for a further five months. On his release, ABK is taken to the Moroccan-Algerian border. In that same incident, one of his friends sustained a bullet wound to the shoulder while the other lost his life after been shot in the head.*

Statement. *Bel Younech Forest, at 6am 7 October 2004, at the fence separating Morocco from Ceuta. AMN, a Senegalese man tries to get over the fence. Before he is able, he realises that a group of Moroccan soldiers has seen him and are approaching. He jumps from a height of over four metres, causing an open wound and fractured ankle. In excruciating pain he gets up and attempts to run, but his wound opens further and he falls to the ground. The soldiers catch him and, unaware of his injuries, begin beating him. AMN does not move and when the soldiers see his wound they depart leaving him where he is. He is found by a Moroccan man who lends him his phone to ring his friends in the forest. Two ISSs take him back to the camp and contact MSF. In addition to the exposed ankle fracture he has a probable second fracture of the arm caused by the soldiers' attack. MSF takes him to Tangier Hospital where he is treated, admitted and then discharged. Having returned to the forest and while still recovering, AMN is hoping to attempt the journey again. He fears he will be discovered and expelled to Algeria.*

²⁰ By way of example, see article 16.2 of the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families. For other fundamental rights also violated by the Moroccan SF, also see 16.5 (the right to be informed on the reasons for arrest).

2.1.2 Spanish security force responsibilities

Article 157 of the Spanish Immigration Act²¹ sets out the procedures that must be followed by state security forces when returning immigrants who enter the country illegally. This includes “foreigners who are intercepted at the border or surrounding areas” (Art. 157 1b). Section 2 of the same act defines the duties of the Spanish Civil Guard in these cases, requiring that they “take [illegal immigrants] to the nearest National Police Station as soon as possible”. While the deportation papers are being drawn up at the station, the immigrant has the right to legal aid and an interpreter (section 3). Immigrants may be remanded in custody if they cannot be expelled within 72 hours (section 4). Pregnant women must not be deported, even when there is a deportation order, if this measure entails a risk to the pregnancy or the mother’s health (article 157 6a).

The statements made to MSF teams clearly reveal that Spanish SF – more specifically the Civil Guard (responsible for border patrol around the autonomous city enclaves of Ceuta and Melilla), breach this law by expelling ISSs intercepted near the border. It is also explicit in the statements gathered that some members of the Spanish Civil Guard are unacceptably violent towards ISSs, thereby violating article 3 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Deporting any foreigners found in Spain without legal status to Morocco contravenes national immigration law and may amount to a violation of article 3 of the European Convention for the Protection of Human Rights. It also infringes upon the basic principles laid down in the 1951 Geneva Convention, in particular the principle of not expelling or returning refugees as set out in article 33.1.

Statement. Mount Gourougou, 3 January 2004. In the middle of the night, ALX, a 28-year-old Cameroonian, manages to get over the fence and into Melilla, but is detained there by several Civil Guards. Tying his hands with a nylon rope, the officers beat him severely before expelling him into Moroccan territory where they leave him semi-conscious. ALX lies where he is with his hands tied for three days, unable to move, eat or drink, until he is eventually found and evacuated by fellow refugees. ALX is now suffering serious motor, vascular and neurological complications in both hands as a result of the pressure caused by the nylon rope with which he was tied up.

Statement. Bel Younech Forest, 3 July 2004. Border perimeter with Ceuta. SNN, a 28-year-old Nigerian woman, is discovered along with two other ISSs by three Civil Guards. They attempt to escape but SNN is caught by the officers who push her to the ground and kick her repeatedly in the abdomen, knees and face. She is then “invited to leave” and returns to Moroccan territory. SNN and her fellow refugees go back to the forest barefoot and in the middle of the night.

Statement. Mount Gourougou, 22 February 2005. At the fence between Nador and Melilla. MZK, 21 and from Cameroon, manages to climb over the

²¹ Organic Law 4/2000 of 11 January on the Rights and Liberties of Aliens in Spain and their Social Integration.

fence and into Spanish territory. However, a leg wound sustained in the jump immobilises him and he is arrested by the Civil Guard. MZK is supposedly examined by a doctor who states he has no injuries whatsoever and is returned to Moroccan territory and abandoned by the Civil Guard. MZK lies alone all night until some fellow Cameroonians come to take him back to the mountain. They are discovered and arrested en route by the Moroccan SF. MZK is taken to Nador hospital and admitted to the traumatology unit with a fractured tibial plateau and torn ligaments.

2.1.3 Sexual violence against minors

Some of the most serious cases are those concerning sexual violence at border areas. The Declaration of the Rights of the Child and articles 3.1, 3.3, 19.1, 19.3 and 34 of the Convention on the Rights of the Child clearly establish that the state must adopt all measures necessary to protect children against all forms of physical or mental harm or abuse, ill-treatment or exploitation, including sexual abuse.

Statement. *Bel Younech, 26 February 2005. Fence separating Morocco and Ceuta. KRM, a juvenile male born in 1991 in Guinea-Conakry, sets off towards the fence to attempt to enter Spanish territory alongside two ISSs of the same nationality. The three ISSs monitor the movements of the Moroccan soldiers along the fence until 3am when they see that the coast is clear and climb over the first fence separating the two countries. KRM and his fellow immigrants cross the area between the fences and are climbing the fence on the Spanish side when they are discovered by two Civil Guards. All three Guineans attempt to escape but the Civil Guards manage to detain them and calm them down. A few minutes later they 'invite' the three ISSs to go back to Morocco, opening the gate for them and firing bullets into the air, thereby attracting the attention of four Moroccan SF officers who arrive on the scene immediately. The ISSs once again attempt to flee and one of them is successful. KRM is separated from his companion and taken to a cave by two of the officers. As they go he can hear the screams of his companion being beaten. The two officers search KRM for money then blindfold him with his shirt, force him to strip naked and, while one of them keeps watch at the cave entry, the other rapes him. The two officers rape KRM repeatedly for over 30 minutes, both simultaneously and in turn, whilst also punching him in the back and threaten to send him to Algeria if he tells anyone of the incident. KRM's case is divulged 11 days later with the support of a local association. Medically, MSF is providing all preventive and curative measures required in cases of sexual violence.*

2.2 Indirect violence: systematic harassment and destruction of possessions in ISS camps

The Moroccan SF are also involved in other acts of indirect violence that have a very negative bearing on the ISS collective. We have witnessed harassment, intimidation and restrictions concerning freedom of movement as examples of dissuasive measures used.

In addition to this, the few possessions immigrants have are systematically seized and their equipment and shelters destroyed.

Serial actions such as these dramatically aggravate the already precarious living conditions experienced by ISSs, particularly when they camp together in the forests and during winter. The outcome is a serious deterioration in physical and mental health.

Gourougou forest, dissuasive strategies. Not far from Gourougou forest (Nador), the MSF team saw a military camp being set up, “strategically” located between the main sources of supplies, the municipal rubbish dump and the forest in order to dissuade and restrict movements of ISSs. Over the course of successive raids carried out by Moroccan SF, 1,229 plastic shelters were set alight and destroyed²².

Bel Younech forest is perhaps the most paradigmatic example of the dissuasive measures employed by the SF. A small group of 6 to 10 officers were positioned in the forest with the aim of hindering ISSs’ access to drinking water sources (the officers were still there at the time this report was written). They ‘make an example’ of anybody who dares to challenge the partial block and this has led to over half of the ISSs present being arrested or voluntarily leaving the spot to disperse elsewhere in the region.

***Statement.** Bel Younech forest, 19 February 2005. TNY, from Sierra Leona, is an ISS in charge of getting provisions. He sets off from the forest at dawn for the neighbouring city of Castillejos, aware that he must avoid the officers who patrol the entrance to the forest and possible attacks from the criminals who roam the area. He waits one hour for the shops to open and having bought 20 kilos of rice, 10 kilos of beans, oil and tinned tomatoes, returns to Bel Younech. When he gets back to the forest he comes across the patrol group who shout at him, chase him and throw stones at him. One of the stones strikes him on the head and he falls to the ground. TNY is abandoned by the officers, bleeding and robbed of the food and money he was carrying (400 dirhams).*

3. OTHER FORMS OF VIOLENCE: TRAFFICKING NETWORKS, VIOLENCE AGAINST WOMEN AND COMMON CRIME

Most ISSs who are taken to the Moroccan-Algerian border by Moroccan SF head for the nearby Algerian city of Maghnia, where several thousand immigrants are awaiting a new opportunity. The city is host both to ISSs who have already been expelled and to those in transit from sub-Saharan Africa, all of whom intend to cross the border into Morocco. To do so, they must seek the services of a smuggler or ‘guide’ who charges them around €300 to take them to their destination and protect them from attacks or muggings.

Furthermore, in the area surrounding the Moroccan-Algerian border, particularly in marginal neighbourhoods where ISSs often settle temporarily, they are systematically

²² www.ahdath.info (N°2178), 12 January 2005.

attacked and assaulted by Moroccan criminal groups whose only aim is to rob them of their few belongings.

Women are a particularly vulnerable group. In addition to sexual violence perpetrated by non-ISSs, many women must undergo an abortion as a result of an unwanted pregnancy and none have access to suitable family planning measures. Last but not least, women are often used as prostitutes by human-trafficking networks.

3.1 Human-trafficking networks

The smugglers or 'guides' who guarantee immigrants' safety in exchange for a sum of money are effectively human-trafficking networks²³. They have their own strictly enforced requisites and rules which must be observed by ISSs who decide to use such networks in order to travel.

ISSs must agree to blindly accept a code set down by the traffickers, bosses and other intermediaries, who themselves also demand similar sums of money to those mentioned above (around €300). They sometimes also lend money at exorbitant interest rates.

When the contract or circumstances change for whatever reason (delays due to unforeseen border crackdowns, adverse weather conditions, etc.), a phenomenon that has already become recurrent takes place, particularly with the less reliable intermediaries. Persons in charge of and using these networks are involved in incidents that are usually minor but at times border on the extreme, ranging from threats and degrading treatment to violent paybacks and even disappearances.

The ISSs who are victims of such abuse have no protection whatsoever; they cannot report it to the local authorities because of their illegal status and the fear of being arrested and returned to the border.

Statement. *Tangier, 23 December 2004. IBH, who has recently arrived at a hostel, is attacked in his room at 1am by three hitmen because he has refused to pay the 'fee'. IBH's entire body is beaten with a stick and he sustains a number of lesions from a blunt weapon, including cuts to the head (right parietal region: 7cm, frontal region: 5cm) and both hands. During the incident IBH is forced to hand over the only 300 dirhams he possesses. MSF administers first-aid but he refuses to be taken to hospital. Five days later, on a routine visit, MSF finds that IBH has disappeared. The 'law of silence' reigns at the hostel and nobody can inform us of his whereabouts.*

At Castillejos (Morocco), a town near Bel Younech forest, some ISSs attempt to enter Spanish territory (Ceuta) in the boots of cars driven by people-traffickers – a journey that does not always end well.

Statement. *4 April 2004. OSS, a 21-year-old Nigerian who is just over two months pregnant, leaves the forest after 12 long months waiting to make the*

²³ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially of Women and Children (Art. 3a)

'jump' into Ceuta. She arranges to meet four Moroccan men at 4 o'clock in the morning who will smuggle her in the boot of their car. Halfway there the car stops: OSS is asked to get out of the boot and is then raped and beaten by the four men, despite her telling them she is pregnant. The assailants then phone OSS's husband to tell him that she is being held and demand 12,000 dirhams for her release. OSS is kept hostage for four days, during which she suffers further sexual abuse. Eventually, following the payment of 4,000 dirhams, OSS is released and taken back to Bel Younech forest. On April 9, MSF is informed of the incident and proceeds to transfer the patient to Tangier for full medical treatment.

Morocco is a State Party to the United Nations Convention against Transnational Organized Crime, article 3a of which defines trafficking in persons as “*the recruitment, transportation, transfer, harbouring or receipt of persons, by means of 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*”. Nevertheless, Morocco has neither signed nor ratified the Protocol on the Prevention, Repression and Punishment of Trafficking in Persons, especially of Women and Children, or the Protocol against the Smuggling of Migrants by Land, Sea or Air.

3.2 Sexual violence against female ISSs

If there is one situation that is truly difficult to objectify within the world of illegal immigration, it has to be sexual violence amongst ISSs. Although the cases seen by the MSF medical teams have almost always involved perpetrators from outside the sub-Saharan community (Moroccan trafficking networks and organised criminals), sub-Saharan immigrants do have some of their own trafficking networks and ‘protection’ methods in which women are subject to similar degrees of abuse and coercion.

Sub-Saharan women, mainly from Nigeria, are valued by person-trafficking networks as potential future sex workers. They are usually taken in groups of up to 30 women and ‘protected’ by men who hold them in what are thought to be secret, inaccessible locations, usually in towns or cities. Contrary to the situations in rural areas or forests, the immigrant population in the city of Tangier may be up to 50% female.

In exchange for being protected, women must provide sexual services, not always with their consent, and even undergo abortions. MSF regularly receives cases of half-completed abortions with moderate haemorrhaging, most of which have been induced by taking abortion pills such as misoprostol which is not sold in Morocco. This phenomenon reveals the extent of unwanted pregnancies as well as the inefficacy or difficulty in applying family planning policies to such a mobile collective that is difficult to access. In other cases, women use pregnancy as a way to protect themselves from sexual harassment while they are in Morocco. In terms of possibly getting into Spain, pregnancies are also falsely thought of as a ‘safe-conduct’ once the woman has reached Europe.

All of these factors (dependency on networks, lack of protection from sexual aggressors) make women doubly vulnerable, and they are often forced to live in insalubrious and

promiscuous environments which entail prostitution and forced work²⁴. Inevitably, women are highly exposed to HIV/AIDS, other sexually transmitted diseases and TB. MSF has taken various statements from female ISSs who have become ill and lost the support of their 'protector', either result in being abandoned, neglected or, in the worst case scenario, 'disappearing'.

Between November 2004 and May 2005, we registered 24 cases of abortion amongst the female ISSs to whom MSF has regular access (between 135 and 165). During the same period four rapes were registered – a very high incidence for such a small group of people.

Statement. *MSF has referred many women to hospital with metrorrhagia caused by abortions. This was the case for ELS, 26, and JMY, 20, in Mesnada; for BRR, 23, and PRC, 24, in Medina (Tangier); and QEE, 23, in Bel Younech forest. All of these women are Nigerian. The abortions were carried out between two and five months into the pregnancy.*

Statement. *Pregnant women are also abandoned by human-trafficking networks when there are complications with the pregnancy, as was the case for BLS a 25-year-old Nigerian. Following dystocia at birth complicated with a major haemorrhage, she was abandoned in Mesnana forest. BLS was found in the middle of the street in a district of Tangier and taken by a Civil Protection ambulance to Mohammed V Hospital in a dreadful physical and mental state.*

Statement. *FTY and OGU, 36 and 25 respectively, both in the medina in Tangier and both Nigerian, disappeared 48 hours after being admitted to hospital and without having completed their treatment. FTY was HIV+ and OGU had recently been diagnosed with acute hepatitis.*

3.3 Immigration and common crime

Common crime feeds off ISSs' lack of protection. Although ISSs are assaulted frequently, they rarely report the attacks to the authorities for fear of being arrested and taken back to the border and for fear of possible retribution because they of their illegal status in the country.

Statement. *Berkane, 8 January 2005. LAW, a 30-year-old Nigerian man, and two others are attacked by a group of seven Moroccans armed with knives. The other two manage to escape but LAW sustains injuries to the abdomen and gluteal region and the thieves seize LAW's clothes and all his personal belongings. Unable to walk, he is arrested by police officers and taken to hospital where he is treated for his wounds.*

²⁴ Pursuant to articles 3a and 3b of the United Nations Convention against Organised Transnational Crime, in cases of forced prostitution or other forms of sexual exploitation (among others), consent given by the victim of person-trafficking is not taken into account when any of the means described in the articles have been used.

Statement. *Tangier, 22 April 2004. ORW, a Nigerian man, is attacked with a blunt weapon in broad daylight in the medina during a possible settling of scores with other ISSs. ORW sustains injuries to the right arm.*

APPENDIX

MSF and the migration phenomenon

MSF has amassed a great deal of experience in providing aid to refugees and internally displaced persons in major human crises of the last 30 years, such as those of Ethiopia, Rwanda, Sudan, Afghanistan and Angola.

For over 15 years, the organisation has also worked as a network with countries including Spain, Italy, France, Belgium, Sweden, the Netherlands and Switzerland, on projects related to immigration in Europe. MSF combines direct humanitarian and medical aid with denouncing, pressurising and awareness-raising regarding the particular vulnerability of illegal immigrants and asylum seekers, with the aim of ensuring they have access to healthcare.

In **Spain**, MSF's work has focused on providing medical and humanitarian aid to immigrants arriving along the Spanish coast. In Fuerteventura, MSF teams have given front line aid with mobile clinics on beaches; in Ceuta, medical reconnaissance and consultations are given every day, including handing out hygiene kits and treating an average of 500 immigrants, most of whom are sub-Saharan. Advocacy is a major aspect of this and the work carried out by our teams in the field making it possible for us to denounce the situation in order to ensure that the central government accepts its responsibilities to immigrants. At the present time in both Ceuta and Fuerteventura, the Spanish government provides medical aid to cover immigrants' basic needs. MSF is currently working towards improving illegal immigrants' access to healthcare in health area 11 in Madrid by providing 'community health visitors'. MSF Spain has been working in this country since 1994.

In **Morocco**, MSF has been working in the Tangier region with sub-Saharan immigrants since early 2003 from a purely humanitarian and medical perspective. Our focus is on improving extremely vulnerable sub-Saharan immigrants' access to health and their living conditions, and also to meet their most basic needs such as shelter, water, hygiene and sanitation. In mid-2004, MSF extended its area of intervention to the regions of Nador and Oujda, focusing mainly on treating serious illnesses, wounds and trauma cases in addition to other infectious and potentially epidemic pathologies such as TB and HIV/AIDS. In close conjunction with Moroccan health professionals, MSF supports national mother and child health schemes, extended programmes of immunisation, sexual and reproductive health, family planning and so forth, offering preventive care to women, pregnant women and children. MSF has also worked in Rabat and Casablanca since 1999 and 2000 respectively, with a project to combat mother and child mortality and on a scheme to prevent, provide education and treat sexually transmitted diseases and HIV/AIDS. The project targeted female victims of exclusion (sex workers and single mothers). MSF has been working in Morocco since 1999.