



West African Studies

Regional Challenges of West African Migration

**AFRICAN AND EUROPEAN
PERSPECTIVES**



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Regional Challenges of West African Migration

AFRICAN AND EUROPEAN PERSPECTIVES

Edited by Marie Trémolières



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The Sahel and West Africa Club in a few words

History

The Club du Sahel was established in 1976 at the initiative of the OECD member countries in response to the droughts that had ravaged the Sahel and the subsequent food crisis. In 2001, its Board of Directors extended its geographic coverage to encompass all of West Africa, i.e. the 15 Member States of the Economic Community of West African States (ECOWAS), as well as Cameroon, Mauritania and Chad.

Administratively attached to the OECD, the SWAC is led by a Secretariat based in Paris (France), which is supported by a network of partners and experts from West Africa and OECD member countries. Its specificity lies in its approach, which combines direct field-level involvement with analyses of West African realities. The SWAC promotes the regional dimension of development, supports the formulation of joint or inter-governmental policies as desired by the region's countries and promotes dialogue with OECD countries for a coherent understanding of the changes and dynamics taking place in West Africa.

Work on Migration

- In 2006, an Atlas on migration in West Africa was produced in co-operation with ECOWAS, using statistics and maps in order to analyse migratory dynamics and the stakes involved. It is a reminder that mobility has enriched and created circulatory areas such as the European Union (EU) and ECOWAS.
- The SWAC has collaborated in the development of an ECOWAS Common Approach on Migration that preserves the free intra-regional movement of persons. It has also participated in preparatory workshops within the framework of the process initiated by the Rabat Conference (July 2006) and the Euro-African partnership for migration and development (2nd Euro-African Ministerial Conference, Paris, November 2008).
- In partnership with the Institut de recherche pour le développement (IRD) (co-ordinator), Dakar's Cheikh Anta Diop University and Warwick

University's Centre for Research in Ethnic Relations, a programme funded by the European Commission began in 2008. It focuses on six countries in the region so as to have a better understanding of West African migration, evaluate its evolution from the south, and review migration-related legislation in order to foster concerted dialogue between ECOWAS and the EU.

- A recent publication "*West African Mobility and Migration Policies of OECD Countries*" (November 2008) issued in OECD «West African Studies» reviews migration policies in the main OECD countries receiving West African migrants and analyses the recent discussions within Europe. It lists common approaches undertaken in Europe, Africa and West Africa. Available on OECD Website.



For more information:

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Foreword

The 21st century holds many challenges that Africa must face concurrently: demography, agriculture, health, ecology, etc. In order to make informed decisions for the future, research in support of development will be our best ally. To better anticipate these challenges we need to assess the consequences of climate change on Africa as well as understand the parameters contributing to the success of the green revolution so as to adapt them to Africa. At the same time, we need to find the right economic models to assure employment for the youth, who are the overwhelming majority in Africa and understand the complexity of migratory flows so that the movement of men and women, internally as well as internationally, is an opportunity not a handicap.

Since its creation in 1976, the Sahel and West Africa Club has been a remarkable tool. It is at liberty to set a tone; its approach consists of organising dialogue based on observations which are often innovative and always anchored in realities in the field; the diversity of its actors and locally-forged partnerships are all tremendous advantages.

For all these reasons, once again, we immediately supported the SWAC when, in 2007, they presented us with the idea of a publication on the little-explored issue of intra-regional West African migration. Through this publication, we wanted to encourage a debate with independent ideas on an important aspect of intra-regional mobility and migration which represents 90% of international migration.

In West Africa, debate on intra-regional migration must include demography and settlement. An awareness of the links between settlement and mobility in the region came about during the 1990s. Fifteen years later, work carried out within the SWAC confirms that recomposition of settlement patterns continue. The regional zone is the historical and natural “*expansion valve*” of West African migration.

The first in Africa, *The Common Approach on Migration*, adopted in January 2008 by ECOWAS Heads of State, demonstrates the understanding of the importance of intra-regional mobility in West Africa. It is based on two key principles of which the international community should

take note: i) the free movement as a cornerstone to regional construction; and ii) the link between fluidity in the South and the reduction of migratory pressure towards the North.

At the Euro-African level, the importance of the West African intra-regional dimension of migration was first recognised at the Euro-African Conference on Migration and Development held in Rabat (Morocco) in 2006 focusing on the West African migration route towards Europe. Since then, France, considering the regional level crucial to the debate on the positive role migration plays in development, organised in November 2008, while holding the Presidency of the European Union, the second *Ministerial Euro-African Conference on Migration and Development*. West African States took centre stage and ECOWAS' approach was commended. A multi-annual co-operation programme was adopted focusing on legal migration, combating irregular migration and the synergy between migration and development.

The results of these conferences were to feed into Euro-African dialogue at the continental level, started at the Tripoli Conference in November 2006, followed by the definition of the Migration, Mobility and Employment Partnership within the Africa-European Union's strategy, adopted in Lisbon 2007. This dialogue should continue to benefit from furthering issues linked to West African migration and the ECOWAS *Common Approach*. This is the aim of this publication which brings together West African, North African and European experts.

France is thus delighted with the contributions in this publication by the SWAC and the authors who have undertaken an exercise in independent strategic thinking – crucial within the context of the debate on international mobility – on the strategic stakes of West African migration.

Alain JOYANDET,
Secretary of State responsible for Co-operation
and French-speaking Communities

Acknowledgements

This publication is a result of the SWAC’s strategic thinking on migration launched in 2005. It also falls within the framework of the collaborative process with ECOWAS, upheld by the SWAC/OECD Director, Mr Normand Lauzon. These fruitful exchanges on West African migration led to the adoption of the ECOWAS Common Approach on Migration in 2008 and owes much to the availability and professionalism of the (acting) Director of the Free Movement of Persons Department, Mr Baber Tandina.

The Approach calls notably for the taking into account of a dynamic and dialogue at the regional level. This aspect is considered by the SWAC/OECD, and in particular its Deputy Director, Mr Laurent Bossard, essential in order to decipher West African dynamics and encourage the implementation of coherent policies. His determination is reflected in this periodical.

The valuable advice of Mr Jean-Pierre Cassarino, the tremendous competence of Mr Mandiougou Ndiaye, the expertise of Ms Nelly Robin and the availability of Mr Paul Albert effectively contributed to this publication.

This independent strategic thinking that brings together international African and European experts could not have been carried out under such ideal conditions without the trust of the French Ministry of Foreign and European Affairs and our special interlocutors, Mr Serge Snrech and Ms Constance Motte.

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Summary

The Common Approach on Migration adopted by ECOWAS member States (Economic Community of West African States¹) in January 2008 is a significant step in taking into account migration stakes and coordination. As the various contributions to this publication demonstrate, these stakes are at several levels (national, regional, international) and in various domains (economic, political, social and legal). West Africa's effort in regional coordination has become particularly important with the international agenda focusing more, over these last few years, on migratory flows from the south towards Europe. These flows, widely covered by the media, obscure the human, social and even statistical realities of traditional migratory cycles which have shaped and built through the integration of populations, the great economies of today.

In part one of this publication, experts from various fields present their perception of West African migration and decipher the perspectives for the Common Approach. The second part explores the evolution of migratory dynamics in Mauritania and Senegal from an historic and a legislative viewpoint. Finally, the third part provides the point of view of West African and European actors involved on a daily basis in "migration management" at the policy, research or international co-operation levels.

The renewed interest in migration from the South seems more a result of the current political context in the North than an increase in the number of clandestine migrants. Difficulties in crossing borders and toughening of legislation have led to a multiplication of routes, notably maritime, rather than curbing migratory flows which have always existed. These flows have also become more publicised by the media. The history of West African migration (→ [Chapter 7, Bensaâd](#)) recalls that there are greater flows within the region than towards the Maghreb or Europe (90% intra-regional compared with 10% extra-regional) and that they follow age-old economic and cultural patterns (→ [Chapter 1, Adepoju](#); [Chapter 10, Brachet](#)). Migratory flows recorded between Sub-Saharan Africa and the rest of the world, that are of concern to the international community, are only a drop in the ocean, or "the foam that washes up with everything else on our European

shores" (→[Chapter 3, Cour](#)). These analyses also highlight the management of human settlement, an aspect which is rarely taken into account by policies and development co-operation, in which migration is an adjustment variable that comes into play.

In addition, the spatial dimension of rapid population growth is often obscured. This growth is accompanied by an ever more unbalanced geographic redistribution of the population, linked notably to the size of migratory movements. Does the Common Approach on Migration sufficiently take into account the dynamics underway within West Africa and their rationale? Does it have the means to support the recomposition of human resettlements and manage the consequences? (→[Chapter 5, Ouedraogo](#))

The international agenda puts into perspective two movement areas, Europe and Africa, which are respectively organised around the Schengen Agreements (1985) and the ECOWAS Protocol on the Free Movement of Persons, the Right of Residence and Establishment (1979)². While the increased protection of external borders is included in the Convention applying the Schengen Agreements, it is however not contained in the ECOWAS Protocol. This slight but fundamental difference contributes to the evolution of the migration system between West Africa and Europe throughout the 1990s until now (→[Chapter 6, Robin](#)). The underlying dynamics of this system also show that migration initiatives should be integrated at broader geo-political levels and not only on a bilateral basis between host and departure countries.

This notion is supported by several analyses one of which examines standard readmission agreements and alternative methods to bilateral co-operation on forced return developed over the last ten years. The study on the impact of these negotiations on policy development shows in particular that their geographic field of application strategically falls within a greater co-operation model (→[Chapter 2, Cassarino](#)).

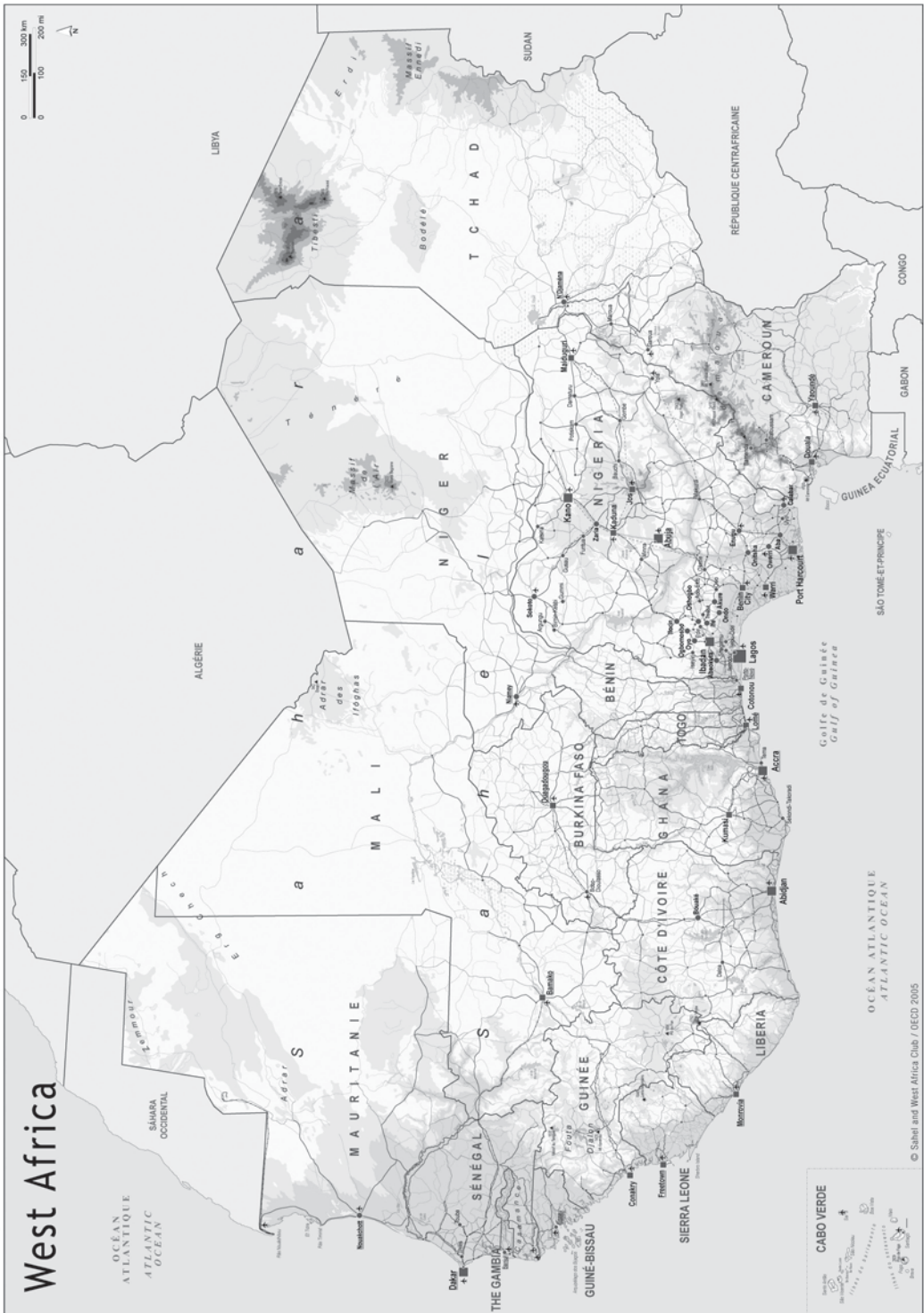
Another analysis illustrates the multi-functionality of zones (departure, transit, host) and the emergence of North Africa as a new actor in the Euro-West African dialogue (→[Chapter 4, Lahlou](#)). The shifting of land and maritime routes of illegal migration from the Moroccan-Spanish coasts towards the coasts of Mauritania, Senegal and Guinea-Bissau, does not imply that the Maghreb should be excluded from the debates and policies concerning migration. This shifting illustrates that North Africa has become a "protection zone" for European borders. The interests of the Maghreb and Europe with regard to irregular migration appear, in this model, complementary (→[Chapter 4, Lahlou](#)). A mere security approach is no longer viable. A balanced long-term approach based on economic, demographic, and other factors with a constructive view to development should be established.

The assessment of the Euro-African dialogue on migration and the main resolutions of the process begun in Rabat in July 2006 and followed-up in

Paris (second Euro-African Conference on Migration and Development, November 2008), shows that few lessons have been learned from adopted migration policies or Europe's "externalisation" of international migration management (→[Chapter 6, Robin](#)). Within West Africa, strategic thinking on the ECOWAS Protocol (→[Chapter 5, Ouedraogo](#)) or on the translation of international laws in which immigration is considered a criminal act for the first time, into national law illustrates the need for West African States to work together. It stresses the inconsistencies of ambiguous laws (→[Chapter 8, Ndiaye and Robin](#)), semantic confusion between "clandestine" and "irregular" with regard to border crossings (→[Chapter 10, Brachet](#)) and risks of jeopardising the integration of the ECOWAS zone (→[Chapter 9, Bolouvi](#)). The examples of Mauritania, Senegal and Niger illustrate these fears and recall to what extent mobility contributes to the integration of areas and peoples.

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- 1 *Community of West African States, created in 1975. Treaty of the Economic Community of West African States, signed in Lagos 28 May 1975.*
- 2 *ECOWAS Protocol on the Free Movement of Persons, Right of Residence and Establishment, concluded in Dakar 29 May 1979. Applied as from 1984.*



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1st Part

WHAT ARE THE PROSPECTS
FOR A WEST AFRICAN COMMON
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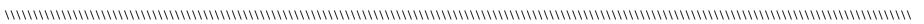
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Chapter 1



Migration Management in West Africa within the context of ECOWAS Protocol on Free Movement of Persons and the Common Approach on Migration: Challenges and Prospects

by **Aderanti ADEPOJU**

West Africa has experienced various types of migration caused by demographic pressure, poverty, poor economic performances and endemic conflicts. Historically, migrants regarded the sub-region as an economic space within which trade in goods and services flowed, and people moved freely (Adepoju, 2003). In order to comprehend contemporary migration systems, and current policies in the sub-region, section one of this document places the migration configuration in its proper historical context. It also describes the major patterns and changing configurations of migration in the sub-region. This review of the situation will feed debate on the early beginnings of the Economic Community of West African States (ECOWAS), the Protocol on Free Movement of Persons and efforts to create a borderless sub-region. This review will draw on lessons from the formulation and implementation of migration policies in order to identify the challenges for West Africa to manage migration. In the conclusion some proposals are set out for the ECOWAS Common Approach on Migration regarding future perspectives based on co-ordination and optimisation of mobility.

Contemporary migratory flows in West Africa are rooted in socio-economic, political and historical-cultural factors which have had serious impacts on intra-regional migration of cross-border workers, professionals, female traders, clandestine workers and refugees. The emigration configuration is also highly diversified, with some countries serving as source, origin and transit routes for migrants.

ECOWAS' Protocol on Free Movement of Persons, Right of Residence and Establishment, guaranteeing Community citizens visa free entry into Member States for ninety days, is a pacesetter among Regional Economic Communities in Africa. Other such initiatives include the efforts to create a borderless sub-region, the ECOWAS Passport, the ECOWAS Brown Card and the ECOWAS travel certificate. Remarkably, these achievements were attained with minimal or little institutional resources, both human and material.

The major constraints in implementing the Organisation's decisions include the multiplicity of economic groupings with conflicting interests, wavering political support, political instability, inter-State border disputes

and conflicts. All these factors have slowed down the progress of the ratification and implementation of protocols. The persistent economic downturn crippled governments' ability to pursue consistent macroeconomic policies which resulted in insufficient funding for the Institution.

The recently-adopted Common Approach on Migration recognises free movement of persons as the fundamental priority of its integration policy. It also takes into account the benefits of legal migration to the sub-region's development, the need to harmonise migration policies and combat human trafficking, the gender dimension of migration, and the protection of the rights of migrants, asylum seekers and refugees. It also sets out Migration and Development Action Plans to remedy the problems listed above.



The Common Approach recognises free movement of persons as the fundamental priority of its integration policy.

In most countries of the sub-region, there is insufficient institutional capacity to manage migratory flows and for effective policy development and implementation. It should be strengthened through training and retraining of key officials.

Data on migration is inadequate for the compilation of national migration profiles. It is inconsistent and not comparable across countries. Co-operative cross-border research and information sharing between countries of origin, transit and destination of migrants should be encouraged.

In order to move the Common Approach on Migration forward, a major awareness-raising activity is required to make the general public aware and stimulate debate on its principles and action plans.

A West African Advisory Board on Migration Management for all actors should be established to discuss and harmonise divergent interests, and to monitor the implementation status of national laws and ECOWAS decisions related to migration. Member States should harmonise national laws that conflict with regional and sub-regional treaties; revise national laws and employment codes in line with the ECOWAS protocol and ensure that migrant workers' rights in the host countries are protected.

Concerted advocacy and public education campaigns should be launched to halt harmful hostility against migrants and refugees. Other actions are also conceivable: promotion of cross-cultural youth activities, student exchange programmes, establishment of registration fees in non-discriminatory higher education institutions for members of an immigrant community, as well as mechanisms for diploma accreditation and recognition.

Member States should also implement ECOWAS recommendations to combat trafficking of children, women, as well as migrants. Although the recent refugee flows may not have been foreseen by the founders of ECOWAS, current events illustrate that the Treaty should be revised to include local integration of refugees in host countries.

West African migration systems in historical contexts

Prior to colonisation, the motives for migration were in search of security, and in search of new lands that were safe for settlement and fertile for farming. Colonial regimes altered the motivation and composition of migration by introducing and enforcing various blends of political and economic structures, imposing tax regimes and establishing territorial boundaries. A series of economic and recruitment policies (compulsory recruitment, contract and forced labour legislation and agreements) were implemented to stimulate regional labour migration from Mali, Togo and Upper Volta (now Burkina Faso) for road networks, plantations and mines on the Gold Coast (now Ghana) and Côte d'Ivoire (Adepoju, 2005a). Transportation development also facilitated labour migration by reducing the distance and dangers of journeys that hitherto hampered long distance migrations. These developments led to male-dominated, seasonal and cross-border migration, which subsequently became institutionalised.

Upon independence, the new national governments introduced residence and employment restrictions for non-nationals; visa and passport regulations, customs and controls, and the need for "foreign" workers to obtain work permits. These measures ushered in a period of restrictions on intra-regional and free movement of persons across West Africa. These regulations, aimed at preserving available employment opportunities for nationals as a fulfilment of election promises, also introduced a subtle distinction between internal and international migration both of which once involved free movement across wide spaces of the sub-region (Adepoju, 1995). The implementation of indigenisation measures restricted the participation of aliens in major economic activities; a distinction was made between legal and illegal aliens, based on proof of nationality, passports, visa, residence and work permits which were hitherto irrelevant to migrants.

But seeing as West African countries are in large part arbitrary agglomerations of various peoples as a result of colonial cartographers who drew lines across homogenous ethnic zones, these elaborate entry rules and regulations were hardly enforced or enforceable. The large porous borders, virtually uncontrolled and unsupervised, facilitated so-called illegal immigration along several bush paths (Adepoju, 1991). Even where control posts were set up, laxity and corrupt practices by some immigration officials, who often collude with illegal immigrants to gain entry, considerably hindered effective implementation of these regulations. In any case, few nationals have access to passports; hence, so-called illegal migrants are not only illegal at destination, they may have left their countries illegally without the appropriate exit documents (passports, visas, health certificates) and failed to use designated official departure posts. Moreover, it is not simple to classify 'aliens' in countries with close ethnic and cultural ties.

Post-independence nationalism was also manifested in several other ways, including xenophobia against immigrants. As unemployment among young educated nationals reached a peak, governments resorted to expelling and deporting “illegal” immigrants. The most obvious policy responses to undocumented immigration include regulations governing the issuing of visas and passports, laws requiring foreign workers to obtain authorization for work permits and later, residence permits, or at least identity cards aimed in part to restrict the influx of migrants (Adepoju, 1999).

Major patterns and changing configurations of migration in West Africa

Contemporary patterns of migration in West Africa are rooted in socio-economic, political and historical-cultural factors, which have shaped the direction of development and the types of economic activities and greatly influenced international migration. Most migration from and within the sub-region includes temporary cross-border workers, professionals, female traders, clandestine workers and refugees. It is essentially intra-regional (mainly from the northern zones to the coastal regions), short-term and male-dominated (Adepoju, 2005b). The emigration configuration is also highly diversified. The sub-region encompasses countries of immigration and emigration as well as those that combine both, while other countries serve as transit routes for migrants.

Côte d’Ivoire and Ghana are the main traditional countries of immigration. In the early 1970s, Nigeria also became a major migration receiving country buoyed by oil-related employment in various sectors of the economy. The major labour exporting countries have been, and still are, Burkina Faso, Cape Verde, Guinea Conakry, Mali and Togo. The situation in Cape Verde is unique in that the diaspora outnumbers the resident population (Carling, 2002). Senegal has been a labour exporting and receiving country. But all this has changed in recent years. For instance, Senegal has also become a transit country for migrants seeking entry into European Union countries clandestinely via Las Palmas to Spain. Ghana and later Nigeria became labour exporting countries when economic conditions deteriorated in Ghana in the late 1960’s and in Nigeria in the mid 1980’s. Ghana is currently experiencing return migration of its nationals in response to the government’s progressive economic policies.



It is essentially a short-term and male-dominated intra-regional migration.

The deteriorating socio-economic conditions and deepening poverty in the late sixties and early seventies led to a wide variety of migration configurations. Macroeconomic adjustment measures and a huge increase in the number of entrants into the labour market fuelled a job crisis, creating sustained pressure on emigration. There was a significant amount of brain circulation between Ghana, the Gambia and Nigeria; Togo and

Côte d'Ivoire; Burkina Faso and Senegal and Côte d'Ivoire, countries that shared a colonial legacy (Adepoju, 2005b). Since the 1970s, highly skilled migrants including doctors, paramedical personnel, nurses, teachers, lecturers, engineers, scientists and technicians moved from Ghana to Nigeria to eventually move on to other African countries, Europe and North America, attracted by relatively higher salaries and better prospects of living conditions. Many students do not return to their home countries after their training. This is often the case when political, economic and social conditions have deteriorated at home.

Traditional labour importing, richer countries in the sub-region (Côte d'Ivoire) and hitherto attractive destinations for migrants (Nigeria) are experiencing political and economic crises, which also spur emigration of their nationals. Until the early 1980s, few Nigerian professionals emigrated because domestic working conditions were attractive and internationally competitive. The sharp decline in oil revenues, rapid deterioration in living and working conditions, wage freezes, a devalued national currency, declining real incomes, authoritarian military rule and the vacillating economic situation fuelled the large-scale emigration of skilled and unskilled workers. Post-apartheid South Africa also attracted highly skilled professionals from Nigeria and Ghana to staff universities and other sectors, and tradesmen from Senegal and Mali including street vendors and small traders from Sierra Leone.

Women migrants are increasingly drawn to the paid labour market (both formal and informal) as a survival strategy to augment meagre family income in response to deepening poverty. Among the educated, emigration

Among the educated, emigration of married females has increased.



of unaccompanied married females has increased, this being a particular and recent phenomenon on the sub-region's migratory scene. Traditional

male-dominated migratory streams in West Africa are increasingly feminised. The phenomenon of females migrating independently, even internationally, enables them to fulfil their economic needs rather than simply joining their husbands; some professional women are emigrating from Ghana, Nigeria and Senegal leaving husbands behind to take care of their children. This development is a turn-around in traditional sex roles.

Commercial migration, a leading feature of the migration configuration in the sub-region, is essentially female-dominated. It is contributing to intra-regional trade and serving as the lifeline for the economies of small countries like Benin, the Gambia and Togo. Outside the sub-region, commercial migration is essentially male-dominated. Migrants from the Sahel, especially Mali and Senegal, initially migrated to France, then to Zambia and Zimbabwe and later to South Africa and USA, non-traditional English-speaking destinations (Findley et al, 1995).

Children are being trafficked from Mali, Nigeria and Togo to Côte d'Ivoire's plantations and for domestic servants in Gabon. Women are being trafficked from Ghana, Mali, Nigeria, and Sierra Leone as exploited sex workers in countries of the European Union. Trafficking of girls is reportedly rampant in the so-called "Triangle of Shame" – the Niger/Chad/Nigeria border. Hundreds of trafficked girls from Edo State, Nigeria, end up in Italy's sex industry. Poverty, human deprivation and deterioration of the well being of the majority of the population has been exhibited in the trafficking of children and women for prostitution in European Union countries (Adepoju, 2005c).

The early beginnings of the Economic Community of West African States (ECOWAS) and the Protocol on Free Movement of Persons

The leaders of West Africa recognised in the early seventies that regional integration could be an important step towards the sub-region's collective integration into the global economy. The need to create sub-regional and regional economic co-operation and integration organisations in Africa was reinforced by the experiences in other parts of the world: the Latin-American Free Trade Association (LAFTA); Caribbean Community (CAICOM); Association of South East Asian Nations (ASEAN); the Central American Common Market (CACM) in Latin America and the Caribbean Region; the European Union; and the African, Caribbean and Pacific (ACP) countries, among others (Adepoju, 2001).

Thus, the treaty signed in Lagos on 28 May 1975 creating ECOWAS covered wide areas of economic activities. Article 27 of the Treaty affirms a long-term objective to establish community citizenship that could be acquired automatically by all nationals of Member States. The preamble to the Treaty outlined the key objective of removing obstacles to the free movement of goods, capital and people in the sub-region. It is in that context that the Protocol on Free Movement of Persons and the Right of Residence and Establishment of May 1979 capitalised on free mobility of labour. Phase 1 of the Treaty – the Protocol on the Free Movement of Persons – which was ratified by Member States in 1980, guaranteed the immediate free entry without visa for ninety days. This ushered in an era of free movement of ECOWAS citizens within member countries.

The formation of ECOWAS stimulated the kind of homogeneous society which once existed in the sub-region. Leaders realised that efforts to improve their populations' living conditions, attain an egalitarian distribution of income, combat poverty, etc., can be achieved faster within the framework of regional economic integration. The complementary neighbouring countries' economies, close socio-cultural ties, and historical record of free labour migration made ECOWAS' integration imperative (Adepoju, 2000). Smaller countries expressed muted fear of

economic domination by Nigeria, the Community's demographic and economic giant. At the same time, Nigerians were concerned with the possible influx of ECOWAS citizens into their country and demanded that the effects of the Protocol be closely monitored and controlled as part of their national interest (Onwuka, 1982).

Phase I of the Protocol addressed the right of entry and the abolition of visas, Phase II addressed the right of residence, and Phase III dealt with the right of establishment. The rights of entry, residence and establishment were to be progressively established within fifteen years from the definitive date of the Protocol's entry into force. The implementation of the first phase over the first five years abolished requirements for visas and entry permits. Community citizens having valid travel documents and international health certificates could enter Member States without a visa for a stay of up to ninety days. Under their laws, Member States can nevertheless refuse admission into their territories of so-called inadmissible immigrants (Adepoju, 2002). When a Community citizen must be expelled, States commit to guarantee the security of the citizen, his/her family, and his/her property. The Protocol's delayed second phase (Right of Residence) entered into force in July 1986 upon ratification of all Member States, but the Right of Establishment has not been implemented until now (→ [Box 1.1](#)). In 1992, the revised ECOWAS Treaty, among others, affirmed the right of Community citizens to enter, reside and establish themselves. Member States were required to recognise these rights in their respective territories. It also called on Member States to take all necessary steps at the national level to ensure that the provisions are duly implemented.

Box 1.1

Major features of the Protocol on Free Movement of Persons and four Supplementary Protocols

1979 Protocol A/P.1/5/79 relating to Free Movement of Persons, Residence and Establishment

Sets out right of Community citizens to enter, reside and establish in the territory of Member States (Art. 2 [1]).

Establishes three-phased approach over 15 years to implementation of (I) right of entry and abolition of visas, (II) residence and (III) establishment (Article 2).

Conditions entitlement to enter the territory of member state upon possession of a valid travel document and an international health certificate (Article 3 [1]).

Reserves the right of Member States to refuse admission into their territory to any Community citizen deemed inadmissible under domestic law (Article 4).

Establishes some requirements for expulsion (Article 11).

Confirms that the Protocol does not affect of more favourable provisions in other agreements concluded by Member States (Article 12).

1985 Supplementary Protocol A/SP.1/7/85 on the Code of Conduct for the implementation of the Protocol on Free Movement of Persons, the Right of Residence and Establishment

Requires Member States to provide valid travel documents to their citizens (Article 2 [1]).

Establishes additional (to Article 11 of Protocol) requirements for treatment of persons being expelled (Chapter 4).

Sets out protections for illegal immigrants (Articles 5 and 7).

1986 Supplementary Protocol A/SP.1/7/86 on the Second Phase (Right of Residence)

Requires states to grant to Community citizens who are nationals of other Member States “the right of residence in its territory for the purpose of seeking and carrying out income earning employment” (Article 2).

Conditions entitlement to residence (and thus seeking and carrying out of income earning employment) on possession of an ECOWAS Residence Card or Permit (Article 5) and harmonization by Member States of rules appertaining to the issuance of such cards/permits (Article 9).

Prohibits expulsion en masse (Article 13) and limits grounds for individual expulsion to national security, public order or morality, public health, non-fulfilment of essential condition of residence (Article 14).

Stipulates equal treatment with nationals for migrant workers complying with the rules and regulations governing their residence in areas such as security of employment, participation in social and cultural activities, re-employment in certain cases of job loss and training (Article 23).

1989 Supplementary Protocol A/SP.1/6/89 amending and complementing the provisions of Article 7 of the Protocol on Free Movement, Right of Residence and Establishment

Amends provisions of Article 7 of Protocol to confirm obligation of signatories to resolve amicably disputes regarding the interpretation and application of the Protocol (Article 2).

1990 Supplementary Protocol A/SP.2/5/90 on the Implementation of the Third Phase (Right to Establishment)

Defines the right of establishment emphasizing non-discriminatory treatment of nationals and companies of other Member States except as justified by demands of public order, security or health (Articles 2–4).

Forbids the confiscation or expropriation of assets or capital on a discriminatory basis and requires fair and equitable compensation where such confiscation or expropriation (Article 7).

Source: Adepoju et al, 2007

The free movement of persons, ushered in by the implementation of the Protocol on Free Movement of Persons in 1980, accelerated rather than triggered a labour migration momentum that would have occurred in any case. The Protocol's entering into force coincided with a period of economic recession in most countries of the sub-region while Nigeria's economy was fuelled by the huge oil sector's earnings. The unstable economic situation, deteriorating work conditions and poor wages in Ghana encouraged many Ghanaians, skilled and unskilled, to move to Nigeria, which had become the region's economic heaven. The oil-related employment opportunities attracted in droves migrants of all skills from Cameroon, Chad, Ghana, Mali and Togo to work in the construction and service sectors. Thousands of ECOWAS nationals – men and women –, mostly Ghanaians, flooded Nigeria in regular and irregular situations. Professional and skilled immigrants were recruited as teachers in the country's secondary schools, especially in Lagos State, to fill vacancies created by the introduction of the free secondary education scheme in 1979.

The short-lived oil boom in Nigeria was followed by the rapid deterioration of living and working conditions and the devaluation of the national currency, wage freezes and inflation. In early 1983, the Nigerian Government revoked Articles 4 and 27 of the Protocol to expel between 0.9 and 1.3 million illegal aliens, mostly Ghanaians (Adepoju, 1984). The ratification of the second phase of ECOWAS Protocol on Right of Residence that came into force in July 1986 coincided with the implementation of the belt-tightening structural adjustment programme in Nigeria. In June 1985, about 0.2 million illegal aliens were again expelled as the domestic economic crisis deepened (Adepoju, 1986). This development created a confidence crisis that rocked the Community to its core.

Expulsions are often justified with the argument that illegal aliens were aggravating the host country's economic conditions: in a few cases,

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aliens are expelled on the basis their illegal status. Aliens are usually scapegoats when governments are confronted with economic and political problems; migrants are the target of the native population's hostility and

are blamed for whatever economic, social and political problems arise in the country. They are often accused of taking jobs from nationals when youth unemployment rises.

Persistent border disputes stemming from arbitrary borders has been a common event in the sub-region even when the former OAU (Organisation de l'Unité Africaine) required governments to respect these borders in order to avoid potentially protracted, widespread conflicts that such disputes may generate. Yet border disputes between Senegal and Mauritania, between Ghana and Togo, and so on, have led to the expulsion of

Community citizens from these territories. Below we review ECOWAS' performance, highlighting the progress made and constraints encountered in creating a borderless space and facilitating free movement of persons.

Recreating a borderless West Africa

The free movement of persons no longer requiring visas within the ECOWAS Community is the Organisation's long-term achievement. On May 12, 2000, ECOWAS ministers responsible for internal affairs and national security met in Bamako and agreed to introduce a new passport for Community citizens⁷ (ECOWAS, 2000a). This passport would not replace the ECOWAS travel certificate – a more cost-effective and cheaper document for travel within the sub-region. During the transitional period of five years from the proposal's date of approval by the Community's Heads of State and Government, the ECOWAS passport would exist simultaneously with national passports until it is phased out at the end of the period.

On the agenda of the meeting of Heads of State and Government, held in Abuja at the end of March 2000, was the creation of a borderless sub-region (ECOWAS, 2004b). It was recognised, among other factors, that the inadequate and poorly maintained transport and communications facilities constituted major hindrances to cross-border trade, economic activities and movement of persons and goods. Consequently, regional infrastructure was to be improved to foster economic integration, and later construction and/or completion of, a coastal route from Lagos to Cotonou, Lomé and Accra and a Sahelian route linking Lagos to Niamey and Ouagadougou to facilitate free movement of persons and goods. Meanwhile, in May 2000, ECOWAS launched ECO-AIR, a private sub-regional airline, to coincide with the organisation's 25th anniversary and to facilitate intra-regional travel.

Other decisions made at the Summit included the elimination of rigid border formalities and the modernization of border procedures through the use of passport-scanning machines to facilitate free and easier movement. As of 15 April 2004, immigration officials were instructed to accord the maximum 90-day period of stay to ECOWAS citizens at entry point. Staff at border posts would be limited to tasks such as customs and immigration.

The numerous roadblocks and security checkpoints on international highways were to be removed in order to reduce delays, harassment and extortion of travellers. Joint border patrols by the neighbouring states of: Benin, Burkina Faso, Ghana, Mali, Niger, Nigeria and Togo would be set up to monitor and police national borders. As a result, closer collaboration was forged between the police and internal security agencies with regard to exchanging information, staff exchange programmes, and organising frequent coordination meetings, training courses, and so on.

In the spirit of equal treatment of all Community citizens, the requirement for each citizen to have a residence permit was abolished and an

intensive awareness-raising campaign would be launched to inform immigration officials of this decision.

The Summit decided to pursue other initiatives: to issue and effectively use the ECOWAS travel certificate, the adoption and introduction of a single ECOWAS passport, and the adoption and introduction of a multi-country Schengen-type visa. To do so, immigration officers met to discuss the implementation of the fast-track programme, and Member States who had not yet ratified Convention A/P1/8/94 on extradition signed in Abuja on 6 August 1994 were urged to do so without delay.

The Heads of State and Government adopted the ECOWAS passport as a symbol of unity and intended to progressively replace national passports in circulation over a transitional period of ten years. The decision to foster free movement of goods and persons across ECOWAS member country's borders, the abolition of the mandatory residency permit and the granting of the maximum 90-day stay period to ECOWAS citizens by immigration officials at entry points took immediate effect as of April 2000.

This following set of ambitious projects also reflects the rapidity at which the political leaders planned to move the borderless sub-region concept forward.

The trade liberalisation scheme is designed to progressively establish a customs union among Member States over a 15-year period as of

January 1990 when the scheme took effect. Customs policies and shipping laws are to be harmonised and updated to promote the liberalisation of maritime services. In the process, a zero percent rate of duty should be

The Heads of State and Government adopted the ECOWAS passport as a symbol of unity and intended to progressively replace national passports.



applied on approved industrial products, goods and traditional handicrafts as measures to facilitate effective establishment of a free trade zone. Nigeria and Ghana are taking the lead to implement the scheme, hoping other countries will follow (ECOWAS, 2000c).

Border posts and checkpoints on international highways which hitherto hindered free movement of persons and goods were abandoned. The Nigerian government dismantled all checkpoints between Nigeria and Benin and border patrols were installed by neighbouring countries.

The introduction of ECOWAS traveller's cheques – WAUA, the West African Unit of Account – is designed to harmonise the sub-region's monetary policy and facilitate cross-border and other transactions. The adoption of a common currency by 2004 was postponed during the ECOWAS' Ministers meeting in Ouagadougou to facilitate cross-border transactions. Equally important was the signing of the Protocol relating to the Mechanism on Conflict Prevention, Management, Resolution, Peace-keeping and Security on 10 December 1999 in Lomé.

The pertinent question is: have these ambitious policies worked?

The West African Regional Ministerial Meeting on the Participation of Migrants in the Development of their Country of Origin, organised by the International Organization for Migration in Dakar (October 2000) underscored the importance of strengthening the regional integration process, with emphasis on the free



Greater integration is based on several developments which indirectly affect intra-regional migration.

movement of persons, the right of residence and establishment, among others. It also stressed the promotion of dialogue and co-operation on migration and development between various sub-regional organisations in Africa in order to harmonise, co-ordinate and integrate regional migration policies as well as co-operate at inter-regional and regional levels.

Greater integration is based on several developments which indirectly affect intra-regional migration. The Community's policy-makers set targets for a Community Passport which was expected to take effect by 2005, a Common External Tariff billed for 2005, the Single Monetary Zone to take effect in 2007 and integration of ECOWAS and UEMOA by 2005 (ECOWAS, 2004). These ambitious targets, like others before them, were not fully achieved for reasons discussed below.

There are other initiatives with varying degrees of success. An ECOWAS Brown Card Motor Vehicle Insurance Scheme was developed in 1982 to provide a common, minimum insurance coverage for vehicles travelling between participating Member States. In 1985, a standardized ECOWAS Travel Certificate was adopted to make cross-border movement easier and less expensive. These certificates are available in seven countries and are valid for two years, renewable for another two years (→ [Table 1.1](#))². They are substantially cheaper to produce and acquire than national passports, which are seldom used in most Member States (Adepoju, et al, 2007).

Officially, most ECOWAS Member States do not charge fees for Community citizens' right to visa-free entry for stays of up to 90 days. Even when the protocols neither prescribe nor proscribe fees for the issuance of residence permits, all ECOWAS States levy such fees with rates varying from less than US \$10 annually to more than US \$500, charges that may inadvertently impede free movement given the rate of poverty in the sub-region (Adepoju et al, 2007). Member States assert that these fees are minimal and symbolic and that they refrain from demanding higher fees to avoid having other countries charge high fees to their citizens.

Table 1.1
Implementation of selected ECOWAS initiatives

| Country <i>Date of ratification of 1979 Protocol</i> | ECOWAS initiatives | | | | |
|---|--|---|---|---|--------------------------|
| | Abolition of visa and entry requirements for 90-day stay | Introduction of ECOWAS travel certificate | Harmonized immigration and emigration forms | National committee for monitoring free movement of persons and vehicles | ECOWAS Brown Card scheme |
| Benin <i>4 Jan 1980</i> | ● | ○ | ○ | ● | ● |
| Burkina Faso <i>6 Apr 1982</i> | ● | ● | ○ | ● | ● |
| Cape Verde <i>11 June 1984</i> | ● | ○ | ○ | ○ | N/A (Island State) |
| Côte d'Ivoire <i>19 Jan 1981</i> | ● | ○ | ○ | ○ | ● |
| Gambia <i>30 Oct 1980</i> | ● | ● | ○ | ○ | ● |
| Ghana <i>8 Apr 1980</i> | ● | ● | ○ | ○ | ● |
| Guinea <i>17 Oct 1979</i> | ● | ● | ○ | ○ | ● |
| Guinea Bissau <i>20 Aug 1979</i> | ● | ○ | ○ | ○ | ● |
| Liberia <i>1 Apr 1980</i> | ● | ○ | ○ | ○ | ○ |
| Mali <i>5 June 1980</i> | ● | ○ | ○ | ● | ● |
| Niger <i>11 Jan 1980</i> | ● | ● | ○ | ● | ● |
| Nigeria <i>12 Sept 1979</i> | ● | ● | ○ | ● | ● |
| Senegal <i>24 May 1980</i> | ● | ○ | ○ | ○ | ● |
| Sierra Leone <i>15 Sept 1982</i> | ● | ● | ○ | ○ | ● |
| Togo <i>9 Dec 1979</i> | ● | ○ | ○ | ● | ● |

Source: Adepoju et al., 2007

Constraints encountered while implementing the Protocol on Free Movement of Persons

The major constraints to creating a borderless sub-region and fostering closer integration include the multiplicity of economic groupings whose objectives, market size and structures are as diverse as the membership of the groupings. Wavering political support, political instability and inter-State border disputes and conflicts, and what Lelart (1999) called the 'veiled external interference' especially in the CFA franc zone, have slowed the progress of Protocol ratification and implementation. The persistent economic downturn experienced by Member States has crippled their ability to pursue consistent macroeconomic policies and has partly resulted in poor funding of co-operation unions. The non-convertibility of currencies hinders financial settlements and the harmonisation of macroeconomic policies and procedures. Furthermore, the objectives and targets set for ECOWAS are often unrealistic and difficult to achieve. While ECOWAS urged Member States to establish national committees to monitor the implementation of protocols, only six countries have so far done so³ (→Table 1.1). Even where monitoring committees exist, their work is somewhat opaque and has not generally been credited with effectively promoting knowledge of, or compliance with, the protocols. Moreover, the system of harmonised immigration and emigration documents foreseen by the ECOWAS Council of Ministers in 1992 has not been implemented anywhere.

Uncoordinated economic reform programmes have hampered the implementation of trade liberalisation and intra-community trade, and indirectly the movement of persons. The economic downturn, which lasted two decades, has led to deteriorating social services, declining per capita consumption and living conditions (Ojo, 1999). Poverty is widespread, and unemployment is at its highest. Transport networks, such as railways, are mismatched and have varying track systems as well as different rules and regulations that change across borders. This also limits trade especially for land-locked countries that must transport their goods to and from coastal harbours.

The Treaty establishing ECOWAS is explicit on trade promotion, elimination of tariff and other barriers between Member States and the establishment of a customs union. Yet, intra-regional trade's share, a useful measure of the success of an integration grouping, is very low in West Africa – about 11 percent among ECOWAS countries and a little higher in the UEMOA, compared to over 60 percent in the EU (Kennes, 1999).

However, a high proportion of cross border trade in the sub-region is unrecorded due to harassment by customs officials and other barriers, especially the ubiquitous roadblocks across borders, the lengthy and



Uncoordinated economic reform programmes have hampered the implementation of trade liberalisation and intra-community trade.

costly formalities at border posts, and the corruption of officials. All these artificially increase the cost, and hence the price, of transported goods from one country of the sub-region to another by up to one quarter.

Overlapping membership with conflicting interests and complex institutional arrangements hinders integration, exacerbates the difficulties in meeting financial obligations, which is reflected in lacklustre implementation of sub-regional protocols. It also seems that the smaller and more homogenous the Community is, the easier it is to function cohesively.

A two-track approach which allowed three or more Member States to implement integration programmes at a faster pace.



Such is the case of the UEMOA, for example, where Member States share a common currency, colonial history and the French language. Therefore, they find it easier to implement joint programmes faster than the larger

ECOWAS, which re-groups former colonial Francophone, Anglophone and Lusophone countries. The communality of language in the francophone zone tends to facilitate networks and communication across boundaries especially because a large part of cross-border trade consists of informal and clandestine transactions. But West African leaders have come a long way to realising that linguistic barriers need not constitute economic barriers. That reality is evident in the case of Ghana, surrounded by UEMOA States, teaming up with Nigeria, the demographic leader of ECOWAS (AGI, 2000).

Surprised by the delays in getting member countries to ratify Community protocols and implement Community decisions, Nigeria spearheaded efforts to achieve this goal. Nigeria proposed a new strategy for accelerating the regional economic integration process at the 22nd Ordinary Summit of ECOWAS Heads of State and Government, held in Lomé, Togo, in early December 1999. This involved the adoption of a two-track approach which allowed three or more Member States to take concrete, pragmatic measures to jointly implement integration programmes at a faster pace (ECOWAS, 2000c). This proposal, a variant of the principle of variable geometry that allows some Member States within a regional organisation to move at a different pace than others, was adopted by the Authority of Heads of State. In view of the slow progress in implementing Community decisions, member countries could now identify areas of agreement which they could progressively implement, notably free movement of persons, travel cards, traveller's cheques, tariff regimes, customs and immigration formalities to improve intra-regional labour mobility and cross-border trade. Member countries should then implement other agreements using the variable speed approach, whereby sets of common objectives are agreed upon but component countries move at varying speeds towards implementation. The two track approach is currently being pursued by Ghana and Nigeria.

Lessons learned from migration policy development and implementation in West Africa

At the institutional level, several lessons have been learned about the way in which ECOWAS' migration policy functions. It is important to note that ECOWAS' success stories were accomplished with a minimum of institutional resources. Indeed, during the first twenty-five years of the Organisation's existence, its activities were based largely on state-to-state relations, and with an ineffective secretariat (Page and Bilal, 2001, Ndongko, 1990).

Sustained political support is a critical element in the regional integration process, which demonstrates willingness and capacity to fully implement at the national level decisions made at the sub-regional level. In many cases, national concerns override regional issues. In other cases, overlapping membership in competing groups hinders effective implementation of ECOWAS decisions, protocols and programmes by national governments reluctant to surrender national sovereignty to the sub-regional institution, thereby rendering the economic grouping largely ineffective.

Civil society, especially NGOs, was not involved in many of ECOWAS' activities to create a nexus between civil society and national governments through annual consultations (ECOWAS, 2001). This was a shortcoming of the organisation's outreach activities. It was not until 2003 that an ECOWAS-Civil Society Consultation was held in Abuja to affirm ECOWAS' commitment to establishing a partnership with civil society and draw upon its expertise and experience. Its action plan included promoting the benefits of ECOWAS for its people, especially the ECOWAS passport and visa-free travel in the sub-region; and popularising ECOWAS among West Africans and particularly the youth through commemorations of anniversaries, essay competitions, popular media; and active promotion of Community citizenship by ECOWAS Member States and civil society organisations.

In many cases, national political demands supersede Community interests. In spite of the Protocol on Free Movement of Persons, for instance, Nigeria expelled thousands of Community nationals in 1983 and again in 1985 as economic conditions in the country deteriorated. In March 1999, Ghana requested all aliens in the country to register and be issued identity cards. Immigrants were suspicious of this move, recalling the antecedents of the 1969 Alien Compliance Order that culminated in the expulsion of non-Ghanaians. The long-delayed National Identity Card scheme launched in Nigeria in mid-February 2003 is designed, in part, to "effectively control" illegal immigrants and their potential detrimental



In many cases, national political demands supersede Community interests, in spite of the Protocol on Free Movement of Persons.

activities. About the same time, Liberia introduced compulsory exit visas for all residents within the country – a move criticised as violating the fundamental right of its citizens to free movement in and out of the country (Adepoju, 2005). Border disputes between Mauritania and Senegal, as well as Ghana and Togo have also resulted in the expulsion of Community citizens, in breach of the Protocol on Free Movement of Persons.

Some countries are using ethnicity and religion to re-classify long-standing residents as non-nationals. They are not pleased with the presence of large numbers of immigrants fearing that during elections, they may swing the vote in favour of the opposition along ethnic or religious alliances. The turn around in the liberal immigration policy in Côte d'Ivoire, a situation that owes much to politics as it is economically motivated, is blamed on rising unemployment and crime in the country. The first post-independence President's liberal policy of accommodating settlers from Burkina Faso, Mali and Togo, and enfranchising them was revoked; long-standing immigrants that have intermarried with locals and obtained citizenship were attacked. In fear, thousands fled to their countries of origin. The xenophobia of immigrants was fanned by media (mis) reporting and by politicians hastily blaming so-called illegal migrants for all of society's ills. The economic downturn and increasing unemployment among young nationals probably contributed to the shift in government policy to apprehend and deport illegal immigrants. The political unrest that followed the transition to civilian rule sparked off anti-foreigner sentiments. Thousands of nationals of Burkina Faso, Guinea, Mali and Nigeria returned home as anti-foreigner sentiments peaked, while Liberian refugees sought refuge in Guinea and Mali. Conflicts in Liberia and Sierra Leone gradually spread to Guinea Bissau and Guinea Conakry.

There were hindrances to ECOWAS' Protocol on Free Movement of Persons. Liberia did not ratify the Protocol on Free Movement of Persons before the outbreak of civil war. Mauritania indicated that it would withdraw from ECOWAS in 1999 and actually withdrew its membership in June 2000. Cape Verde was ambivalent and wanted to withdraw from ECOWAS.

Prospects and challenges for managing migration in West Africa

What lessons have been learned so far in developing and implementing comprehensive migration policies in the sub-region?

A rational migration management approach must balance the interests and needs of countries of origin, transit and destination as well as the aspirations of migrants. Migration management is a complex process that goes beyond punitive and control measures. In general, immigrants bring their energy, determination and enterprising spirit. They can stimulate

economies, social organisation and exchanges of experience. Hence, policy-makers should understand that human mobility is an inherent and desirable component of the development process and that many prosperous countries and communities historically were built on migrant labour. As the political and economic processes evolve, the major challenge is how to make migration work productively for all parties involved: migrants, countries of origin, destination countries, as well as societies and families. In addition, part of this challenge is how to channel movements to benefit the three key actors – migrants, countries of origin and destination countries.

Migration is an essential tool in integration, which should be used effectively to breakdown language and colonial barriers among French-speaking, English-speaking and Portuguese-speaking countries and peoples. This colonial heritage promoted national sentiments among West Africans along this divide and above that of the Community.

The elements of migration management would include short-term, medium-term and long-term measures. The key elements are:

- The development of a comprehensive policy framework to take into account direct and indirect impacts of sectoral policies on trade, investment, employment, health, education, etc.
- Comprehensive and coherent migration management policy development and implementation.
- Research in partnership with policy-makers, beginning with policy frameworks and working through to objectives, findings and recommendations.
- Intra-agency collaboration and synergy between sectoral policies and their impact on migration.
- Policy dialogue to engage all actors – policy makers, politicians, civil society, the media, migrant associations etc – in matters of migration management (IOM, 2004).

The ECOWAS Common Approach on Migration was adopted in January, 2008, at the 33rd Ordinary Session of ECOWAS Heads of State and Government in Ouagadougou. The key principles of the Approach are that free movement of persons within the sub-region is one of the fundamental priorities of the Community's integration policy; legal migration to other regions contributes to the sub-region's development; migration policies need to be harmonised; combating human trafficking is a moral and humanitarian imperative; the gender dimension of migration should be recognised; and the protection of the rights of migrants, asylum-seekers and refugees should be promoted (ECOWAS Commission, 2008).

The Migration and Development Action Plans address some of the shortcomings in the implementation of the Protocol on Free Movement of Persons and constitute a step forward in concretely addressing migration

and development and mobility issues within and from the ECOWAS Community. It is not clear, however, whether or not there were consultations, national discourse in parliaments, consensus building and negotiations prior to the endorsement of the Common Approach by the sub-region's leaders.

The need for an integrated and comprehensive approach to migration management policy development and implementation at the national level has to be emphasised, involving all partners engaged in the migration policy regimes especially government sectors (Ministries of Labour, Employment, Home Affairs, Integration, Trade, Foreign Affairs, Justice, etc.), the private sector, civil society and trade unions, as well as close collaboration between and among these divergent constituencies, with often conflicting interests. For now, only Nigeria has articulated such a comprehensive migration policy, awaiting government approval.

Capacity building: In most countries of the sub-region, the institutional capacity required to manage migratory flows and for effective policy development and implementation is inadequate, and must be strengthened through training and retraining of key officials. Capacity building of immigration officials is most critical as well as urgent. Presently functioning as border control and security officials, their role should be transformed into that of migration management, helping to facilitate rather than restrict migration in regular situations and in the context of the sub-regional integration agenda.

Officials need to be retrained and informed regarding revised national laws (when entering into force) and treaties, as well as ECOWAS Protocols.

The need for an integrated and comprehensive approach to migration management policy development and implementation at the national level has to be emphasised.



The objective is to ensure that they foster rather than thwart the objectives, modalities and procedures for free mobility of Community citizens. Indeed, capacity building of customs, immigration, police and security officials to deal with free movement of persons and goods, and on migrants' rights and responsibilities should be a continuing process. This is key in order to operationalise the trade liberalisation scheme, and the zero tariff regime adopted by ECOWAS. Training of officials, exchanging information, and networks should be institutionalised to replace on-going ad-hoc arrangements.

The ECOWAS Commission's Secretariat lacks the human and material resources to implement decisions. It lacks the human and technical capacity to implement recommendations which must be improved. It is generally accepted that greater institutional strengthening of ECOWAS is essential but also requires human and financial resources. Capacity building of officials is a top priority to ensure efficiency, transparency, public accountability and productivity.

The Commission should study or commission a study of national laws and treaties related to migration and review existing laws, employment and investment codes that conflict with ECOWAS Protocol on Free Movement of Persons, Right of residence and Establishment.

National consultation and collaboration: At the national level, collaboration between and within government agencies dealing with migration is essential but rarely exists at the moment. The key role of trade relations, especially the intended and unintended, short as well as long term effects of bilateral and multilateral trade agreements on migration is not yet evident nor well-known by many migration actors. These relations and effects should be explicitly recognised while conducting trade negotiations. Co-operation between governments of origin, transit and destination countries is also crucial to combating trafficking, more so because strict immigration policies in developed countries can actually fuel trafficking, smuggling and irregular migration.

Dialogue and consultations among various actors to discuss common approaches to their migration concerns and interests, share ideas and improve understanding and co-operation in migration management could lead to the development of a coherent policy framework for the management of migration.

A Sub-regional Advisory Board on Migration: There is no formal forum in the sub-region to specifically discuss migration matters. Hence, a West African Advisory Board on Migration Management for all actors, in particular the media and the public, should be established as part of a continuous process to avoid misrepresentation, ignorance and xenophobia that currently surround the issue of migration⁴. Discourses on migration, especially in receiving countries, are full of anxiety, misconceptions, myths and prejudices; and also feed on xenophobia. In this context, the positive aspects of migrants as development agents in origin and destination countries should be elaborated.

Like most regional economic organisations in Africa, within ECOWAS there is a lack of national and sub-regional and regional monitoring of the implementation of decisions. Therefore, a major responsibility of the Board would be to monitor the status of implementation of national laws and ECOWAS decisions relating to migration. The role of the Board would be crucial at this moment as a major setback to ECOWAS' achievements is the unwillingness to implement ECOWAS decisions, integrate its protocols and incorporate its treaties appropriately into national laws. Member States need to implement the initiatives to which they have committed and signed during the meetings of Ministers and Heads of State and Government.

A system of continuous policy dialogue should be set up to engage all actors – policy makers, politicians, civil society, the media, migrant associations, etc. – with regard to migration management. Above all, a

framework should be established to monitor the integration scheme, and the implementation of decisions at national and sub-regional levels. This is especially crucial in view of the need for member countries to cede authority to regional bodies.

Research and data: Data on migration is unreliable and not comparable across countries of the sub-region. Very few countries have adequate data to compile national migration profiles.

The collection of up-to-date information on cross-border migration will have to be factored into data-gathering procedures. Lessons learned from the experience of the Southern African Development Community (SADC), whose Member States conducted the 2000 round of national population censuses, can be very useful in obtaining current and comparable data on intra-Community migration. Censuses are a more comprehensive data source, but must be supplemented by special collaborative border survey data collection, dissemination and use.

Co-operative research and information sharing between countries of origin, transit and destination of all configurations of migrants should be encouraged. In the same vein, it is imperative for law enforcement authorities of host countries to share information on numbers and nationalities of trafficked persons, smuggling routes, and exclusion methods with countries of origin's agencies. Operational methods between partners must also be institutionalised. Co-operation between researchers in origin and destination countries that focus on, for example, studies tracing irregular migrants and trafficked victims is to be encouraged. Above all, channels of communication between countries of destination, transit and origin must be established and reinforced. Information sharing is a major component of co-operation.

Public awareness-raising campaigns: Concerted advocacy and a public education campaign should be carried out, possibly simultaneously in all countries of the sub-region in order to halt harmful hostility against migrants and refugees among traditionally hospitable populations ready to share their meagre resources with strangers. In doing so, accurate information on the immigrants' positive contribution to national development, the causes and consequences of migration at origin and destination, and the fluidity of migratory dynamics should be emphasised. The recent political and economic history of West African countries highlights the fluidity of transition between immigration and emigration configurations and dynamics as exemplified by situations in Côte d'Ivoire, Ghana and Nigeria.

Many West Africans are unaware that the ECOWAS Green Card exists. Indeed, many nationals do not have access to national passports. Each government should launch public awareness-raising campaigns on the ECOWAS Passport which is expected to progressively replace national passports, and decentralise the issuance of the passport from national

capitals to provincial and district headquarters. This will facilitate access for the majority of rural dwellers and optimise the incentive to obtain the ECOWAS passport. This recommendation also applies to national passports which remain unattainable by many citizens.

Sustained awareness-raising is required to inform the private sector and the general population of the Single Monetary Zone concept, currently being spearheaded by Ghana and Nigeria. Awareness also needs to be raised regarding the Trade Liberalisation Scheme which will lead to the creation of a Customs Union and a single regional market, and the proposed adoption of a single ECO currency. These are facilitative factors that if fully implemented, could considerably improve intra-community trade, especially the movement of persons, goods and services.

Students exchange programmes: A viable starting point to develop favourable attitudes towards migration is through the formal education system, using the “catch them young” strategy to provide young students with information regarding the positive roles and benefits of migration, as well as migrants’ duties and responsibilities. The younger generation should be involved in cross-cultural activities to foster ECOWAS’ integrative agenda, and reverse the top-down approach of the way in which ECOWAS functions. Student exchange should be increasingly encouraged as they are the leaders of tomorrow who are expected to assume the responsibility of the Community’s leadership in the future. The example of the First Africa Integration Day in Cotonou (10–12 May, 2001), organised by ECOWAS in Benin, and the Children of Integration, a youth wing of that outfit (ECOWAS, 2001), should be replicated throughout the sub-region. Effective integration can be initiated and nurtured through such exchange programmes and one way forward is to abolish existing discriminatory fees against (Community) non-nationals in their tertiary educational institutions, supported by mechanisms for accreditation and diploma recognition. These measures would complement those outlined in the Common Approach to Migration’s action plan concerning students and young professionals.

Good governance, public participation and political stability: Efforts should be reinforced to resolve the spreading of conflict throughout the sub-region. The lack of peace and stability in many parts of the sub-region discourages investment, which is the very foundation for development. It leads to capital flight, stalls sustainable development and employment generation, and prompts emigration. Conflicts in the sub-region are endemic, contagious, very violent and often senseless, as the experiences of Cote d’Ivoire, Liberia and Sierra Leone show.

Liberia’s contagious civil war began in 1989. It engulfed Sierra Leone, Guinea Conakry, Guinea Bissau and Côte d’Ivoire, the latter since September 2002. It uprooted thousands of people internally and across national borders becoming displaced persons and refugees. This war

almost became a regional conflict. Nearly 70 percent of Liberia's population was displaced. Thousands sought refuge in Sierra Leone but were soon displaced as conflict broke out in March, 1991. Refugees flooded Guinea and Côte d'Ivoire, only to be embroiled in another flight for safety in Mali, Ghana and Burkina Faso. About 750,000 people were displaced within the country and another 500,000 "foreign" residents, mostly nationals of Burkina Faso, were made homeless and fled to their countries of origin out of desperation (UN, 2004).

The Protocol relating to the Mechanism on Conflict Prevention, Management, Resolution, Peace-keeping and Security signed in Lomé as well as other ECOWAS efforts at conflict prevention and resolution should

The provisions of the ECOWAS Protocol on the Free Movement of Persons, Right of Residence and Establishment was not drafted with refugees in mind.



be reinforced. This mechanism is well ahead of other regional organisations in Africa. Emphasis should be placed on early warning and prevention supported by human and financial capital in order to move forward by

addressing the root causes of conflict and create an environment in which to build peaceful and stable conditions for sustainable development. The limited success of ECOMOG's attempts at peace-keeping, monitoring and defending against Liberia's leaders' regional destabilisation plans should also be placed in this context.

Minimal public participation in the political process, widespread illiteracy and poverty are critical shortcomings that must be redressed by establishing a stable environment conducive to good governance. As reiterated in the ECOWAS (then) Executive Secretary's Report (ECOWAS, 2000c), the environment for peace, stability and development is essential for sustainable growth and economic development. Rather than undertake an array of new decisions, the many decisions already made should be applied.

The special situation of refugees: At the end of 2006, there were approximately 261,800 refugees in West Africa, including approximately 117,000 from Liberia and 18,000 from Sierra Leone. These are Community citizens but the provisions of the ECOWAS Protocol on the Free Movement of Persons, Right of Residence and Establishment was not drafted with refugees in mind. Perhaps these provisions should be reviewed. This lapse, while recognising that the ECOWAS Treaty is not a refugee instrument, was addressed in the Common Approach on Migration by encouraging Member States to "put in place mechanisms for granting rights of residence and establishment to refugees from ECOWAS countries" (ECOWAS Commission, 2008).

Although the recent refugee flows in the sub-region may not have been foreseen by the founders of ECOWAS, many host countries are unwilling to interpret the protocols so liberally as to require them to regularise the

stay of thousands of refugees from ECOWAS States. The general feeling is also that large numbers of refugees pose a threat to stability through their involvement in common crime or in support for dissident political factions in their countries of origin (Adepoju et al, 2007). At the same time, many refugees seem to prefer to remain as such. This status protects them from expulsion, secures some level of assistance and presents the possibility of other solutions such as third country resettlement. Many are reluctant to be naturalised in their host countries even when it has been offered; the remaining Liberian and Sierra Leonean refugees opted not to voluntarily repatriate despite the promotion of this solution by UNHCR, the countries hosting the refugees, and the countries of origin.

Making the ECOWAS Common Approach on Migration work coherently

In order to move the Common Approach on Migration forward, Member States should:

- Harmonise national laws which conflict with regional and sub-regional treaties. Efforts at promoting regional integration and co-operation must also address the right of residence and establishment of migrants and the responsibilities of host countries. In this context, Member States should amend national laws and investment codes that in effect restrict “foreigners”, including nationals of Community states, from participating in certain types of economic activities.
- Revise national laws and employment codes in line with the ECOWAS Protocol and ensure that the rights of migrant workers (and eventually those of refugees) in host countries are protected. To facilitate implementation, intensive lobbying should be carried out towards various actors such as concerned governmental officials, civil society, organised private sector and NGOs, (including migrant associations) various regional and international laws and treaties dealing with migrants.
- Identify areas of agreement which can be progressively implemented, notably free movement of persons, travel cards, traveller’s cheques, tariff regimes, customs and immigration formalities to improve intra-regional labour mobility and cross-border trade. Member countries should then implement other agreements using the two tract variable speed approach, whereby sets of common objectives are agreed upon but involved countries move at their own pace towards implementation.
- Bring migration to the top of the development and political agenda by establishing an Advisory Board on Migration in each country to include all actors – civil society, researchers, officials from a range of relevant ministries and agencies, political, religious and traditional leaders, etc. The Board will serve as a forum to discuss country-specific concerns and options on migration and migration management issues

as well as monitor the implementation status of national laws and ECOWAS decisions related to migration.

- Launch public awareness-raising campaigns on the ECOWAS Passport and other initiatives proposed by ECOWAS, including the ECOWAS Brown Card scheme, and the ECOWAS travel certificate. Awareness-raising must be carried out among the general public to stimulate debate on the ECOWAS Common Approach on Migration, its principles and action plan.
- Harmonise macroeconomic policies and implement the common currency proposal to facilitate financial transactions by migrants and the business community.
- Implement ECOWAS' recommendations to combat trafficking of women and children, as well as illegal migrant activities such as smuggling and trafficking.
- Provide nationals with adequate information on conditions in host countries. Information dissemination is essential for potential emigrants in countries having or likely to have a significant potential emigrant population regarding rules and regulations guiding entry, residence and employment abroad, following the examples of Mali and Senegal.
- Remove discriminatory fees against non-nationals in Member States' tertiary educational institutions. Student exchange should be encouraged: as students are expected to assume the mantle of the Community leadership in the future. Effective integration can be initiated and nurtured through such exchanges.
- Develop positive educational strategies to inform the younger generation of the positive benefits of migration – the “catch them young” strategy. They should be involved in cross-cultural activities to foster ECOWAS' integration agenda.

Conclusion: the way forward

ECOWAS' Protocol on Free Movement of Persons, Right of Residence and Establishment is a pacesetter among Regional Economic Communities (RECs) in Africa. Orderly, well managed migration can be a veritable instrument for economic, social and political integration in the sub-region. Such an orderly movement can develop only in situations of peace and stability, hence the need for sustainable development, employment creation, conflict prevention, management and resolution mechanisms to promote stability. This also calls for closer co-operation and coordination among countries to harmonise their employment and investment policies. Above all, national labour migration laws must be harmonised with ECOWAS Protocols on Free Movement of Persons, Right of Residence and Establishment. Regular consultations and dialogue between ECOWAS Member States and other regional economic communities in Africa, the

EU and ACP States and, at the national level, among various actors, would help resolve areas of tension and also place migration matters at the top of the political agenda.

Migration cannot be managed effectively through unilateral action: many States are simultaneously origin, transit and destination countries for various types of migration. Hence, bilateral relations should be forged between the departure and receiving countries within and outside the sub-region, as well as multilateral arrangements between ECOWAS, Southern African Development Community (SADC), the European Union (EU), the African, Caribbean and Pacific (ACP) countries, etc.

Combating the trafficking of women and children requires the co-operation of all actors. It is important that governments fully implement ECOWAS' recommendations to combat trafficking of children and women, migrants' smuggling and trafficking, and set up legal frameworks for the arrest, prosecution and punishment of perpetrators of trafficking, and for the protection and rehabilitation of victims.

At the ECOWAS policy level, the objectives set for the Organisation should be realistic, sustainable and achievable. The effective free movement of persons cannot be separated from access to employment at the destination, and better still, from the right to possible settlement as well as access to the banking system to deposit revenues. Currency convertibility and common currency arrangements become imperative and could greatly facilitate transactions especially for illiterate female traders that dominate the Nigeria-Benin-Togo-Côte d'Ivoire-Dakar-the Gambia trade network.

An integrated transportation network is required, and must be maintained, to facilitate the smooth movement of persons and distribution of goods and services. The infrastructural deficits in many states must be addressed and road networks upgraded and maintained. ECOWAS should harmonise and integrally implement the interlinking policies regarding trade, investment, transport and movement of persons.

Information dissemination is essential for potential emigrants in countries having or likely to have a significant potential emigrant population regarding rules and regulations guiding entry, residence and employment abroad. This should be an essential component of the migration management agenda. Government agencies should endeavour to provide their nationals with adequate information on conditions in the receiving countries. Mali and Senegal have set up such mechanisms and their experiences should be shared.

Some political leaders are ambivalent to the principle of free movement of persons and are reluctant to modify domestic laws and administrative

« Information dissemination is essential in countries having or likely to have a significant potential emigrant population.

practices. They are not keen on surrendering national sovereignty to supra-regional organisations. Growing xenophobia is often fanned by the media's sensational reporting on migration issues and by politicians hastily blaming so-called illegal migrants for all of society's ills – rising crime, drug peddling, unemployment, and other unknown negative aspects of migration. Concerted advocacy and public education is required to show-case the positive aspects of migration, and to halt the simmering, and harmful hostility against migrants amongst traditionally hospitable African peoples.

ECOWAS Member States have not adequately harmonised macroeconomic policies. It has not yet implemented the common currency proposal to facilitate financial transaction by migrants and the business community. This major challenge must be addressed urgently.

The high levels of unemployment, the rapidly growing young population, poverty, internal disorder, a mismanaged economy and rural degradation are indicators that the emigration pressures are pervasive in the sub-region. Responsive policy making should take this scenario into account when defining measures related to employment generation, good governance, conflict resolution, sound environmental management and comprehensive migration policies, in order to halt irregular migration and promote regular migration within and from the ECOWAS Member States.

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NOTES //////////////////////////////////////

- 1 *These are in three categories – red for diplomats, blue for service personnel and green for ordinary citizens.*
- 2 *These countries are Burkina Faso, the Gambia, Ghana, Guinea, Niger, Nigeria, and Sierra Leone.*
- 3 *These are: Benin, Burkina Faso, Mali, Niger, Nigeria and Togo.*
- 4 *The idea of a Board was foreseen in the Treaty but never materialised.*

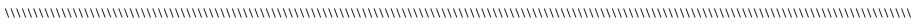
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Chapter 2



The Co-operation on Readmission and Enforced Return in the African-European Context

by **Jean-Pierre CASSARINO**

Despite the reluctance of most African countries to enter into standard readmission agreements, alternative methods of bilateral co-operation with European countries on enforced return have gained momentum over the last decade. These alternative methods of co-operation include memoranda of understanding, exchanges of letters, pacts, and police co-operation agreements, which include a readmission clause. They do not constitute standard readmission agreements. However, they are agreements with serious implications on state-to-state co-operation. The first part of this paper addresses the reasons and factors that have contributed to this new compromise on the complex issue of readmission or enforced return. The second part examines the implications of such alternative readmission co-operation methods on policy-making and shows that their geographical scope is strategically embedded in a broader interaction framework.

A new wave of agreements related to the readmission of illegal migrants is gradually weaving its way into the bilateral and multilateral talks on migration management between the European Union (EU) and Africa. These agreements are the result of the dramatic changes in power relations over the last decade.

Today, various EU Member States, particularly France, Italy and Spain, are currently aware that they can no longer indiscriminately apply pressure on African countries in order to encourage them to co-operate effectively on the readmission of their nationals as well as nationals of third-party countries. A new compromise is now emerging at bilateral and multilateral levels.

At the bilateral level, France, Italy and Spain are readapting with great flexibility their bilateral methods of co-operation on readmission with a view to securing a modicum of operability with their African counterparts. Given the empowered position the latter have acquired as a result of their involvement in the reinforced surveillance of the EU's external borders, the softening of the methods used by these three EU Member States is now more of a necessity than an option.

Bilateral co-operation on enforced return have gained momentum over the last decade.



At the multilateral level, the EU is now leaning towards a different approach to readmission through the recent introduction of mobility partnerships. Mobility partnerships constitute an integral part of the Global Approach to Migration which was first introduced in late 2005 during the Brussels European Council (Council of the European Union, 2006). They are tailor-made and encompass a broad range of issues: development aid, simplification of the delivery procedures for temporary entry visas, circular migration schemes and the combating of illegal migration including readmission.

Before explaining the emergence and gradual consolidation of this new compromise, it is necessary to understand the reaction of some African countries to the call for enhanced co-operation on migration management, including the issue of readmission.

The first part of the paper explains the reasons and factors at the root of the characteristics of the aforementioned compromise. Despite the overt reluctance of African countries to enter into standard readmission agreements and to effectively implement them, alternative methods of bilateral co-operation on enforced return have gained momentum over the last decade. These alternative methods of co-operation have increased considerably in today's Euro-African relations. They include memoranda of understanding, pacts, exchange of letters, and police co-operation agreements, which include a readmission clause. They do not constitute standard readmission agreements. However, they are agreements with serious implications on state-to-state co-operation.

Having explained the recent trends and characteristics of such alternative co-operation methods on readmission in the Euro-African context, the second part examines the implications of such alternative readmission co-operation methods on policy-making and shows that their geographical scope is strategically embedded in a broader interaction framework.

Background: Co-operation on readmission between African and European countries

Intensifying co-operation with migrants' countries of origin, especially with those located within the EU, is a prerequisite to strengthening the EU's comprehensive approach to international migration. This prerequisite was mentioned in the Hague Programme, adopted at the Brussels Council of the European Union in November 2004, which stressed the need to assist third-party countries in their efforts to improve their capacity to manage migration including readmission (Council of the European Union, 2004). The concrete implementation of the EU's comprehensive approach to international migration, as mentioned in the Hague Programme, is not only contingent on the definition of entry and integration policies, but also on the adoption of measures aimed at supporting the effective readmission of illegal migrants and those overstaying their visa.

Recently, this co-operation was reasserted in the November 2006 follow-up document to the EU Global Approach to Migration (GAM) in Africa and the Mediterranean. This document clearly expressed the desire of the EU and its Member States to put migration management at the centre of their relations with African countries from which migrants originate while stressing that “return and readmission will remain a fundamental part of managing migration.” (Commission of the EC, 2006).

However, even though substantial progress has been accomplished in opening up dialogue with African third-party countries regarding migration management, they have been reluctant to fully respond to EU Member States’ call for enhanced co-operation on readmission. This situation stems from the resilience of various obstacles that have acquired increasing importance in multilateral and bilateral migration talks.

Resilient obstacles

Over the last decade, African countries have been increasingly involved in migration talks, within the framework of numerous regional consultative processes (RCPs) related to migration management issues, including the issue of the readmission of third-country nationals.

These RCPs have been critical in raising awareness for the need to adopt provisions aimed at fostering the participation of migrants in the development of their countries of destination and origin. On one hand, the Cotonou Agreement signed in June 2000 and ratified in April 2003 between the EU and its Member States, and on the other hand, the African Caribbean and Pacific (ACP) group of states, have in this respect marked a watershed in the need to consider “strategies aiming at reducing poverty, improving living and working conditions, creating employment and developing training to contribute in the long term to normalizing migratory flows”.¹ Furthermore, with specific reference to readmission, the signatory parties also agreed to facilitate the return of illegal migrants in accordance with Article 13 of the Agreement.

The October 2000 Dakar Declaration², adopted during the West Africa Regional Ministerial Conference on migrants’ participation in the development of their country of origin also contributed to launching a dialogue among African governments on the links between migration and development including the adoption of measures aimed at maintaining the reintegration of migrants. However, in contrast with the abovementioned Cotonou Agreement, the Dakar Declaration emphasised that economic development, as well as social and political stability constitute a prerequisite to facilitating the return of migrants, as well as their reintegration. Moreover, the signatory parties resolved to facilitate the reintegration of migrants wishing to return to their country of origin without making any reference to enforced return or readmission.

This contrast shows that despite the growing consensus on the need to jointly regulate migratory flows, different perceptions remain as to how return should be handled.

These substantial differences became explicit during the Euro-African Ministerial Conferences on migration and development, held in Rabat in July 2006 and in Tripoli in November 2006.³ African leaders voiced their opinion stating that co-operation on return and repatriation with the EU and its Member States should not be limited to combating illegal migration through the conclusion of readmission agreements, arguing that further development aid should be granted to African source countries with a view to reducing poverty and addressing underdevelopment, i.e., the actual root causes of unwanted migratory flows.

This argument had already been expressed at the April 2006 African Union's Experts Meeting on Migration and Development which took place in Algiers. In their common position, the African Union's experts denounced "the recent measures adopted in Europe which encourage selective migration and target African expertise. [These measures] constitute an additional threat to African economies and show, needless to say, the lack of political will on the part of European countries to commit themselves with Africa to a genuine partnership based on respect for mutual interests".⁴



Economic development, as well as social and political stability constitute a prerequisite to the return and reintegration of migrants.

Undoubtedly, the participation of African countries in these talks and regional consultative processes is indicative of their willingness to have talks on such issues as the management of migratory flows (whether legal or illegal), reinforced border controls and police co-operation.

However, as stated above, their openness does not conceal the resilience of various obstacles to co-operate on readmission:

- Firstly, the capacity of African countries to deal effectively with the readmission of their nationals remains extremely limited, from an institutional, legal, structural, financial and economic standpoint. Co-operating on readmission might be too costly when considering that their economies remain dependent on the revenues of their (legal and illegal) expatriates living abroad, or when migration continues to be viewed as a safety valve to relieve pressure on domestic unemployment and food insecurity.
- Secondly, co-operation on readmission has been predominantly viewed by most African governments as responding solely to the interests of the EU and its Member States and to combating illegal migration;
- Thirdly, African countries' governments argue that the management of readmission has been predominantly shaped by the EU and its Member States' security concerns more than by their developmental

concerns. They believe that illegal migration should be better tackled by targeted long-term development and poverty-reduction programmes with a view to lowering the discrepancies between the European and African continents and to fostering reintegration over the long term.

These obstacles are indicative of resilient contrasting views pertaining to the management and impact of readmission. Above all, they are indicative of an unequal relationship between EU Member States and African countries when it comes to dealing with readmission or enforced return.

Unbalanced reciprocity

The vast majority of readmission agreements are concluded at the bilateral level. Readmission agreements are concluded to facilitate the removal or expulsion of “persons who do not, or no longer fulfil the conditions of entry to, presence in or residence in the requesting state” (Commission of the EC, 2002). “Persons to be readmitted [or removed] under such agreements are a country’s own nationals and, under certain conditions, third-country nationals or stateless persons who have passed [or transited] through the territory of the requested country or otherwise been granted permission to stay there”⁵.

These agreements set out the administrative and operational procedures, which are jointly defined by the contracting parties, regarding the means of identification of undocumented migrants and the ensuing delivery of travel documents (or *laissez-passers*). National authorities responsible for co-operating with the deportation of aliens are clearly stated in the agreement, as well as the border control points which may be used for readmission purposes.

Both contracting parties are committed to respecting reciprocal obligations that are formally mentioned in the standard agreement. These obligations pertain to the fact that each contracting party agrees to readmit, at the request of the other contracting party, foreign nationals (i.e. nationals of the contracting parties and, if need be, nationals of third-party countries) who do not or no longer fulfil the conditions of entry or residence on State territory of the requesting party. But above all, parties agree to carry out deportation procedures without unnecessary formalities and within reasonable time limits, while respecting their national legislation and the international agreements on human rights and the protection of the status of refugees, in accordance with the 1951 Geneva Convention relating to the status of refugees and its 1967 Protocol.

This reciprocity of obligations does not mean that the contracting parties benefit equally from the conclusion and the implementation of the readmission agreement. To use Robert Keohane’s phrase, readmission agreements characterise “relations among unequals” (Keohane, 1986),

above all when these involve two signatory countries having a significant level of developmental asymmetry, which is more often than not the case. It could even be argued that the obligations contained in the readmission agreement are typically unequal, although they are framed in a reciprocal context.

Unequal costs and benefits

Bilateral agreements with unequal benefits abound in international relations. The inequality lies in the repercussions of the effective implementation of the readmission agreement, but also in the structural, institutional and legal capacity of both contracting parties to deal with the deportation of aliens, whether they are citizens of the contracting parties or of a third-party country. Furthermore, perceived costs and benefits attached to the conclusion and to the implementation of a readmission agreement differ substantially between both contracting parties. This assumption is far from being trite when it comes to accounting for the vested interests that each party has in entering into this type of bilateral agreement. Whilst the interest of a destination country sounds obvious (“unwanted migrants have to be effectively deported”), the interest of a country of origin may be less evident, above all when considering that its economy remains dependent on the revenues of its (legal and illegal) expatriates living abroad, or when migration continues to be viewed as a safety valve to relieve pressure on domestic unemployment.

These preliminary remarks are important because they, on the one hand, show that the conclusion of a readmission agreement is motivated by expected benefits which are unequally perceived by the contracting parties, and on the other hand, they show that its concrete implementation is based on a delicate balance between the concrete costs and benefits attached to it.

The unstable balance of costs and benefits

From a contractual point of view, readmission agreements involve two sovereign states, i.e., a state soliciting from another (the solicited state) the co-operation on readmission. Recurrent exchanges precede bilateral negotiations during which the expected costs and benefits of co-operation are evaluated by both parties. These informal exchanges resemble a learning process in which the costs and benefits of co-operation are evaluated.

The benefits for solicited states may include various compensatory measures. The most common incentives used by EU Member States to conclude readmission agreements have been: special trade concessions, accession to a regional trading bloc, preferential entry quotas for economic migrants, technical co-operation, increased development aid, and entry visa facilitation. Furthermore, other intangible benefits may arise from the co-operation on readmission. Solicited states may also be motivated

to co-operate because of their need to act as credible players in the international arena and reinforce their international legitimacy.

The benefits for soliciting states may also be tangible and intangible, as co-operation is expected to speed up the identification process of aliens subject to a removal order and to lower the average costs of their detention which are reportedly high in EU Member States' detention centres.⁶ Moreover, the conclusion of readmission agreements may be submitted by the government of the soliciting state to the public and the media as an additional instrument for managing migratory flows and reinforcing its centrality in security matters.

The costs of a readmission agreement predominantly affect the solicited state. These may arise from the moment a readmission agreement is concluded, especially when the agreement requires substantial structural,

institutional and legal reforms that might have a disruptive impact on the State's relationship with civil society as well as on the domestic economy.

The costs of a readmission agreement predominantly affect the solicited state.



Moreover, other social costs may arise when the effects of the agreement are negatively perceived by the population of the solicited state (usually a migration country) and by its expatriates abroad.

The readmission agreement is negotiated on the basis of the perceived value of the exchanged items, however, the balance between costs and benefits can change over time, as a result of unforeseen circumstances. In the long run, the concrete benefits may turn out to be too weak compared with the unintended costs of bilateral co-operation on readmission. This change of value can have a negative impact on the effective implementation of a readmission agreement which can lead to one of the two countries defecting.

For example, Morocco and Spain concluded a readmission agreement in February 1992 which covers the readmission of nationals of the contracting parties as well as the removal of third-party nationals and stateless persons. To date, this bilateral readmission agreement has never been fully implemented, due to the reluctance of Moroccan authorities to accept the readmission of third-party nationals originating mainly from Sub-Saharan Africa who purportedly transited through Morocco before being apprehended on Spanish territory. Moreover, Morocco has often questioned the fact that migrants transited through its territory before arriving in Spain, arguing that they had transited first through Algeria en route to Spain.

When the bilateral readmission agreement was concluded in 1992, this migration phenomenon was not viewed as being sufficiently significant to hinder the negotiations of this type of agreement. Moreover, Morocco accepted to sign the readmission agreement in the wake of a reconciliation process with its Spanish neighbour which came about following the

signing of a Treaty of friendship, good-neighbourliness and co-operation on July 4, 1991. Also, Morocco's acceptance to conclude this agreement was motivated by its desire to acquire special status in its political and economic relationships with the European Union (Mrabet, 2003).

However, the Moroccan defection did not only result from the emergence of unexpected costs attached to the concrete implementation of the readmission agreement. Also, diplomatic tensions with Spain, particularly under the Aznar government (Gillespie, 2006), culminated in the early 2000s, hampering the effective implementation of the obligations and terms contained in the 1992 readmission agreement soon after its conclusion. Changing circumstances may upset the balance of costs and benefits and can be conducive to defection.

Defection has a cost for both contracting parties. The defecting party may be viewed as being unreliable, while the ability of the other party to exert leverage in order to secure co-operation may be questioned.

However, not all defections discredit (Lipson, 1991). Actually, some may be justified due to significantly changing circumstances, or when the concrete implementation of the agreement turns out to be unexpectedly disruptive. A new round of consultations usually takes place in order to circumvent the impediments to the implementation of the readmission agreement.

This learning process helps State actors discover the respective costs and benefits of the agreement. It also helps them tweak their demands according to their counterparts' capacity. In other words, the (re)negotiation process, viewed as a learning process, may bring about other methods of co-operation on readmission, which don't necessarily correspond to the standard readmission agreement, and which are adaptively shaped by the responsiveness of the state actors involved. New consultations fraught with additional compensatory measures may unveil the broader framework of strategic co-operation of which readmission constitutes only one part.

Strategic issues

As the abovementioned Spanish-Moroccan case study indicates, the conclusion of a readmission agreement is never isolated from a broader interaction and co-operation framework. Often, its conclusion results from a *rapprochement* which in turn stems from the gradual strengthening of diplomatic relations. In this sense, the conclusion of a readmission agreement is never an end in itself but just a means, among many others, to consolidate an entire bilateral co-operative framework including other strategic (and perhaps more crucial) policy areas.

The recent bilateral readmission agreement signed in July 2006, but still not enforced, between the United Kingdom and Algeria is no exception to the rule. This agreement – limited to the removal of nationals of the contracting parties – took place in the context of an entire round of

negotiations including such strategic issues as energy, security, combating terrorism and police co-operation. These strategic issues have become top priorities in the bilateral relations between the UK and Algeria, particularly following the July 2005 G8 meeting in Gleneagles which was also attended by Algeria.

Stressing that co-operation on readmission is included in a broader strategic framework is crucial to demonstrating that the issue of readmission may permeate various bilateral co-operation methods. The more two

It is a fact that negotiations leading to standard readmission agreements have been difficult.



state actors interact (whether successfully or unsuccessfully), the more they learn about each other, the more they reciprocally understand the costs and benefits attached to co-operation on

readmission, the more they will be inclined to adaptively and jointly determine their co-operative framework, in response to the unstable balance of costs and benefits.

It is a well-known fact that negotiations leading to the conclusion of standard readmission agreements with Mediterranean third-party countries have been difficult, given the potentially disruptive consequences that their obligations may have on their domestic economic and social stability, and on their external relations with their African neighbours (Cassarino, 2005).

This does not mean that bilateral co-operation on readmission has been suspended. On the contrary, various rounds of negotiations, at bilateral and multilateral levels, are taking place. These have allowed certain EU Member States (particularly Italy, France, and Spain) to adaptively develop alternative co-operation methods on readmission. These alternative co-operation methods on readmission do not constitute standard readmission agreements. Yet they are agreements related to readmission that have been negotiated and transformed according to various concerns.

The compromise on bilateral co-operation on readmission

An inventory of all the bilateral readmission agreements concluded between each of the EU-27 Member State and African countries still wouldn't paint an accurate picture of all the various mechanisms and co-operative instruments that have emerged, over the last decade, to sustain the deportation of illegally residing third-party nationals.

These mechanisms may be formalised, as is often the case, through the conclusion of a standard readmission agreement. Formalisation of the agreement can be perceived as beneficial to both parties involved or because the solicited State must act as a credible player in exchange of expected concrete benefits.

Under certain circumstances, however, both parties may agree to co-operate on readmission issues without necessarily formalising their co-operation on the basis of a standard readmission agreement. They may opt for alternative ways of addressing readmission by placing it in a broader co-operation framework including additional forms of mutual assistance (e.g., police co-operation agreements, arrangements, pacts) or by choosing to formulate their co-operation in other types of deals, including exchanges of letters and memoranda of understanding.

These alternative co-operation methods related to readmission but not formalised as readmission agreements are harder to detect. Therefore, by being informal they are not necessarily published in official bulletins and are not always recorded in official documents or correspondence.⁷ However, they remain traceable if we bear in mind the fact that these informal arrangements are, just like the formal readmission agreements, intrinsic in a strategic bilateral co-operation framework. There are perceptible signs which indicate or foretell that two countries may or may not accept to negotiate or conclude an accord on readmission, depending on circumstances in their broadest sense, i.e., the ways in which they interact, the size and nature of the migratory flows affecting both countries, and (to a lesser extent) their geographical proximity.



The sharp increase in bilateral readmission agreements is reflective of its growing importance EU and third-party countries relations.

Trends in bilateral co-operation on readmission between Europe and Africa

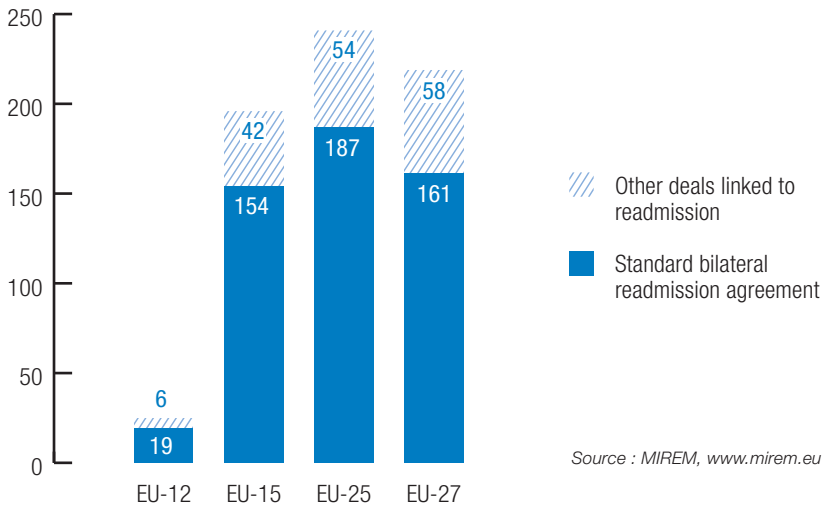
The sharp increase in the number of bilateral readmission agreements is of course reflective of the growing importance attached to readmission issues between EU Member States and third-party countries in recent decades. Conversely, it is also illustrative of these third-party countries' responsiveness to the call for concluding such agreements.

→[Figure 2.1](#) plots data related to the number of bilateral agreements related to readmission and concluded between EU Member States and third-party countries, from the time in which the EU comprised 12 Member States to date. Readmission is now part and parcel of the international relations of the EU member states. →[Figure 2.1](#) distinguishes between standard and non-standard readmission agreements. In June 2008, 219 agreements related to readmission were concluded at a bilateral level between each of the EU-27 Member State and third-party (non-EU) countries.

Clearly, not all EU Member States are equally affected by the readmission issue in their interaction with African countries. Within the EU-27, France, Italy and Spain are the most prominently involved in readmission co-operation and in on-going negotiations with African countries.

Figure 2.1

Agreements related to readmission concluded by the EU Member States with third-party (or non-EU) countries, from the EU-12 to the EU-27 (June 2008)



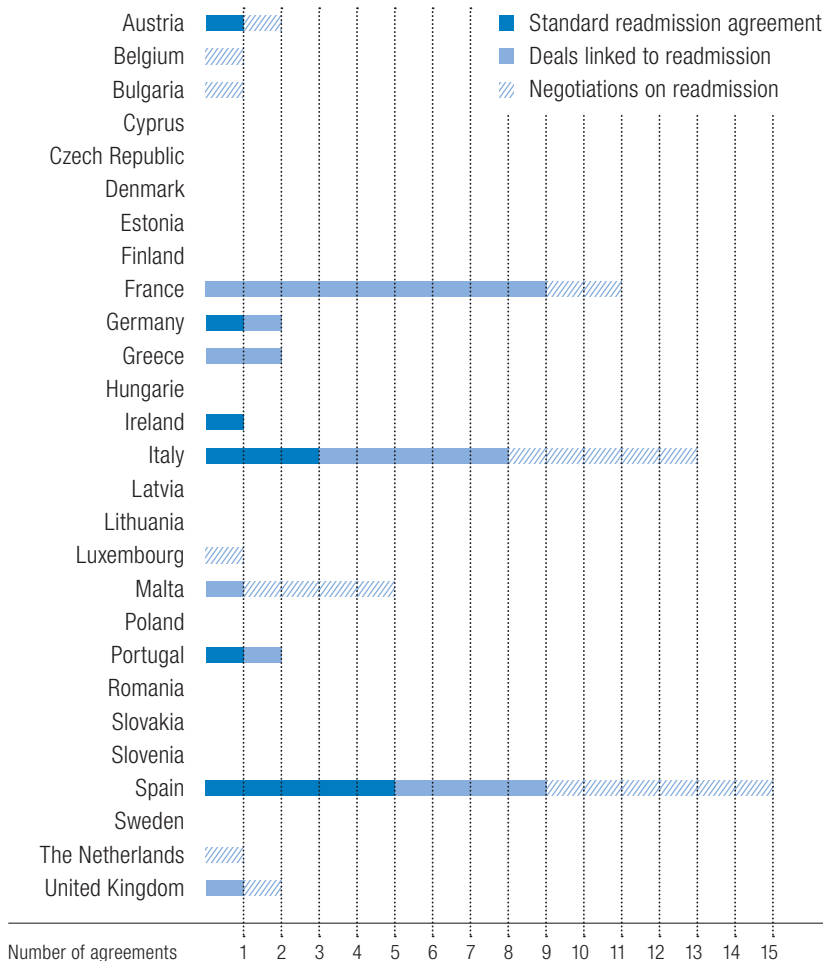
Indeed, as of June 2008, regardless of the number of agreements that are currently negotiated, more than 65 per cent of the total number of agreements related to readmission remained focused on France, Italy and Spain. This clearly reflects that these countries have been the most proactive over the last few years in considering ways of inducing African countries to become more co-operative on readmission or enforced return.

More interestingly, more than half of the concluded agreements are based on alternative co-operation methods on readmission including exchanges of letters, memoranda of understanding, administrative accords and police co-operation agreements with a clause concerning readmission.

These preliminary observations highlight the fact that these co-operative methods on readmission between the EU Member States and African countries are extremely heterogeneous. That is why limiting the scope of the approach to the conclusion of standard readmission agreements would not properly reflect the actual context in which (re) negotiations and co-operation on readmission are taking place. Just like for standard readmission agreements, alternative accords have a *raison-d'être* that needs to be further considered.

Figure 2.2

Bilateral agreements related to readmission, concluded between each EU-27 Member State and African countries, June 2008



Source: MIREM, www.mirem.eu

Securing the operability of the co-operation on readmission

The main rationale for the adoption of non-standard agreements is to secure bilateral co-operation on readmission and to avoid defection as much as possible and to respond in a flexible manner to new situations. Various EU Member States have flexibly readjusted their co-operative methods with some Mediterranean third-party countries in order to address the urgent problem of re-documentation, i.e. the delivery of travel documents or laissez-passers by the consular authorities of the third-party

country needed to expel undocumented migrants. Such flexible arrangements result from repeated consultations allowing co-operative methods to be readjusted with a view to complying with the terms of bilateral arrangements.

Undoubtedly, the incentives offered to African countries have certainly played a crucial role in inducing the latter to enter into such informal readmission accords. However, these incentives would not sufficiently explain the reason for which these arrangements have been increasingly important over the last few years, nor would it fully account for African countries' responsiveness. Actually, it is important to highlight the inherent characteristics of such accords.

- The first characteristic lies in their low level of public visibility. It is important to recall that these arrangements involve actors having different costs and benefits attached to co-operation on readmission. In Africa, the readmission issue is rather unpopular, and governments in these countries do not like to publicise their co-operation in this field, because it would jeopardise their relationships with their expatriates and population. It would also convey the negative image of a subordinate state to the European dominant power.
- The second characteristic pertains to the adaptability and flexibility of these accords to changing circumstances and to the consequential need to renegotiate the terms of the accord. In contrast, with a formal readmission agreement, requiring a lengthy ratification process, renegotiation can easily be performed with a view to responding to new situations and claims. The "asymmetry in benefits" that typically qualify readmission co-operation between some Mediterranean third-party countries and some EU Member States is too resilient to be ignored. Circumstances change over time and these are sufficient to create other types of arrangements which could adaptively and swiftly be renegotiated. These arrangements may take the form of exchanges of letters or memoranda of understanding. They may also be crafted through the conclusion of police co-operation agreements including a clause concerning readmission or through other types of development deals.
- The third characteristic lies in the limited cost of defection. As defection applies equally to any kind of international accord, defection arguably implies a lower cost when it applies to an informal arrangement. Actually, instead of being viewed as a fundamental rupture by the parties involved, it may rather be viewed as a disagreement stemming from the unstable balance of costs and benefits.
- The fourth characteristic of these accords relates to their compatibility with domestic and regional security concerns. Actually, bilateral readmission co-operation has been shaped by these security concerns. That is why numerous police co-operation agreements include a

readmission clause. At the same time, the externalisation process of migration and asylum policies of the EU and its Member States, plus the proactive involvement of some African countries in the enhanced control of the EU's external borders (Lutterbeck, 2006), has contributed to gradually placing the readmission issue in an entire set of strategic initiatives in the field of Justice and Home Affairs. Various police co-operation arrangements which foresee the delivery of sophisticated technical equipment aimed at combating illegal migration and at controlling borders have been concluded with a number of African countries. These bilateral co-operative methods regarding security matters are actually indicative of the growing convergence of security concerns of Maghreb countries with those of their European neighbours. These countries have been jointly involved in various bilateral and multilateral police operations such as the Seahorse project led by the Spanish Guardia Civil, whose main objective lies in co-operating with the Mauritanian law-enforcement agencies to reinforce maritime border controls. These bilateral police co-operation initiatives have led to the emergence of unprecedented forms of interconnectedness (Cassarino) between the North and the South of the Mediterranean, because they promote exchanges between national law-enforcement agencies, but also because they allow various Mediterranean and African third-party countries to play the efficiency card and to enhance their international credibility and regime legitimacy in the management of migration and borders.

« Bilateral readmission co-operation has been shaped “by security concerns.”

These four characteristics (invisibility, flexibility, cost-effectiveness, adaptability to security concerns) can sufficiently explain the gradual importance of the informal readmission co-operation methods. They are also key to understanding that African countries have been responsive to the call for enhanced co-operation on readmission with some EU Member States despite their vocal reluctance to formalise their co-operation or to fully implement their formal agreements.

A gradual expansion towards Africa

It is also important to stress that co-operation on security and border control issues in the Euro-Mediterranean area has led to the expansion towards other African countries.

There are two interrelated reasons explaining this geographical expansion towards the south. The first one is that the EU and its Member States are intent on co-operating directly with the source countries of migrants in Sub-Saharan Africa, in order to mobilise them in the joint management of international migration, particularly in the fight against illegal migration.

The second reason is that various EU Member States, particularly France, Italy and Spain, are becoming aware of the need for an agreement with

To link readmission to debt relief, development aid, poverty-reduction projects, police co-operation agreements.



Sub-Saharan source countries for two reasons: firstly, to alleviate the burden of strategic North African countries regarding the readmission of third-country nationals. Secondly, to secure

the co-operation of these strategic North African countries with regard to the reinforced surveillance of the EU's external borders.

France, Italy, and Spain have recently initiated a new wave of co-operation agreements with African countries which cover, among other things, the readmission issue and substantially replicate those that have already been concluded with North African countries. More precisely, these agreements are based on a three-pronged approach covering:

- police co-operation (including readmission) to combating illegal migration;
- strengthening border controls; and
- jointly managing economic migration with migrants' countries of origin and increased development aid with a view to addressing the root causes of migration.

This approach significantly draws on a project that Italy had already presented when it took over the presidency of the Council of the European Union in 2003 (Council of the European Union, 2003). This three-pronged approach has come a long way over the last five years. Today, it is an integral part of Spain's *Plan Àfrica*⁸ and of France's pacts on concerted migration management and co-development ("*accords de gestion concertée des flux migratoires et de codéveloppement*") (National Assembly, 2005). Its main characteristic is to link readmission to an array of measures ranging from debt relief, development aid, poverty-reduction projects, police co-operation agreements aimed at combating organised crime and human-trafficking, and co-operation between law-enforcement agencies.

There is no question that France, Italy and Spain have been able to negotiate ad hoc accords on readmission with a growing number of African countries. As mentioned before, the conclusion of these accords, which differ from standard readmission agreements, has contributed to the geographical extension and density of the Euro-African web of agreements related to readmission, whether these are standard or not.

The figures below reflect the growing importance that bilateral co-operation concerning readmission or enforced return has gained in the Euro-African relations since the 1990s (→ [Figure 2.3](#)) to mid-2008 (→ [Figure 2.4](#)).

For each time period, the size of the circles (or nodes) has been weighted with regard to the total number of bilateral agreements related

to readmission (whether standard or not). In other words, the bigger the circle the denser the Euro-African web of agreements related to readmission in which each country depicted is involved.

Figure 2.3
The web of bilateral agreements related to readmission between the EU Member States and African countries (during the 1990s)

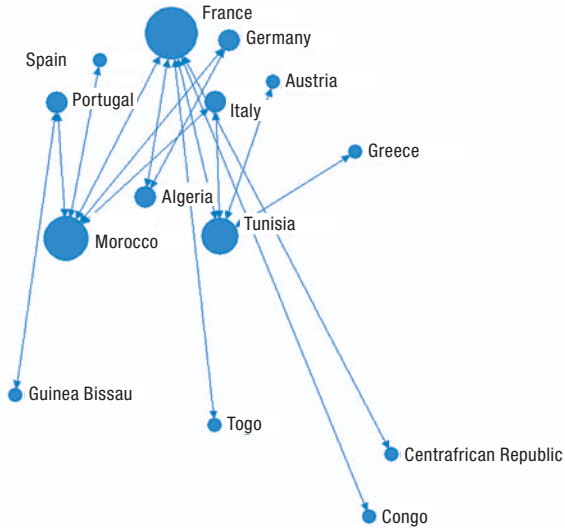
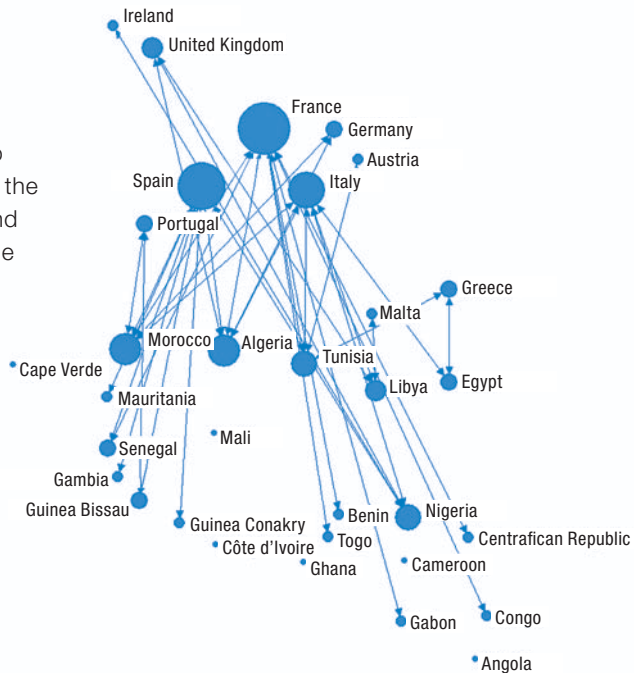


Figure 2.4
The web of bilateral agreements related to readmission between the EU Member States and African countries (June 2008)



Source: MIREM, www.mirem.eu/datasets/agreements

It is interesting to note that, during the 1990s (→Figure 2.3), France, Morocco and Tunisia were the most involved in the Euro-African web of agreements related to readmission. The web involved 14 countries equally distributed between the EU and Africa. At that time, the main concern shared by most EU Member States was to extend their networks of co-operation on readmission towards third-party countries East of the EU and the Western Balkans. Additionally, the planned enlargement of the EU and the obligation for the ten new acceding countries to align themselves with the “Schengen acquis” also increased the number of bilateral agreements on readmission with third-party countries in the East.

In mid 2008 (→Figure 2.4), the situation changed drastically. The Euro-African web of bilateral agreements related to readmission increased extensively involving 26 countries in both areas.⁹ It is striking to note that in →Figure 2.4, numerous countries located on the Western coast of Africa, from Gabon to Morocco (including Benin, The Gambia, Guinea Bissau, Guinea Conakry, Mauritania, Nigeria, Senegal, and Togo) are now involved in the array of agreements related to readmission. This geographical expansion has not been random. Rather, it stems from the combination of various specific factors.

First, as mentioned above, within Europe there has been growing awareness that methods of co-operation with African countries regarding readmission need to be adapted. Given their reluctance to conclude standard readmission agreements, the idea was to devise flexible arrangements which could serve the interests of all the contracting parties.

Incidentally, the May 28, 2006, interview with Mr Miguel Angel Moratinos, the current Spanish Minister of Foreign Affairs, is emblematic of the growing awareness shared by most officials and policy-makers in the EU Member States that a new compromise must be considered in their interaction with third-party

These agreements have also allowed countries to acquire a strategic position in migration talks.



countries in the Mediterranean and the African continent regarding the delicate issue of readmission: *“The old approach to readmission agreements has to be complete with other approaches. This is not to say that we should renounce the need for readmission. However, to put this into practise, sending countries need an array of incentives to accept the removal of their citizens”*¹⁰.

This shift does not so much lie in the incentives offered to third-party countries’ governments as in the creation of alternative mechanisms allowing quick and discreet solutions – linked to other strategic issues – to be found.

The second reason explaining the gradual expansion of agreements related to readmission in Africa is that such bilateral initiatives have allowed some African countries to play the efficiency card in the field of

migration and border management, while gaining further international credibility and regime legitimacy. They have also allowed these countries to acquire a strategic position in migration talks on which they intend to capitalise.

This perceptible process of empowerment is also important to understand in the geographical expansion of readmission accords towards Sub-Saharan African countries. Some African leaders have realised that their involvement in such readmission talks would reinforce their bargaining power and strategic position with regard to their European counterparts.

A third element which contributed to the enlarged geographical scope set out in →[Figure 2.4](#) is the attempt of the European Commission to devise new forms of partnerships with African third-party countries in the field of migration management.

Since the introduction of the EU Global Approach to Migration, a variety of actions have been prioritized and implemented through the launching of mobility partnerships in co-operation with third-party countries. Just like France's pacts on concerted migration management or Spain's *África Plan*, the EU's mobility partnerships are tailor-made. They encompass a broad range of issues ranging from development aid to the simplification of the delivery procedures for temporary entry visas, circular migration schemes and combating illegal migration including readmission.

In late 2007, the Commission was invited by the Council to launch pilot mobility partnerships with Cape Verde leading to the conclusion of a mobility partnership joint declaration in June 2008. Similarly, a mobility partnership has been in negotiation with Senegal since June 2008.

Although mobility partnerships do not constitute readmission agreements, they are presented as "a novel approach capable of bringing added value in implementing different aspects of the Global Approach to Migration" (Council of the European Union, 2007), including co-operation on an effective readmission policy". Most importantly, their recent introduction is viewed as giving more impetus to co-operation on migration management and also allows the credibility of the EU and its institutions to be consolidated after years of lengthy and intricate negotiations on EC readmission agreements with African third-party countries (Algeria and Morocco).

Behind the introduction of mobility partnerships is the need to make African countries' governments and authorities more co-operative with regard to migration management, particularly in combating illegal migration and the difficult issue pertaining to readmission. In other words, mobility packages are conditionally offered in that they are addressed to those third-party countries "once certain conditions are met, such as co-operation on illegal migration and effective mechanism for readmission" (Commission of the EC, 2006).

The EU's attempt to link mobility partnerships with effective co-operation on readmission is reflective of how this issue has become a central component of its external relations with African countries. This conditionality may be motivated by the need to secure the temporariness of circular migratory movements and to avoid the permanent stay of migrants.

There are, however, other factors explaining this conditionality. First, readmission is all the more central for the EU and its Member States as the control of its external borders have been reinforced. In other words, border restrictions impact on the fluid and repeated back and forth movements inherent in circularity. The EU and its Member States are aware of the fact that, due to border restrictions and difficult access to the labour market in the destination country, circular migrants may be tempted to extend the duration of their stay abroad¹² or to overstay and become irregular. In the same vein, the resilient differentials in terms of standards of living, economic development, welfare and political governance between origin and destination countries constitute additional push factors that cannot be overlooked. Given the resilience of the aforementioned differentials existing between the EU and its surroundings, particularly with regard to African countries, readmission is presented as the necessary instrument to deal with the unintended consequences of circular migration schemes, i.e. overstay.

Conclusion: Implications on policy-making

A whole spectrum of agreements related to readmission has emerged over the last decade in existing bilateral co-operation methods between African and European countries. Standard readmission agreements constitute just one method of co-operation. Furthermore, incentives play a crucial role in encouraging third-party countries to co-operate on readmission. However, they do not adequately account for the sustainability of bilateral co-operation over the long term. Actually, the perceived costs and benefits facing each country also shape the durability as well as the co-operation method.

The issue of readmission permeates an array of policy areas in Euro-African relations. It is strategically embedded in a whole range of co-operative methods which shape the terms of co-operation sometimes favouring and sometimes hampering the formalisation of a readmission agreement.

African and European migration players know that the conclusion of agreements related to readmission (whether standard or not) is no guarantee for their effective implementation, owing to the strong asymmetry in costs and benefits that characterises their bilateral co-operation.

The gradual proliferation of accords (e.g., memoranda of understanding, pacts, administrative arrangements and police co-operation agreements including a clause concerning readmission) shows that the issue at stake

lies in finding flexible solutions aimed at co-operating on readmission more than in the mere conclusion of bilateral readmission agreements *per se*. The agenda remains unchanged, but there has been a shift in priority actions with regard to African countries. Actually, the operability of co-operation on readmission has been prioritised over its formalisation. This shift in priority has various implications in terms of policy-making.

Co-operation methods have been primarily conducive to judicial and police reforms in African countries as well as to enhanced technical assistance to police forces and law-enforcement agencies aimed at strengthening their border management capabilities.

One is entitled to question the extent to which the prioritisation of such security concerns might not jeopardise the principle of the free circulation of



The proliferation of accords shows that the issue at stake lies in finding flexible solutions.

persons which constitutes an essential component of the regional integration initiatives in Africa, including the Economic Community of West African States (ECOWAS). It is likely that African countries involved in such co-operation methods on migratory flow management, including the readmission issue, will have to perform a balancing act between their commitments or obligations with regard to their European counterparts and those resulting from their regional involvement in African trading blocks.

Moreover, as stressed in a recent study produced by the Assembly of Western European Union, it raises the question of whether the technical assistance provided to law-enforcement agencies and border police authorities may be compatible with the promotion of good governance, democracy and public accountability⁷³ in some African countries, as well as developing a genuine legal system respecting migrants' rights and protecting asylum-seekers.

Another entanglement stemming from prioritising security concerns regarding co-operation related to readmission in Euro-African relations is that bilateral co-operation is aimed at securing the effective expulsion of unwanted migrants but does not foresee any mechanisms aimed at supporting the social and professional reintegration of persons subject to a removal order. Such reintegration mechanisms will have to be considered, as they will determine the effectiveness of bilateral co-operation on readmission and its sustainability.

A new compromise is emerging regarding readmission in Euro-African relations, resulting predominantly from the convergence of short-term security concerns. This compromise reflects the emergence of power relations, which substantially differ from those that prevailed a few years ago leading to flexible co-operation methods on readmission.

However, the methods of co-operation based on this new compromise may not be self-sustaining in the long term if they continue to prioritise security concerns over the pressing development problems facing African countries; these remain the actual root causes of migratory flows and refugee movements, together with poverty and the quest for fundamental civil and political rights.

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NOTES //////////////////////////////////

- 1 See Article 13 of the Cotonou Agreement: [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:22000A1215\(01\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:22000A1215(01):EN:HTML).
- 2 See the text of the Dakar Declaration: www.iom.int/africandiaspora/pdf/D%C3%A9claration_Dakar_131000_fr.pdf.
- 3 The Rabat Conference was co-organised on 10–11 July 2006 by Morocco, Spain and France, and brought together EU Member States as well as countries from West, Central and Southern Africa. 57 countries signed the Rabat Declaration aimed at fostering a close partnership on the management of legal and illegal migration. www.maec.gov.ma/migration/Doc/RABAT%20DECLARATION_EN.pdf.
- 4 African Union, *Experts Meeting on Migration and Development, "Element for an African Common Position on Migration and Development"*, Algiers, 3–5 April 2006. See particularly Point 25 of this document written following the presentation of the EU Strategy for Africa: www.africa-union.org/root/au/Conferences/Past/2006/April/SA/Apr5/Elements_for_an_African_Common_Position.pdf
- 5 Definition of the Intergovernmental Consultations for Asylum, Refugee and Migration Policies in Europe, North America and Australia (IGC). See IGC, *IGC Report on Readmission Agreements*, Geneva, January 2002, p. 9.
- 6 The average cost in Europe's detention centres varies from 60 to 100 Euros per day and per capita. For a thorough account see the report written by the Jesuit Refugee Service, *Observation and Position Document*, Brussels, 17 October 2005. www.detention-in-europe.org.
- 7 For example, in Italy, in accordance with art. 4 of Decree 286/1998, the Ministries of Foreign Affairs and of the Interior are by law entitled to conclude bilateral repatriation deals with third countries. The Italian executive may conclude such bilateral deals without the prior authorization of the Parliament. For a comprehensive legal analysis see C. Favilli, "Quali modalità di conclusione degli accordi internazionali in materia di immigrazione?", *Rivista di diritto internazionale*, Vol. 88 (2005) pp. 156–165.
- 8 Spain's Plan África is addressed to such targeted African countries as Burkina Faso, Cameroon, Chad, Congo, Cote-d'Ivoire, Ethiopia, Guinea Bissau, the Democratic Republic of Congo, Mauritania, Senegal, Somalia, Tanzania, and Uganda. See Ministerio de Asuntos Exteriores y de Cooperación, *Plan África: 2006–2008 Resumen Ejecutivo*. Madrid, May 2005. www.mae.es/es/Home/planafrica.htm.
- 9 On Figure 2.4, African countries not connected to the network are currently negotiating a deal with an EU Member State.

- 10 "El viejo enfoque de los acuerdos de readmisión debe ser completado con otros enfoques. No hay que renunciar a la exigencia de readmisión, pero para que se aplique, los países emisores necesitan una serie de incentivos para aceptar la devolución de sus ciudadanos." See the full text of Moratinos' interview, in *Ministerios de Asuntos Exteriores*, "La crisis de Canarias es fruto del éxito de la nueva relación con Marruecos", 28 May 2006 www.mae.es.
- 11 See Paragraph 10 of Council of the European Union, "Council Conclusions on extending and enhancing the Global Approach to Migration", 2808th General Affairs Council meeting, Luxembourg, 17–18 June 2007
- 12 This point draws on Heaven Crawley's viewpoint reported in House of Commons International Development Committee, *Migration and Development: How to make migration work for poverty reduction*, Sixth report of Session 2003–2004, Vol. 1, 8 July 2004. "When people come to a country [...] through a managed migration programme often they have had quite a difficult time getting onto that programme in the first place, and when they get to the [destination country] their first thought is not to think about how to return, because they found it difficult trying to get here in the first place, it is more about how to stay" (see §71, p. 40–41).
- 13 Assembly of Western European Union, *Security and Stability in the Mediterranean Region*, Document A/1939, 52nd session, 20 June 2006, Paris, WEU, 2006. www.assembly-weu.org/en/documents/sessions_ordinaires/rpt/2006/1939.php?PHPSESSID=f3137d60.

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Chapter 3



Migration and Settlement Management in Sub-Saharan and West Africa

by Jean-Marie COUR

Sub-Saharan Africa (SSA) is the last region in the world to go through its demographic transition. This process involves the population increasing almost tenfold from around 180 million in 1950 to more than 1.7 billion in 2050 (according to United Nations projections).

Such a tenfold increase in the total population of SSA is obviously not possible in all parts of the region, such as sub-desert areas on the fringes of the Sahara or even the Sahel; densely populated rural areas with a severe strain on the land; landlocked countries with limited potential, for instance Rwanda and Burundi in Central Africa or Niger in West Africa; or finally sub-groups of countries that are not strictly speaking settlement areas, like the CILSS or the UEMOA.

With natural growth rates of 2 or 3% per year, the adjustment of human settlement to physical constraints and potential, and above all market forces, signifies net migration rates, varying according to the size of the entities in question. Within the 47 SSA countries whose borders are artificial, these migration rates are between 0.1% and 1% per year. We should therefore expect SSA intra-regional migratory flows of around one million people per year. This shows that the migratory flows between SSA and the rest of the world, that are of concern to the international community, are just a drop in the ocean, or “the foam that washes up with everything else on our European shores”. Managing migratory flows between the nation states of SSA and its various entities is therefore a real challenge that institutions like ECOWAS are trying to tackle – see the articles by Aderanti Adepaju and Dieudonné Ouedraogo.

This migration between nation states only represents a tiny proportion of the migratory flows between territorial entities such as districts or “communes”, between rural and urban areas, and between landlocked, isolated areas and growth centres: “it is an obvious fact that development does not take place everywhere at the same time or at the same pace” (François Perroux). These migratory flows need to be understood, interpreted and anticipated as they are structural and not cyclical. Migration must be facilitated to reduce the risks of violence (for example, the recurrent conflicts between livestock and arable farmers in the Sahel) and therefore be supported and managed with all its implications.

Managing migratory flows between countries and agro-climatic zones is made all the more difficult in SSA given that the continent was balkanised and artificial national borders were imposed by the colonisers. During the period of colonial conquest, SSA was disadvantaged compared to other regions in the world subjected to the same circumstances. South America escaped such balkanisation thanks to the intervention of a supreme authority, Pope Alexander VI, who established a demarcation line from pole to pole between future Spanish and Portuguese possessions (papal bull *Inter Caetera* of 1493). There are thirteen countries in South America, two of which are landlocked (compared with 14 out of 48 in SSA). Migration between agro-climatic zones (for example, between Brazil's semi-arid Nordeste and tropical south) is subject to fewer artificial obstacles than in SSA. When analysing past achievements and development prospects in Africa, the handicap brought by the balkanisation of the continent should not be underestimated. The international community should not forget to counter the effects of this and at the least refrain from any action that is likely to make them worse.

Urbanisation is one of the most spectacular demonstrations of population redistribution in Africa, opening-up of a market economy, and economic and social restructuring. Unfortunately, the urbanisation process and its consequences are misunderstood. The idea periodically resurfaces that urban growth in SSA and the "rural exodus" are the consequence of bad policies (the urban bias). The consequences of misunderstanding the connections between urbanisation and development on settlement management cannot be underestimated.

This article aims to describe in more detail certain aspects of intra-African migration that have not been or have been little covered in other articles. The timescale considered here is that of the demographic transition: retrospective 1950–2000 and projective to 2025 and 2050. The developments within the ECOWAS zone are resituated in the context of SSA. The article concludes with several suggestions for settlement management and the role of aid in this key area of development.

Demographic transition and migrations

At what stage is demographic transition in Africa?

According to the most widely accepted demographic projections,¹ the total population of Sub-Saharan Africa will increase from 766 million in 2006 to 1,137 million in 2025 and 1,748 million in 2050, i.e. another multiplication by 2.3. The total population of SSA will have increased tenfold over the course of a century, from 1950 to 2050. According to these projections, it will be the region with the highest demographic growth and the slowest decrease in the world. The demographic transition will therefore not be complete before the end of the current century.

Table 3.1

Total Population by region (in million)

| Region | 1950 | 1960 | 1970 | 1980 | 1990 | 2000 | 2025 | 2050 |
|--------------------|-------|-------|-------|-------|-------|-------|-------|-------|
| Sub-Saharan Africa | 178 | 224 | 290 | 382 | 509 | 659 | 1,137 | 1,748 |
| North Africa | 43 | 54 | 69 | 89 | 114 | 138 | 204 | 245 |
| Rest of the world | 2,294 | 2,743 | 3,317 | 3,959 | 4,629 | 5,257 | 6,599 | 7,250 |

Source: United Nations

Table 3.2

Total Population Growth Rate by region (in %)

| Region | 1950 | 1960 | 1970 | 1980 | 1990 | 2001 | 2025 |
|--------------------|--------|--------|--------|--------|--------|--------|--------|
| | ↔ 1960 | ↔ 1970 | ↔ 1980 | ↔ 1990 | ↔ 2001 | ↔ 2025 | ↔ 2050 |
| Sub-Saharan Africa | 2.3 | 2.6 | 2.8 | 2.9 | 2.6 | 2.2 | 1.7 |
| North Africa | 2.4 | 2.5 | 2.5 | 2.6 | 1.9 | 1.6 | 0.7 |
| Rest of the world | 1.8 | 1.9 | 1.8 | 1.6 | 1.3 | 0.9 | 0.4 |

Source: United Nations

Of course, it can be argued that the SSA population will never reach 1.7 billion people, but this is of little importance. The reasoning would be the same if the population stopped at 1.3 or 1.5 billion rather than the 1.7 forecast by the United Nations. These official projections can therefore be used as a reference.

The tables below show the past and projected total population in the following sub-regions:

- Tropical West Africa, comprising 10 countries: Guinea Bissau, Guinea, Sierra Leone, Liberia, Côte d'Ivoire, Ghana, Togo, Benin, Nigeria and Cameroon;
- Western Sahel, comprising 8 countries: Cape Verde, The Gambia, Mauritania, Senegal, Mali, Burkina Faso, Niger and Chad;
- West Africa proper, comprising the 18 countries above;
- And ECOWAS, which is made up of the same countries minus Mauritania, Cameroon and Chad.

West Africa as defined by these sub-regions is more suitable than ECOWAS for an analysis of the settlement process. The region taken into consideration in the WALTPS² study includes the Central African Republic in addition to the 18 countries listed above.

Table 3.3
Total Population by region (in million)

| Region | number of States | 1950 | 1960 | 1970 | 1980 | 1990 | 2000 | 2006 | 2025 | 2050 |
|----------------------|------------------|------|------|------|------|------|------|------|------|------|
| Tropical West Africa | 10 | 55 | 67 | 87 | 115 | 156 | 205 | 229 | 326 | 503 |
| West Sahel | 8 | 16 | 20 | 25 | 32 | 41 | 55 | 69 | 116 | 198 |
| West Africa | 18 | 70 | 87 | 112 | 147 | 197 | 259 | 298 | 442 | 701 |
| ECOWAS | 15 | 62 | 78 | 101 | 132 | 178 | 234 | 268 | 396 | 629 |

Source: United Nations

Table 3.4
Population Growth Rate by region (in %)

| Region | number of States | 1950 | 1960 | 1970 | 1980 | 1990 | 2006 | 2025 |
|----------------------|------------------|--------|--------|--------|--------|--------|--------|--------|
| | | ↔ 1960 | ↔ 1970 | ↔ 1980 | ↔ 1990 | ↔ 2006 | ↔ 2025 | ↔ 2050 |
| West Africa Tropical | 10 | 2.1 | 2.6 | 2.8 | 3.1 | 2.4 | 1.9 | 1.7 |
| West Sahel | 8 | 2.4 | 2.2 | 2.4 | 2.7 | 3.2 | 2.8 | 2.2 |
| West Africa | 18 | 2.2 | 2.5 | 2.7 | 3.0 | 2.6 | 2.1 | 1.9 |
| ECOWAS | 15 | 2.3 | 2.6 | 2.8 | 3.0 | 2.6 | 2.1 | 1.9 |

Source: United Nations

Southern Africa, where growth is already less than 0.5% per year, is the exception in Sub-Saharan Africa, no doubt a consequence more of the ravages of AIDS than of a relatively early sign of demographic transition. According to official projections, southern Africa's population will start to level off towards 2020.

In contrast to the situation in Southern Africa, official projections indicate that the western Sahel (from the Atlantic to Chad) has by far the highest population growth rate in Africa and this rate will still exceed 2% per year again in the period 2025–2050.

What about the size of intra-African migratory flows?

National population censuses and some surveys, such as NESMUWA, shed some light on the net balance of migration between countries. For West Africa, recent calculations by the CILSS using population censuses show that the sub-region's countries harbour around 7.5 million migrants,

almost 3% of the regional population, who come from another West African country, a sign of high mobility.

Migration within the region has actually affected population distribution between the countries and ecological zones. Between 1930 and 1990, the population of what is now Burkina Faso tripled, from 2.8 to 8.7 million, while the population of Côte d'Ivoire increased eight-fold, from 1.4 to

International migration is but one of the aspects of population redistribution in the region.



11.4 million. Whereas today's Burkina Faso had twice the population of Côte d'Ivoire in 1930, today Côte d'Ivoire's population is a third larger than Burkina Faso. If this intra-regional migration had not taken place, the

economic and social situation and environmental problems of the Sahel countries would no doubt be a lot worse than they are today.

In order to assess the true significance of these net inter-country migratory flows and compare mobility in SSA and other world regions, the size of the entities in question must be taken into account. Net migration between countries in a region is all the more significant when the countries in question are small, as is the case in Africa.

In this regard, comparing the situation in SSA (47 countries, population 500 million) with that of the United States (50 states, population 300 million) may no doubt seem odd. However, some aspects of mobility in the USA during the last century provide an interesting insight:

"From 1900 to 2000, the population more than doubled in the North-east (21 million to 54 million) and in the Midwest (26 million to 64 million). The South's population during this period quadrupled from 25 million to 100 million, while the West's population was more than fifteen times larger in 2000, increasing from 4 million in 1900 to 63 million at the end of the century. One of the most significant demographic trends of the 20th century has been the steady shifting of the population west and south. In 1900, California's population was about the same as the population of Kansas (1.5 million) but, over the next 10 decades, California increased by 32.4 million while Kansas grew by an additional 1.2 million people".

The following table illustrates some of the changes in the classification of the states according to their population that have taken place in one century: California moved from 21st to 1st place, Iowa from 10th to 30th. Such profound shifts in the ranking of the Union's states clearly cannot be explained solely by net immigration from the rest of the world, but also, and above all, by internal migration. The population and economic activity responded immediately to opportunities and market forces with the population moving freely throughout the Union, with net migration rates between -5% to +5% per year for a long period without serious consequences. These movements were clearly made easier by the infrastructure and territorial planning policies consistently pursued by the

federal government for more than two centuries. The United States is the region where territorial planning has been the most voluntarist in the world and has resulted the most clearly in networks of infrastructure and towns.

Table 3.5
States Ranked by Population Size: 1900, 1950 and 2000 ($\times 10^6$)

| Year | 1900 | 1950 | 2000 | Year | 1900 | 1950 | 2000 |
|--------------------|------|------|------|--------------------|------|------|------|
| Fast growth | | | | Slow growth | | | |
| Arizona | 48 | 38 | 20 | Illinois | 3 | 4 | 5 |
| California | 21 | 2 | 1 | Iowa | 10 | 22 | 30 |
| Florida | 33 | 20 | 4 | Massachusetts | 7 | 9 | 13 |
| Texas | 6 | 6 | 2 | Missouri | 5 | 11 | 17 |
| Washington | 34 | 23 | 15 | Pennsylvania | 2 | 3 | 6 |

Although far removed from the African situation, the case of the United States should be considered. China and India are two other interesting examples of settlement management at the sub-continent scale. In both cases, government unity, something SSA clearly does not have, has played an important role, but must not conceal the importance of territorial planning and infrastructure policies.

International migration is but one of the aspects of population redistribution in the region. The WALTPS study led to an estimate that over one generation, 30 to 40% of the West African population no longer lived in their district or commune of origin. A significant part of this local migration is linked to urbanisation.

For an analysis of local migration within West Africa, the WALTPS should be consulted as it thoroughly covers this subject as well as the various reference notes on interactions between urban and rural areas

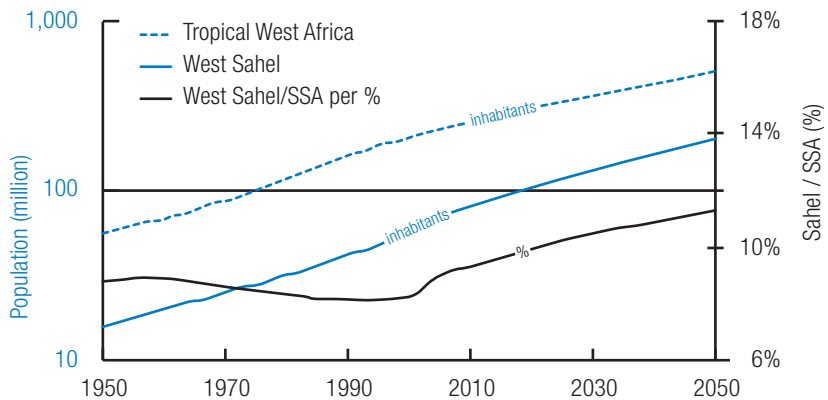
Can we ignore population redistribution in the demographic projections by agro-climatic zone and country in the short and long term?

According to the official projections mentioned above, the Sahel will have a population of 116 million in 2025 and almost 200 million in 2050, compared to 69 million today. The same projections indicate that the importance of the Sahel in the total population of SSA, which logically

declined from 9% in 1950 and 1960 to 8% in 1994, had already increased by one percent from 1994 to 2006 and will reach 10% in 2025 and 11% in 2050! Despite the Sahel's severe agro-climatic constraints and the fact that it is landlocked, the region should see its total population increase faster than that of coastal West Africa, which is better endowed with resources.

Figure 3.1

Population growth: If the Sahelian share of the SSA population increases from 8% to 11% by 2050, it will grow faster than the population of tropical West Africa



Source: United Nations

It would probably surprise most people if the population of China's coastal provinces were to increase at a slower rate than that of the inland provinces, but this is what has been happening in Africa since the 1990s.³ If migratory flows between the Sahel and the coastal countries were to stop, or even be reversed, West Africa could become one of the most unstable and conflict-prone (internal and intra-regional) regions in the world.

Demographic projections by country rather than by region reveal even more problems that SSA risks facing if no serious action is taken to manage settlement responsibly. By 2050 the area of arable land per rural capita in Niger, Rwanda and Burundi will be reduced to 0.19, 0.09 and 0.07 hectare respectively! Taking into account land allocated to export crops, Burundi would have just 500 m² of arable land per rural capita to meet its domestic needs. Thus, there would be certain famine, while in the neighbouring province of Maniema (Democratic Republic of Congo) only one quarter of the territory would be populated.

Table 3.6
Projected overpopulation of some SSA countries in 2050

| | unit | Niger | Burundi | Rwanda |
|------------------------------------|---------------------|-----------|---------|--------|
| Total land (L) | km ² | 1,266,700 | 25,680 | 24,670 |
| Population (P) | million | 50 | 26 | 21 |
| Total density (P/L) | inh/km ² | 40 | 1,005 | 835 |
| % of rural pop (R/P) | % | 43 | 66 | 73 |
| Rural Pop (R) | million | 21 | 17 | 15 |
| Cultivable land (CL) | km ² | 45,000 | 13,500 | 13,850 |
| Cultivable ha per rural inh (CL/R) | ha/inh rural | 0.21 | 0.08 | 0.09 |

1 km² = 100 ha

Source: Cour, J.-M.

Table 3.7

Population of Niger (10³)

□ Source: ECOLOC (2001) ■ Source: Population Reference Bureau (2001)

| Year | 1960 | 1975 | 1990 | 2002 | 2015 | 2025 | 2050 |
|----------------------|-------|-------|-------|--------|--------|--------|--------|
| Urban Population (U) | 198 | 522 | 1,186 | 1,990 | 4,200 | 6,120 | – |
| | 184 | 512 | 1,241 | 2,450 | – | ? | ? |
| Rural Population | 3,576 | 4,212 | 6,638 | 9,474 | 10,800 | 10,880 | – |
| | 2,998 | 4,300 | 6,466 | 9,069 | – | ? | ? |
| Total Population (P) | 3,774 | 4,734 | 7,824 | 11,463 | 15,000 | 17,000 | – |
| | 3,182 | 4,812 | 7,707 | 11,520 | – | 26,400 | 50,200 |
| U/P | 5.3% | 11.0% | 15.2% | 17.4% | 28.0% | 36.0% | – |
| | 5.8% | 10.6% | 16.1% | 21.3% | – | ? | ? |

In → Table 3.7, Niger population data from the demo-economic chart developed as part of the ECOLOC⁴ programme is compared to data supplied by the Population Reference Bureau in 2006. The data in the ECOLOC chart is based on two hypotheses: 1) decrease in fertility

consistent with a scenario of reduced urban growth; and 2) taking into account net migration between Niger and its neighbouring countries. According to this demo-economic chart, Niger's population will be 17 million in 2025 rather than 26 million. The feasibility and sustainability of these migratory flows may well be questioned, but it can neither be considered plausible nor sustainable that Niger will one day have a population of 50 million.

Initial conclusion on demographic transition and migration

Over the last half century, demographic growth, as well as opening up to the world, has been the source of profound spatial and socio-economic imbalances and internal migration that has been well described in various

One of the most visible aspects of necessary settlement redistribution is urbanisation



documents, including the WALTPS study in the case of West Africa: migration between climatic zones (Sahel-forest), between inland areas and the coast, and between African

countries. These types of migration are still ongoing. Managing settlement means anticipating and facilitating population movements, or at the very least those movements that are structural rather than cyclical.

Settlement management is a key issue in the current phase of demographic transition in SSA; one might even say it is the number one issue that governments, regional institutions and their international partners should tackle. In Niger, as elsewhere in the Sahel and the rest of Africa, poverty, desertification and most of the recurrent conflicts result predominantly from poor settlement management in the past. No sustainable solution will be found without a settlement management strategy.

Urbanisation in Sub-Saharan Africa

What about the urbanisation process?

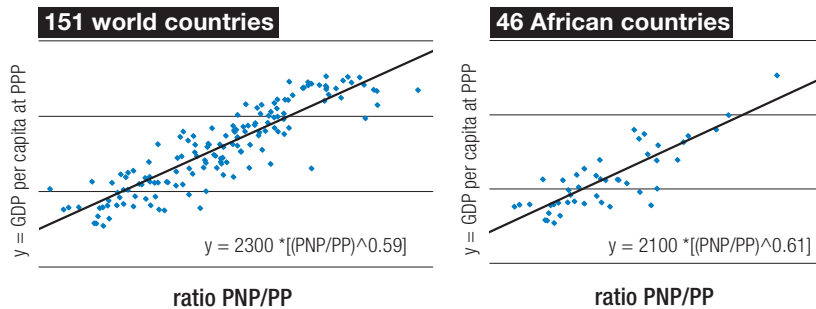
One of the most visible aspects of necessary settlement redistribution is urbanisation. Between 1950 and 2006, the urban population of SSA increased 14-fold, compared with 6-fold in North Africa and 4-fold in the rest of the world. The reasons for this urban growth being faster than anywhere else and the numerous consequences have been clearly explained in the ILTA⁵ and WALTPS (1995) studies, and also in the ECOLOC programme. From time to time, the argument resurfaces that the urbanisation process is the result of bad policies and is dangerous and untenable (urban bias). It is time to abandon the vision of an essentially agricultural and rural economy in most African countries and towns inhabited by throngs of paupers inclined to debauchery.

Is Sub-Saharan Africa over-urbanised? → [Figure 3.2](#), based on official data,⁶ confirm that the correlation between the GDP per capita at purchasing power parity and the urbanisation indicator – ratio of the

number of non-primary population (NPP) consumers to the number of primary population (PP) producers of foodstuffs – is the same in SSA as in the rest of the world. SSA is not over-urbanised for its level of development. In Africa, as elsewhere, urbanisation is both a consequence and a driver of economic growth.

Figure 3.2

Urbanisation and GDP per capita: World and Africa



Sources: The World Bank and FAO

Is urbanisation the main driving force behind the transformation of the primary sector and the rural economy, and is it a necessary condition for food security and sustainable development? It most certainly is. The following tables show that the U/R ratio, which is a good indicator of regional market size per farmer (number of non-foodstuff-producing consumers per producer), has increased almost fivefold, from 0.13 in 1950 to 0.61 in 2006 on average for the whole of SSA, and has increased almost sixfold, from 0.13 to 0.76 in the ECOWAS zone. (→ [Table 3.8a, b, c, d](#))

Since the SSA overall food balance has not deteriorated, this means that, not taking into account export crops, an African farmer sells on average five or six times more food to consumers in the region than in 1950; marketable agricultural productivity, and therefore the monetised part of gross income per farmer from the primary sector, has increased fivefold. (→ [Table 3.9](#))

This is clearly very different from the message conveyed by the national accounts published in the WDI (World Development Indicators). If these macroeconomic indicators in constant US dollars (2001) are to be believed, primary value added per capita (A/P) should have continuously decreased from 117 USD in 1970 to 82 USD in 2000. (→ [Table 3.9](#)) Since the import/export food balance has not deteriorated, the conclusion should be that Africans today are severely under-nourished. Yet it has been shown that the quantity, quality and variety of food intake have since increased.

Table 3.8a

Sub-Saharan Africa: Urban and rural population (in million)
and urbanisation level

| Year | 1950 | 1960 | 1970 | 1980 | 1990 | 2000 | 2006 | 2020 | 2025 | 2050 |
|-----------------------|------|------|------|------|------|------|------|-------|-------|-------|
| Population, total (P) | 178 | 224 | 290 | 382 | 509 | 659 | 766 | 1,021 | 1,137 | 1,748 |
| Urban pop. (U) | 20 | 32 | 53 | 90 | 143 | 226 | 291 | 480 | 572 | 1,184 |
| Rural pop. (R) | 158 | 192 | 236 | 292 | 366 | 433 | 476 | 541 | 565 | 564 |
| Ratio U/R | 0.13 | 0.17 | 0.22 | 0.31 | 0.39 | 0.52 | 0.61 | 0.89 | 1.01 | 2.10 |
| % urban pop. U/P | 11% | 14% | 18% | 24% | 28% | 34% | 38% | 47% | 50% | 68% |

Table 3.8b

ECOWAS: Urban and rural population (in million) and urbanisation level

| Year | 1950 | 1960 | 1970 | 1980 | 1990 | 2000 | 2006 | 2020 | 2025 | 2050 |
|-----------------------|------|------|------|------|------|------|------|------|------|------|
| Population, total (P) | 62 | 78 | 101 | 132 | 178 | 234 | 268 | 355 | 396 | 629 |
| Urban pop. (U) | 7 | 11 | 20 | 34 | 58 | 92 | 116 | 191 | 227 | 469 |
| Rural pop. (R) | 55 | 67 | 81 | 98 | 120 | 142 | 152 | 164 | 168 | 160 |
| Ratio U/R | 0.13 | 0.17 | 0.24 | 0.35 | 0.48 | 0.65 | 0.76 | 1.17 | 1.35 | 2.93 |
| % urban pop. U/P | 11% | 15% | 20% | 26% | 32% | 39% | 43% | 54% | 57% | 75% |

Table 3.8c

Sub-Saharan Africa: Growth rate of urban and rural population
and ratio U/R (in %)

| Period | 1950 ↔ 1960 | 1960 ↔ 1970 | 1970 ↔ 1980 | 1980 ↔ 1990 | 1990 ↔ 2006 | 2006 ↔ 2025 | 2025 ↔ 2050 |
|-----------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Population, total (P) | 2.3 | 2.6 | 2.8 | 2.9 | 2.6 | 2.1 | 1.7 |
| Urban pop. (U) | 4.8 | 5.1 | 5.4 | 4.7 | 4.5 | 3.6 | 3.0 |
| Rural pop. (R) | 2.0 | 2.1 | 2.1 | 2.3 | 1.7 | 0.9 | 0.0 |
| Ratio U/R | 2.8 | 2.9 | 3.3 | 2.4 | 2.8 | 2.7 | 3.0 |

Table 3.8d

ECOWAS: Growth rate of urban and rural population and ratio U/R (in %)

| Period | 1950 | 1960 | 1970 | 1980 | 1990 | 2006 | 2025 |
|-----------------------|--------|--------|--------|--------|--------|--------|--------|
| | ↔ 1960 | ↔ 1970 | ↔ 1980 | ↔ 1990 | ↔ 2006 | ↔ 2025 | ↔ 2050 |
| Population, total (P) | 2.3 | 2.6 | 2.8 | 3.0 | 2.6 | 2.1 | 1.9 |
| Urban pop. (U) | 4.8 | 5.7 | 5.6 | 5.4 | 4.5 | 3.6 | 2.9 |
| Rural pop. (R) | 2.0 | 1.9 | 2.0 | 2.1 | 1.5 | 0.5 | -0.2 |
| Ratio U/R | 2.7 | 3.8 | 3.6 | 3.4 | 3.0 | 3.0 | 3.1 |

Table 3.9

Sub-Saharan Africa: Productivity and primary GDP per total inhabitant (USD 2001)

| Year | 1960 | 1970 | 1980 | 1990 | 2000 |
|----------|------|------|------|------|------|
| a = A/PP | 131 | 144 | 128 | 128 | 125 |
| A/P | 112 | 117 | 97 | 92 | 82 |

PP = Primary Producer, A = Primary value added

Source: The World Bank

Is urbanisation also one of the drivers of economic growth, social transformation, decentralisation and opening-up to the world? A connection similar to that described above for the primary sector and rural economy exists for the other economic sectors, but there are conditions: urban growth has to be properly managed, which has no longer really been the case in SSA since the early 1980s.

In order to understand this link between urbanisation and economic growth, it must be admitted that in high population growth countries the demand for basic goods and services from people who are settling, particularly in the “informal sector”, is the main driving force behind the supply of these goods and services, such as food, housing and transport. This is not an optimistic bias,⁷ but a commendable effort to illustrate the reality.

As was the case in all countries experiencing high population growth, the urban economy in SSA has been, is and will remain profoundly influenced by a strong duality between:

- An economy described as “formal” or “modern”, small in terms of employment, large in terms of value added, very sensitive to the international situation and largely “extrovert” (input and output); and
- A huge “sector” described by economists as “informal” because they do not know how to integrate it into national accounts and

macroeconomic models. This popular economy, which numerically speaking is larger, very logically fulfils the obligation of providing work, income, and goods and services to the maximum number of people with a minimum of capital. The “informal sector” plays an essential role in spatial and socio-economic settlement redistribution.

The tables and figures in the section of this article on future economic growth give an idea of the relative productivity of the three strata, “primary”, “informal” and “modern”. For the past, productivity (value added per capita in each stratum) is worked out from official statistics. The ECOLOC studies show that it is highly likely that “informal GDP” is often widely underestimated.

What is the urbanisation scenario in the medium- and long-term?

Unless West Africa, and more generally SSA, is the scene of widespread and recurrent political and economic crises, these countries’ governments and public authorities will still have to manage between now and 2025:

- The doubling of their urban population and probably trebling in the size of urban areas,
- Followed by another doubling and trebling between 2025 and 2050.

The following figures however show that urban population growth rates have been and will be continuously decreasing, from 5.4% in the decade 1970–80 to 4.7% in 1980–90, then 3.6% by 2025 and 3.0% between 2025 and 2050 in the whole of SSA and in comparable proportions in the ECOWAS zone. The number of hectares to be developed and people to be accommodated each year will increase heavily in absolute terms, but not in relative terms. This should make managing urban growth easier – the times of capital city populations growing at 10% are over.

It is not yet a case of a rural exodus in the European sense, since rural settlement will continue, by restructuring.

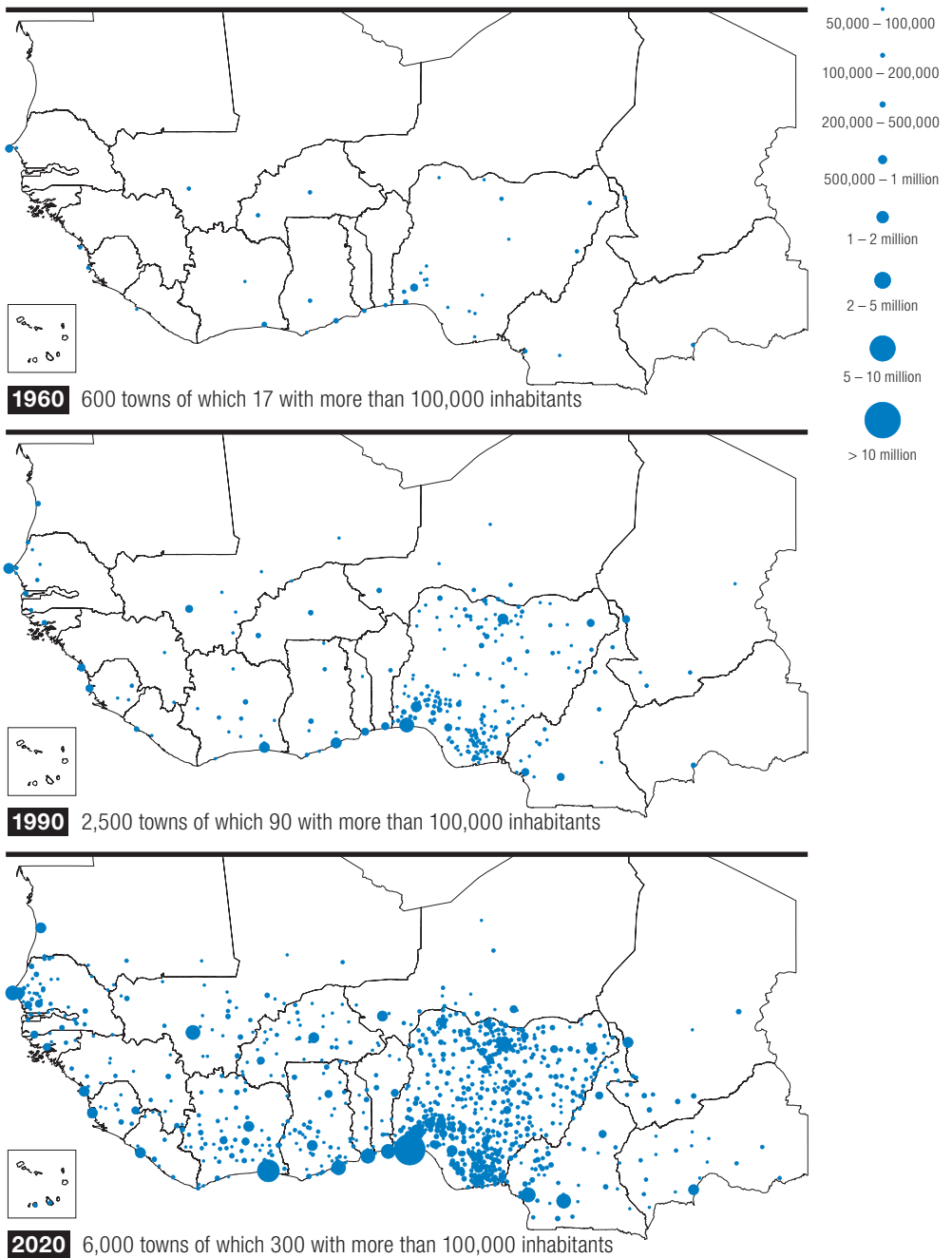


The future urbanisation scenario presented here will no doubt seem excessive to some people, particularly to those who advocate a slowing or cease in the “rural exodus”, or those who, on the basis of economic studies, forecast that the threshold of SSA urban saturation could be reached with urbanisation levels in the order of 40%. The scenario presented here is consistent with the scenario of future economic growth of around 6% per year over a long period, which is not at all absurd.

Despite urbanisation, rural population should continue to grow in most SSA countries until around the 2040s, but at an average rate of about 1% up to 2025, and then slowing towards zero. Therefore, it is not yet a case of a rural exodus in the European sense, since rural settlement will continue, by restructuring.

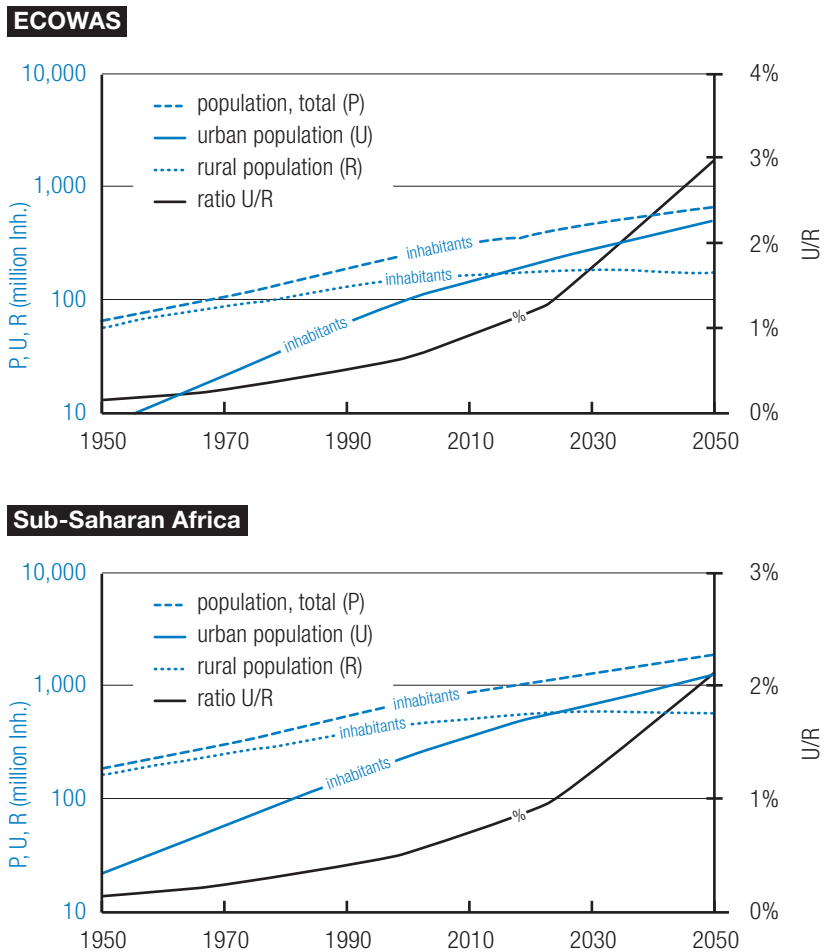
Map 3.1

Urbanisation in West Africa between 1960 and 1990 - Forecast for 2020



Source: WALTPS

Figure 3.3
Population growth and urbanisation (between 1950 and 2050)



Source: WALTPS

What are the long-term economic growth prospects in Sub-Saharan Africa?

All experts recognise the links between settlement dynamics, spatial concentration and economic growth, the focus of The World Bank’s forthcoming World Development Report. Therefore, the future of intra-African migration cannot be analysed independently from any view regarding the region’s future economic growth.

Analysing national accounts can provide information on cyclical fluctuations. They cannot, however, be used to analyse developments over a

long period, which is one of the reasons why the WALTPS and ECOLOC studies use other demo-economic indicators that incorporate structural transformations inherent in settlement change.

As regards the part of the primary sector that meets domestic market needs – at least 90% of the entire primary sector – the main variable that comes into play in developing future economic scenarios is the connection between the number of NPP (non-primary population) consumers and PP (primary producers). Between 2006 and 2050, this ratio will more than triple, from 0.6 to 2.0. The WALTPS and ECOLOC studies clearly show the spatial, economic, socio-economic and environmental impacts – more people, less erosion and desertification – of this profound transformation in settlement and the emergence of the regional market. “Agricultural policies” and “agricultural projects” play a secondary role in this transformation of African agriculture. Instead of worrying about increasing the food supply, it would indeed be wiser to promote demand by dividing work between consumers and producers by way of urbanisation. This would facilitate the links between supply and demand.

More generally, the projections of aggregates and macroeconomic indicators for 2006–2050 that appear in the tables and figures rely on the methodology described in the ECOLOC manual⁸. Clearly, the only goal of these projections is to draw a picture of the future that is plausible and interpretable in terms of future settlement change.

It is assumed that after a long period of institutional and socio-political development, SSA should, like other world regions that have emerged, be capable of maintaining impressive growth trends over two or three decades (Japan, then China and India). In the case of SSA, this catch-up process would lead to GDP growth of about 6–7% per year until 2050.

Table 3.10

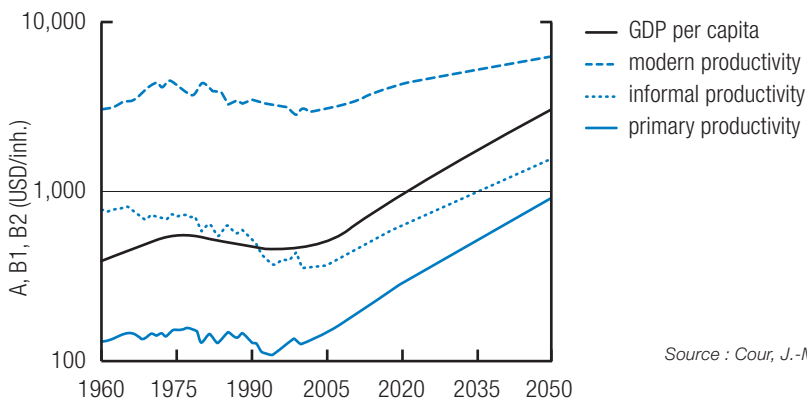
Sub-Saharan Africa: Informal and modern primary GDP
(billion of dollars 2001)

| Year | 1960 | 1970 | 1980 | 1990 | 2000 | 2006 | 2020 | 2025 | 2050 |
|---------------|------|------|------|------|------|------|-------|-------|-------|
| total GDP | 88 | 150 | 210 | 250 | 310 | 400 | 1,000 | 1,400 | 5,500 |
| ↳ primary A | 25 | 34 | 37 | 47 | 54 | 70 | 160 | 200 | 500 |
| ↳ informal B1 | 13 | 23 | 34 | 51 | 57 | 80 | 210 | 300 | 900 |
| ↳ modern B2 | 50 | 93 | 139 | 152 | 199 | 240 | 630 | 900 | 4,100 |
| GDP/cap (USD) | 390 | 510 | 540 | 480 | 470 | 520 | 980 | 1,200 | 3,100 |

Source: Cour, J.-M.

Figure 3.4

Sub-Saharan Africa: GDP per capita and primary, informal and modern productivity in 2001 (constant USD per capita)



Source : Cour, J.-M.

The next decades should therefore show a growth trend of approximately 4% in primary productivity (i.e. value added per primary person), 3–4% in average productivity and income of the informal (or popular) population and 1–2% in “modern” productivity (→ Table 3.11).

The section of the non-primary population employed in the “modern” sector should start to increase again from less than 30% today (more than 70% are informal) to about 40% by 2025 and 60% by 2050. The recovery of the private “modern” sector would be driven by public investment in settlement and territorial planning. This will enable the development of

a network of businesses to meet the needs of local, urban-centred economies (see ECOLOC), national and regional markets and businesses working for the global market. China,

Africa will benefit from this relocation process which, like in China, will increase migratory pressures.



India and Brazil’s comparative advantages in terms of labour costs should start to decrease in two decades’ time, they – China and India at least – will be faced with growing environmental problems, and it will be their turn to relocate some of their low-technology industries. Africa, particularly the more accessible centres with better infrastructure and services, will benefit from this relocation process which, like in China, will increase migratory pressures.

Under this assumption, the “modern” non-primary Gross Regional Product in SSA will increase from 240 billion US dollars in 2006 to 900 billion US dollars in 2025 and some 4 000 billion US dollars in 2050 (in constant 2001 US dollars). This is how Africa should be viewed, rather than a marginalised area of the global economy that can be treated as “residue” in global macroeconomic models.

Table 3.11

Growth rate of GDP and productivity in Sub-Saharan Africa (in %)

| Period | 1960 ↔ 1970 | 1970 ↔ 1980 | 1980 ↔ 1990 | 1990 ↔ 2006 | 2006 ↔ 2025 | 2025 ↔ 2050 |
|--------------|----------------|----------------|----------------|----------------|----------------|----------------|
| GDP | 5.2 | 3.6 | 1.7 | 3.0 | 6.7 | 5.7 |
| ↳ primary | 3.1 | 0.9 | 2.3 | 2.7 | 5.6 | 4.0 |
| ↳ informal | 6.1 | 3.9 | 4.3 | 2.9 | 7.0 | 4.4 |
| ↳ modern | 5.9 | 4.4 | 0.8 | 3.1 | 6.9 | 6.4 |
| Productivity | 2.6 | 0.8 | -1.2 | 0.4 | 4.5 | 3.9 |
| ↳ primary | 1.0 | -1.2 | 0.0 | 1.1 | 4.6 | 4.0 |
| ↳ informal | -0.9 | -2.2 | -1.2 | -1.9 | 3.7 | 3.1 |
| ↳ modern | 3.1 | 0.3 | -2.2 | -0.6 | 2.2 | 1.2 |

Source: Cour, J.-M.

As for the projected growth in productivity and incomes in the popular economy, it will be the result of:

- The rural economy taking off and the intensification in urban-rural exchanges;
- The relative slowing down of migratory flows towards towns;
- Growth in the size of towns and its impact on urban productivity;
- The accumulation of capital and skills that has increased over the past decades in many micro-businesses and “informal production units” (IPUs);
- Interactions with the “modern” economy; and finally
- The restoration of local public investment capital and improved local governance that should result from decentralisation (see ECOLOC).

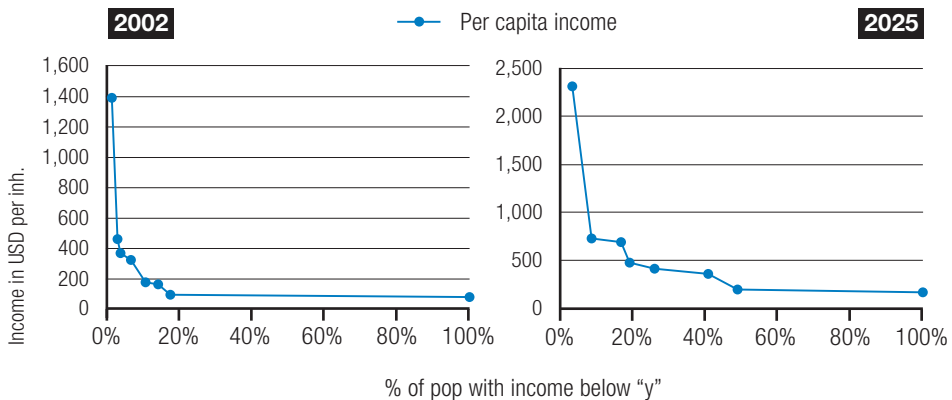
The persistent duality in the urban economy will obviously be manifested in urban structure: business districts and residential areas comparable with developed-country standards, and vast outskirts with a minimum of basic services consistent with investment and public management capacities as well as with the population’s standard of living.

In this intermediary phase of demographic transition, the productivity and income disparities between the strata (modern, informal, primary) in cities, medium and small towns, and rural areas will be reduced but still remain marked.

In the case of Ethiopia, despite the growth in primary and rural productivity that should result from the urbanisation process, the gap between the value added per capita in the modern sector in Addis Ababa and the rural primary population, which was 1 to 20 in 2002, will still be 1 to 15 in 2025. In this country where urbanisation has been permanently curbed, the fight against rural poverty is a long process!

Figure 3.5

Ethiopia: Distribution of per capita income with an urbanisation rate of 13% (2002) and 65% (2025 estimate)



Source: Cour, J.-M. (Ethiopian Economic Policy Research Institute), 2004

More generally, the alleviation of poverty in SSA will have to follow the pace allowed for by settlement restructuring (internal and regional migration, urbanisation), which puts into perspective the current buzzwords on strategies to reduce poverty and for pro-poor growth.

In conclusion: some suggestions for taking into account the links between population and development and the role of aid
Managing settlement in a more responsible way than in the past

This article has thus far led to the recommendation that priority be given to the responsible management of settlement in each SSA region, which has hardly been the case in the past. It is still too early to put forward other priorities:

- Firstly, because the final phase of demographic transition is still far off. Settlement process, migration and urbanisation continue at a fast pace;
- Secondly, because it will be necessary to do what has been neglected since the 1980s in territorial planning and local investment;

- Finally, because almost everything still needs to be done in terms of regional integration, regional governance and protection and development of regional markets; conditions necessary for the redeployment of the population within a balkanised Africa.

It is probably not until 2035 that SSA countries, like Latin America today, will be able to consider other challenges, such as conquering global markets, and making up for the mistakes of past decades (renovating shanty towns, reducing spatial disparities, etc.).

Managing settlement – nice slogan, but how to go about it?

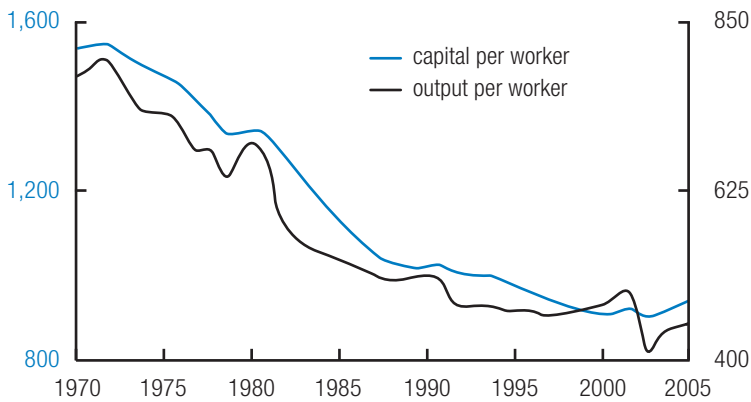
- Firstly, by finding the means to monitor population dynamics in real time, which is far from being the case at the moment. In many countries the last census dates from more than 15 years ago and very few countries know where they stand in terms of town population and urbanisation;
- Secondly, by finding the means to monitor the economic and social progress of various territories and regions and understand the underlying demo-economic mechanisms. The ECOLOC programme supplies effective tools and methods for this. It is appropriate in this regard to blame poverty, the poor quality of existing national macroeconomic indicators, the lack of any attempt to spatialise these aggregates and indicators, and the complete disconnection between the analyses regarding long-term macro- and socio-economic progress and the evolution of settlement (see WALTPS and →[Figure 3.6](#)⁹). If it were correct that capital and primary output per farmer had fallen by half in thirty years, the conclusion would be that most of Madagascar's population would have died of starvation.
- Finally, by changing paradigm: population and space are literally absent from the conceptual framework of the development economics. How is it possible in these conditions to understand the issues and reach relevant conclusions on migration?



The alleviation of poverty in SSA will have to follow the pace allowed for by settlement restructuring (internal and regional migration, urbanisation)

Figure 3.6

Madagascar: Capital per worker and output per agricultural worker (in constant dollars) from 1970 to 2005



Source: The World Bank, 2007

Preventing conflicts by taking into account settlement constraints

The increase in the number of local and sub-regional conflicts is in part the result of our inability to manage settlement; for example, the Great Lakes countries, the Horn of Africa, Sudan, the Saharan fringe of the Sahel. In addition to these officially declared conflicts, many countries, like Nigeria, suffer from chronic instability.

Providing infrastructure equipment based on settlement requirements

Weak economic growth over the past decades results partly from tragic delay in supplying fast-growing towns with regional infrastructure and local public investment. The general lack of public-capital maintenance penalises the popular economy first of all and is thus an obstacle to internal migration, compromising its effectiveness and sustainability.

With regard to public investment, the first goal in the short and medium term should be to stop the deterioration of (1) local public investment stock per capita in urban and rural areas and (2) regional or national public infrastructure stock per GDP unit. Not until 2020 can we expect a substantial improvement in the relative level of public capital, in connection with the sharp increase in the growth of Gross Urban Product per capita in urban areas and Gross Rural Product per capita in rural areas.

On this basis, and considering the structural slowdown in urban growth compared with past decades, the need for public settlement investment in SSA can be evaluated at 5–7% of its “true” Gross Regional Product, which is 30–40 dollars per capita. This amount can be compared to the total current ODA (Official Development Assistance), which is in the

order of 20 dollars per capita, of which less than 4 dollars are allocated to infrastructure.

Restoring sense to ODA by contributing to settlement investments

In a globalised world where all flows except migratory flows are liberalised, the high population growth countries of SSA should be able to count on the participation of rich and already-populated countries in funding their public settlement investments for at least another three decades. These countries must recognise that settlement management requires considerable human and financial resources, exceeding the capacity of the high population growth countries alone; all the more so as the rules of the global economy make this process more complicated and expensive than in past centuries. The rich and already-populated countries must draw lessons in terms of conception and management of Official Development Assistance. Since the need to transfer to the high population growth countries of SSA is structural and will remain until the end of the demographic transition, in other words not until 2050 at the earliest, it is obviously most logical to consider these transfers as definitive. Any attempt to establish repayment terms would only unnecessarily complicate matters and periodically lead to debt deferment and cancellation, the negative effects of which we can see today.

« Settlement management requires considerable human and financial resources, exceeding the capacity of the high population growth countries alone.

In this regard, the European countries who in the past took part in the colonisation of Africa should bear in mind that their balkanisation of the continent has left a legacy with serious consequences. Is it too much to ask them now to provide, through policies and co-operation programmes, compensation for the harmful impacts of this balkanisation?

Doing everything to make mobility within West Africa easier...

... And above all doing nothing (at the global, regional or national level) that will directly or indirectly hinder this process. It is easy to give endless examples of the anti-migration attitudes of international partners that also suit local governments: the spectre of rural exodus and famine, justifying self-sufficient small family farms, hunting down poor people to encourage them to stay where they are, creating obstacles to migrants settling in towns, basic service infrastructure provision not accessible to a greater number of people, claiming to formalise the informal, imposing obstacles to settling under-populated areas to “protect the environment”, organised land shortages, freezing land occupation, prematurely abandoning customary law, etc.

Guaranteeing immigration countries against risks incurred

SSA countries do not only have to manage their own demographic growth, but also cope with the inevitable migratory flows. Various incentive measures and guarantees should be found and implemented encouraging these countries to co-operate and dissuade them from reversing too prematurely. It is fitting to mention the deplorable management of the Côte d'Ivoire crisis.

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NOTES //////////////////////////////////////

- 1 *World Population Data Sheet 2006, from the Population Reference Bureau, United Nations Population Division, 2004.*
- 2 *West Africa Long Term Perspective Study.*
- 3 *And no one seems concerned, even the contrary. See the comments that followed the NESMUWA survey.*
- 4 *Managing the economy locally in Africa, Assessment and future of the local economy), ECOLOC Manual, Volume 1 Summary, Club du Sahel/OECD (2001).*
- 5 *Cour, J.M. (1985). Étude d'une image à long terme de l'Afrique subsaharienne, Paris, Report to the EEC, p. 227, SCET INTER, SCET AGRI, SEDES.*
- 6 *World Development Indicators (WDI) from the World Bank and FAO data.*
- 7 *Criticisms often made to the authors of the ILTA and WALTPS studies.*
- 8 *The evaluation and promotion method of the local economy (ECOLOC) was developed by the SWAC and the Municipal Development Partnership. It was conceived for level 2 towns in the urban hierarchy (between 100,000 and 300,000 inhabitants). It was organised in three phases: 1) evaluation of the economy through a demo-economic model enhanced by 123 type surveys and social analyses; 2) design a local economic development plan with local actors of based on the evaluation; 3) implementation of the local economic development plan.*
- 9 *From a 2007 World Bank report on agriculture in Madagascar.*

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Chapter 4



Migration and Development in ECOWAS Countries: What Role for the Maghreb?

by Mehdi LAHLOU

There are at least two reasons that 2006 can be considered a transitional year for illegal migration from Sub-Saharan Africa. In fact, in 2006, almost four times as many migrants reached the Canary Archipelago off the Moroccan coast as compared to 2002, the year which was thought to be a historical peak since the current migration phenomena started in 1989/1990. So contrary to belief, the “migration stock” does not seem to have run out of steam.

Even more significantly, as far as the ECOWAS zone is concerned 2006 also saw the emergence of Mauritania and, especially, Senegal as “exit points”. As a result, this region and all its constituent countries along the Atlantic Coast have been placed in a “confrontational” position with regard to Spain and Europe as far as migration is concerned. There has been an “explosion” in the number of illegal migrants entering Spanish territory and the consolidation of the Canary Islands – an oasis of wealth and well-being compared to Africa – as a major entry point into Europe on its southern side.

Concomitantly, the substantial decrease in illegal migratory flows from Morocco to Spain and therefore from the Maghreb to Europe is more a reflection of the shift in migration routes. Henceforth, migrants go directly from Central and Western Africa to the Canary Islands and then, theoretically, to continental Spain and onward to other European Union countries. A significant outcome and perhaps even one of the causes for this new situation is the marked improvement in political relations between Morocco and Spain. From this perspective, Morocco and the entire Maghreb region in its wake now seem to be more inclined to respond to Spanish (and European) demands concerning the management of migratory flows through better controls across their land borders and heavier penalties for illegal migration to and from their soil.

However, the shifting of illegal migration channels much farther away, to the south of the Morocco-Spanish coasts, does not mean that the Maghreb is no longer the subject of discussions or policies concerning migration. It merely indicates that the North African region is currently a “protection zone” for southern European borders.

This situation cannot last indefinitely for the simple reason that the Maghreb itself has started attracting Sub-Saharan African youth in search of employment and a “better life”, also induced by Europe’s recent stance on migration. Henceforth, the interests of the Maghreb and of Europe may be considered complementary with regard to illegal migration. Given the impossibility of maintaining an essentially security-oriented approach on a long-term basis, another complementarity should be foreseen, one that would make North Africa and the European Union act in unison to help develop Africa, beginning with the adjoining geopolitical region, the ECOWAS zone.

The new configuration in migration relations between Europe and ECOWAS, the latter and the Maghreb and between the Maghreb and Europe – a configuration in which the Maghreb could soon be of marginal interest – very probably led to a new situation. The latter is demonstrated especially by the start of official realisation on both sides of the Mediterranean that migration issues are really a matter of shared responsibility (among origin, transit and destination countries) and are actually linked to recurring economic and social development issues in Africa. In July 2006, this realisation resulted in the organisation of the first Euro-African conference on migration (Rabat, Morocco), followed by a second conference in November in Tripoli, Libya, at the same level.

This realisation was accompanied by the emergence of fundamental differences among EU countries. Eastern and Northern European countries in particular did not seem to want to abide by the same commitments as Southern European countries (Italy, Malta and Spain, in particular) with regard to irregular migration from Africa. These differences then intersected with existing political divides (in the autumn of 2006) with Germany and Austria on one side, appearing to act jointly against Spain and Italy¹. However, some convergence of views among the large EU countries concerned by the migration issue began emerging in 2007, although political and economic interests remained relatively disparate. Among other things, this resulted in the adoption of a “Directive on the return of illegal migrants” by the European Parliament in June–July 2008 and the acceptance by the Interior Ministers of 27 EU countries of the French draft “Pact on immigration”. However, both documents continued to stress the security-oriented approach and only cursorily discussed a global approach incorporating the issue of the home country’s economic and social development. The only approach considered a long-term solution to the scourge of illegal migration².

For their part, Sub-Saharan African countries agreed to take part and “reflect upon, propose solutions and contribute” to the resolution of the “Migration problem”. They included some of the main source countries of



The North African region is currently a “protection zone” for southern European borders.

illegal migrants, such as Guinea, Mali, Niger, Nigeria, and Senegal, i.e. the main ECOWAS countries, which were long “forgotten” and/or deliberately discreet on the issue, including as regards the fate of their citizens along migration routes. However, the internal economic and political situation in these countries – along with the food crisis and the exorbitant oil price rise that began to have an impact in late 2007 – was such that most of the commitments they had made in Morocco and Libya (in 2006) merely remained on paper. This paper sets out:

- to update some of the main quantitative data on West African migration (essentially based on recently gathered migration data in Morocco);
- to provide an assessment of the Euro-African dialogue on migration, with a focus on the main resolutions adopted, particularly in Rabat in July 2006 during the first Euro-African conference on migration.

The idea is to have a series of proposals for the ECOWAS zone’s economic and social development (or at least for some ECOWAS countries, to begin with), largely through a more in-depth Europe-Maghreb-West Africa dialogue on the migration issue and a “tripartite” development partnership. In such a set-up, the Maghreb countries would occupy an important position along with and in conjunction with EU countries, to find economic, social and political responses/solutions to change the lives of Southern Sahel’s inhabitants and give them grounds for hope in their homeland, while at the same time changing the local and regional migratory dynamics.

Assessing the size and origin of migrant populations transiting through or settling in Morocco

Morocco’s location at Africa’s north-western tip, less than 15 km from continental Spain and almost 80 km from Fuerteventura, the Canary Archipelago island closest to the Black Continent, has made this country an inevitable route to Europe for many years. Therefore, it also has been an important area of observation for illegal migration phenomena, assessing the extent and essential strategies of these actors.

From this perspective, Morocco – which has been the predominant passageway for most African migrants from Sub-Saharan Africa seeking to enter Europe illegally until 2005 – could be considered a country in which to evaluate the propensity to migrate prevalent somewhat throughout Africa and especially in ECOWAS countries.

However, it is not and, in fact, it will never be possible to fully assess the illegal migration phenomenon with great accuracy, given its complexity, its fundamentally clandestine nature, the penetrability of Sub-Saharan borders, as well as the inadequacy of statistical tools and the lack of adequate national coverage of civil status in the countries concerned.

Furthermore, such difficulties concerning migration are not exclusive to African countries. In that sense, it is interesting to note that one of the first proposals contained in the Mazeaud Commission report, which broached the issue of quotas as a French migration policy instrument, requested that “France be provided with a reliable statistical system covering migration, enabling greater knowledge of our country’s population characteristics so as to adapt public policies accordingly, especially with regard to integration”³.

« Morocco has been the predominant passageway for most African migrants from Sub-Saharan Africa seeking to enter Europe illegally until 2005.

Illegal migration in Morocco, mainly from Sub-Saharan Africa, became visible in certain outlying areas of some of Morocco’s main cities in the early 1990s (with the gradual closure of European borders and, initially, with the constitution of the Schengen region).

In the past, the only foreigners who came to Morocco from Sub-Saharan Africa were students. They were essentially French-speaking and estimated at 8,000 in 2008. There were also some traders, mostly from Guinea, Mali, Niger or Senegal, and tourists (mostly religious tourists) – mainly from Mali, Niger and Senegal, and a few dozen from the Democratic Republic of the Congo, of which some had escaped from the former Zaire for political and security reasons.

Trends in the number of Morocco’s irregular migrants

The number of migrants transiting on their way to Europe ranged between 15,000 and 20,000 (per year) in 2000/2002 (Lahlou & al., 2002), according to an initial study conducted in Morocco (which also included field work in Algeria and Tunisia) on the illegal migration issue, published by the ILO in 2002.

In October 2005, just after several hundred illegal migrants in Ceuta and Melilla attempted to cross-over, the European Commission appraised the figure of Sub-Saharan African citizens present in Morocco waiting to migrate clandestinely into Europe at 10,000, along with 20,000 living in Maghniyya in Algeria⁴.

In addition, the European Commission had estimated the number of migrants seeking to enter Europe illegally at between 40,000 and 45,000 in 2002 (Lahlou & al., 2002). This figure also included the combined estimated number of Moroccan and Sub-Saharan migrants reaching Europe from Morocco at that time.

Today, estimates⁵ put the number of transit migrants and/or migrants residing illegally in Morocco at between 10,000 and 15,000, showing a decrease in the number of illegal migrants in Morocco from 20,000/25,000 between 2002 and 2004, to almost 10,000/15,000 since end 2005. This trend was further confirmed by the number of migrants arrested while

attempting to enter Europe through Morocco, since 2000. Coming from two different sources – Moroccan and Spanish – these trends have been marked by:

- A drop in arrests by Moroccan authorities on Moroccan soil and by the Guardia Civil in Spain since 2004;
- An explosion in the Guardia Civil's arrests of sea-borne migrants in the Canary Islands.

Table 4.1

Interceptions of illegal migrants by Moroccan authorities between 2000 and 2006

| Year | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 |
|----------|--------|--------|--------|--------|--------|--------|--------|--------|
| Moroccan | 9,353 | 13,327 | 16,034 | 12,493 | 9,353 | 7,440 | 7,091 | 6,023 |
| Foreign | 15,056 | 13,100 | 15,363 | 23,851 | 17,252 | 21,140 | 9,469 | 6,954 |
| Total | 24,409 | 26,427 | 31,397 | 36,344 | 26,605 | 28,580 | 16,560 | 12,977 |

Source: Interior Ministry, Department of Migration and Border Surveillance, Rabat

→ **Table 4.1** shows, in particular, that the number of illegal migrants leaving from Morocco towards Spain continued to decline after peaking at 36,344 persons in 2003, with barely 13,000 in 2007 – i.e. just a little over 1/3 the departures recorded 4 years earlier. The decrease in Sub-Saharan migrants is even more distinct. In 2007, it stood at 29% of the figures for 2003. Such data clearly indicates that Morocco has ceased to be the main “exit point” from Africa into Europe.

In fact, as quantified hereafter, the Canary Islands route (starting from Senegal in particular) began to supplant the Strait of Gibraltar in terms of migratory flows to Spain from 2006 onwards.

There are several reasons for the relative stabilisation in the number of essentially Sub-Saharan illegal migrants⁶ (mainly from ECOWAS countries) present in Morocco since 2004 at a level between 10,000 and 12,000 persons:

- more stringent checks at different Spanish borders;
- the (forced) return of almost 4,500 Sub-Saharan African migrants to their countries of origin through Morocco in autumn 2005;
- the reinforcement of the fight against human trafficking networks (of which 1,800 were dismantled between 2004 and 2008);
- a policy of incentives for “voluntary return” initiated in 2004, with the financial and material support of the International Organisation for Migration (IOM), which had covered 8,500 persons until May 2008⁷.

Table 4.2

Trends in migrant arrests (all nationalities) upon their arrival in Spain
(southern sea routes) between 1993 and 2006

| Arrival route → Years ↘ | Strait of Gibraltar | Canary Islands | Total | % arrivals via Canary Islands / total |
|----------------------------|------------------------|----------------|--------|---|
| 1993 | 4,952 | * | 4,952 | – |
| 1994 | 4,189 | * | 4,189 | – |
| 1995 | 5,287 | * | 5,287 | – |
| 1996 | 7,741 | * | 7,741 | – |
| 1997 | 7,348 | * | 7,348 | – |
| 1998 | 7,031 | * | 7,031 | – |
| 1999 | 7,178 | 875 | 8,053 | 10.86 |
| 2000 | 16,885 | 2,387 | 19,272 | 12.38 |
| 2001 | 14,405 | 4,112 | 18,517 | 22.2 |
| 2002 | 6,748 | 9,756 | 16,504 | 59.11 |
| 2003 | 9,794 | 9,382 | 19,176 | 48.92 |
| 2004 | 7,425 | 8,426 | 15,851 | 53.15 |
| 2005 | 7,066 | 4,715 | 11,781 | 40.02 |
| 2006 | 6,976 | 31,106 | 38,082 | 81.68 |

Source: M. Lahlou, based on Spanish newspapers, including *El País* and the 2006 report of the APDHA (Andalusian Human Rights Association)

Origins and characteristics of migrant populations living in Morocco:

In the absence of reliable official data, the nationality-based composition of migrant populations living illegally in Morocco and some of their main socio-demographic and socio-economic characteristics have been examined by small-scale field studies since 2000/2001. These first studies covered a sample of thirty migrants (ILO study, 2002 – see above), then 95 migrants (Cimade-Advice⁸ study, 2004) and 45 migrants within the framework of the Mobility and HIV/AIDS study (conducted in 2007). Two

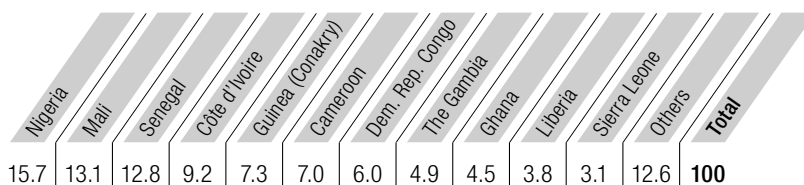
other studies on larger samples were conducted in 2006⁹ and 2007¹⁰. These two studies (based on two samples of 536 and 1,000 persons respectively) improved and refined the understanding of migration from the ECOWAS zone, which is predominant.

Migrants in Morocco: their origin and characteristics

The AMERM-Afvic study, based on what may be considered a relatively large sample, with 1,000 persons interviewed – i.e. 1/10 of the migrants present in Morocco – identified nationals from 24 Sub-Saharan countries on Moroccan territory in 2007. As a prior sample selection based on nationality was precluded, the breakdown by nationality was generated from the final survey results.

Table 4.3

Illegal migrants living in Morocco
according to their country of origin (in %)



Source: AMERM-Afvic Study (2007), with EU support

Furthermore, not only are the majority of illegal migrants in Morocco from West African countries, they are not merely adventurers or people who could easily be manipulated by “migration networks”. This factor also advocates in favour of managing migration from a perspective other than merely the security-oriented approach.

In the survey conducted in 2006 (CARIM project), 110 migrants, including 68 women, were accompanied by children, from just a few days old to 15 years of age. And although it was not possible to assess the number of couples, many migrants seemed to have left their countries as couples, often with their children. It appears that migration has not only become a family decision, but also a family objective. Illegal migration has become feminised (women account for more than a quarter of the number of migrants), but also there is now a confirmed trend of migration as a “family” affair. At the same time, there has been a gradual increase in the age of migrants. In previous studies, migrants’ average age was 25 to 27, while in 2006 it was above 30 (→ [Table 4.4](#)), with very high maximum ages (from 51 among women to 50 among men).

Table 4.4
Migrants' ages

| | Average age | Youngest | Oldest |
|--------------|-------------|----------|--------|
| Women | 29.8 | 15 | 51 |
| Men | 30.4 | 17 | 50 |
| All migrants | 30.2 | 15 | 51 |

Source: Mehdi Lahlou – Carim survey, 2006. EUI – Florence

In addition, two other characteristics counter some of the commonly accepted clichés concerning illegal migration, especially with regard to people from Sub-Saharan countries – the assumption that they generally come with very little or no education and are primarily unemployed people who leave home in search of jobs.

Less than 20% of illegal migrants living in Morocco interviewed in 2006 (→ Table 4.5) had an education level less than secondary level or indeterminate, while over 30% had a university level degree or more.

Table 4.5
Migrants' education level

| School level | Number of migrants | % |
|-----------------------|--------------------|------|
| University and beyond | 107 | 30.2 |
| Baccalaureate | 94 | 26.6 |
| Secondary | 85 | 24 |
| No level | 46 | 13 |
| Others, indeterminate | 22 | 6.2 |
| Total | 354 | 100 |

Source: Mehdi Lahlou – Carim survey, 2006. EUI – Florence

As for the migrants' socio-professional situation prior to their migration, less than 25% (→ Table 4.6) were unemployed in their country of origin.

Table 4.6

Migrants' socio-professional situation before leaving their country of origin

| Socio-professional situation | % |
|--|-------|
| Unemployed | 24.57 |
| Pupils/Students | 6.5 |
| Teachers | 5.6 |
| Engineers | – |
| Mechanics/technicians | 9.3 |
| Traders/salespersons | 18.08 |
| Nurses | 1.9 |
| Football players | – |
| Drivers | 2.5 |
| Others (security officers, farmers, indeterminate) | 29.4 |
| Total | 100 |

Source: Mehdi Lahlou – Carim survey, 2006. EUI – Florence

More than 9 out of 10 migrants reached Morocco by land, via the Algeria-Morocco border which remains the main entry point (ILO, 2002; Cimade France, 2004; CeSPI Italy, 2005). The appearance of 2 migrants who had reached Rabat from Tindouf (Morocco's south-eastern border with Algeria) and Dakhla through the Morocco-Mauritanian border is something new, as these migrants were unable to migrate to Spain from the coast between the Sahara and the Canary Islands, revealing that this conflict prone area is also an area of transitory migration. This in no way dilutes the fact that the migration route has opened up along Morocco's southern and south-eastern borders.

This situation shows that illegal migration now involves more than one Maghreb country and when you add the fact that 4/5 of migrants are West Africans, it confirms that the Maghreb and ECOWAS are interlinked in migratory flow patterns.

These patterns quite obviously also extend to Europe, both in terms of the nationalities of migrants reaching Spain (through the Canary Islands or Andalusian coasts) or Italy (through Lampedusa Island), as well as in

terms of the intentions of migrants present in Morocco. In 2006, almost all the migrants interviewed believed that it had become extremely difficult to “cross over” the Strait of Gibraltar (via Tangiers) or even the Ceuta and Melilia borders, especially after the events of autumn 2005.

From this perspective, the situation on the ground is contrary to all the conclusions drawn from field studies conducted until then in Morocco, according to which most migrants interviewed considered that it was possible for them to migrate to Spain and therefore Europe without much difficulty and only incurring financial costs. To do so, they only had to wait until they had saved up enough money (as the average cost for crossing over was approximately Euros 1,000). Now, while the waiting time seems to be longer and costs do not seem to have changed, migrants believe that they need much more time and luck for their migration plans to succeed. On the ground, the likelihood of failure now exceeds chances of success, with greater risks involved both at the time of leaving the transit country as well as during the crossing (from the Strait of Gibraltar or Atlantic waters towards the Canary Islands) and their arrival in Europe.

Table 4.7
Migrants' intentions (in %)

| Waiting time | To leave for Europe | To remain in Morocco | To return to their country |
|--------------|---------------------|----------------------|----------------------------|
| In % | 88.7 | 6.8 | 4.5 |

Source: Mehdi Lahlou – Carim survey, 2006. EUI – Florence

Despite highly precarious living conditions in Morocco (reduced possibility of receiving help from relatives living abroad, hence the constraints in meeting their basic needs, such as food and housing difficulty in access to health care and jobs), most migrants still believe that they have no option other than to go to Europe, given the amount invested both individually and by their families in the project. They believe that they cannot go back, irrespective of the risks to be incurred or the amount of time they may have to wait.

It was this kind of mindset that led to the tragic events that some migrants experienced while attempting to enter the Spanish enclaves of Ceuta and Melilla through the administrative border in northern Morocco in the summer of 2005. These events placed migration from ECOWAS countries within its Euro-African context, directly involving Maghreb and EU countries with Spain, France and Italy at the top. One of the first major political translations of this development was the “Euro-African Ministerial Conference” held in Rabat in July 2006.

Euro-African Ministerial Conference in Rabat (July 2006)

The repeated mass “attacks” by hundreds of Sub-Saharan migrants¹¹ on the barbed wire fences erected by the Spanish authorities to protect the cities of Ceuta and Melilla between late August and early October 2005 worried EU leaders¹² and in particular the Spanish and Moroccans. The Spanish and Moroccans suddenly had to deal with desperate events that could degenerate becoming uncontrollable.

Morocco and Spain responded to these events by:

- To further their bilateral relations¹³.
- For Morocco to position itself as a “victim of geography” and to call for a new “Marshall Plan” for Africa, which in itself could reduce Africans’ propensity to leave their soil.
- For Spain to call for greater European involvement, as the two countries “were doing all that needed to be done” to reduce migratory flows towards Europe, but in vain.

In addition, these countries also went on to ask the countries of origin – ECOWAS countries in particular – and other transit countries, especially Algeria, to assume greater responsibility and be much more stringent in monitoring their citizens and/or with regard to checking those crossing their borders.

The same attacks – unprecedented in magnitude as they involved as many as 400 to 500 people at a time – as well as the political consequences induced by the several deaths¹⁴ among Sub-Saharan migrants during those

Spain and Morocco went on to ask the countries of origin and other transit countries, especially Algeria, to assume greater responsibility.



months and the massive push-back of migrants that followed became a focus of media attention. This led Morocco and Spain, supported by France, to ask for a Euro-African ministerial conference to be held. The meeting

was intended to broach all aspects linked to migratory flows from Africa as well as development issues. Thus, it had become obvious for several experts and major currents of European public opinion that these flows were due to economic and social reasons which could be supported by the following observations:

- Migration is one of the major challenges facing African and European societies and governments at the start of the 21st century.
- The persistence of demographic imbalances and unequal prospects of well-being among societies suggests the continuance and probably acceleration of migration, as well as the propensity to migrate, not just between Africa and Europe, but also among African countries themselves, according to their relative level of development.
- The propensity to migrate is enhanced by structural factors both in the countries of origin as well as in destination countries.

Morocco and Spain set more specific objectives to resolve a global problem that they believed¹⁵ they should not be left to deal with alone, after having long considered that it was essentially a Hispanic-Moroccan affair.

Spanish objectives

In a working document (“no paper”) presented at the end of 2005 to a tripartite committee (Moroccan-Hispanic-French) in charge of preparing the Europe-Africa Ministerial Meeting, the Spanish side set out the political objectives expected, as well as “operational” objectives to help achieve them.

The political objectives were the following:

- The desire to obtain a commitment from origin, transit and destination countries to address the issue of migratory movements together, in a global perspective and on the basis of shared responsibility.
- The guarantee that the immigration issue was given the priority it deserved on the agenda of the political dialogue between the European Union and Africa, and influences the EU and its member countries’ policies and action plans to promote African countries’ political modernisation and economic development.
- The confirmation of the importance of illegal immigration controls in order to prevent traffickers and employers from exploiting emigrants.

To achieve these objectives, the Spanish leaders proposed a 6-point Action Plan, of which the last suggested the following sub-objectives:

- Capacity building of national border controls through better equipment and training of officials.
- Effective detection and prosecution of mafias that control human trafficking across national borders.
- Arrangements for re-admission agreements between origin, transit and destination countries.
- Facilitation of the temporary sheltering and repatriation of national immigrants or those from third countries, in observance of human rights and dignity.

Moroccan objectives

The 10–11 July 2006, Rabat Conference – of which Morocco is considered to be the instigator – was primarily a “good political opportunity” during which the country presented itself as a victim of geography and an active protagonist in managing migratory flows.

It was an opportunity for the most senior official in charge of migration affairs – in this instance, the Minister of State of Foreign Affairs and Co-operation – to affirm that, “We [Moroccans] shall once again assume

our responsibility, but we are saying that Europe cannot look only at its immediate neighbourhood. Europe must discuss [the issue] with all the countries concerned. So it should not limit itself merely to asking a country like Morocco to be Europe's watchdog"¹⁶.

The same leader further added: "We [the European Union, transit countries, departure countries] have to manage both the origins – the sources – of migration to the North and reflect upon the whys and hows, but also fight against the networks that are developing, against the traffickers that trade in men and women. It is only through well-organised and encouraged joint-development, [as well as] with greater European Union support for the development of African countries that we will be able to find a durable mid- and long-term response."¹⁷

Moroccan security officials, especially the Director of the *Direction des migrations et de surveillance des frontières* (DMSF or Directorate of migration and border surveillance, established in Rabat in November 2003), believed that the conference would enable Morocco to share its experience with its regional partners and develop concrete measures for curbing illegal migration. A more specific purpose was to create synergies between the various parties concerned and reconcile different approaches in order to have a comprehensive, coherent and effective approach¹⁸.

Decisions by the Euro-African Conference

Preceded by a preparatory meeting held in Dakar (Senegal) in early June 2006, the Rabat Euro-African Ministerial meeting brought together 27 African States, including all North African States except for Algeria,

Improved land and border controls, implying the States' responsibility is essential to fight against illegal migration.



and 31 European States, including all the EU countries, as well as representatives from Bulgaria, Iceland, Norway, Romania and Switzerland. In symbolic terms, the composition¹⁹ of the delegations present in Rabat seemed to clearly

indicate the degree of each State's involvement in seeking means to deal with illegal migration from Africa. It also illustrated the political support that would follow for the resolutions emanating from the meeting.

Among them, the proposal of 5 measures for preventing and combating illegal migration, contained in the section on security aspects – a major discussion point – are noteworthy.

- Financial, logistical, technical, material and human capacity building to control migratory flows, which should enable African countries to make sure their means meet the magnitude of the illegal migration phenomenon.
- Operational co-operation (police co-operation, exchange of information, international judicial co-operation, liaison officers, etc.) between all countries concerned with combating illegal immigration, human

trafficking and organised crime, which should generate conclusive results, especially in dismantling cross-border trafficking networks. The establishment of appropriate national legal tools, particularly through tighter criminal regulations, and the adoption of dissuasive penalties for mafia groups organising the exploitation of illegal immigrants, were considered essential.

- Improved land and border controls, while respecting national sovereignty, therefore implying the States' responsibility. This was essential for dismantling networks, illegal migration routes, human trafficking and organised crime (technical support and continued training).
- Co-operation for the return of persons in an illegal situation to their country of origin, in observance of human rights and dignity (re-admission agreements with all the concerned countries in the region and effective enforcement of relevant provisions in the Cotonou Agreement's Article 13 or in any other similar agreement).
- The implementation of effective measures against host structures that promote illegal labour based on the adoption of voluntarist and appropriate policies for the prevention of and fight against illegal labour and human trafficking networks, an important factor in illegal migration to European countries.

Outcomes – and failures! – of the Rabat Conference

Migratory flows slowed down between mid-May and mid-July 2006, but increased again towards the Canary Islands (12,000 new Sub-Saharan migrants) within the space of less than 2 months, i.e. between the end of the week during which the Rabat Conference was held and mid-September 2006.

Spain was particularly concerned by migratory flows in 2005–2006 (which increased between August and mid-September 2006) coming from new countries and using new migration corridors, and reacted at three different levels simultaneously without ever referring to the Rabat Conference. Furthermore, the Spanish Government was anxious to explain its position on the adoption of the illegal migrant regularisation policy to some of its EU partners, who it believed failed to show solidarity.

- At the political level, with the firm announcement of urgent, major changes, especially with regard to repatriation and detention duration. This concerned the identification of illegal migrants.
- At the level of relations with Europe, by insisting on the help and solidarity of other EU countries.
- At the level of relations with departure countries, by asking them to facilitate the return of their citizens (case of Senegal and, to a lesser degree, Mali) and by requiring the enforcement of clauses on re-admission in the Cotonou Agreement (particularly Article 13 of the agreement, as indicated above).

In July 2006, EU countries joined forces to issue essentially security-related requests to African departure and transit countries concerning tighter border controls, the acceptance and facilitation of identification and repatriation procedures for their citizens who reached Europe illegally (or remained there as such). As a counterpart, promises were made regarding an increase in the number of “regular (legal) migrants”, the diversification and intensification of exchanges of students and researchers and additional grants for the development of migration “corridors”. On 22–23 November in Tripoli, European countries²⁰ co-hosted another “Ministerial Conference on Migration and Development between the EU and the African continent”. The participants agreed to “work together in a spirit of mutual partnership and shared responsibility to manage migration more effectively for the benefit of the two continents. The Conference (according to the EU) should be seen in the context of the comprehensive approach to migration that the European Union is developing. It aims to make migration meet the interests and priorities of countries of origin, transit and destination, as well as migrants themselves, by fostering partnerships with third countries and international organisations and bringing together the various policy areas that are relevant to migration, such as good governance, human rights and development”²¹.

Given the intensity of migratory flows since early 2008²² (especially between the Libyan and Tunisian coasts and Italy’s southern islands), the least that could be said is that the two seminal conferences in Rabat and Tripoli have not yet had a conclusive impact to significantly change the realities that are the root cause for the illegal departure of migrants, especially from ECOWAS countries.

How can migration be better associated with development

The purpose here is to present a series of intervention priorities – public and private, local, regional and international, bilateral and multi-lateral. Their objective is to create or improve development prospects (in departure and transit countries) and enhance synergies between migration and development, both in source regions (irrespective of the nature of migration) and in host countries. Finally, these proposals seek to reduce illegal migration as much as possible, as it is essentially unwelcome or a source of conflict.

For the resolution of this global problem with distinct and complementary levels, the most appropriate approach should include this dimensional scale as well as development policies or measures that are:

- Specific which take regional characteristics into account
- And/or general in scope, both in terms of territories as well as the consequences for their inhabitants.

This would lead to sub-regional and regional (and, if necessary, sub-continental) economic structures that can generate better production, agricultural and industrial growth opportunities and expand trade prospects.

Such policies would at the same time facilitate a much greater freedom of movement of persons in regions that have become complementary rather than competitive.

The development measures thus initiated should be based – on the part of departure countries, transit countries (the Maghreb in this instance), and host countries – on the following elements:

Within West African countries

- Relevant and targeted measures should be promoted for development, poverty reduction, improved living conditions and the environment, and the reduction of social deficits, especially in employment, education and health care coverage. Such measures should become a strategic aspect of public economic and social development policies. Public human development programmes, supported by the international community, should make it possible to reduce pockets of extreme poverty and social insecurity, especially in the main source regions of large migratory flows. In this way, these programmes – associated with the relevant water and forest preservation measures, agricultural rehabilitation and the establishment of agro-industries – would eventually help in reducing the propensity to emigrate from these regions and the reallocation of remittances. These could increasingly involve revenue-generating projects and less basic consumption needs.
- However, these development programmes and measures would only be meaningful and manage to achieve conclusive results if they are an integral part of overall strategies aimed at bringing the economies up to standard, both nationally and regionally. These programmes and strategies would also have to boost investments and employment opportunities by allocating resources that could be acquired, for instance, through international debt relief measures for the countries concerned and, if necessary, monitoring the use of the resources thus released, to meet the objective of human development.
- Inefficient educational and training systems are very often one of the causes of underlying migration. Within this framework, development policies would remain incomplete if they do not also include educational and training system reforms, by acknowledging the key role schools play as instruments of individual and collective development, as an element of social integration and as a basis for openness to the



As a counterpart, promises were notably made regarding an increase in the number of “regular migrants”.

world and economic, political, cultural and social progress. Today, schools are a platform that can make (or break) a society and that can ensure the integration of all citizens. Schools also ensure that potential migrants are able to integrate well wherever they find themselves, through their work and through their willingness to “live together with others”. In a very large number of cases, migration fails because of an inability to integrate.

- Regional development should be promoted through greater democracy at the local and national levels, greater participation by local and regional authorities and greater appropriation of public affairs by citizens, and by assuming greater responsibility²³.
- Rules of good governance should be promoted through a judicial power that is independent of the executive power, combating corruption, gradually acknowledging the respect of human and citizens’ rights as a factor of development and guaranteeing the security of populations – another key factor for curbing illegal migration.
- Human rights should be respected (with a special mention of women’s and children’s rights) and the rule of law should be promoted.

Within the Maghreb countries

- In the farming sector, complementarities between the Maghreb and ECOWAS countries, such as Mali or Niger, are extremely important. In the Maghreb, there is a huge demand for food products, especially in Algeria and Libya, while these countries have very sizeable resources in terms of energy commodities (gas and oil). In Mali or even Niger, to mention just these two countries bordering the Maghreb, there are extensive land areas that can potentially be irrigated and farmed, and have not been farmed due to a lack of resources and markets. However, it is possible to envisage financial contributions from Algeria and Libya to farm part of these lands in order to meet the food needs of people on both sides of the borders. Tripartite co-operation could also be envisaged, involving the Maghreb and EU countries. The latter could offer know-how and financial resources²⁴, while countries in the Maghreb like Morocco and Tunisia could provide human and technical resources and train officials from ECOWAS countries in their agricultural colleges. Algeria and Libya could contribute financially and, above all, open their markets (the same holds true for Moroccan and Tunisian markets). Agricultural production could be revived through various developments in ECOWAS countries. Such measures would help the local people and generate employment, while meeting the needs of other consumers (international markets that have been extremely tight over the last few years because of the lack of land for farming).

- The Maghreb countries, especially Morocco and Tunisia, could suitably be involved in the ECOWAS countries' textile sector, thanks to their experience, their companies' technical expertise and their skilled manpower. They could then benefit from the "Cotton Initiative" formulated by UNIDO a few years ago in favour of 11 countries, of which 9 are ECOWAS countries. In particular, the initiative aims at:
 - Upgrading and developing supply and productivity capacities in the Cotton-Textile-Garment value chain.
 - Improving the quality and developing the compliance of goods manufactured in Africa to international technical norms and standards.
 - Integrating local producers into a multilateral trading system²⁵. In particular, Moroccans and Tunisians could train officials from the region's countries in training institutes dedicated to this sector.
- At the industrial level too, it is possible to envisage Morocco and Tunisia, in particular, offering their know-how and technical expertise – with the technical and financial support of EU countries – in sectors such as those of building material, construction or leather, with significant benefits for all concerned in terms of employment and the profitability of value chains.
- In the tourism sector, Morocco and Tunisia could also contribute to training West African tourism personnel both in the catering and hotel businesses. They could also offer their material expertise and human resources for the protection and promotion of some major tourist sites. With the help of specialists and resources from EU countries (such as France, Germany, Italy or Spain), historical sites such as Djenné and Timbuktu (in Mali) or Gorée Island (in Senegal) could be developed for tourism.



In a very large number of cases, migration fails because of an inability to integrate.

With regard to migration from ECOWAS countries, the Maghreb could intervene in two other important sectors for potential migrants – training and health:

- The Maghreb countries, especially Algeria, Morocco and Tunisia, could gradually and significantly enhance their capacity to welcome students and other young persons from Sub-Saharan Africa for training in their universities and public and private vocational training establishments. With financial support from EU countries in the form of grants to such students – possibly within the framework of a "compensation fund" for selective migration – the 3 countries could receive 50,000–70,000 students annually, especially from French-speaking ECOWAS countries. Such a figure would represent 5–7 times the number of illegal migrants in Morocco and more than three times the average

number of migrants entering Europe illegally every year, both across Spanish and Italian borders.

- With regard to the issue of health care coverage for migrants, including illegal migrants, it could be possible to envisage contributions from Maghreb countries and the international community in several ways, especially within the context of the AIDS pandemic (very often associated with migrants because of their living conditions and, especially, because of the violence against women prevailing all along migration routes). The following proposals could be considered:
 - Extend the treatment and monitoring of migrants detected as being HIV-positive everywhere in the Maghreb, as is already being done in Morocco²⁶; institute and develop case management networks at the national and regional levels between Morocco (and the whole of the Maghreb), other transit countries, migrant origin countries and, if necessary, European destination countries.
 - Consider the establishment of referral centres in various countries along identified migration routes for better monitoring of migrants under treatment in particular, and to prevent travelling to certain areas for the sole reason of seeking medical treatment.
 - Encourage experience sharing in this regard and ensure that the treatment provided in all the referral centres is the same. A network could also be set up.
- Promote the development of a regional strategy, especially in ECOWAS countries, by trying to plan, implement and coordinate various actors' activities in countries of origin, transit, destination or return.

Within European host countries (EU and/or OECD):

The following measures should be taken:

- Acknowledge that the widening economic and financial imbalances (between Africa and Europe, particularly) are a major source of "malaise" for the countries with which it has relations or with which it is associated through agreements for the establishment of free-trade zones.
- Reform some of its common policies, especially its agricultural policy (CAP), and look for greater complementarities with Africa on the whole, rather than move towards competitive situations (including resorting to public subsidies in industrial and agricultural sectors). This would call for land and climatic conditions to be better integrated on both sides of the Mediterranean. At the same time, it would promote greater respect for the environment and less deterioration of some of the resources that have become scarce – such as water, which is among the most important. In the long term, it would also be a way of already addressing the issue of "environmental migration" – an issue of increasing concern on the sidelines of discussions concerning global warming.

- Encourage European private production investment south of the Mediterranean, in the Maghreb and the rest of Africa. Ensure the end of the ostracism to which Sub-Saharan Africa has fallen victim in terms of foreign direct investment and, at the same time, improve the Official Development Assistance curve, which tends to move away from the threshold of 0.7% of the GDP of advanced countries every time the threshold is reasserted as an objective to be achieved by these countries.
- Allow for substantial technology transfers, likely to raise the productivity of African industrial enterprises (in the Maghreb and Sub-Saharan regions), by reducing their competitive deficit vis-à-vis Asian products in particular. From this perspective, the textile/garment sector could be emblematic (given the importance of the cotton manufacturing chain, especially in ECOWAS countries).
- Consider the migration issue as a common theme for the whole of the Maghreb and turn it into a potential development zone, rather than a protective barrier placed at the service of Europe.
- More generally, Europeans must truly realise that Africa's future is a matter of major concern today, and not just because of illegal migratory flows originating from there. In this light, an international Africa protection plan or programme needs to be initiated. Europe is, as it were, at Africa's doors and in any circumstances, it would be inconceivable to believe that Europe is safe from various types of tragedies that would only worsen year by year if nothing significant is done to remedy the situation.

In this context and on a more operational level, it is clear that if these principles are accepted and frank political desire is expressed by the international community and the European Union, in particular, to deal with Africa's poverty and to reduce illegal migration from this continent through means other than security options, then other possibilities would emerge, such as the creation of productive activities generating wealth and employment. This could be done through:

- A precise targeting of regions in which it is possible to intervene first and with maximum effectiveness.
- Preferably, recourse to decentralised co-operation, i.e. by favouring local authorities for different interventions, both within the framework of modern organisation systems and traditional communities – less subject to questions concerning the absence of democracy or about corruption, for instance.
- Appropriate recourse to development NGOs that have proved themselves both in donor and beneficiary countries.
- A concerted choice of projects to be promoted, depending on different local situations and the means that can be mobilised in each specific circumstance.

- Specialised support for all projects, through training and raising awareness of different actors – both donors and service providers, as well as beneficiaries.
- Targeting each project in a well-determined region while trying to focus all its benefits for a specific community, so that the initial effects achieve a critical threshold that can then serve as a reference point for similar projects to be initiated in an adjacent geographical region. Propagation and emulation systems based on proximity could gradually be developed.
- The taking into account of training as a basis for the success of any project, by ensuring that all development efforts go hand-in-hand with basic literacy and training for the different trades required.
- Targeting women and youth – potentially the easiest categories for emigration networks to convince and exploit (in Africa’s case, these networks are most often illegal migration facilitators rather than migration promoters).
- Harmonisation of activities conducted by different UN development agencies in the intervention areas, in order to enhance their effectiveness and benefits for the populations concerned. Isolated and one-dimensional interventions do not achieve any practical results.
- Similarly, there is a need to “multilateralise” the activities undertaken by different development aid projects initiated by various countries and international funding bodies. This would increase the chances of success of co-operation programmes, both politically and economically.
- Prepare an inventory of the most active international and local NGOs in terms of intervention in development projects. Highlight their areas of activity and success stories with the help of local communities. Try to replicate these examples in different ECOWAS countries, whenever possible, while strengthening the NGOs concerned both in terms of logistics and human resources, through relevant training activities in particular, as well as politically.
- Furthermore, development activities call for the security of those intervening and peace for the population concerned. In that sense, there is a need to support UN bodies’ and donor States’ interventions through diplomatic and political action aimed primarily at establishing peace, followed by laying the foundations for democracy in the ECOWAS zone. Peace and democracy objectives must be the benchmarks and conditionality in all poverty reduction interventions.

Conclusion / summary of proposals

In 25 years, there will be 1.5 billion inhabitants in Africa and probably 2.5 billion by 2050 most of whom will be under 30 years of age. If nothing changes, more than three quarters of this population will be living under

the poverty line and many of the African youth will continue to seek to go abroad.

The combined issue of development/migration or migration/development on this continent, and notably in the Sahel and West Africa, needs to be addressed in the short and medium-term – as much through development aid as the “concerted management of migratory flows”. But above all it should be addressed over the long-term through veritable structural social and economic development policies at the national and regional levels.

Such policies should be based on a number of principles and instruments, notably:

- The need for a concerted “poverty and rescue safeguard” strategy for Africa, more particularly, West Africa; a region today from where many irregular migrants in Europe originate. Such a strategy – for this continent – can only be imagined within an inter-state framework.
- The development of West Africa, like the rest of the continent, is a matter of political stability and the “return of hope.” Such objectives can only be reached, in the difficult international situation experienced in 2008, through firm commitment of the entire international community, the Maghreb, and first and foremost Europe
- This implies unavoidably concerted, multidimensional and global action. Such action begins, in the case of West Africa in particular, by an effective Euro-Maghreb partnership whereas the Maghreb would increasingly be an area of development rather than a security barrier between Sahel countries and Europe.
- The creation, if need be and if the Union for the Mediterranean²⁷ produces conclusive results, of a sort of “Union for Africa” which would firstly be a “Union for West Africa”²⁸. It should have the political and financial means on par with the challenges to be met or, at the least, an international “task force” having the institutional capacity and financial resources to put this region of the world on the human and economic development track.

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NOTES

- 1 Thus, at the end of August 2006, only four EU countries – France, Finland, Italy and Portugal – had agreed to contribute to an operation that had been planned to cover most of the African and Canary Islands' western coast by mobilising... just 65 persons. In early September 2006, only one Portuguese corvette was at work off Cape Verde within the Frontex framework. Germany, in particular, had initially categorically refused to support such a project on the grounds that Spain was a large country, rich enough economically to be able to fund the interventions it considered necessary for its own protection. Euronews. 22.09.06
- 2 "Spain and the Spanish government shall carry out a significant general mobilisation campaign to support non-governmental organisations and civil society (...) so that the challenges of poverty, hunger, despair, lack of education, lack of basic food and health care become the main objective of all developed nations", stated the Head of Spanish Government, Mr Zapatero, in Granada (South), a few hours after the Spanish authorities learnt about the death of at least four clandestine immigrants, on Friday, aboard a boat while crossing over to the Spanish archipelago of the Canary Islands. AFP Dispatch dated 12-7-2008.
- 3 Mazeaud Commission Report, published in July 2008.
- 4 "Technical mission to Morocco – Visit to Ceuta and Melilla on illegal immigration", 7 October – 11 October 2005. European Commission.
- 5 Study carried out in 2007 and produced within the framework of an UNAIDS project (MENA region) and the Moroccan Ministry of Health focusing on mobility and HIV/AIDS as well as on migrants' access to health care in Morocco. The results of this survey were presented at a workshop held in Rabat on 27 and 28 November 2007.
- 6 Morocco also has an unknown but small number of Asian migrants.
- 7 www.aujourd'hui.ma/nation-details62482.html.
- 8 CIMADE – France; AFVIC – Association des amis et familles des victimes de la migration clandestine (Association of friends and families of victims of clandestine migration), Morocco.
- 9 (by us within the framework of the CARIM – European University Institute, Florence project).
- 10 By a Moroccan research group consisting of AMERM – Association marocaine d'études et de recherche sur les migrations (Moroccan Migration Research Association) and AFVIC. Project conducted with EU support.
- 11 Penniless, seeing their hopes of crossing over the Mediterranean crumbling away with the tightening of border controls of all sorts on both sides of the sea.
- 12 "La forteresse s'est écroulée" (The fortress has collapsed), acknowledged the European Commissioner, Franco Frattini, in early October 2005. He added that the European Union could no longer oppose the arrival of foreigners across the "barbed wires". Le Monde – Paris, 8 October 2005.
- 13 Furthermore, an improvement in relations was made politically possible with the advent of a new socialist government in Madrid, in April 2004.
- 14 Between 11 and 15, according to estimates.
- 15 However, the Spanish considered that it had to do with their direct relations with Morocco until 2002/2003, based on the idea that Morocco opened and closed the "migratory taps" as it pleased. See ILO report "La migration de transit à partir du Maroc" (Transit migration through Morocco); Geneva, 2002.
- 16 "Nous (les Marocains) assumons, encore une fois, notre responsabilité, mais nous disons que l'Europe ne peut pas limiter son regard à son voisin immédiat. L'Europe doit discuter avec tous les pays concernés. Et donc ne pas se limiter, tout simplement à demander à un pays comme le Maroc d'être le gendarme de l'Europe".
- 17 "Nous (Union européenne, pays de transit, pays de départ) devons gérer à la fois les origines, les sources de cette migration vers le Nord, s'interroger sur (son) pourquoi et (son) comment mais aussi lutter contre des réseaux qui se développent, des trafiquants qui font commerce de la traite des hommes et des femmes. Ce n'est qu'à travers un co-développement maîtrisé, organisé, encouragé (et) avec un soutien plus fort de l'Union européenne au développement des pays africains que nous pourrions apporter cette réponse pérenne à moyen et long terme". Moroccan Minister's interview in Euronews, on 8 July 2006. www.euronews.fr/.
- 18 Le Matin newspaper, Casablanca, 11 July 2006.
- 19 The largest delegations on the European side were those of France (43 persons) and Spain (38 persons), each led by 3 ministers, including ministers of foreign affairs and the interior. On the African side, apart from the large Moroccan delegation, was the Senegalese delegation (15 persons), led by 3 ministers and the Mauritanian delegation (13 persons) led by 2 ministers. The rest of the delegations had an average of 6 to 8 members.
- 20 This time, at Libya's invitation.

- 21 European Commission. MEMO/ 06/437.
- 22 There was a spectacular decline in Spain in 2007, when illegal migrant arrivals dropped by 50% as compared to 2006. According to Frontex, this decrease was due to the effects of co-operation agreements established between the Spanish government and the countries from which most boats left, such as Cape Verde, The Gambia, Mauritania and Senegal. But maritime immigration has not really ended – it has shifted to Italy and Malta, again according to Frontex (www.camer.be). In this context, the Italian authorities registered 10,611 clandestine migrants in the first six months of 2008, as compared to 5,378 between January and June 2007. LEMONDE.fr – AFP, 27/7/08.
- 23 At this level, the largest number of local and regional authorities within ECOWAS could be encouraged to take up the Declaration by “Local and Regional Authorities for the Mediterranean” issued in Marseilles on 22 June 2008, as their own and, 20 days prior to the launch of the French “Union for the Mediterranean” initiative, commit to: “Contribute to the resolution of the major sectoral issues, in the spirit of the Millennium Development Goals to which (we are) deeply attached, particularly:
- o Economic development and job creation policies,
 - o Limited investments in education and training and research,
 - o Integrated water management, access to water and sanitation,
 - o Local issues regarding health and social policies.”
- 24 In this regard, it must be noted that France undertook to contribute up to a maximum of 1 billion euros, as stated by its President at the last FAO Summit in May 2007 in Rome, in order to revive subsistence agriculture in Africa.
- 25 UNIDO, “South-South Initiative on Cotton”; www.unido.org. Concerned countries: Benin, Burkina Faso, Cameroon, Chad, Côte d’Ivoire, Mali, Nigeria, Senegal, Uganda, Tanzania and Zambia.
- 26 Study on “Mobilité et VIH/Sida au Maroc” (Mobility and HIV/AIDS in Morocco); UNAIDS (Cairo) and Ministry of Health, Morocco. Rabat, November 2007.
- 27 Launched by France on 13 July 2008 in Paris.
- 28 Which could group together the EU countries, the Maghreb and ECOWAS countries.

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Chapter 5



Migration and Population in West Africa: Political Issues and Perspectives

by **Dieudonné OUEDRAOGO**

Until very recently, the issue of population/development in West Africa was approached almost exclusively in terms of rapid population growth, which is considered critical to the economic and social development of countries in the region. Paradoxically, the spatial dimension of population growth was consequently overlooked, even though it is known that such growth is accompanied by an increasingly unbalanced geographical redistribution of the population, which is also linked to the size of migratory movements. The recent adoption by the Economic Community of West African States (ECOWAS) of a Common Approach on Migration demonstrates the importance that now needs to be placed on such movements and their effects on the geographical distribution of the region's population. What are the dynamics of West African migration and what is the logic behind them? What are the advantages and disadvantages of the Common Approach on Migration management?

Migration policies are public policies, defined here as “coordinated interventions of an authority with public power and government legiti-

The spatial dimension of population growth was thus overlooked, although usually such growth leads to an increasingly unbalanced geographical redistribution of the population.



macy in a specific sector of society or territory.” The model for analysing public policy used here seems to bring together the elements needed to examine the issue (Boussaguet, Jacquot and Ravinet, 2004: 326). Its advantage is that it enables the simultaneous

analysis of the stages of developing a migration policy, the interests and strategies of the actors involved at each stage; and the results obtained:

- the identification of migration-related problems to be addressed and their inclusion on the political agenda;
- the selection of solutions to each of these problems;
- the formulation and adoption of a migration policy;
- the implementation and monitoring of related interventions; and
- the assessment of the impact of this migration policy.

This paper is divided into three parts. The first will look at migratory movements in West Africa and the effects on the region's settlement. The second will examine migration policies of the region's countries, and those related to the ECOWAS Common Approach on Migration. The third part will discuss West African perspectives regarding migration.

Migratory movements and settlement

The intense migratory movements in West African countries were revealed in the first series of population censuses carried out in the mid-1970s: almost a quarter of the population was not living where they had been born. Therefore, the second (mid-1980s) and third (mid-1990s) series of censuses placed a stronger focus on migration. Censuses now include the stock of immigrants (long-term) and flows (entries and exits from national territories, for example) in the year preceding the census. However, the work simultaneously carried out in 1993 by the Network of Surveys on Migration and Urbanisation in West Africa (NESMUWA) in most of the countries involved in these migratory movements (Burkina Faso, Côte d'Ivoire, Guinea, Mali, Mauritania, Niger, Nigeria and Senegal) provided a better understanding of international migration in the region. It revealed that:

- There is indeed considerable international migration, but it is largely intra-regional. Four fifths of the migratory flows of those aged 15 and over recorded between 1988 and 1992 were between African countries;
- Côte d'Ivoire is the pivotal country in these migrations. It is involved in half of all migrations, both as an origin and, more often, a destination country. The largest migratory flows are with Burkina Faso (40%) and Mali (12%). But Côte d'Ivoire is also the only country to receive a relatively high number of immigrants from other countries in the region, the rest of Africa and the rest of the world; and
- These migratory flows affect all the countries in the region, even though, with the exception of Côte d'Ivoire, they have negative net-balance (Bocquier and Traoré, 1998).

Out of the five regions of Africa, West Africa currently has the greatest share of international migrants, accounting for almost 50% of the total in 2005, according to the United Nations (UN, 2005). The main destination countries were Côte d'Ivoire and The Gambia, where immigrants make up 18.2% and 15% of the total population respectively. But the share of immigrants in total population is greater than the world average (3%) and the African average (2%) in many countries of the region. In Ghana and Guinea-Bissau, the number is between 6% and 8% and in Burkina Faso and Liberia it is between 4% and 6%.

Migration has a significant effect on the distribution of the West African population through a combined shift in the region's settlement centre: from the savannah to coastal regions and from rural areas to urban areas. Its various economic, social, political and cultural implications have been widely documented:

- Economic growth in host regions (a plantation economy, in particular) on one hand and economic stagnation in departure countries (subsistence economy) on the other, which together enable circular migration between two types of regions and economies, hence revealing migratory movements as survival strategies developed by migrants and their families;
- The integration of migrants from the "bottom-up" in societies and economies of host countries;
- The integration of migrants from the "top down" due to the policies of regional integration organisations, ECOWAS in particular;
- The urban explosion with an "urbanisation without industrialisation" and "informalisation of large cities "
- The intermixing of populations and development of multiple identities and cultures, etc. (Meillassoux, 1975; Guengant, 1996; Traoré and Bocquier, 1998; Sawadogo, 1999; Bocquier et Sadio, 2000; Ouedraogo, 2002; Piché, 2002; Ouedraogo, 2005; Ouedraogo, 2007; Kabbanji, 2008).

Emergence and basis of migration policies

People on all continents have always moved for various reasons. Until the First World War there were few political and legal obstacles to such movements. Migration policies, which are linked to the formation and consolidation of the modern nation state, are a recent development. While freedom of movement is an internationally recognised right, it is always accompanied by the right of every nation state to define conditions of entry into and residence for foreigners in its territory. Such policies are even more recent in West Africa, where the process of forming nation

People on all continents have always moved for various reasons.



states only began in the 1960s and the most ancient form of human mobility, family migration linked to the search for new land for pasture or cultivation,

still survives. Most rural land is not privately owned and usage rights are usually granted to these migrants. Although nomadic or transhumant pastoralism prevails in the northern part of the region (Burkina Faso, Mali, Niger and northern Senegal), every year there are thousands of agricultural migrants of savannah farming communities towards the wetter south, and sometimes to neighbouring countries.

In West Africa, the migration of individual workers was first organised or caused by colonial rule to meet its needs for political control, the plantation economy and the exploitation of forest resources. It was

subsequently favoured by the modern African states as of the 1960s with a view to providing labour in areas of high investment – plantations, ports and industry – located in coastal areas and large towns.

The movement of individual workers, which has the greatest international element, was the first to be subject to migration policies, in particular the policies of regional integration organisations, whose aim was initially a common market for goods and services and subsequently a common labour market through the free movement of persons, the right of residence and establishment in their host countries.

Three generations of migration policies

Despite the recent development of their migration policies, West African countries have had three generations of migration policies:

- In the early 1980s, the first generation of migration policies of regional integration organisations, in particular ECOWAS, conceived within the framework of establishing a single regional labour market;
- As from the 1990s, the second generation of migration policies were part of national population policies. They were based on the idea that solutions needed to be found to the problems arising from intense migration deemed critical for national development: unbalanced geographical population growth and distribution and rapid urbanisation;
- At the end of the 2000s, the third generation of ECOWAS migration policies are reflected by the partnership between the Group of African, Pacific and Caribbean countries (ACP) and the European Union. Their aim, in addition to the concerns of previous policies, is to control migration to Europe by improving national border controls and economic development, which is believed to increase the ability of West African countries to retain population in regions from which migrants depart.

According to the model of analysis mentioned above, the emergence of a public policy results from the convergence, at a given moment (political situation) provoked by a political operator, of the following three “autonomous streams”: (1) problems, (2) solutions and (3) general policy visions (Kingdon, 1995; Muller and Surel, 1998). Migration problems are thus identified and defined according to the motives and criteria of the first stream, whether or not there are solutions. The solutions themselves may exist independently of the problems. General policy visions are determined by public opinion towards the government’s political position and the action of lobby groups on migration issues.

First generation migration policies: The political climate between 1975 and 1980 facilitated the emergence of the first generation of ECOWAS (political operator) migration policies by the cyclical convergence of the three streams:

- Concerning the “problems stream”, becoming aware of migration’s intensity in the region (which was intensified by the recurrent droughts (1967-1974) as revealed by the first series of general population censuses in the mid-1970s).
- Concerning the “solutions stream”, the free movement of persons and the right to residence and establishment of intra-regional migrants, based on the European Union’s experience
- The “general policy orientations stream”: the keen political interest for regional integration.

The first generation of ECOWAS’s migration policies was adopted in May 1979 and comprised the following three main phases, to be introduced over 15 years according to a precise timetable:

- As from 8 April 1980, right of entry without visa for any Community national for stays of less than 90 days in another member country. For longer stays, the necessary residence papers need to be requested from the appropriate national authorities in the host country;
- As from 12 May 1989, right of residence in another member country for any Community national intending to obtain and carry out a salaried occupation, (with the exception of civil service positions), with protection against any form of expulsion except in cases of law and order problems;
- As from 19 May 1992, right of establishment, for any Community national to settle and/or obtain work in another member country. Discrimination based on nationality is banned (ECOWAS, 2006).

To facilitate the implementation of this regional policy, it was decided to introduce residence cards in May 1990 as well as harmonised immigration and emigration forms in December 1992. Further developments include travel documents and passports to replace national passports and traveller’s cheques to reduce exchange problems, awaiting the creation of a common currency. A Community citizens’ code was adopted on 29 May 1982 and an anthem and flag in 2000.

Second generation migration policies: The second generation of migration policies that emerged in the 1990s had no connection with the first generation of ECOWAS regional policies. Integrated into national population policies, they aimed to improve geographical population distribution among regions and between urban and rural areas, especially by territorial planning and reducing the rural exodus. However, the context

was favourable to development of a migration policy with the main operators being the responsible ministries, then heavily supported by the United Nations Population Fund (UNFPA). Again, three streams converged:

- The “problems stream”: the ongoing economic and social crisis (combined with the damaging effects of the structural adjustment programmes of the early 1980s in particular on health, education, income and social budgets) and a greater rate of demographic growth compared to economic growth.
- The “solutions stream”: the mounting consensus on the implementation of the Action Plan of the International Conference on Population and Development (ICPD) held in Cairo (1994) as well as those of preceding conferences (Bucharest in 1974; Mexico in 1984) at the international, African and national levels.
- The “general policy orientations stream”: the political crisis and its effects on the changes in the international co-operation paradigm (for example partnership versus assistance).

Third generation migration policies: The third generation of migration policies has recently come about with the adoption of the ECOWAS Common Approach on Migration on 18 January 2008. It aims, on the one hand, to speed up the implementation of previous ECOWAS migration policies and, on the other hand, to control migration to Europe within the framework of the Partnership Agreement between ACP countries and the European Union. With ECOWAS, the European Union and their foreign affairs and co-operation ministers as the main political operators, these policies have emerged as a result of the convergence of:

- The “problems stream”: the need for multilateral management of international migration following the difficulties perceived in their unilateral or bilateral management.
- The “solutions stream”: the growing consensus, on the one hand, for effective application of the first generation of ECOWAS migration policies on the free movement of persons, the right of residence and establishment of intra-regional migrants within the ECOWAS zone, and the concerted management of legal migration and combating clandestine migration towards Europe and human trafficking on the other.
- The “general policy orientations stream”: agreed promotion of political dialogue, between Europe and Africa, notably within the framework of the Cotonou Agreement (Ouédraogo 1997, Kabbanji 2008).

Third generation migration policies are being formulated without assessing the outcome of previous policies, although this should be a vital component. It is not sufficient to know the results of ECOWAS policies on free movement of persons and the right of residence and establishment for

intra-regional migrants remain inadequate: two of the 15 member states have not ratified the supplementary protocol on the right of residence and the right of establishment; regional travel documents have not been distributed in half the countries; and

The implementation of migration policies was hindered by unsuitable content.



in most countries West African passports are not available; harassments at border control posts continues

and racketeering has increased on international routes (ECOWAS 2006, Kabbanji 2008). It is also not enough to know that the implementation of national population policies has not improved geographical population distribution: regional disparities remain and are increasing while the rural exodus continues resulting in strong urban growth (Ouédraogo, 2008).

While the first two generations of migration policies described above emerged under favourable conditions, why have they not been as successful as hoped?

Several reasons have been put forward to explain the poor performance of these policies: insufficient political will of some immigration countries such as Côte d'Ivoire; ECOWAS Executive Secretariat's poor intervention capacities; insufficient human and financial resources; lack of understanding of intra-regional migration, etc. But there is no sufficiently relevant analytical framework to identify and analyse these explanatory factors. With the model used here for public policy analysis, the performance of these policies depends on the four following factors:

- The policy content: Do the policies effectively address the public problems related to migration? Do the chosen solutions enable each of the problems to be resolved effectively?
- Are the strategies for implementing these solutions appropriate, effective and sustainable?
- Is the West African context favourable for the policies' implementation?
- The roles and responsibilities, strategic interests and resources of the actors involved (policy entrepreneurs, civil servants responsible for implementing migration policy, families and individuals affected by the policy): Have populations and migrants in particular, been involved in all development phases of the migration policy? Have their material needs and strategic interests been taken into account? (Kingdon 1995).

Understanding preceding migration policies through this analytical model should enable European and West African countries to better draw lessons and develop strategies more likely to guarantee success in applying the ECOWAS Common Approach on Migration.

Severe hindrances in the implementation of previous migration policies

The implementation of first generations migration policies was strongly hindered by unsuitable content and application strategies.

Policy content which is little known and not always relevant:

West African populations, including migrants, know little about previous migration policies. Drafted in French or English, languages not read by most of the West African population, they were only really understood by government services responsible for foreign affairs and security as well as researchers. Furthermore, the problems identified and the solutions chosen to solve them are not necessarily the issues faced by these populations, especially migrants. In some cases, a problem only becomes a public problem when it provokes public debate and consequently calls for intervention by a political authority aiming to solve it (Boussaguet, Jacquot and Ravinet, 2004). From this perspective, it may be questioned whether the problem of unbalanced geographical population distribution (and related migration and urbanisation) that has been targeted by national population policies is indeed a public concern. All nationals under all circumstances have freedom of movement and the right of residence throughout the national territories even with the obvious consequences on geographical population redistribution. Hence, internal migration is not a public concern nor, in principle, is international migration within the ECOWAS zone. Rather some of its effects could be considered problematic, in particular the difficulty of migrants' integration in the host regions (from the point of view of migrants and host populations), and the resulting depopulation of departure regions (Ouedraogo, 2008).

« West African populations, including migrants, know little about migration policies. They are only really understood by government services and researchers.

It is true that the adoption of a migration policy enables migration issues to shift from the private to the public arena. It also legitimises the existence of migration-related problems and gives public authorities the necessary power and responsibilities to implement the solutions chosen to resolve them. However, this only means that a migration policy offers families and individuals incentives to act within the specified framework, but without any constraints. The policy's results depend thus on the willingness of families and individuals. They act in accordance with their material needs and may therefore have strategic interests that differ, even oppose, those of the migration policy.

Solutions and strategies which are not always appropriate:

With the exception of the free movement of persons and granting the right of residence and establishment of intra-regional migrants of the ECOWAS zone, which only legitimises a de facto situation in the region,

the solutions and strategies to improve the geographical distribution of the population are on a macro-social level. Consequently, they are difficult to apply for several reasons: solutions were applied in the absence of actual related public concerns; notorious lack of resources for relevant and effective interventions in land planning, (such as road construction, public service provisions in rural areas); and the absence of well-paid and secure employment opportunities in rural areas.

The most detrimental aspect to the implementation of previous migration policies is that they did not take into account the fact that micro-strategies developed by families and individuals simultaneously affect economic variables (consumption, savings, investment, intra-generational transfers, etc.), demographic variables (decision to migrate, destination, voluntary and involuntary return) and social variables (solidarity networks). In reality, these micro-strategies are not solely related to migration, nor are they solely economic or social. Contemporary migration is the result of survival strategies, economic progress and social mobility (Ouedraogo, 2007). As T.R. Malthus remarks, “the force of inertia that grips people and the emotional bonds that tie them to their home are so strong and powerful that you can be certain that they will not contemplate emigrating unless forced to do so by political discontent or extreme poverty”).

In fact, according to the macro-social theory of mobility, which also explains the transition to an urban society, all human societies evolve in several successive phases linked to the levels and direction of migratory

All human societies evolve in several successive phases linked to the levels and direction of migratory movements.



movements within it. This leads gradually to the transformation of a society’s mainly rural and scattered habitat into one that is highly urbanised (Zelinski, 1971). In the first,

pre-transitional phase, of so-called “traditional” societies, demographic growth and individual migration is limited. In the second phase, the transition in which West African countries find themselves today, there is high demographic growth and intense migratory movement, which lead to rapid urbanisation. The third, post-transitional and final phase, where developed countries are today, sees a significant drop in demographic growth, while migration decreases in favour of other types of mobility, particularly social mobility.

What are the migratory and political prospects?

At this stage, it is almost certain that the population of West Africa will reach just over 400 million in 2015, the deadline for the Millennium Development Goals (MDG). However, there are no reliable data on migration prospects and their effects on the geographical distribution of population, especially within the countries concerned. Contrary to the theory of a

migration balance, in general the basis of national demographic forecasts, it is still assumed that in the short and medium term (in line with the mobility theory described above) migration within the region and towards Europe will continue and that consequently current migration policies should be re-examined to improve its effectiveness.

Intensification of international migration, a widely accepted trend

Despite development efforts by both, countries of origin and destination, to better manage their immigrant stock and control new inflows within the framework of ECOWAS's Common Approach on Migration, West African international migration will still continue in the short- to medium-term. If past trends were to continue, three main factors would even lead to increased intra-regional migration:

- The widening of economic disparities between and within ECOWAS countries, with greater concentration of wealth in coastal regions and around some urban centres that are essentially the state capitals;
- The development of links and means of transport and communication (roads, railway, media) between and within the ECOWAS countries; and
- The improvement in the application of the ECOWAS Protocol on the Free Movement of Persons and the Right of Residence and Establishment.

Four other complementary factors would also lead to increased migration towards Europe:

- The increasing inability of West African countries to provide employment and adequate salary levels for highly-skilled and other professionals as well as career advancement;
- The growing need for skilled and non-skilled labour in Europe, despite technological progress. To compensate for the damaging effects of the aging of their population (decrease in the number of working-age people, excessive burden on social budgets, etc.), European countries are increasingly being forced to favour selective immigration, which will always have illegal immigration as a flipside, even with the strengthening of border controls;
- The increasing overlap between migration within the region and towards Europe, which means that a growing number of West African countries that are immigrant destinations are at the same time transit countries for Europe. Free movement within the region certainly reduces the pressure of migration to Europe, but at the same time it gives regional migrants greater opportunities to raise the funds necessary for migration to Europe, as seen by the recent migration of the Bissa (Burkina Faso) to Italy (Ouedraogo, 1997; Gouba, 2008).

→ The increasing liberalisation of the global economy which, by favouring the mobility of capital, encourages labour migration. It should also take into account that West Africa's expected economic growth will contribute in the short- and medium-term to a sharp increase in its migratory movements, which will only stabilise if there is a significant reduction in the economic and social inequalities between the countries of West Africa and Europe.

Admittedly, ECOWAS's new migration policy differs from past policies in two major ways – firstly, it covers West African migration towards Europe, which is inseparable from intra-regional migration (1); and secondly, it recognises the link between migration and development, which is obvious (Ouédraogo, 1997) (2). But beyond rhetoric, could it be that this new approach will face the same fate as previous policies?

Should the new ECOWAS migration approach be revised?

As with previous policies, does the new ECOWAS migration approach address the public concerns linked to international migration of the region? In effect, human trafficking may be considered a public concern for moral and humanitarian reasons. Opinions on illegal and regular migration differ between countries of immigration and emigration. For immigration countries, illegal migration, and from a certain point of view, regular migration, are a public order issue. For emigration countries, however, it is combating clandestine migration, the integration of migrants in Europe and protecting their rights that are public concerns.

The link between migration and development established in the new ECOWAS policy (migrants contributing to development in their origin and destination countries, increasing the ability to retain population in areas of emigration through economic development), as well as the coherence of migration and other public policies (economic policies, co-operation policies, etc.), are certainly welcome developments, but the related public

concern is not clearly set out. The public concern is presumed to be the problem of development in areas of emigration, but it is in reality an issue of a public “meta-problem” which is that of a social

and political deficit, as pointed out by Sen, “development requires the suppression of the main factors that go against freedom: poverty as well as tyranny, the lack of economic opportunities and precarious social conditions, the absence of public services as much as intolerance or systematic repression carried out by authoritarian states” (Sen, 2003: 16).

Beyond the political agenda aiming to promote legal migration among certain occupational groups (professionals, postgraduate students, competent young professionals), the concerted fight against illegal migration and securing borders, it is the social and political deficit – the cause of poverty

Opinions on illegal and regular migration differ between countries of immigration and emigration.



– that should be tackled holistically. However, it must be agreed that the solution lies in resolving other public concerns, including the insufficiency of health, education and professional training infrastructures, the precariousness of revenues and the lack of social mobility opportunities. Within the current context of international relations and globalisation, how can this meta-problem be resolved without setting up a wealth redistribution system and targeting interventions to help social groups (granting a minimum level of resources and risk prevention) and poor and vulnerable regions?

In all circumstances, this redistribution system, which has already begun with the initiative to help poor and heavily indebted countries (HIPC Initiative) requires:

- The conscious and responsible participation of all parties involved (rich and poor, men and women, young and old, public sector and private sector, nations and international partners, etc.) in the identification and analysis of the public concerns to be resolved,
- The selection of solutions to be implemented, the application of these solutions, following up on measures and interventions, and,
- Assessing their impact at local, national and regional levels according to the principles of subsidiarity.

It is at this price that the progressive introduction of the common labour market in West Africa would thus be accompanied by the establishment of a real partnership with Europe (management of migration towards Europe) and the implementation of a local and decentralised management system of intra-regional migration, guaranteeing native populations the use of their resources at the same time facilitating access by intra-regional immigrants, who would be recognised as active participants in local and regional development. As far as this last point is concerned, investments – roads, railways and other public services – to be promoted in West Africa should enable the restructuring of the region by encouraging settlement shift both from coastal areas to the as yet little-populated and unexploited southern savannah and from large to small and medium towns.

This strategy would benefit from the increased convergence of multilateral, state and local rationales within a current context of a simultaneously accelerated regional integration and decentralisation process.

Conclusion

The convergence of the three streams of the model for public policy analysis – problems, solutions and general policy orientations – has occurred with the emergence of the recent ECOWAS migration policy, but lessons must be learnt from the past to ensure a positive outcome in the coming years. Is the policy content appropriate for identifying and analysing the public concerns related to international migration in West Africa that need attention and solutions to each of these problems? Are

its implementation strategies adapted to the West African context? Have the material needs and strategic interests of all actors, populations and migrants in particular, been taken into account?

This first evaluation of the migration policies initiated in the ECOWAS region should be pursued. However, it can never be stressed enough that success of any public policy such as the Common Approach on Migration will above all depend on its implementation on the ground.

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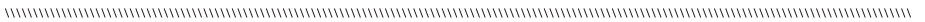
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Chapter 6



ECOWAS, an Area of Free Movement and First Border Post for the Schengen Area

by Nelly ROBIN

West Africa is the primary destination region for migrants in Africa and has a very high rate of intra-regional mobility. At the same time, the EU is the main destination outside Africa for West African migrants.

For more than two decades, both Europe and West Africa have tried to establish an area of free movement of persons between the signatory states through, respectively, the *Schengen Agreement (1985)*¹ and the *Economic Community of West African States (ECOWAS)² Protocol on the Free Movement of Persons and the Right of Residence and Establishment (1979)*³. However, the convention implementing the Schengen Agreement also provides for *increased protection of the area's external borders*, a dimension that is not part of the ECOWAS Protocol. This subtle difference is fundamental and contributed to the development of migratory patterns between West Africa and Europe throughout the 1990s. At the start of the 21st century, these changes were still underway.

In this context, it is clear that immigration management can no longer be based solely on bilateral relations between countries of destination and origin, but requires initiatives integrated into a scale of wider geopolitical areas. The Schengen “rules” now apply to everyone. Initially applied to the countries of southern Europe, today their influence goes beyond Europe, establishing rules of “co-operation” with third countries.

On this basis, it is important to understand the spirit that prevailed when the two systems of free movement of persons were established and to appreciate the impact of their development on the management of West African migration to Europe.

Niger and Senegal are examples that can provide a way of illustrating this analysis. These two ECOWAS Member States have gone through similar changes and are today key transit areas between Sub-Saharan Africa and the Maghreb on routes to Europe.

Europe: free internal movement, increased protection of external borders, “externalised” management of international migration

In the early 1990s, countries in Europe expressed a desire for greater co-operation on migration issues, and intense legislative and regulatory

activity began. Since then, it can be said that the process has continued at the internal, bilateral and community levels. All aspects of immigration duly became subject to new restrictions: conditions for issuing visas were revised and made stricter, access to the right of asylum was increasingly limited, border controls were strengthened and new systems to combat illegal immigration were developed.

In 1995, the convention implementing the Schengen agreements established “an area of free movement of persons between signatory and associate states while guaranteeing increased protection of the area’s external borders.”⁴ From this point, nationals of third countries, including West Africa, needed a visa referred to as a “Schengen visa” to cross borders of the Schengen area. It is a single visa issued by one of the member states that is valid for the whole Schengen zone.

Faced with this political will not only to monitor but, above all, to limit the entry of non-EU citizens to “Schengen territory”, potential migrants, notably those from West Africa, devised new strategies and explored new routes. West African migrants to the EU replaced the initial dual relationship between origin and destination country with a variety of routes and destinations, the actors diversified and different types of movement became necessary.

“In return, European countries adopted new, even more restrictive, measures particularly with regard to third country nationals” (Robin, 1997) such as the airport transit visa (ATV) and safe countries of origin. Furthermore, these new legislative measures could be reinforced locally by a military “partner”, “to monitor illegal migratory flows” on road or sea routes.

The ATV, an exception principle reserved for third country nationals

“Whereas the air route, particularly when it involves applications for entry or de facto entry, in the course of airport transit, represents a significant way in with a view in particular to illegally taking up residence within the territory of the Member States; whereas improvements should be sought in controlling that route”,⁵ in 1996 the

EU member states established the airport transit visa (ATV):⁶ this system allowed them to disregard the principle of “free transit passage through the international areas of airports”



It is clear that immigration management can no longer be based solely on bilateral relations between countries of destination and origin.

established by Annex 9 of the Chicago Convention (Robin, 2006). Only nationals of third countries were subject to the exception to this principle and airport transit visas were issued by the consular services of the member states (Audebert et Robin, 2008), at a time when West African migration to Europe was mainly by air.

In 1996, an initial list of countries was published,⁷ including two member states of ECOWAS, Ghana and Nigeria, whose nationals were

now “subject to the airport visa requirement for all Schengen States”.⁸

Between 2002 and 2008, in accordance with Article 5 of this joint action, which states that “each Member State shall decide whether an airport transit visa should be required of nationals of countries not included on the joint list”, some European states added further countries.

France is the Schengen State with the longest list for West Africa, with nationals of eleven ECOWAS Member States requiring an ATV: Burkina Faso,⁹ Côte d’Ivoire, The Gambia,¹⁰ Guinea, Guinea Bissau, Liberia, Mali, Senegal, Sierra Leone¹¹ and Togo. In 2008, these measures became even more drastic for nationals of Guinea, Liberia and Sierra Leone, whose “holders of a diplomatic, service or official passport”¹² or “holders of a visa valid for a member state of the European Union or European Economic Area, Canada, United States of America or Switzerland”¹³ were no longer exempt from the ATV requirement, unlike nationals of other countries. (→ Table 6.1)

As a result, when departing from international airports in all ECOWAS Member States, with the exception of Cape Verde, operators, i.e. air carriers, are required to “take precautions at the point of embarkation to ensure that passengers are in possession of the documents prescribed by the States of transit and destination for control purposes”.¹⁴ By granting themselves the right to disregard fundamental principles of the International Civil Aviation Organization (ICAO) for the first time, European countries declared their desire to externalise the management and control of their borders to the borders of developing countries.

Table 6.1

List of West African third countries whose nationals are subject to the airport transit visa requirement for only certain Schengen states. The holders of travel documents issued by these third countries are also subject to this requirement.

| | Benin | Burkina Faso | Côte d'Ivoire | The Gambia | Ghana | Guinea | Guinea-Bissau | Liberia | Mali | Mauritania | Niger | Nigeria | Senegal | Sierra Leone | Togo |
|------------------|-------|--------------|---------------|------------|-------|--------|---------------|---------|------|------------|-------|---------|---------|--------------|------|
| BNL ^② | | | ● | | ● | ● | | | | | | | ● | | |
| CZ ^④ | | ● | | | ● | ● | ● | ● | ● | ● | | ● | ● | | |
| DK | | | | | | | | | | | | | | | |
| DE ^⑦ | | | ● | | | | | | | | | | | | |
| EE ^④ | | ● | | | | | ● | ● | | | | ● | ● | ● | |
| EL | | | | | | | | | | | | | | | |
| ES ^③ | | ● | | | | ● | ● | ● | | | | | ● | ● | |
| FR ^④ | ● | ● | ● | | ● | ● | ● | ● | | | | ● | ● | ● | |
| IT ^⑤ | | | | | | | | | | | | ● | | | |
| CY | | | | | | | | | | | | | | | |
| LV | | | | | | | | | | | | | | | |
| LT ^⑥ | | | | | | | | | | | | | | | |
| HU | | | | | ● | | ● | | | | | ● | ● | | |
| MT | | | | | | | | | | | | | | | |
| AT ^① | | | | | | | ● | | | | | | | | |
| PL ^③ | | ● | | | ● | ● | ● | ● | | ● | | ● | ● | | |
| PT | | | | | | | ● | | | | | ● | | | |
| SI | | | | | | | | | | | | | | | |
| SK | | | | | | | | | | | | | | | |
| FI | | | | | | | | | | | | | | | |
| SE | | | | | | | | | | | | | | | |
| IS | | | | | | | | | | | | | | | |
| NO | | | | | | | | | | | | | | | |

① Foreign nationals subject to the airport transit visa (ATV) requirement do not need this visa to transit an Austrian airport if they are in possession of the following documents for the duration of the stay necessary for the transit: a) a residence permit for Andorra, Japan, Canada, Monaco, San Marino, Switzerland, the Holy See or the United States guaranteeing absolute right of return; b) a visa or residence permit for a Schengen state where the accession agreement has come into force; c) a residence permit for a member state of the EEA.

② Only when these nationals do not hold a residence permit valid for one of the countries of the EEA, Andorra, Canada, the United States, Japan, Monaco, San Marino or Switzerland. Holders of a diplomatic, service or special passport, as well as members of an aircraft crew who hold a "Flight crew Member's Licence" or a "Crew Member Certificate" issued in accordance with the Chicago Convention, are also exempt from the ATV.



- ③ *Holders of diplomatic, official or service passports are not subject to the ATV requirement. The same applies to holders of an ordinary passport who are resident in a member state of the EEA, the United States or Canada, or who are in possession of an entry visa valid for one of these countries.*
- ④ *The following are exempt from the ATV: holders of diplomatic and service passports, holders of one of the residence permits listed in part III, members of an aircraft crew who are nationals of a state that is party to the Chicago Convention.*
- ⑤ *Only when these nationals do not hold a residence permit valid for a member state of the EEA, Canada or the United States.*
- ⑥ *The ATV requirement does not apply to holders of diplomatic and service passports.*
- ⑦ *The following are exempt from the ATV: a) holders of a visa or residence permit issued by a member state of the EU or by a state that is party to the Agreement on the European Economic Area, as well as; b) holders of a residence permit or any other document listed in part III, list B. An ATV does not constitute a visa in the sense of point a).*
- ⑧ *The following are exempt from the ATV: a) holders of diplomatic and service passports; b) members of an aircraft crew who are nationals of a state that is party to the Chicago Convention; c) holders of residence permits issued by a member state of the EEA or Switzerland.*

Safe countries of origin, a concept with all the appearances of non-persecution

This system is reinforced by the notion of a *safe country of origin*. A country is considered safe “if it ensures respect for the principles of freedom, democracy and rule of law, as well as human rights and fundamental liberties”.¹⁵ The stated intention is to combat diverting the right to asylum by implementing new concepts. However, the aim is to restrict opportunities for asylum from third countries as much as possible.

The concept of safe country of origin (SCO) is applied differently by each European countries:

- In France, Law 2003-1176 of 10 December 2003 was introduced modifying law No. 52-893 of 25 July 1952 on the right to asylum. The current list includes fifteen States¹⁶ of which five are ECOWAS members: Benin, Cape Verde, Ghana, Mali and Senegal. This greatly modifies the conditions for exercising the right to asylum in France. Its compliance with Article 3¹⁷ of the Geneva Convention, related to the status of refugees (1951) sets out that “*the Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin*” raises intense debate. This regards a very complex issue: the law which refuses nationals of some third countries, the idea of a safe country of origin can seem discriminatory and incongruous to Article 3 of the Geneva Convention; but at the same time, the text defines the application procedures of this approach setting out that *the taking into account of the nature of safe countries of origin cannot hinder the individual review of each request*. This provision pairs with one of the essential demands of the Geneva Convention: that of the individual examination of a demand for asylum. The Council of State’s Decision of 13 February 2008, based on a request by the *Forum des réfugiés* association, acknowledges that Niger should be removed

from the list of safe countries of origin¹⁸, as the Decision does not call into question the principle of SCO. Consequently, the real issue is not the principle, but rather the practice: Should not all nationals of third countries concerned be provided the same conditions to compile the necessary documents for their defence?

- The United Kingdom has a longer SCO list, but at first there were no West African countries included. However, in 2007 The Gambia, Liberia, Mali, Mauritania and Sierra Leone were added.¹⁹
- In Germany, Ghana and Senegal are considered SCOs.²⁰
- Belgium, Spain, Italy and Sweden do not apply this concept.

Other countries such as Poland, the Czech Republic, Hungary and the Netherlands have adopted the concept without publishing an official list of the countries concerned.

The generalisation of the ATV and the concept of safe countries of origin highlight the EU states' concern in implementing an effective policy of distancing potential migrants and, in a wider context, as a way of managing international migration.

It is this logic that is behind the "partnership" now being proposed to third countries, which encourages them to carry out stricter checks on foreigners in transit in their territory; West African countries are thus being asked to form a sort of first line of screening of migrants travelling to the EU.

Through these "co-operation" agreements, signatory third countries force themselves *de facto* to align their legislation (visas, entry, readmission, fight against illegal immigration, asylum) with the rules and principles established in the EU.

Military partnership for "co-operation on illegal migratory flows"

Furthermore, this "co-operation" is often accompanied by a military partnership, such as the 12 August 2004 "agreement of co-operation on illegal migratory flows" signed between Italy and Libya, which is seen as a "sieve zone". In December 2007²¹, the process was reinforced by a new Italian-Libyan agreement of co-operation that provided for mixed patrols, made up of Libyan soldiers and Italian police officers, intervening in Libyan as well as international waters. The aim was to search the sea for boats of potential migrants to Europe and above all, as a first step, to intercept boats who take on board migrants on the Libyan beaches of Zuwarah, Zaniyah and Miswatah, among others. The sea, as far as the Italian coast, is monitored by radar and satellite from an operations centre located in Tripoli.

At the same time, the European Union has a Mediterranean border patrol agency called FRONTEX (European Agency for the Management of Operational Co-operation at the External Borders of the Member States of

the European Union).²² The aim of this agency is “to coordinate the operational co-operation between Member States in the field of management of external borders, assisting them in the training of national border guards and providing technical assistance and necessary support in organising joint return operations.”²³

In June 2006, at the request of Spain, FRONTEX extended its “*illegal migration control system*” to the North Atlantic, first to the Mauritanian, then the Senegalese coasts.²⁴ The aim was to “*intercept illegal migrants’ pirogues*” suspected of travelling towards the Spanish Canary Islands.²⁵ The identification of potential migrants to Europe and responsibility for the outcome are delegated to the Mauritanian or Senegalese authorities.²⁶ These agreements extend the agreement signed by Spain and Morocco

Spain has signed three agreements with The Gambia, Guinea-Bissau and Guinea to extend the FRONTEX surveillance zone.



in February 2005; they all provide for the “*reinforcement of the links between the security forces of the two countries in the fight against illegal immigration, human trafficking networks, maritime surveillance of fishing activities and*

even in the detection of drug trafficking”. In 2008, three new agreements were signed by Spain on one side and The Gambia, Guinea-Bissau and Guinea on the other, to extend the FRONTEX surveillance zone.

The issue of the involvement of third countries in the regulation of international migration and the fight against people trafficking remains at the heart of the EU’s thinking, whether it is finding the means to keep asylum-seekers in “protection zones” at least near countries in crisis,²⁷ encouraging transit countries to readmit those found to be in the EU illegally²⁸ and taking responsibility for sending them back to their country of origin or helping transit countries transform themselves into advance border posts.

In this context, the term “co-operation” has sometimes seemed little suited to the reality of negotiations. The presentation of the European Pact on Immigration and Asylum²⁹ to the European Council³⁰ on 7 and 8 July 2008, before the Preparatory Meeting for the Second Euro-African Ministerial Conference on Migration and Development for the implementation of the Rabat Action Plan³¹ (10–11 July 2008), therefore caused some doubt amongst West African third countries. Outside the conference, the Foreign Affairs Minister of Senegal expressed his “*surprise regarding the European initiative of a pact while the Rabat Process was taking us down another path...*”, adding “*if all that is confirmed, it will become urgent for the African parties to confer with one another and clearly distance themselves from their European partners and firmly promote our vision of collective rather than selective migration and a global, non-targeted approach*”. To this end, he recommended that Africa put into place a draft pact in response to the European Pact on migration to lead one day to a collective Euro-African Pact.

ECOWAS: the free movement of persons, a founding principle

In its beginnings, the 30th Ordinary Summit of Heads of Government of ECOWAS³² has from 2006 mandated the Commission to specify a common approach on migration by the member states. In the same year,³³ the ECOWAS Mediation and Security Council reaffirmed this priority, asking the President of the Commission to *pursue thinking with a view to outlining a common approach on the management of intra-regional and European migration in all its aspects*. At the start of 2008, the ECOWAS Heads of State and Government adopted a Common Approach on Migration.³⁴

The application of the Protocol on the Free Movement of Persons, limited by the administrative practicalities

This political will is a continuation of the spirit of the founding Treaty of ECOWAS which since 1975 has asserted the freedom of movement as one of its general principles:³⁵

“Citizens of Member States are considered to be citizens of the Community and consequently the Member States commit to the abolition of all obstacles to freedom of movement and residence within the Community”, Chapter 4, Article 27, paragraph 1.

In 1979, the Protocol on the Free Movement of Persons and the Right of Residence and Establishment established the legal rules and terms of application, which was foreseen in three steps:³⁶

1. right of entry and abolition of visas,³⁷
2. right of residence,³⁸
3. right of establishment.³⁹

Thus, according to the terms of the implementation of the first step, *“all citizens of the Community wishing to enter the territory of any one of the member states”* are authorised to do so *“at an official point of entry, without having to present a visa”,* if they are in possession of *“a travel document and valid international vaccination certificates”*. In addition, if they wish *“to stay in a member state for a maximum stay of ninety (90) days, [they must] obtain authorisation to do so issued by the appropriate authorities”*.

These legal measures, intended to encourage the free movement of persons, materialised with the introduction of a travel certificate (1985),⁴⁰ a residence card (1990)⁴¹ and a passport (2000)⁴² for Member States. Burkina Faso, The Gambia, Ghana, Guinea, Niger, Nigeria and Sierra Leone have issued the travel certificate, but for now only Senegal and Mali have issued the ECOWAS passport to their nationals. Holding either one of these documents exempts a Community citizen from completing the immigration and emigration form of the ECOWAS Member States. Eventually, the passport is expected to replace the travel certificate.

However, migrants' journeys are still lined with several checkpoints; the ECOWAS Executive Secretariat identified 69 checkpoints on the 992 km-long Lagos to Abidjan route, that is 7 checkpoints every 100 km.⁴³ A Senegalese trader who says he has travelled to several countries in the sub-region recognises that *the hassles have decreased with ECOWAS passports [...] but crossing some borders like Togo or Côte d'Ivoire is still a real headache. Foreigners have to pay between 30,000 and 50,000 CFA at numerous checkpoints.*⁴⁴ This opinion is shared by a woman from Burkina Faso, an immigrant in Dakar who regularly travels on the Dakar-Bamako train and then by car to Bobo Dioulasso.⁴⁵ The practices of border-control agents are therefore still obstructing the application of the ECOWAS Protocol on the Free Movement of Persons, a situation heightened by migrants' lack of information on the measures implemented since the adoption of the Protocol. Conscious of these difficulties, the Heads of State have adopted a decision relating to the formation of national committees to monitor the application of decisions and protocols on the free movement of persons,⁴⁶ which should *"ensure the effective application of community documents relating to transport, with a view to facilitating the free movement of persons and goods in the sub-region"*.⁴⁷

However, despite all these difficulties, the legal standardisation of conditions of entry throughout the ECOWAS states constitutes undeniable progress for the free movement of persons and a key factor in regional integration.

Regional law prevails in accordance with the history of migration

In line with the principle according to which regional law prevails over national law and may be applied directly,⁴⁸ Niger and Senegal, which have become the two main West African countries of transit between Sub-Saharan Africa and the Maghreb on routes to Europe, today offer ECOWAS nationals the same conditions of entry and transit in their territory. Previously, application of their respective national laws, specifically Niger's decree no. 87-076 of 18 June 1987⁴⁹ and Senegal's decree no. 71-860 of 28 July 1971,⁵⁰ did not allow this equal treatment. These two texts stipulate that *to enter national territory, all aliens must hold a national passport or corresponding travel document, a [Senegalese/Nigerien] visa and an international vaccination certificate.*⁵¹ An alien is considered to be *any person who does not have [Senegalese/Nigerien] nationality, whether they are of foreign nationality or no nationality.*⁵² Travellers in transit, however, are considered to be non-immigrant aliens;⁵³ specific clauses are applied to them in the two countries, but under different terms:

- In Senegal, *travellers in transit may stay no longer than 10 days. If it is not possible for them to continue their journey, they must, within this timeframe, request authorisation to stay from the Minister of the Interior, which may be granted for a maximum stay of 4 months;*⁵⁴

- In Niger, an entry visa is not required for travellers in transit;⁵⁵ in addition, to stay in the country, they are exempt from the residence permit requirement: *they are issued with an [ordinary] visa, in place of a residence permit, the validity of which should not exceed two years.*⁵⁶

In accordance with these national measures, a traveller in transit may legally stay for two years in Niger, but for no more than 4 months in Senegal.

The ECOWAS Protocol on Free Movement standardises these conditions of entry and residence of nationals of a Member State in another Member State. Since the adoption of the Protocol, for any citizen of the Community wishing to enter the territory of any one of the Member States, all that is required is *“a valid travel document that shows the identity of its holder and a photograph and that is issued by or on behalf of the member state of which the holder is a citizen and on which immigration and emigration*



The legal standardisation of conditions of entry throughout the ECOWAS states constitutes undeniable progress.

control stamps may be made”; in addition, for anyone wishing to stay in a Member State for a maximum period of ninety days, authorisation must be issued by the appropriate authorities. In practice, for West African nationals at the border, an ordinary valid identity card is the minimum travel document required, even though it cannot hold the immigration and emigration services’ stamps and if they are questioned for an *“illegal stay”*⁵⁷ once in the country, no proceedings are taken against them within the 90 days, even if they do not have the necessary authorisation.

The ECOWAS Protocol on the Free Movement of Persons has implicitly conferred a particular status on West African nationals who emigrate to other countries in the Community and consequently the practical details of checks on West African migrants are more flexible. This “adjusted” application of legal provisions is a response to the nature of the migratory exchanges that are behind the history of the region, divided by national borders regardless of the sociological and economic practices of its communities.

Transit countries, a complex double affiliation

As a result, West African countries, at the crossroads of routes linking Sub-Saharan Africa and the EU, are today confronted by the contradictory demands of two areas of free movement: ECOWAS, which places intra-regional mobility at the heart of the process of regional integration, and the EU, whose states intend to transfer control of their own borders to those of third countries.

Niger and Senegal are thus, on the one hand, required to let any ECOWAS citizen with, at the minimum, a valid identity card enter their

territory. On the other hand they are forced by a growing number of European countries not only to monitor the departure to Europe of these same migrants, but above all to retain them if they do not have the travel document needed to transit or enter the Schengen area, even readmit them if they are turned away or deported.⁵⁸

At the same time, the effects of sub-regional conflicts and environmental crises⁵⁹ combine to increase the dependence of developing countries on international migration. In this context, as a result of not reaching their intended destination, due to the increased stringency of checks to enter Europe and, perhaps even more so, due to the transfer of border controls to the departure country, migrants are settling increasingly permanently in transit countries.

Consequently, West African countries are now faced with the problem of migrants in transit who are “stuck”. This new situation is likely to cause a change in the perception of foreigners, which eventually runs the risk of creating a desire for national border controls, which could weaken the free movement of persons in the ECOWAS area.

The Community of Member States is therefore faced with new questions: how to manage the transit of populations who cannot continue their journey? How to make sure that the rights of the people involved are respected? How to prevent the negative reactions of nationals who themselves are faced with increasing economic difficulties and feel in competition with these migrants in transit, including those bound for Europe? How to discuss these issues with neighbouring countries without compromising established relations or adding to the destabilisation of some countries?

All these questions highlight the complexity of the realities that must be taken into account in order to define a common approach on migration

West African countries are today confronted by the contradictory demands of two areas of free movement: ECOWAS and the UE.



within, as well as outside, the borders of the ECOWAS zone. The aim is to avoid bilateral agreements signed with European countries, or new control measures undertaken unilaterally by European countries

towards third countries, from weakening a relatively successful model of free movement of persons, reconciling contrasting national realities. The evolution of these intra-regional migratory exchanges is a key issue for the region; on which its economic development and political stability depend heavily.

Conclusion

It is obvious, that responding only to required checks imposed by countries in the north is not ECOWAS Member States’ best political response to the complexity of migratory dynamics at play in West Africa today.

Real co-operation or positive regulation of migration will not be possible if only the richest countries take all the advantages while leaving the countries of origin with the bulk of the disadvantages. If this unequal division is to be balanced even partially, it is the philosophy of co-operation itself that needs to be rethought. In this respect, it seems useful to help open up a new path: that of concerted action between the ECOWAS States, to then discuss either collectively or individually with the EU. This means drawing the outlines of a real partnership for development that can focus on populations in their region of origin by increasing their prospects for participation in the benefits of globalisation, including in the form of positive regulation on labour migration.

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NOTES //////////////////////////////////////

- 1 *The Schengen area today comprises twenty-two out of the twenty-seven members of the European Union (EU). Ireland and the United Kingdom are able to participate in all or part of the Schengen acquis. Cyprus is currently not part of the area, nor are Bulgaria and Romania. In 2009, Cyprus might fully join the Schengen acquis, while Bulgaria and Romania are not expected to participate fully until 2011. Norway and Iceland, which are outside the EU, have an associate status to which all provisions apply except that of participating in decision making. Switzerland has signed an agreement of association with the EU that has not yet come into effect. At the end of 2008, it should become a full member of the Schengen area, like Liechtenstein.*
- 2 *Community of West African States, formed in 1975. Treaty of the Economic Community of West African States signed in Lagos on 28 May 1975.*
- 3 *ECOWAS Protocol on the free movement of persons and the right of residence and establishment, finalised in Dakar on 29 May 1979. Entered into force in 1984.*
- 4 *Convention implementing the Schengen Agreement of 14 June 1985 between the governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.*
- 5 *96/197/JHA: Joint action of 4 March 1996, adopted by the Council on the basis of Article K.3 of the Treaty on European Union on airport transit arrangements. Official Journal L63 of 13/03/1996 pp. 8–9.*
- 6 *The airport transit visa is issued by the consular services of the member states.*
- 7 *Afghanistan, Ethiopia, Eritrea, Ghana, Iraq, Iran, Nigeria, Somalia, Sri Lanka, Zaire. 96/197/JHA: Joint action of 4 March 1996, adopted by the Council on the basis of Article K.3 of the Treaty on European Union on airport transit arrangements.*
- 8 *Holders of a travel document issued by these third countries are also subject to this requirement.*
- 9 *Nationals of Burkina Faso, Côte d'Ivoire, The Gambia, Guinea, Guinea-Bissau and Mali are subject to the ATV for France only if they do not hold a visa or residence permit valid for a member state of the EU or a state which is party to the Agreement of 2 May 1992 on the European Economic Area, Canada, Switzerland or the United States of America.*
- 10 *For the Benelux countries, nationals of The Gambia, Guinea and Sierra Leone who hold a visa valid for one of the member states of the EEA, Andorra, Canada, the United States, Japan, Monaco, San Marino or Switzerland are exempt from the airport transit visa for Belgium.*

- 11 *Official Journal of the French Republic No. 20 of 24 January 2008, text 24. Decree of 15 January 2008 establishing the list of states whose nationals are subject to the airport transit visa and the exceptions to this requirement, Article 3. Official Journal of the French Republic No. 28 of 2 February 2008, text 25. Decree of 1 February 2008 establishing the list of states whose nationals are subject to the airport transit visa and the exceptions to this requirement, Article 1.*
- 12 *Decree of 15 January 2008 establishing the list of states whose nationals are subject to the airport transit visa and the exceptions to this requirement, Article 4, paragraph 1.*
- 13 *Decree of 15 January 2008 establishing the list of states whose nationals are subject to the airport transit visa and the exceptions to this requirement, Article 4, paragraph 3.*
- 14 *Paragraph 3.53, Chapter 3, Annex 9 of the Chicago Convention.*
- 15 *According to article L.741-4, 2nd clause, of the Code of entry and residence of foreigners and of right of asylum.*
- 16 *Decision of 30 June 2005 establishing the list of safe countries of origin supplemented by the Decision of 16 May 2008 of the board of directors of OFPRA: Albania, Benin, Bosnia-Herzegovina, Cape Verde, Croatia, Georgia, Ghana, India, Macedonia, Madagascar, Mali, Mauritius, Mongolia, Senegal, Tanzania, Ukraine.*
- 17 *"Non discrimination".*
- 18 *Council of State Decision in litigating, N° 295443, decided, Article 1: The Decision of 16 May 2006 of the board of directors of the Office français de protection des réfugiés et apatrides supplementing its Decision of 30 June 2005 establishing the list of safe countries of origin is annulled as it includes on this list the Republic of Albania and the Republic of Niger.*
- 19 *SCO list drawn up in 2003: Albania, Bangladesh, Bolivia, Brazil, Bulgaria, Cyprus, Czech Republic, Ecuador, Estonia, Hungary, Jamaica, Latvia, Lithuania, Macedonia, Malta, Moldavia, Poland, Serbia and Montenegro, Romania, Slovakia, Sri Lanka, South Africa and Ukraine. In 2007, Bosnia and Herzegovina, The Gambia, Kenya, Liberia, Malawi, Mali, Mauritius, Montenegro, Peru, Sierra Leone and Serbia were added.*
- 20 *The SCO list in Germany: Bulgaria, Ghana, Poland, Romania, Senegal, Slovakia, Czech Republic and Hungary.*
- 21 *29 December 2007.*
- 22 *Created in October 2004 and operational from October 2005. Regulation (EC) No. 2007/2004 of the Council of 26 October 2004 OJ L 349 of 25.11.2004.*
- 23 *Frontex site: www.frontex.europa.eu/*
- 24 *In June 2007 the Spanish and Senegalese authorities signed a new agreement that extended FRONTEX for one year. It was renewed for another year by an agreement signed by the Senegalese interior minister and his Spanish counterpart in May 2008.*
- 25 *To carry out its operations, FRONTEX combines Senegalese, Italian and Spanish skills and logistical means. Lieutenant Colonel Mouhamadou Moustapha Sylla, at Ouakam air base in Dakar explains, a Senegalese helicopter alternates patrols with a Spanish helicopter; when they need to go out to the open sea, an Italian aeroplane needs to go out, l'Express, 8 March 2007.*
- 26 *The crews on board the patrol boats are made up of four members: a Spanish or Italian commander and three representatives of the Senegalese services (army, police and gendarmerie). Only the latter are authorised to carry weapons and to fire with warning.*
- 27 *The idea of a "regionalisation of asylum policy" began to appear at the start of the 1990s.*
- 28 *Thus in 2006 and 2007, The Gambia, Guinea and Guinea Bissau, among others, signed agreements with Spain for the readmission of mostly Sub-Saharan migrants who, having reached the coast of the Canary Islands, were repatriated after a period of detention in camps. For its part, Senegal accepted these forced readmissions while the text providing for them was still being negotiated. These agreements are more often than not added to an aid programme for development that is intended as an incentive.*
- 29 *The European Pact on Immigration and Asylum proposes "to organise legal immigration to take account of the priorities, needs and reception capacities determined by each Member State, and to encourage integration; to control irregular immigration by ensuring the return of irregular aliens to their country of origin or a country of transit; to make border controls more effective; to construct a Europe of asylum; to create a comprehensive partnership with the countries of origin and transit to encourage the synergy between migration and development." This pact was adopted in September 2008 by the 27 states of the Schengen area.*
- 30 *Presented 7-8 July 2008 in Cannes and adopted 15-16 October 2008 at a European Council meeting.*
- 31 *This Action Plan was drawn up at the Euro-African Ministerial Conference on Migration and Development in Rabat, 10-11 July 2006.*

- 32 *Who met in Abuja in June 2006.*
- 33 *Meeting in Ouagadougou 20 December 2006.*
- 34 *33rd ordinary session of the Heads of State and Government Conference, Ouagadougou, 18 January 2008.*
- 35 *Treaty of the Economic Community of West African States, signed in Lagos, 28 May 1975.*
- 36 *ECOWAS Protocol on the free movement of persons and the right of residence and establishment, finalised in Dakar, 29 May 1979.*
- 37 *Supplementary Protocol A/SP.1/7/85*
- 38 *Supplementary Protocol A/SP.1/6/89*
- 39 *Supplementary Protocol A/SP.2/2/5/90.*
- 40 *Decision 2/7/85 relating to the introduction of the ECOWAS travel certificate for member states.*
- 41 *Decision 2/5/90 relating to the introduction of a residence card in ECOWAS member states.*
- 42 *Decision A/DEC.1/5/2000 relating to the introduction of the ECOWAS passport for member states.*
- 43 *Table entitled "Checkpoints identified along certain trans-West African routes". Source: ECOWAS Executive Secretariat.*
- 44 *Account gathered by the SYFIA Grands Lacs press agency, 3 May 2005.*
- 45 *As above, SYFIA Grands Lacs press agency.*
- 46 *Decision A/DEC/3/8/94. The following member states established committees: Benin, Burkina Faso, Ghana, Guinea, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo. Source: ECOWAS Commission.*
- 47 *Art. 3, decision A/DEC/3/8/94.*
- 48 *In spite of the different provisions of the national laws of the countries concerned.*
- 49 *In accordance with ordinance no. 81–40 of 29 October 1981 relating to the entry and residence of foreigners in Niger. Just after independence, Niger and Senegal were both governed by the French decree of 12 January 1932 setting the conditions of entry of French nationals and foreigners into French West Africa; this was repealed by the above-cited 1981 ordinance in Niger and 1971 law in Senegal. These two texts setting out the entry and residence of foreigners are still in effect. However, it should be added that the ordinance of 1981 came about during an exceptional period when the Republic of Niger did not have a national assembly to vote on laws. It was therefore the President of the Republic, the President of the Supreme Military Council, who legislated in the form of an ordinance enforced without consultation, see Mission Report by M. Boluvi, I. Chassard and M. Sene, OMAE Programme, IRD, July 2008.*
- 50 *In accordance with law no. 71–10 of 25 January 1971 relating to the conditions of admission, residence and settlement of foreigners.*
- 51 *Art. 1, Nigerien decree no. 87-076 of 18 June 1987 and Senegalese decree no. 71-860 of 28 July 1971.*
- 52 *Art. 1, ordinance no. 81-40 of 29 October 1981 and law no. 71-10 of 25 January 1971.*
- 53 *Art. 8, ordinance no. 81-40 of 29 October 1981 (Niger) and Art. 3, law no. 71-10 of 25 January 1971 (Senegal).*
- 54 *Art. 4, decree no. 71-860 of 28 July 1971.*
- 55 *Art. 7, decree no. 87-076/PCMS/MI/MAE/C of 18 June 1987, controlling the conditions of entry and residence of foreigners in Niger: "Non-immigrant aliens as defined in article 9 of ordinance no. 81-40 of 29 October 1981 are exempt from the requirement provided for by article 6, in fine, above (visa); non-immigrant aliens includes "travellers in transit".*
- 56 *Art. 11, chapter III, decree no. 87-076/PCMS/MI/MAE/C of 18 June 1987.*
- 57 *In Senegal an illegal stay is considered a criminal offence.*
- 58 *While identifying immigrants likely to be turned back, deported or readmitted, some declare for various reasons, economic or political, a nationality other than their own. An example can be cited from recently signed readmission agreements with West African countries such as: the co-operation agreement framework regarding immigration between the Republic of Mali and Spain of 23 January 2007, envisaging in paragraph h), Article 8, Chapter VI: the return of anyone who has not or has ceased to have the right to remain or reside on the territory of the contracting party required. Furthermore, a repatriation agreement for minors was signed between Spanish and Senegalese authorities on 5 December 2006 and entered into force on 1 July 2008. (Boletín Oficial del Estado du 18 July 2008, No. 173, pages 31413–31415).*
- 59 *In particular droughts in the Sahel.*

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2nd Part

CASE STUDIES:
MAURITANIA AND SENEGAL

Chapter 7

Mauritania: Restrictions on the “Return Effects” of Intense ...

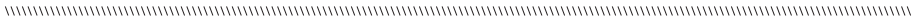
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Chapter 7



Mauritania: Restrictions on the “Return Effects” of Intense and Diverse Migratory Movements

by Ali BENSÂAD

This chapter is part of a series of papers on Circular Migration written as part of the CARIM (Euro-Mediterranean Consortium for Applied Research on International Migration) project and presented at two meetings organised by CARIM in Florence: The Role of Circular Migration in the Euro-Mediterranean Area (17–19 October 2007) and Circular Migration: Experiences, Opportunities and Constraints for Southern and Eastern Mediterranean Countries (28–29 January 2008). Please follow this link to access all papers on Circular Migration: www.carim.org/migrationcirculaire.

CARIM-AS 2008/15

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This paper analyses the various circular migratory patterns in Mauritania. It sheds light on the geopolitical and social dimensions that govern and influence migratory movement, and demonstrates how political forces act both as a ‘cause’ and as a ‘resource’ shaping migration. The findings of the paper illustrate how the socio-political context in Mauritania can enhance or hinder any kind of circularity.

Introduction

In Mauritania, migratory movements occur for various reasons and follow several patterns. They are currently increasing and becoming more intensely interrelated.

These diverse patterns are based mainly on the socio-ethnic composition of the population who have both (essentially a Moorish community and a self-designated “black Mauritanian” community) developed their own pattern of migration and thus their own type of movement.

It is also based on Mauritania’s early multifunctional role as a land of emigration, immigration and transit long before the upheaval in migratory patterns in the region and even before transit towards Europe became a factor. Finally, the paradoxical status of this country as both a poor country’ and forerunner country of immigration lends an aspect of originality to the type of immigration as well as to the movement that has developed. This originality is based more on circular movement. Immigration and emigration follow independent processes that do not come into conflict.

Generally, migration (both emigration and immigration) in this region has always been circular, in a clearer and more explicit way than elsewhere.

With its multifunctional role, Mauritania faces the circular aspect of migration on several fronts: the large number of circular patterns of movement leaving the country but also the large number of circular patterns of movement into and across the country.

Mauritania’s uniqueness is linked to the fact that while it is involved in a network of multiple movements, their possible effect is limited or rendered ineffective by the political situation, particularly the relationship of those in power to different components of civil society. This includes the political

and economic marginalisation of the black Mauritanian community which is the most affected by emigration, particularly towards Europe, and the systematic promotion of a socio-political model based on private income and channelling all remittances into consumption and speculative investments. The remittances sent by black Mauritanian migrants to their areas of origin cannot have an impact on the development process as their commu-



Migration (both emigration and immigration) in this region has always been circular, in a clearer and more explicit way than elsewhere.

nity had part of its land seized when it was modernised² and they have therefore turned towards consumption and educational and health aid initiatives to make up for the State’s lack thereof. The resources of Moorish trading networks are reinvested in land speculation, partly on the land along the Senegal River but mostly in the capital which, with the advent of oil exploration, has some of the most expensive districts in the world!³ Like a feedback loop, black Mauritanian migrants, while they are very attached to and resettle exclusively in their regions of origin, also invest in the capital’s speculative property market. Particularly, in areas that host foreign migrants, which are often the areas with the highest concentration of black Mauritians. Thus, the resources that the “return effects” of migration provide do not only lead to an original form of rentier economy but also feed a speculative rentier economy.

The case of Mauritania highlights an aspect that is not always clear when assessing the effect of return migration as the “return effect” of migration, particularly on development. These effects do not depend solely on the migration process and the resources they may provide, but also, fundamentally, on the socio-political context of the country of departure which could hinder or at the very least restrict them.

This situation has furthermore created another novel migration situation and a paradox. According to official statistics, Mauritania has the same number of immigrants in its territory as the number of Mauritanian citizens who are refugees in neighbouring Senegal. This has allowed “politics” to become a factor for migration towards Europe and the United States (for geopolitical reasons that shall be explained further on, the persecution suffered by black Mauritians was more likely to find popular and official solidarity in the West than that suffered by other communities in Africa). However, it is this same political context that today prevents the return of refugees, although the ethno-nationalist conflict has officially ended and there has been a change of leadership in the country, which is an additional obstacle to return migration. This paradoxical reality (although there is no link here either between the two phenomena) shows that interethnic relations are potentially more likely to cause conflict than the relationship with immigrants, a rough indicator that immigration has a structured and acceptable place in Mauritanian society. This contradicts

the forecasts of international organisations (particularly the IOM), who analyse this migration by comparing it to similar situations prevailing elsewhere, whereas the labour market is rigidly divided and the complementary socio-ethnic situation itself creates a circular form of migration, reflected in the very awareness migrants have of their mobility. Furthermore, the case of Mauritania demonstrates the contrived nature of creating categories to divide mobility up into distinct statuses: “transit”, “labour immigration”, “settlement” (and therefore the need mainly to define and identify a specific “transit” movement towards Europe), while the “movement” category theoretically remains the most relevant to understanding a type of mobility that is constantly shifting and changing and within which there is even “movement” of migrants between supposedly different statuses.⁴

A large number of circular migratory patterns

The differences between the Moors and black Mauritanian communities were also reflected in the different migratory movements even though both communities are an integral part of West Africa. Despite the majority of the Moorish community and its cultural ties to the Maghreb, trade and movement of people have traditionally been towards Sub-Saharan Africa.

Thus, the Moors, nomads and traditional traders,⁵ spread a retail network throughout Senegal and beyond.

The black Mauritanian farming community, settled in village dwellings in the Senegal River valley, sought early on to emigrate to Senegalese groundnut plantations to earn salaries to supplement their livelihoods.

These two migratory patterns are based on circular movement.

The Moorish trader network is structured around a family-based tribal framework. The men travel and trade relying on family ties while the tribe’s hierarchy defines the positions occupied within the trade network.

The movement of black Mauritanian communities within their region was almost always seasonal; it remained circular even after the end of border controls following decolonisation.⁶ It extended as far as France by the end of the colonial era⁷ and continues today.

This same black Mauritanian community started migrating towards the United States in the 1990s. American and particularly African-American NGOs played a role by organising solidarity actions against the purges, expulsion and violent discrimination faced by this community.⁸ This violence also resulted in the forced migration of a large part of the black Mauritanian community which sought refuge in or was forcibly expelled to Senegal. This situation created a novel migratory pattern and a paradox: according to official statistics, Mauritania has the same number of citizens who are refugees in a neighbouring country as immigrants in its own territory. The two phenomena are independent of each other.

Indeed, despite its poverty, Mauritania early on became a refuge for migrants from the Sahel region, before and separately from the migratory flows currently crossing the country towards North Africa and Europe.

This phenomenon is the result of a segmented labour market based on ethnicity and legal status and the complementarity resulting from different socio-ethnic groups. It is also intensified by development. Initially between nationals from neighbouring Mali and Senegal, and based along ethnic and trading lines, these divisions have spread throughout West Africa and slightly beyond, fuelled by Mauritania’s reputation as a transit country on the way to North Africa and Europe.

A “marginal”⁹ and poor country, Mauritania is nonetheless a region of diverse migratory patterns which illustrates far more clearly than elsewhere the transformation of developing countries into multifunctional countries, where different movement patterns meet, thus shattering the traditional framework of traditional movement patterns.

Migratory flows as a political resource: the increasing socio-political importance of trading tribes in the diaspora

Moorish trading tribes, whose political weight in the country is growing,¹⁰ continue to sustain intense trade related migratory flows. Although they still do not have the economic power of the Lebanese, numerically they are larger communities and currently dominate the retail sector in the sub-region. This is one of the reasons that it has been difficult for the Chinese to break into this sector even though they have invested in many economic sectors in the sub-region (in Mauritania itself, the Chinese, having come up against highly structured trade networks in all sectors, and prefer to use Mauritanian intermediaries).

However, Europe was not and is still not an intended destination for the Moorish communities. This specific issue raises a technical question with clear political implications, particularly for the EU’s management of the alleged waves of immigrants heading there. As we have noticed elsewhere in the Central Sahara with other nomads, namely the Tuareg,¹¹ contrary to short-sighted studies creating a link between the existence of a mobility culture and a predisposition to international migration, Moorish communities are not necessarily attracted to the idea of migrating to Europe and are hardly ever involved in illegal emigration. International migration, in any case migration towards Europe, has been and remains an issue that affects sedentary black Mauritanian communities.¹² It is an argument that communities and political officials in Mauritania (mainly Moors) have put to European officials to challenge the restrictions on their movement.¹³

Trade remains one of this poor country’s main resources and a specific area of expertise among Moorish communities. Thus the trade networks that have spread abroad in the diaspora, intensified by drought, are one of

the main resources and one of the main sources of wealth accumulation. It explains why tribal identities continue to permeate social and political practices and representations, despite the mass settlement of nomads and near-disappearance of pastoral nomadism on which it is based. This also explains why trading tribes, or those who have reverted back

Despite the community’s cultural ties to the Maghreb, trade and the movement of people have always traditionally been towards Sub-Saharan Africa.



to trading, have experienced upward social mobility,¹⁴ apparent in their hold over political structures. Among trading tribes, those whose operations in the diaspora are the most extensive are those with the greatest political and social influence.¹⁵ While the emergence

of businessmen linked to major international trade has changed the trade environment, they still use the framework of the tribal networks in the diaspora (which provided a framework for their emergence) to establish their influence and their business and to reach other African markets. Despite the community’s cultural ties to the Maghreb, trade and the movement of people have traditionally been towards Sub-Saharan Africa. The proactive desire of the ruling elite to have a firmer stronghold in the Maghreb, at the price of intense ethno-political tensions,¹⁶ has not managed to reverse the direction of these flows. In fact, for many years,¹⁷ there was a contradiction between the jingoistic Pan-Arabism (and anti-black xenophobic), nationalist discourse of the elite and the reality of trade taking place exclusively with African countries, since the Maghreb market is more difficult to penetrate. More so than other factors, it was this establishment of trade and movement into African countries that compelled the elite and those in power to restore peaceful and co-operative relations with their African neighbours, proving that movement and trade are objective factors for stability and peace.

Nonetheless, given the lack of development structures, and because the system is based on cronyism and making payments to establish networks of alliances and allegiance, the financial resources created by the diaspora networks help sustain this cronyism and only have use or purpose in property speculation. This is particularly true in Nouakchott where it also provides speculative investments that “launder” corruption money. Hence, one of the poorest countries in the world has districts that are among the most expensive in the world! The financial resources created by the “return effects” of migration not only lead to an original form of rentier economy but also feed a speculative rentier economy.

Part of this money has also been invested in land in the Senegal River valley which was seized from traditional black Mauritanian communities and which is one of the reasons for the ethno-nationalist conflict in the country.

Politics as a cause of and resource for migration

Labour migration is important to black Mauritanian communities.

Beyond Senegal, proportionally there is still a high level of black Mauritanian migration in areas with a rentier culture like Côte d’Ivoire, which officially has the largest Mauritanian community in Africa (50,000), where it meets with Moorish traders and their retail network. Although this migration is no longer seasonal, it still follows a circular pattern.

Black Mauritians, mostly from the Soninke ethnic group, are also the only migrant community in Europe that is mainly found in France. They arrived more recently than the Maghreb migrants, particularly Algerians, whom they were supposed to partially replace and they follow even more circular patterns: they were almost exclusively men arriving alone, following the “NORIA programme”, and some, often single men, who would only stay for a set period.¹⁸ They only started to settle with family following the restrictive migration measures adopted in France.

However, migrants maintain a strong link with their regions of origin through remittances. Even though postal transfers are not the main means, they provide an indication of the sizeable amount of money from the diaspora that constitutes the most significant overall revenue in the river region.¹⁹ The money is mainly used to support households and villages of origin, where it is invested in education, health, social and religious infrastructure, making up for the state’s deficit. The amount of emigrants’ money is often greater than government investment and helps reduce vulnerability. However, despite the drive of migrant organisations and their connections with French partners, their actions are limited to their single villages and responding to immediate social needs.

Financial resources provided by black Mauritanian migrants do not go beyond their home village communities and are not invested in development initiatives. In these regions, development is even more restricted than in the rest of the country because black Mauritanian communities are subject to discrimination and are, to the benefit of Moorish speculative property developers, deprived of a key economic factor: land.

So although the river regions enjoy the financial benefits of emigration, they continue to be marginalised: despite the fact that poverty has officially decreased in other rural areas since 1996, it has soared in the river region (increasing from 60% to 71% of the population, compared to 55% in other rural areas) and two districts with black populations (Guidimagha and Gorgol) have since surpassed Hartani-populated (a people with slave origins) Assaba as the poorest area of Mauritania.²⁰

Therefore, not only do socio-political conditions in the region of origin not promote development, but they work against it and financial resources provided by migrants are unable to impact the development process, but are channelled into consumption. Remaining resources, following the national model, are invested in property speculation. Black Mauritanian

migrants, while they are very attached to and resettle exclusively in their regions of origin, also invest in the gaps in the speculative property market in the capital – in areas that host foreign migrants, often the

The amount of emigrants’ money is often greater than government investment.



areas with the largest numbers of black Mauritians living in the capital, that as a result become relatively expensive and experience residential instability and very high levels of occupation. In

the Sebkhia district of the capital, for example, which is home to a large number of black Mauritians and migrants, most homes are owned by black Mauritanian migrants living in France who come from the river region, but still invest in this district despite the fact that they do not expect to ever settle there.

The discrimination mentioned above has enabled “politics” to become a resource for migration to Europe and the United States. For geopolitical reasons, the persecution suffered by black Mauritians has been more admissible for Western public and official solidarity than that suffered by other African communities. The fact that black Mauritanian communities had been the victims of persecution by a Moorish (and therefore white) power, also criticised for the perpetuation of slavery, became a simple replay of the “slave trade” in western opinion and made the West more sensitive to their persecution. For this reason, American NGOs, particularly African-American organisations, played a role in opening the way for black Mauritians to emigrate to America, contributing to the building of emigration networks to this new destination. In some countries, there was even greater support for the solidarity of NGOs since Mauritania had been ostracised by western countries as it was one of the few countries to align itself with Saddam Hussein’s Iraq. The turnaround in Mauritanian diplomacy, which went as far as recognising and establishing diplomatic relations with Israel, brought Mauritania closer to the Americans and out of isolation. It also ended access to refugee status for black Mauritians in western countries, which demonstrates the conditional link that exists between the treatment of the refugee issue and geopolitical considerations. However, the networks that sustained community- and family-based migratory flows were already in place.

The most significant effect of the socio-political situation on migration is the forced migration that affected a large part of the black Mauritanian community following their persecution: 100,000 people took refuge in neighbouring Senegal, not because they fled, but because they were expelled by the authorities of their own country. The nature of this flow is the opposite to that of circular migration, especially since the return of refugees continues to face obstacles from the new authorities who in other respects show a real opening-up, but on this issue show tensions that reveal the structural antagonisms that continue to govern the national issue.

The issue of Mauritanian refugees in Senegal has its origins in the Sahara-Sahel belt that brings Arab-Berber and Sub-Saharan populations into contact with each other and along which confrontations between the two populations are increasing. Mauritania's situation is unique as it is the only country that remains linked with West Africa (despite having left ECOWAS) while having a majority Arab-Berber population and is the only country in the region whose refugees and exiles are black.

This broader regional context is the determining factor in how refugees are treated.

The socio-political situation impedes any return effect from the movement of the black Mauritanian population, more so than it does for the movement of Moors, by marginalising them and even by preventing people from returning.

Immigration based on social and occupational needs

Mauritania, one of the poorest countries in the world but, is paradoxically also a country of immigration. This contradictory status shows that migration is not based solely on income differential, but also on social and professional complementarities, among others.

In fact, despite its poverty, Mauritania welcomed Sahelian migrants early on even before and independently of the migratory flows that currently cross the country on the way to the Maghreb and Europe, except for the river region which has a traditional Senegalese presence (generally fishermen).

This phenomenon has its roots in the occupational division based on ethnicity (generalising Moors as traders and livestock farmers on the one hand and blacks as sedentary villagers involved in farming, fishing and handicrafts on the other) and status (for example the blacksmith caste for anything related to metalwork). This segmentation has evolved (into urban occupations for black Mauritians, for example) and has been perpetuated today by acquired know-how, social capital and monopolies. It is also due to the influence of traditional structures that remain strong and still rigidly define society in Mauritania. Initially, made up of Senegalese and Malian nationals and based along ethnic and corporate lines, the segmentation has spread throughout West Africa and beyond. This process has been amplified by Mauritania becoming a transit country on the way to North Africa and Europe.

The colonial period, which began later and was shorter than elsewhere in the Maghreb, while preserving the traditional social structures to use them to control the region, led to transformations that, paradoxically, perpetuated and strengthened the occupational divisions. Because of their isolation, mobility and dispersion, the Moors resisted the effects of colonisation longer than sedentary communities and refused education. The sedentary black Mauritanian farmers in the south were colonised first

and therefore adapted more easily. They made up the large majority of pupils in the first full primary schools that were established along the river, and the majority of administrative employees, particularly in more technical jobs. It was also along the river that the first administrative and urban centres were founded, based on existing villages.

Urban jobs and industrial or artisanal business have therefore always been mostly undertaken primarily by black Mauritians (who, before suffering the purges, were also involved in government work), partly by Senegalese and then by the wider West African population. The urban explosion and brutal, mass transition from a nomadic to an urban society increased the demand for land and turned this poor country into an area with survival opportunities for Sahelian migrants. This is notably due to the native Moor population being more involved in trade and livestock farming, even though the lower classes (Hartanis) took on the least-valued urban jobs and services and certain “castes”, such as blacksmiths, expanded their traditional expertise with tools into “technical” urban services such as repairs.

This immigrant population, although underestimated by official figures, remains significant (estimated at 35,000 by the General Census of Population and Housing of 2000, while the 1988 census estimated 120,000, and other estimates in 2002 set it at 100,000²¹). In fact, by adding up the figures from migrant organisations and consulates, it is possible to estimate the immigrant population to be at least 200,000 people (permanent or semi-permanent residents, those who make daily border crossings and those in transit) which, in this sparsely populated country of 2.7 million people is more than 7% of the population. However, the impact is mostly due to the very large number of immigrants in Nouakchott and Nouadhibou, where they represent 20% and 30% of the population respectively. In absolute terms there are 140,000 in Nouakchott and 40,000 in Nouadhibou, which has only recently become a transit city, demonstrating that this immigration is, for the most part, not explained by the attraction of Europe.

In practice, this immigration has a circular pattern and is the result of several circles of movement that could be described as “concentric”, in the sense that the sphere of movement is increasingly wide even though its “centre” moves further south each time.

The first circle is made up of the “socio-ethnic” area of the Senegal River valley and the Senegalese land beyond it. It is the border imposed by the river that creates a “transnational” situation. The migration that follows (from traditionally intense movement within this area, such as the seasonal migration of fishermen, for example) is international and is only the consequence of arbitrary division. However, even though this situation is common in Africa, long-standing and reinforced complementarities with the “Moorish region” encourages movement between the two separate

land areas and also towards the “Moorish region”, particularly to Nouakchott and Nouadhibou. “Immigrants” thus stay within one socio-ethnic area, which strongly fosters movement. The border and its differences fuel the situation even more. Migrants often have dual residence.

The intensity of this movement and the everyday continuous reality of it in the two areas becomes clear during religious and community festivals, with the complete desertion of migrant districts and the shortage of fish (caught by the Senegalese) that has become an essential component of even the Moors’ diet.

This intense movement has created a situation of intermingling between Senegal and Mauritania and also to a lesser extent with Mali. There is potential for real “human regional integration from the bottom up”, even if this is sometimes demonstrated by conflict (several conflicts have erupted between Mauritania and Senegal and have ended in the mutual expulsion of communities), and there is a real mixing of populations resulting from a large number of mixed marriages (between different nationalities, even if many take place within the same ethnic group).



Today Mauritania is predominantly urban with a quarter of its population living in Nouakchott.

The second circle of the circular migratory pattern is made up of migrants from other neighbouring countries in French-speaking West Africa (and mostly Muslims) along the same ethnic lines. Finally, there is a third circle of more recent African migrants due to family networks and the emergence of Mauritania as an area of transit to Maghreb and Europe.

Other than fishing, migrants work in construction and in the various urban occupations for which demand has increased under the effects of intense urbanisation which, by all indications, will continue and lead to further growth. At independence in 1960, Mauritania was the least urbanised country in West Africa with just 3% of its population living in towns, none of which had more than 10,000 inhabitants. Today, Mauritania is predominantly urban with a quarter of its population living just in the capital Nouakchott, of which the population has grown from 8,000 to 700,000 inhabitants in 40 years, increasing almost one hundred-fold!

Since new migrants arrive through existing members of the community, a sort of self-regulation is in force, in accordance with capacity and job availability.

In this poor country with poverty concentrated in rural areas, migrants, who are all urban and have either qualifications or know-how in less-qualified occupations, have an average or even slightly above-average level of income.²² This thereby invalidates the perception of immigrants as a source of competition with the local workforce and pressure on salary levels.

Due to the fact that immigration responds to labour needs, it is as well-tolerated by local populations as it is within the diaspora of Mauritanian traders in certain countries of origin. Moreover, it is telling that there is potentially more conflict in inter-ethnic relations than in relations with immigrants, an indirect example of how immigration has a structured and accepted place in Mauritanian society. Associating migrants with potential illegal travellers to Europe has however clouded this perception and can lead to new situations of conflict.

Conclusion

A patchwork of migratory patterns, Mauritania is a good illustration of countries now combining emigration, immigration, transit and, in the specific case of Mauritania, forced emigration. Even though the different phenomena interact, they all result from independent, non-contradictory processes in which emigration and, immigration, forced emigration and immigration, as well as immigration and transitory migration coexist. Connections between these various types of migratory movement can therefore no longer be understood as conflictual. Similarly, migration can no longer be analysed solely from the standpoint of competitive situations in the labour market, but is also explained by anthropological and geopolitical considerations that can create social and professional complementarities. In turn, these complementarities can lead to movement that is not only explained by income differential and that is regulated by societies without creating competition with the local workforce or pressure on salary levels.

Therefore, being a poor country and being a country of immigration is not a contradiction and immigration can have a structured and accepted place in a poor country’s society. This is demonstrated by the situation in Mauritania, in which inter-ethnic relations are potentially more conflictual than those with immigrants. However, obscuring the reality in developing countries such as Mauritania and the main fixation on potential transitory movement to Europe leads to focusing on the realities of a type of movement that is shifting and moving, including the moving of migrants from one status to another. This fixation and Europe’s concern to involve Mauritania in combating migration to Europe without taking into account the other migratory realities, which are far more fundamental, can lead to situations of conflict. It can change social perceptions of migration and create tension between the Mauritanian population, the State, and migrants, of which the geopolitical consequences could be dangerous in the broader Sahara-Sahel context. At the same time the intense movement that exists at the regional level is creating a potential situation of real “human regional integration from the bottom up,” guaranteed to reduce the frequent conflict in the region.

Finally, while emigration can, as in Mauritania, create important resources, the potential effect of this, just as with the more general impact of the return effect of migration on development, depends initially (on a local level in the country of origin) on the socio-political context that can either favour or restrict the resources or hinder them and cause damaging effects, one of the consequences of which is the development of a speculative rentier economy.

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NOTES

- 1 *Mauritania is one of the 24 poorest countries in the world according to UNDP classifications.*
- 2 *A land reform aimed at modernising outmoded systems, and linked to the development of agricultural water plans along the Senegal River and its tributaries, resulted in the forced removal from part of the land traditionally dominated by black Mauritanian communities, to the benefit of major Moorish agricultural industrialists.*
- 3 *Anne-Marie Frérot states that some districts in Nouakchott have become more expensive than the Champs Elysées district in Paris! (Anne Marie Frérot, 2007: Nouakchott, du puits nomade à la ville des pétroliers, Maghreb-Machrek, no. 190, Editions Choiseul, Paris).*
- 4 *During the investigations we carried out in these regions at the end of the 1990s, migrants defined themselves through movement ("looking for a livelihood") without determining precise destinations: they would directly or indirectly end up in Mauritania, return elsewhere or stay for a long period of time in Mauritania and establish a family there, without always defining themselves in terms of a destination or status. The many studies since commissioned by international organisations to determine potential migrants to Europe had negative effects on the awareness of migrants of their own mobility and their response. The demands upon them to define themselves as "migrants" or "in transit" has had the effect of creating or disproportionately increasing the number of "migrants in transit", inferred as potential migrants to Europe.*
- 5 *Even though their expansion was not a continuation of Trans-Saharan trade but was renewed under the new conditions of colonisation and subsequent decolonisation.*
- 6 *Movements were controlled by a card allowing the holder officially to leave the administrative districts that were all under French rule but under different administrative authorities. The card was called the "navetane" card, from the Wolof for "rainy season", demonstrating the seasonal and circular nature of this migration for work.*
- 7 *The growing workforce need in France and the concern to diversify its source, at the time dominated by Algerians who faced mistrust during the Algerian War of Independence.*
- 8 *Estimated to constitute between one fifth and one third of the population, the black Mauritanian community has faced sometimes tragic discriminatory practices, particularly since 1966 when an educational reform introduced Arabic in place of French, discriminating against this French-speaking community. The 1983 land reform created the conditions for the appropriation of its traditional community land by Moorish businessmen.*
- 9 *Ali Bensaâd, 2007: Mauritanie : Territoire de marges et de liens, in Ali Bensaâd (ed.) Mauritanie : le devenir d'un Etat-charnière. Maghreb-Machrek, no. 189, Paris, Autumn 2006, pp 7–28.*
- 10 *Bensaâd, ibid.*

- 11 *Bensaâd: Les migrations subsahariennes en Algérie, CARIM, 2007, where it is also stated that although the Tuareg greatly contribute to the transport of migrants towards the northern Sahara, there are hardly any Tuareg migrants in the North (except Algerian Tuareg who may be there for professional mobility) and they are few among the numbers of those seeking to cross the Mediterranean.*
- 12 *This is similar to the situation in the “Europe-Maghreb predominant migratory flow” in which rural sedentary village communities (Kabylia, Sousse) are the areas that provided the large contingents of migrants and not the areas accommodating agropastoral nomadic communities.*
- 13 *There are many examples that we have seen where political officials or Moorish notables question European officials (the French and Spanish in particular) at meetings or public gatherings, challenging them to state the numbers of Moors who have not complied with the obligation to return linked to their visa or who have been caught among illegal immigrants.*
- 14 *Already encouraged under colonialism which wanted to weaken the warrior tribes holding political and military power (the Mauritanian tribes that created traditional Mauritanian society and remained important social and identity references were made up of warrior tribes and trading tribes which partly played a religious role), A. Bensaâd, *ibid* and Abdelwedoud Ould Cheikh, 2007 in A. Bensaâd, *ibid*.*
- 15 *The case of the upward mobility of the Ouled Bousbaa tribe, which has few members and has more recently settled in Mauritania, illustrates this point well with the power-hold it has secured. The head of Mauritanian employers and owner of one of the most powerful economic groups, Bouamattou, belongs to this tribe, as do the two main instigators of the coup d’État in August 2005 and the organisers of the transition of this country (Ali Bensaâd: *Mauritanie: une révolution de Palais sur fond d’odeur de pétrole in L’Année du Maghreb, Editions du CNRS, Paris*).*
- 16 *From its accession, which was obtained with difficulty in December 1973, to the Arab League as a full member, up to its accession to the Arab Maghreb Union (AMU) in February 1989 (just before the ethnic conflict that year), Mauritania has continually tried to show that it renounces the idea of the country being a “gateway” and finally withdrew from ECOWAS, breaking its last link with West Africa.*
- 17 *From the end of the 1980s until the end of the 1990s, Mauritania was aligned with Saddam Hussein’s Iraq and Mauritanian Baath Party officials who held key posts in the government and who legalised and used violence against black Mauritanian communities.*
- 18 *As was the case of young men who would work in France before marrying to earn the money needed to settle independently and marry.*
- 19 *Patrick Gonin, 2001: “Migration et développement durable: entre mythe et réalité. L’exemple du bassin du fleuve Sénégal.” *Forum: Les enjeux du développement durable, ORCADES*.*
- 20 *A. Bensaâd, *ibid**
- 21 *Police estimates in 2002 according to the 2003 Caritas report.*
- 22 *ALPFD Monographie Migrants et Emploi, 2005.*

Chapter 8



Migrants Criminalised While Making the Journey

The example of recent emigration by sea from the coast of Senegal

by Mandiogou NDIAYE and Nelly ROBIN

Following the dramatic events in Ceuta and Melilla in October 2005¹, the sheer number of those attempting to emigrate by sea, leaving from the Senegalese coast heading for the Canary Islands, is of concern to politicians and has stirred public opinion, in the light of continued shipwrecks and the dramatic conditions under which the crossing is made.

Consequently, against a backdrop where both a reduction in emigration by air, due to increasingly stringent measures adopted by European countries in particular, and a redeployment of land routes, this recent

This recent emigration by sea raises the question of “Europe’s new borders in Africa”.



emigration by sea raises the question of “Europe’s new borders in Africa”². In a quarter-century, Senegal switched from an immigration country to an emigration country, but is now assur-

edly a transit country, and one of the main gateways from Africa to “northern countries”. From October 2005 to May 2006, possible crossing points between Africa and the EU shifted 3,000 kilometres, from Melilla and Ceuta to La’Youn then Nouadhibou, and from Saint-Louis to Dakar and then to Casamance. A total of 30,000 potential immigrants reportedly arrived in the Canaries over the course of 2006 and according to Spanish authorities, 75 to 90% of them were Senegalese nationals³.

There is a great lack of statistical data for analysing these recent developments. Work carried out since 2000 by the *Institut de Recherche pour le Développement* (IRD), in partnership with the Senegalese authorities, to develop new instruments able to deal with the diversity of migratory dynamics in West Africa, gave access to a previously under-used resource: the *Senegal public prosecutors’ offices’ register of charges and proceedings*. Strange as it may seem, this data provides valuable information, less for measuring the scale of the phenomenon than for understanding the processes at work and the responses from southern countries, often faced with political pressure from European countries.

On this basis, the aim is to understand the implementation modalities and the development of penal policy in a country of origin which then, after demonstrating the political will to crackdown, relaxes through the strict application of the law in line with the legislation in force.

Penal policy or dissuasive approach?

Measures taken against migrants referred to as “clandestine” are regularly analysed in immigration countries; it is much rarer to undertake such research in a country of origin. Since January 2002, such an exercise has been possible in Senegal thanks to the computerisation and networking of criminal case management procedures⁴, the first stage in computerisation of the legal system⁵.

Before beginning any analysis of the criminal justice system’s response to the first large-scale departures by sea from the Senegalese coast in 2006, it should be noted that these legal decisions were adopted in a climate of heavy national and international political pressure, encouraging a quick, harsh clampdown in the face of such a large-scale phenomenon.

The pre-eminence of the ‘flagrante delicto’ procedure

Data from the register of charges and proceedings, commonly known as “RP”, can be used to assess penal policy on the basis of two key moments during the procedure, i.e. *the decision to prosecute* and the *choice of prosecution procedure*. Article 32 of Senegal’s criminal procedure code⁶ states that “*The Republic state prosecutor receives details of the alleged charges and statements and assesses whether or not to prosecute (...)*”. Consequently, the prosecution rate provides one element to assess the degree to which the public prosecutor’s office is cracking down, evaluated on the basis of the number of cases dropped because prosecution is inappropriate. When the decision is to prosecute, the public prosecutor’s office chooses the procedure, i.e. *direct summons* before the court, the ‘*flagrante delicto*’ procedure (immediate summary trial [with no investigation required, as the accused is alleged to have been ‘caught in the act’ – known as *flagrant délit* under French-based legal systems]) or referral to an *examining magistrate* by opening a pre-trial judicial investigation⁷.

A need for speed: Looking at cases relating to emigration by sea, for all public prosecutors’ offices combined, in 2006, 97% of those accused were prosecuted, which is a high prosecution rate.

The main committal procedure adopted is the ‘*flagrante delicto*’ (*immediate appearance*) procedure. However, variations can be seen from one prosecutor’s office to another (→ [Figure 8.1](#)):

- Only the Thiès public prosecutor’s office decided to discontinue certain cases, these being two cases totalling 36 accused individuals, one of these cases alone accounting for 35 accused individuals. The cases were presented to the Thiès public prosecutor’s office by the police in Joal-Fadiouth, a fishing port on the “Petite Côte”, to the south-west of Dakar, and prosecuted for “attempted unlawful emigration”. The accused were Senegalese from the regions of Dakar, Diourbel, Louga, St Louis, Tambacounda and Ziguinchor; just one was Guinean

and living in Guinea-Conakry. This case was in fact dealt with under unusual circumstances, it being the first relating to emigration by sea after a breakout from Thiès prison, attributed to prison overpopulation, which itself was ascribed to an increase in those held on remand for “clandestine emigration”. Instructions were then issued by the relevant authorities to limit incarceration of those attempting to leave who are presented to public prosecutors’ offices. There is therefore a direct cause-and-effect relationship on the handling of cases.

- The Thiès and the St Louis public prosecutors’ offices requested the largest number of pre-trial judiciary investigations to be opened by referral to an examining magistrate, this applying to approximately 39% and 29% respectively of those accused. This seems to indicate that questions were arising, since the investigation by the magistrate, to whom all individuals arrested were presented, can only in these individual cases be viewed as an attempt to find the organisers, meaning the migrant smugglers. At this point, these prosecutors’ offices thus seem to want to crack down on national or transnational organised crime.
- The Ziguinchor and Dakar public prosecutors’ offices have for the most part preferred the ‘flagrante delicto’ procedure, for 90 to 97% of those accused.

Other than these slight differences between jurisdictions, overall 88% of those prosecuted were dealt with under the ‘flagrante delicto’ procedure (→Figure 8.2).

... regardless of the description of events: However, names given to offences vary from one place to another – the same events are described differently by different public prosecutors’ offices. In Dakar, prosecutions are mainly for “*unlawful immigration*”, and in Thiès, for “*unlawful emigration*”. In both cases, these descriptions are used for individuals who left or intended to leave by sea.

Likewise, the label “*migrant smuggling*” does not necessarily influence the choice of prosecution procedure. For example, before the St Louis public prosecutor’s office, the opening of a pre-trial investigation was requested for seventeen individuals accused of smuggling and twenty four individuals were prosecuted using the ‘flagrante delicto’ procedure for the same offence.

Thus, the prosecution procedure does not appear to be directly linked to the description of events. Moreover, alongside the wide range of names given to offences depending on the place, the prosecution procedure may also vary depending on the timing. In Thiès, only some cases in August 2006 gave rise to the opening of a pre-trial investigation and, only in September 2006, was one of them dropped.

Figure 8.1
Distribution of committal procedure by regional public prosecutors' offices in 2006

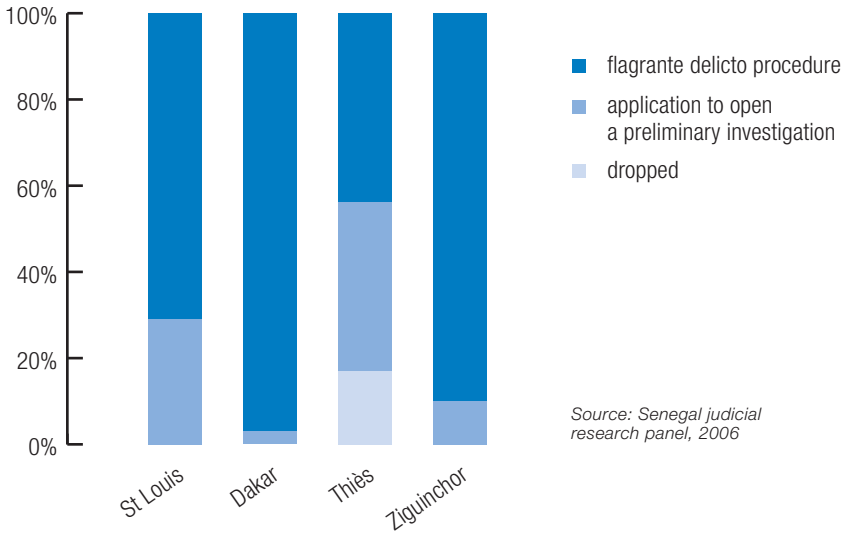
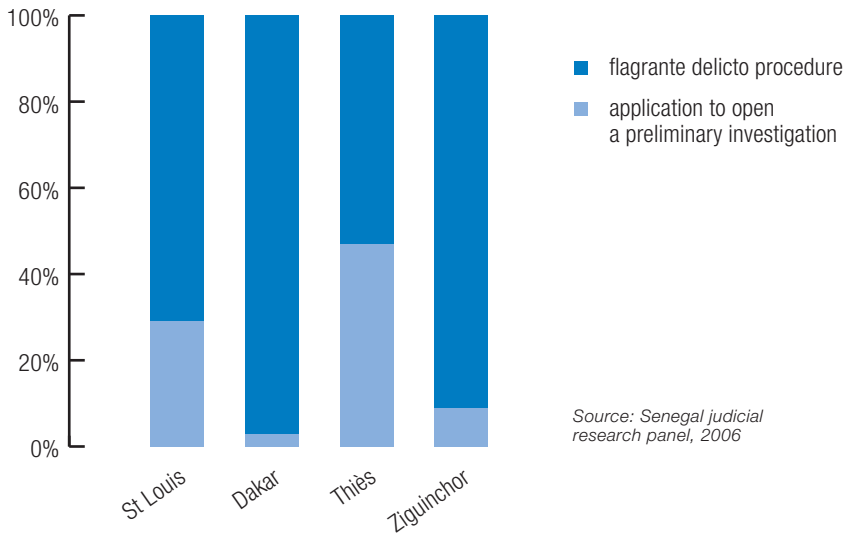


Figure 8.2
Distribution of those prosecuted by the regional public prosecutors in St Louis, Dakar, Thiès and Ziguinchor by prosecution procedure – 2006



In St Louis, in all cases bar one presented to the public prosecutor's office between July and December 2006, the prosecutor requested the opening of a pre-trial judicial investigation. Conversely, from March to May 2006, all cases were handled under the 'flagrante delicto' procedure. Within a single public prosecutor's office, the year 2006 is therefore split in two, featuring two separate prosecution policies, irrespective of the nature of the chosen offences.

This dual variation in prosecution procedures for a given offence, varying with locality and timing, results in an imbalance in how legislation is applied across the country as a whole.

Near-systematic detention: In 2006, 84% of those prosecuted before the regional prosecutors' offices in St Louis, Dakar, Thiès and Ziguinchor were remanded in custody (→Figure 8.3). In fact, irrespective of the prosecution procedure adopted, it is almost always combined with being placed in custody. Only 17% of the individuals prosecuted by the Dakar public prosecutor's office were not remanded in custody prior to the trial. This is linked to a special situation, since out of 121 individuals prosecuted under the 'flagrante delicto' procedure and not remanded in custody, 110 relate to the same case, presented to the Dakar public prosecutor's office by the Environment Department, and prosecuted for "unlawful immigration", "unlawful embarkation" or "inciting Senegalese to unlawful immigration".

In addition, before the regional public prosecutor's office in Dakar, thirteen minors⁸ were prosecuted under the 'flagrante delicto' procedure for "*attempted unlawful immigration*" "*attempted unlawful embarkation*" and "*unlawful immigration*". Out of the thirteen, one was not detained on remand, an interim custody order for a minor (ICOM), was granted for five of them, and seven were remanded in custody. In fact, the minors under the interim custody order were entrusted to the stewardship of Fort B⁹. In total, fifteen minors were brought before the prosecutor's office of which thirteen were prosecuted and twelve were imprisoned¹⁰.

Six minors were foreign nationals: one from The Gambia, one from Pakistan, one from India, and three from Congo. Out of the three Congolese minors, one was a girl aged 16. The Congolese minors stated they were residing in Dakar in the Parcelles Assainies district.¹¹ The other foreign minors indicated they were in transit and residents of their countries of origin.

This situation raises several issues and warrants special attention. With minors, foreign minors moreover, involved in some cases, should this not have encouraged the opening of a pre-trial investigation rather than being dealt with summarily under the 'flagrante delicto' procedure? Under such circumstances, securing a correct description of events and accurately determining the criminal liability of each individual should have been more important than quickly dealing with the case.

“Consequently, case X1/2006 involves five Congolese women (from the DRC) between 18 and 33 years of age, students, housewives, computer workers and seamstresses, and one Congolese man (from DRC) aged 37, all residing in Senegal at the same address.

The next case, X2/2006, involves three Congolese (DRC) minors, a girl and two boys, students living at the same address as the adults in case X1/2006. Case X2/2006 results from being taken apart from case X1/2006 due to some of the accused being minors 12.

All were presented to the public prosecutor’s office by the Parcelles Assainies police in mid-September 2006.

Case X3/2006 involves one man of Congolese nationality (DRC), presented to the public prosecutor’s office by the Investigations Department in early August 2006.

Should not the link between these three cases warrant some consideration? Those accused in cases X1/2006 and X2/2006 were prosecuted for ‘attempted unlawful immigration’, the individual accused in case X3/2006 was prosecuted for ‘organising unlawful immigration’.

Under the circumstances, should the accused in cases X1/2006 and X2/2006 be considered as victims, as defined in the *Supplementary Protocol to the United Nations’ Convention against Transnational Organised Crime, to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000)*¹³ and *Senegal’s law number 2005-06 on combating human trafficking and similar practices and protecting victims*¹⁴, rather than as offenders, prosecuted and imprisoned?

Are these comments perhaps also applicable to another case involving Pakistani and Indian minors in transit through Senegal, since they stated they lived in Pakistan or India?

Overall, out of the 1,232 individuals presented before the regional prosecutors’ offices in St Louis, Dakar, Thiès and Ziguinchor in cases involving leaving Senegal by sea, more than eight out of ten were prosecuted under the ‘*flagrante delicto*’ procedure and remanded in custody.

These figures testify to quick and harsh treatment of those attempting to leave by sea, whether they are adults or minors. Their conduct is described as “unlawful” and as a result, migrants implicitly become offenders.

Semantic and legal confusion detrimental to migrants’ rights

This first finding involves in-depth analysis of the description of events. With reference to the names of the offences shown in the registers of charges for the regional public prosecutors’ offices of St Louis, Dakar, Thiès and Ziguinchor in 2006 (→ [Figure 8.4](#)):

- 7% of individuals were prosecuted for *unlawful migration*¹⁵
- 47% of individuals were prosecuted for *unlawful immigration*¹⁶; 96% of them were Senegalese nationals, born in Senegal and resident in Senegal
- Approximately 18% of individuals were prosecuted for *unlawful*

*emigration*¹⁷; 72% of these were Senegalese nationals, born in Senegal and resident in Senegal, and 27% were foreign nationals, born abroad and resident either in Senegal or their country of birth (Guinea-Bissau, DR Congo, The Gambia, Ghana, Guinea, India or Pakistan)

- 17% of individuals were prosecuted for *unlawful embarkation*¹⁸; 93% of them were Senegalese nationals, born in Senegal and resident in Senegal
- Approximately 11% of individuals were prosecuted for *smuggling migrants or emigrants or organising migration or emigration*¹⁹; 91% of these were Senegalese nationals, born in Senegal and resident in Senegal, and 6.5% were foreign nationals, born abroad and resident either in Senegal or their country of birth (DR Congo, The Gambia, Ghana, Guinea-Bissau, or Liberia).

Without dwelling on the often terse names of the chosen offences, which are a matter of the officials responsible for keeping records and which differ from the charges as set out by the prosecutors, these observations demand some semantic and legal deliberation, which can be introduced by two questions:

- etymologically, what is the meaning of the words used to describe the chosen offences against those wishing to leave by sea?
- what are the reference legal instruments, international or national, used to describe events and to determine the criminal liability of those wishing to leave by sea?

Beforehand, let us reiterate that migration is a basic human right, enshrined in particular:

- by the Universal Declaration of Human Rights (1948), Article 13: “Everyone has the right to leave any country, including his own, and to return to his country”. As René Cassin himself acknowledges, the Declaration *does not totally sanction the principle of free movement of persons from one country to another because it says nothing of the right of emigration’s implied reciprocity which is that of immigration, nor of free establishment outside of the perimeters of a determined State*. On the other hand, the second line of Article 13 clearly establishes the right for every person to leave any country including his own”.²⁰
- by the *European Convention for the Protection of Human Rights and Fundamental Freedoms* (2002), Protocol No. 4, §2 of Article 2: “Everyone shall be free to leave any country, including his own”.
- by the *United Nations Convention on the Protection of the Rights of all Migrant Workers and Members of their Families* (ratified by Senegal in 1999 and entering into force in July 2003) which stresses the “right to enter and leave the country of origin” (Part III, Art 8).

Figure 8.3

Penal situation of those prosecuted by the regional public prosecutors' offices in 2006

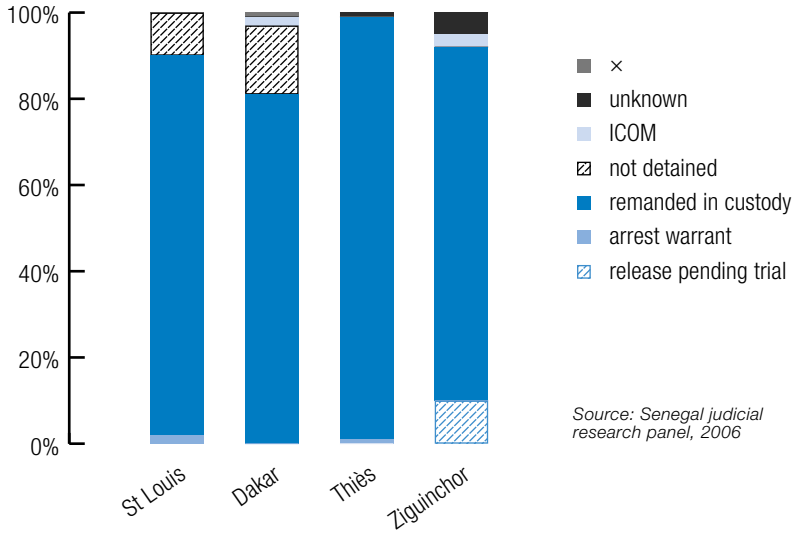
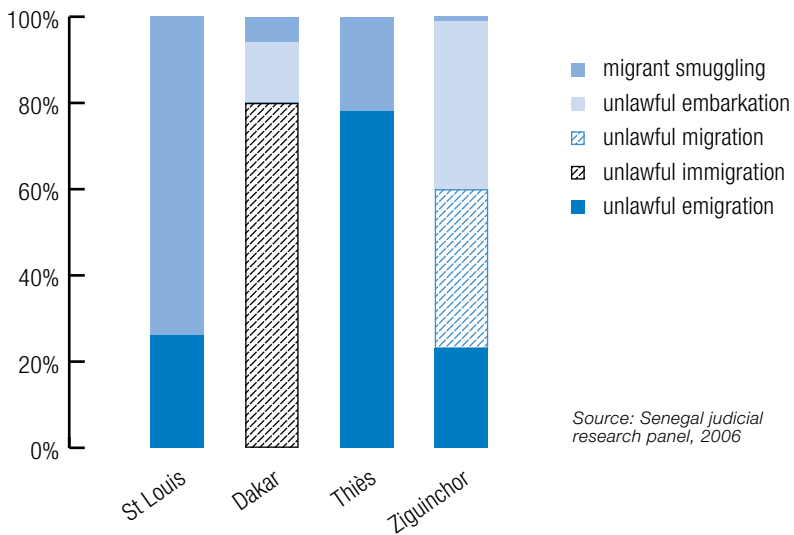


Figure 8.4

Distribution, according to the offence, of those prosecuted by the regional public prosecutors' offices in 2006



Semantic misinterpretation at the root of unjustified prosecutions

The word immigration comes from the Latin *immigrare*, meaning “to move into”. From an etymological point of view, immigration is therefore migration as seen from the destination country.

From a legal point of view, the *Protocol Against the Smuggling of Migrants by Land, Air and Sea*²¹ describes immigration as the entry “of a person into a State Party of which the person is not a national or a permanent resident” (Article 3). By the same token, Senegal’s law 71–10²² deems an immigrant to be “a foreigner coming to Senegal with the intention of establishing residence or to engage permanently in gainful activity or to pursue a profession in the country” (Article 4).

Moreover, for the public prosecutors of Senegal, prosecuted immigration is described as “unlawful”, implying illegal; however, *the Protocol Against the Smuggling of Migrants by Land, Air and Sea*, Article 3 again, paragraphs a and b, states that:

- “illegal entry (means that) of a person into a State Party of which the person is not a national or a permanent resident”.
- “the expression ‘illegal entry’ shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving state”.

In other words, the fact of entering foreign territory by illegally crossing a border could possibly be described as “unlawful immigration”.

Does this offence apply to those wishing to leave by sea who were prosecuted in 2006 by Senegalese public prosecutors?

To answer this question, two comments must be made:

- Senegal is the country of origin for the individuals prosecuted by Senegal’s regional public prosecutors, and Spain, via the Canary Islands, the planned destination country. Their intention is therefore not to “move into” Senegalese territory, but to leave it. Consequently, the term ‘immigration’ is inappropriate to describe their attempted or actual conduct. If these individuals are to be prosecuted for *unlawful immigration*, it is surely on arrival, i.e. when they illegally ‘move into’ or attempt to illegally ‘move into’ Spanish territory (or any other foreign territory).
- If there is any illegality, this cannot possibly involve Senegalese nationals (96% of those prosecuted for *unlawful immigration*) who are in the country of their birth and residence and have crossed no border. Conversely, it could possibly apply to foreign nationals, if they previously entered Senegalese territory by crossing a border without complying with the necessary legal requirements. It should be recalled that the majority of foreigners prosecuted are nationals of ECOWAS member countries for whom, in practice, a national identity card alone is required to enter Senegal. All foreigners, ECOWAS nationals or

otherwise, who legally entered Senegalese territory could nonetheless be in an irregular situation at the time they are presented to the public prosecutor, if they failed to comply with the conditions of stay²³; under these circumstances, their criminal liability is not that they illegally entered Senegalese territory but that they illegally stayed; “overstay” being an offence under Article 11 of Senegal’s law 71–10²⁴.

Article 1 of the same law states that “for the purposes hereof, any individual who does not have Senegalese nationality, being either of foreign nationality or of no nationality, is deemed a foreigner”.

Moreover, liability to criminal penalties only applies to foreigners who:

- “enter or return to Senegal despite a prohibition of which they have been notified
- stay or settle in Senegal without receiving the appropriate permission or after expiry of a period stipulated by such permission” (Article 11).

On the basis of all these observations, for none of the individuals prosecuted before Senegal’s public prosecutors in respect of leaving Senegal by sea can the offence of *unlawful immigration* apply to the events (or presumed events) on record. As a consequence, where Senegalese nationals are concerned, they cannot be prosecuted. But in 2006, several hundred were prosecuted. As far as foreign nationals are concerned, if they are to be prosecuted, it is for other conduct, possibly linked to previous illegal entry (irregular immigration) or overstay on Senegalese territory.



The fact of entering foreign territory by illegally crossing a border could possibly be described as “unlawful immigration”.

“Unlawful emigration”, two antinomic terms with no legal foundation

“Emigration” is a noun formed from the following two Latin elements:

- Ex-, a prefix meaning “out of”
- Migr- which equates to the idea of “moving”.

Etymologically, the word means “moving to live outside one’s land”. Emigration (extended internationally) therefore means the act of leaving one country to go into another. This implicitly leads to crossing a border.

Does this definition apply to the conduct of the individuals prosecuted for *unlawful emigration* before Senegal’s courts?

The prosecuted events on record occurred on Senegalese territory or Senegalese territorial waters.

Those of Senegalese nationality had therefore not left their country, and thus had crossed no borders (like the foreigners, moreover). As a result, the events on record cannot be described as either emigration or attempted emigration. In other words, individuals have been charged

and prosecuted on the basis of an erroneous description of the events on record.

In broader terms, can the act of emigrating (or attempting to emigrate) from one's own country be described as unlawful emigration, i.e. viewed as an unlawful (irregular or illegal) act? Is it not antinomic to use the adjective "unlawful" with the term "emigration"?

In the situation that interests us, two questions arise:

- with which legal requirements must Senegalese nationals comply in order to leave their own country?
- in the description of events, is there not confusion between the two stages of border crossing?

Any Senegalese national shall carry some national identity document and this is equally true at border crossings as it is anywhere else in the territory. Anywhere on Senegalese national territory, when Senegalese nationals are unable to present such a document, they are not prosecuted for illegality, an offence that does not exist in the Senegalese penal code, but for lack of national identity card or failure to produce a national identity card, which are the summary offences stipulated by the summary offences code²⁵.

Thus, for Senegalese nationals, migrating can only become illegal if they cross the border of a foreign country while failing to comply with the conditions for legal entry; nonetheless, even under this scenario, they are not illegal emigrants, but rather illegal immigrants relative to the destination country.

Furthermore, questions could be raised about the suitability of the adjective "unlawful", a notion which implicitly refers to the notion of crime with its link to illegality, discarding the notions of both legitimacy and freedom enshrined in international instruments.

Borrowing the concept of illegalism, developed by Foucault in *Discipline and Punish*²⁶, Denis Duez develops the following idea: "*it is the State which, in wishing to control all population movements, entirely creates in one fell swoop both the legal immigrant and the opposite, the illegal*

[immigrant]. The appearance of the latter on the political stage as an issue is the direct consequence of a process of standardising migration. The same applies, he continues, for the illegal

immigrant as for the criminal, to the building of a condemned policy and to the building of a special illegalism"²⁷. That is certainly what it is when individuals are prosecuted for unlawful "immigration", "emigration" or "migration" when they have at no time left their country or crossed the border of another country.

Do we not discard the notions of both legitimacy and freedom enshrined in international instruments?



**“Smuggling of migrants” or “organised unlawful migration”,
ambiguous terminological substitution”**

Two legal instruments, one under international law and one under national law, have been drafted by legislators to describe and, if appropriate, prosecute the “smuggling of migrants” in Senegal:

- *The Protocol Against the Smuggling of Migrants by Land, Air and Sea, supplementary to the United Nations Convention Against Transnational Organized Crime*
- *Senegal’s law number 2005-06 on combating human trafficking and similar practices and on protecting victims*²⁸.

International conventions to protect migrants and combat smugglers: According to the terminology of the United Nations Convention Against Transnational Organized Crime (2000), the expression “organized criminal group” means:

“A structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.” (Article 2).

At the same time, the *Protocol Against the Smuggling of Migrants by Land, Air and Sea* defines the smuggling of migrants in these terms:

“The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State party of which the person is not a national or a permanent resident.” (Article 3).

The scope of application, criminal liability of migrants and criminalisation are described under Articles 4 and 5:

- Article 4: *“this Protocol shall apply (...), where the offences are transnational in nature and involve an organized criminal group”*
- Article 5: *“migrants shall not become liable to criminal prosecution under this Protocol for the fact of having been the object of conduct set forth in Article 6 of this Protocol”*²⁹

The Protocol adds that *“each State Party shall adopt legislative and other measures as may be necessary to establish [the following] as criminal offences, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit”* (Article 6).

Paradoxical effect of vaguely drafted legislation: Senegal’s law number 2005-06 is intended to implement the *Protocol Against the Smuggling of Migrants by Land, Air and Sea*. However, section II, entitled “migrant smuggling”, starts with Article 4: *“organised unlawful migration by land, sea or air is punishable by 5 to 10 years imprisonment and a fine of FCFA 1 million to 5 million”*. The expression “organised unlawful migration”,

implicitly deemed to be an offence, is not defined in the text. This omission makes the application of the law complex and encourages criminalising migrants in their own home countries. However, Article 4 of the *Protocol Against the Smuggling of Migrants by Land, Air and Sea* clearly states that the offences in question are “*transnational in nature*”.

Shortcomings in law 2005-06 therefore create a paradox. In a country where those entering the territory illegally are not subject to criminal prosecution but are subject to an administrative measure of being expelled³⁰, the first criminalisation of migration is applied to actual nationals of the country, in the country itself.

This situation properly illustrates the whole incongruity of pushing back border control and management for northern countries, not only to the borders of southern countries, but over the entire territory of southern countries. Prosecutions are no longer just for “*proof of committing certain physical acts ensuing from the offence*” but on the basis of presumed intent.

In fact, law 2005-06 replaces the notion of “*migrant smuggling*” with the notion of “*organised unlawful migration*”. This terminological substitution is due to the lack of a clear definition of events or conduct likely to lead to prosecutions, and there has been a switch from one category to another, mixing up irregular migrants and smugglers. A migrant in an irregular situation is not a smuggler, and a smuggler is not necessarily an irregular migrant. This semantic blending has led to the possible criminalisation of the intention to emigrate or the act of emigrating.

Following the legislators, the prosecutors then deviated from the key objective of the *Protocol Against the Smuggling of Migrants by Land, Air and Sea* which is to distinguish *smugglers* and *migrants*, with the latter “*not liable to criminal prosecution under this Protocol for the fact of having been the object*” of migrant smuggling (Articles 5 and 6).

Consequently, migrants and smugglers alike, once presented to the public prosecutor, are usually prosecuted under the ‘*flagrante delicto*’ procedure and remanded in custody. In 2006, only 31 individuals were prosecuted under an application to open a preliminary investigation for offences related to *migrant smuggling* compared to 102 for offences related to *unlawful emigration/immigration*.

There are two drawbacks to this penal policy:

- It runs counter to Article 16 of the *Protocol Against the Smuggling of Migrants by Land, Air and Sea*, whereby “*each State party shall take (...) legislative measures to preserve and protect the rights of persons who have been the object of conduct set forth in Article 6 of the Protocol*”. To comply with this provision, migrants must not *prima facie* be treated as offenders;
- It offers little or nothing in the way of effective measures against migrant smuggling; indeed, it barely makes an attempt. A case dealt with under the ‘*flagrante delicto*’ procedure is tried quickly and the

case closed. Conversely, an application to open a preliminary investigation may provide the judge with an opportunity to investigate much further and establish each party's real criminal responsibility, the aim being to move up the chain of command to identify the people truly coordinating the "smuggling of migrants". That is the real purpose behind the *Protocol*



The semantic blending has led to the possible criminalisation of the intention to emigrate or the act of emigrating.

Against the Smuggling of Migrants by Land, Air and Sea. Under no circumstances is this legal instrument likely to allow a migrant to be deemed an offender; quite the opposite, in fact, it is primarily intended to protect migrants, willing victims or otherwise, but victims nonetheless when exploited by criminal organisations.

A legislative body inappropriate to Senegal's particular situation:

In fact, the hesitation observed as regards penal policy is probably linked to the distinctive feature of the local situation, namely that the recent departures from the coast of Senegal have been supported by village, family, social or professional networks and not run by criminal networks.

This reality calls into question several concepts, including:

- That of **smuggler**. The captain and various crew members who take turns at the helm may be viewed as smugglers, in the sense that they enable migrants to be smuggled from the coast of Senegal to the shores of Spain. But at the same time, they are also, maybe even mainly, individuals attempting to leave, just like the others on board. The sole difference is that instead of contributing financially, they are contributing their skills. Can these sailors, deeply affected by the crisis in the fishing sector, be viewed as smugglers or members of a criminal organisation? Are they not economic migrants in the same way as other individuals wishing to leave? They all share one hope – reaching Europe and working there.
- That of **organised criminal group**, in the sense meant in the *Protocol Against the Smuggling of Migrants by Land, Air and Sea*. In Senegal, if there is any organisation, it is usually limited to a boat owner and the individual or individuals who put that owner in touch with people wishing to leave, all in exchange for a certain sum of money. Can such a system be described as the "smuggling of migrants" and is it a matter of transnational organised crime, as defined by the United Nations Convention? Is this type of operation so very different from traditional emigration networks, where previous migrants or key individuals (local traders or leading community figures) used their knowledge, skills and sometimes even their financial resources to help new individuals wishing to leave? This system is based more on trust than on a purely commercial relationship.

- That of **unaccompanied minor**. Before the Senegal public prosecutors' offices, individuals who state they are under 18 years of age are considered minors; it will be noted that in the data analysed, precise dates of birth are unavailable. We may therefore wonder if they are genuinely under 18, or 18 years old or older.

Furthermore, should they be considered unaccompanied minors simply because they are not travelling with one of their parents? It would appear that while they are not necessarily accompanied by a family member, they are certainly travelling with people they know and therefore are not truly alone. Especially if social organisation in Senegal is taken into consideration, whereby children's education is a matter for the extended family, indeed it is a matter for the neighbourhood, district or even the whole village. In addition, the decision to emigrate is often taken collectively with family members, friends, neighbours or work contacts, especially for those working in the fishing industry. Several of the minors prosecuted have links with this trade, working in fishing or living in fishing areas.

The United Nations Committee on the Rights of the Child (CRC) in its General Comment No.6 (2005) on the treatment of unaccompanied and separated children outside their country of origin offered two definitions in order to be able to differentiate between the two terms and avoid confusion. According to the CRC, an *"unaccompanied child"* (also known as an unaccompanied minor) means *"a child who has been separated from*

Is the sudden increase in emigration by sea enough to justify its criminalization? This treatment has resulted in a shift in the departure point, from St Louis to Casamance.



both parents and other relatives and is not being cared for by an adult who, by law or custom, is responsible for doing so". Conversely, "separated children" means "children who have been separated from both parents or from their previous legal or customary primary caregiver, but not necessarily from other relatives. Separated children may therefore be accompanied by other adult family members".

There is all the more just cause to start thinking about these concepts of *"unaccompanied children"* and *"separated children"* against the background of recent emigration by sea from Senegal, since repatriation to the country of origin for unaccompanied minors is considered under Spanish regulations to be the solution most in keeping with the principle of *"the best interests of the child"*³¹. Consequently, despite some hesitation from the Senegalese authorities³², a bilateral agreement to this end was signed and has been applicable since 1 July 2008³³.

Emigration by sea condemned politically, decriminalised legally

All of the above issues lead to one overriding question: is the sudden increase in emigration by sea enough to justify its criminalisation?

Opting for a crackdown, a response suggested to – or even imposed on – the Senegalese authorities by their European counterparts, results in treating migration, a demonstration of great social demand, as a legally wrongful act and migrants being treated as offenders. This erroneous treatment of the migration issue has resulted in a shift in the departure point, from St Louis to Casamance, and organising departures has now become more complicated. At the same time, awareness campaigns initiated by European countries have highlighted the difficulties and dangers of emigrating by sea. These two initiatives have done little to weaken the resolve of those wishing to leave, and conversely, they have encouraged a rise in the cost of making the trip, which may make organising them more attractive to commercial transporters, likely to be linked to criminal groups.

The scope of our analysis is Senegal. However, this is not the only country affected by the points raised here. Morocco and Mauritania face comparable situations, and their responses have been different:

- In 2003, Morocco adopted law 02-03 on *foreigners entering and staying in Morocco, and irregular emigration and immigration*;
- In 2006, the Mauritanian authorities reinforced land and sea border controls and surveillance of territorial waters and arranged temporary accommodation and transit sites for unlawful immigrants. According to the Mauritanian immigration department, “63 police roadblocks and 37 gendarmerie roadblocks have been deployed along the borders with Mali and Senegal”.

The drafting of such legal instruments and the establishment of land or sea control mechanisms express the European countries’ wish to ‘outsource’ their border controls; and to encourage southern countries to subscribe to this new way of managing migration. Development aid is implicitly dependent on their performance in combating “clandestine” immigration. This is the source of all the ambiguity in the legislation and its application – from a legal point of view, how is it possible to crack down on irregular immigration into European countries, indiscriminately called “*unlawful immigration*” or “*unlawful emigration*”, from the territory of the countries of origin? This equates to recognising that both migrants and source country authorities are ubiquitous because the migrants are judged as entering European territory while they are still on African territory and the Senegalese authorities register migrants who are on African territory as entering European territory.

Morocco's law 02-03 and Senegal's law 71-10 alike may be applied to controls on foreigners entering and staying on national territory. Conversely, under the inalienable right "to leave any country, including one's own, and to return to his country"³⁴, they should not regulate foreigners leaving and still less their own nationals.

Senegal's law 2005-06 itself predates the rise in migration by sea and has another target entirely, "combating human trafficking and similar practices and protecting victims". In that sense, it differs fundamentally from

Morocco's law 02-03 on "foreigners entering and staying in Morocco, and irregular emigration and immigration", the underlying justification for which is described as follows in the white paper introducing the bill: "to

Recent emigration by sea is primarily a social issue that should question development aid policies while not inciting a repressive attitude.



enable Morocco to fully fulfil its commitments towards its main partners, in particular as regards combating unlawful cross-border migration, of both Moroccan nationals and foreigners"³⁵.

Nonetheless, against a backdrop of strong political pressure, unlike the law, legal practice is able to vary based on new realities, which fosters the application of individual rights far removed from the principle of strict interpretation of criminal law. Consequently, in 2006, the commitment asked of the Senegalese authorities to demonstrate their desire to combat an unexpected wave of emigrants fostered the application of individual rights.

Yet in 2007, penal policy reverted to the strict application of criminal law, based on the various texts defining unlawful immigration, staying unlawfully and migrant smuggling.

This development demonstrates that setting up a coastal control system, possibly justifiable by the risk undertaken (1,600 km to travel and several thousand lost at sea), does not force migrants to be viewed as offenders or emigrating to be criminalised. While the naming of offences is still somewhat confusing, Senegal's current penal policy falls within this approach whereby migrants are distinguished from smugglers thereby enabling the smuggling of migrants to be combated without criminalising migrants. This approach penalises organisers of smuggling and tends to dissuade those wishing to leave.

Yet over and above the legal aspect, all these national and international texts ignore one key piece of information that is a feature of recent migration, *whereby one location has more than one function*. A single country may be a place of immigration, transit and emigration all at the same time. One departure hub may equally be used as a transit location and be a source area for migrants; both nationals and foreigners may be emigrants from any given territory.

Moreover, *recent emigration by sea* is primarily a social issue that questions development aid policies. Criminalising and punishing migration, i.e. adopting a “*fundamentally repressive attitude*”³⁶ is a serious error of policy and human judgement.

Senegal seems to have broken through that dimension. One year after the first wave of departures by boat, the strict application of national legislation in terms of unlawful immigration allowed legal practice to free itself from political pressure from northern countries and revert to asserting individual rights, in keeping with migrants’ freedoms and human rights.

Changes in Senegal’s penal policy between early 2006 and today emphasise that irrespective of outside political pressure, application of the law remains an issue of national sovereignty.

The restoration of every individual’s prerogatives reiterates that it is not that easy for a government, regardless of its “*submission to the requirements of European interests*”³⁷ in particular, to ignore international law and individual rights. The reduction in and criminalisation of people leaving by sea cannot be determined by international agreements. Regardless of the desire that drives it, more than just politics is involved. It is a tripartite process – governmental authorities, restricted to a greater or lesser degree by the attitude of international politics, citizens determined to leave (and return home), and the prosecutors acting as guarantor for the state of law and respect for individual freedoms.

Consequently, decriminalisation of migrants by Senegal’s legal authorities undermines the strategy of “*European and African governments in the process of imposing a concept with no legal foundation solely for the purposes of combating illegal immigration*”³⁸. This approach, presented as unavoidable, is here called into question.

To this end, the example provided by Senegal warrants some consideration, under the deliberations recently initiated by ECOWAS to define a common migration policy for all member states³⁹.

One question nevertheless remains – how can men and women adhere to development policies that consider them as development actors before leaving, as co-development actors upon returning (voluntarily or repatriated) and as criminals while attempting to migrate? Their plans were stigmatised and they are left with social trauma.

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NOTES //////////////////////////////////

- 1 In October 2005, more than fifteen people died attempting to cross the only land border between Africa and Europe, in the Spanish enclaves of Ceuta and Melilla in northern Morocco.
- 2 Gonin, P. and N. Robin (2006), "Les routes du transit par le Sénégal". *Immigration, Transit Retention, Irenam, Marseille, November, 22p.*
- 3 These estimates were based on the language spoken by those attempting to immigrate during interviews conducted in Spain by Senegalese police.
- 4 The criminal case management procedure includes the regional and departmental public prosecutors' offices (45), the courts of appeal (Dakar and Kaolack) and departments in the Ministry of Justice (2).
- 5 National Good Governance Programme, "Judicial governance" component, 9th EDF. In this regard, IRD is providing technical support for "Modernisation of legal services by computerisation and networking of all justice departments in Senegal". The triangular partnership of Senegal's Ministry of Justice, France's Institut de Recherche pour le Développement (IRD) and Cheikh Anta Diop University in Dakar has led to the design and development of criminal case management software (Chaîne Pénale, CPI-1) to gather and process data.
- 6 Code de procédure pénale du Sénégal (Senegal's criminal procedure code), pub. by Editions juridiques africaines (EDJA), Paris, 1 May 2000, 417 p.
- 7 This is mandatory for major crimes and optional for minor and summary offences, if the needs of the investigation do not require it.
- 8 The Senegalese criminal code considers individuals under 18 years of age as minors.
- 9 Juvenile prison in Dakar, the capital of Senegal.
- 10 Ndiaye, M. and N. Robin (2006), *Les mineurs en conflit avec la loi au Sénégal. Une réalité à redécouvrir*. Co-publication IRD-Senegalese Ministry of Justice.
- 11 Neighbourhood of a Dakar suburb.
- 12 Article 572 of the criminal procedure code (para.4) stipulates that prosecutions are split where minors are involved and the case referred to the juvenile court: "(...) If the Republic state prosecutor is prosecuting adults under the 'flagrante delicto' (flagrant délit) procedure or direct summons, a separate case is compiled for the minor (...). If a pre-trial investigation is opened in the course of which it appears that minors are accused along with adults, the examining magistrate (...) compiles a separate case for the minor and passes the entire matter over to the examining magistrate responsible for juveniles at the regional court."
- 13 Protocol in force since 2003.
- 14 Section I "Human trafficking" and Section IV "on protecting victims and witnesses".
- 15 Including aiding and abetting, and attempted unlawful migration.
- 16 Including aiding and abetting, and attempted unlawful immigration.
- 17 Including aiding and abetting, and attempted unlawful emigration.
- 18 Including aiding and abetting, and attempted unlawful embarkation.
- 19 Including aiding and abetting, and attempted smuggling, etc.

- 20 Bettati, M., O. Duhamel, L. Greilsamer (2008), *La Déclaration universelle des droits de l'homme*, Gallimard, Collection Folio Actuel, p. 82.
- 21 *Supplementary Protocol to the United Nations Convention Against Transnational Organised Crime, United Nations (2000)*, entered in force in 2004.
- 22 *Law 71-10 of 25 January 1971 on the conditions for admission, temporary residence and settling for foreigners in Senegal.*
- 23 *Law 71-10 of 25 January 1971 on the conditions for admission, temporary residence and settling for foreigners in Senegal.*
- 24 (...) "temporary residence or settling in Senegal without the appropriate permission is punishable by a term of imprisonment between 2 months and 2 years or a fine of between 20,000 and 100,000 francs or both". Article 11, law no. 71-10.
- 25 1997.
- 26 Foucault Michel (1993), *Surveiller et punir, naissance de la prison*, (Trans. by Alan Sheridan as "Discipline and Punish: The Birth of the Prison"). Collection Tel, number 225, Gallimard, Paris, 364 p.
- 27 Quoted in Jean-Paul Engélibert (2006), "Le réveil de la politique", *Acta Fabula*, August-September, Vol..7, num.4.
- 28 *Law of 29 April 2005, officially adopted 10 May 2005. There are four sections. The first deals with human trafficking and exploitation of other's begging, the second migrant smuggling, the third defines procedures and the fourth addresses the issue of protecting victims and witnesses.*
- 29 Article 6, *Criminalisation: 1 Each State Party shall adopt legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit: (a) The smuggling of migrants; (b) When committed for the purpose of enabling the smuggling of migrants: (i) Producing a fraudulent travel or identity document; (ii) Procuring, providing or possessing such a document; (c) Enabling a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State by the means mentioned in subparagraph (b) of this paragraph or any other illegal means.*
- 30 *Law 71-10 of 25 January 1971, Section II Article 32: foreigners failing to meet the conditions required to enter Senegal are returned at the expense of the carrier which accepted them as a passenger (...) Article 33: where foreigners have entered Senegal by their own means, they are taken back to the border entry point.*
- 31 Senovilla Daniel, lawyer, *Universidad de Comillas, Madrid.*
- 32 *In 2007, the Senegalese government commissioned research by the International Organization for Migration on the situation and treatment of foreign unaccompanied minors in various European countries. Although the results of this research have not yet been published, the Senegalese authorities have recently started a series of visits to Spain and the Canaries in order to obtain more information before ratifying this instrument.*
- 33 *The agreement was published in Spain's official gazette (Boletín Oficial del Estado) on 18 July 2008, No. 173, pages 31413-31415.*
- 34 *Article 13 of the Universal Declaration of Human Rights, 1948.*
- 35 *Belguendouz, Abdelkrim, Immigration et émigration : la nouvelle loi marocaine, Migrants, 24, 2005, pp 11-15.*
- 36 *Op. cit. Belguendouz A., p 14.*
- 37 *Migreurop, Livre Noir de Ceuta et Mellila, Paris, 2006, p105 (online document).*
- 38 *Op. cit., Migreurop, p105 (online document).*
- 39 *During the 33rd ordinary session of the Conference of heads of state and government, the ECOWAS Common Approach on Migration was adopted by all member states, in Ouagadougou on 18 January 2008.*

3rd Part

INTERVENTIONS AND INTERVIEWS

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Chapter 9



Niger – A Crossroads of African Migration Networks

Interview with Guy-Michel BOLOUVI

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A journalist (written press, radio and television) and trainer, **Mr BOLOUVI** covers the entire West African region. A consultant for various international organisations, including SWAC-OECD, he is the founder of the Cross-border Diaries Magazine. Mr Bolouvi is also involved in the ECOWAS Cross-border Initiatives Programme and in research carried out in Niger in March 2008 on the subject of “Migration and Development Organisations in Niger” for the Spanish NGO, MPDL (Movimiento por la paz, el desarme y la libertad – Movement for peace, disarmament and liberty), based in Madrid, within the framework of a European programme to combat clandestine migration: “Programa integral de codesarrollo en Marruecos, Malí, Niger y países limítrofes” (Joint development programme for Morocco, Mali, Niger and bordering countries). This interview is based on the results of that work.

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Receiving less media attention than departures from the coast in boats, migration networks are becoming stronger in Niger. Why do you think this is?

It is mainly for geographical reasons. Niger covers a vast area⁷ of 1,267,000 km², leading in the North to Libya and Algeria as destination countries, and with entry points through Nigeria, Benin, Burkina Faso and Mali. This huge expanse, which would require massive border monitoring resources, also catches those sent back from Libya and Algeria, the number of which is growing as legal agreements are strengthened and harsher measures are taken at the gateways into Europe. Despite the scope of migratory flows transiting through Niger, whether seeking Eldorado or turned away elsewhere, the phenomenon still scarcely generates any concern.

“Travelling is not a crime”, and in this regard, Niger implements and complies with the ECOWAS provision in favour of the free movement of its nationals within the West African community region. Niger has for a long time been a gateway for migrants heading for Maghreb countries, and now for Europe.

Nigerians make up the majority of migrants taking these routes, followed by those from Central Africa coming via Nigeria, who enter through the South and East of Niger to reach Agadez or Dirkou. The border between the two countries is 1,500 kilometres long. The Western and South-western boundaries are the gateway for migrants from coastal areas entering through Benin, Burkina Faso and Mali. Niger hosts more

migrants during the cold season. This could be for several reasons. This is a more favourable time, as the Saharan sand is more passable and the European winter curbs the coastguards' ardour and vigilance. Above all, the traditional rhythm of caravans continues, descending from the North waiting to take crops back with them.

It should however be reiterated that migratory flows are not exclusively heading towards the coast of Europe. The African continent is an area of movement and mobility. Migratory flows both within Africa and from Africa varies according to different strategies – economic and ecological factors, intra-regional disparities in terms of economic welfare, political instability and, more recently, restrictive migration policies. International African migration covers a vast array of cross-border movements within the continent as well as regular and irregular migration to destinations outside Africa. Migratory flows within Africa are greater than those to other continents, and forced migration plays a significant role in this regard. In late 2005, African countries were host to around one third (3 million) of the total number of refugees worldwide.

The migratory dynamic commonly described as clandestine which is now expanding via Niger is forming a cluster around new stopover points and a certain amount of settling. These fluctuating migrations are difficult to assess. However, two constant factors emerge, i.e. the scant attention paid by Niger to migration, and the long-standing persistence of its transit function, as migrants head either a) into Libya, staying there or moving on to Italy or Algeria, or b) directly into Algeria and then to Morocco to melt away into connections to Spain and France. Migrants have assembly points for the desert crossing, which are, in order of importance, Agadez, Arlit and Dirkou, towns of various sizes, on the edge of the desert in the case of Agadez, in the desert proper for Arlit on the route for Algeria, and Dirkou for those heading to either Algeria or Libya. Niger has consequently become a transit area for West and Central African migrants. Investigating the world of migrants in transit in Niger therefore demanded research within the underworld of clandestine migration in Agadez and/or Arlit and Dirkou, which was carried out in mid-2008 by the Spanish NGO MPDL.

« How did Agadez become a stopover on the migrants' route, or how to illustrate one of the undesirable side-effects of tougher border controls?

Agadez, a historic town from the great days of caravaneers, is still making a mark in its role as a strategic stopover between the South and the North. It has a dual appeal; firstly, its bus station allows migrants who arrive there with the money needed for the remainder of the trip to continue with few stopovers; secondly, it is a very hospitable town for those who

need to rest or to try to earn money for the remainder of the trip. The existence of these two aspects and of well-structured migration networks has made Agadez a quintessential “transit” town. Migrants who are stuck or in transit find themselves selling motorbike spare parts or doing shoe repair, “mobile” clothes alteration, painting, brickwork, etc. As crossing the border becomes harder, more lucrative activities such as drug trafficking, pimping and prostitution are increasing.

While it is debatable whether migration along these routes contributes to improving migrants’ welfare, it is conversely beyond dispute that organised clandestine or irregular migration contributes to making those who manage, organise and supply it rich. Agadez, which has become a decentralised “urban district”, now offers sufficient security to migrants offering services conducive to “transit”: induction, accommodation and escorted travel. As soon as they arrive in the town, migrants are taken under the wing of migration professionals, namely “cokseurs” [“coaxers”, i.e. touts] who find migrants, gain their trust and take them to a “Boss”, an inn-keeper and tour operator rolled into one. This “Boss”, the “Ghetto” leader, often a hapless migrant who is settling down to take advantage of this “transit” opportunity, offers accommodation and a meal, organises a schedule and roadmap, and behaves like an all-knowing, all-powerful guardian. Once in the ghetto, migrants lose the right to speak out.

The ghetto is where a group of people reside who share the same nationality, ethnicity or language, everything fostering a sense of security in the migrants. Consequently for example in Agadez, Nigerians, Ghanaians and Cameroonians are “handled” by long-established Nigerians. Guineans from Conakry and Bissau, Gambians, Senegalese and Ivoirians are handled by a Senegalese. Burkinabés, Malians and Ivoirians also share a ghetto.

Over recent years, North Africa has been playing host to a growing number of Sub-Saharan migrants “in transit”, intent on reaching Europe. As the control of European borders is being more externalised and more stringent, “transit” migration is becoming de facto migration and shifting ever further South. With this increasing difficulty in reaching Europe, there is a certain amount of settling down by migrants, temporary to a lesser or greater degree, but sometimes for several years. This has led to the birth, or rebirth, of stopover towns such as Tamanrasset in southern Algeria, Nouadhibou in northern Mauritania, Oujda on Morocco’s border with Algeria, and Gao and Agadez on the edge of the Sahara in Mali and Niger respectively.

Clandestine migration routes have become longer and more difficult, and therefore more organised, generating the expansion of networks and people smuggling. Migration, originally an individual or family activity, has become a trade. NGOs working in the field in Niger and Morocco have confirmed that the borders remain open for organised, paid migration networks.

« Is it possible to outline a profile of migrants choosing the Niger corridor?

Official migration data is rarely reliable or accurate. Population censuses are not based on the same criteria for separating different nationals, migrants and foreigners: nationality, place of residence, length of stay outside country of birth.

Nevertheless, consensus is emerging on defining a migrant as an individual over 15 years of age who has lived more than one year in a country of which he or she is not a national. In West Africa, migrations of a shorter duration would have to be included to genuinely measure the dynamics of regional mobility.

There are so many migrants in Agadez that the first question ought to be “How many are there?” before “Who are they?”. It is a complex and dynamic phenomenon. One thing is sure, that these are people tired of their local everyday life, of “a future that never arrives”, and driven by a strong conviction that the grass is greener elsewhere. They are mainly relatively young men and women, able to fund a long and expensive trip, ready to try anything to secure provisions over the course of the journey. Most undertake the trip with the blessing of the family circle which has usually collectively financed it. For the most part, they are relatively well-educated, many being educated up to the age of 18 or beyond and with only a minority being illiterate. Those attempting the journey to “continue their studies” mingle with those with professional qualifications who intend to “be better remunerated” and the simply adventurous. Underworld networks are growing too, those using migration to smuggle women to Libya and drug traffickers. The majority of “educated” migrants come from neighbouring countries (Nigeria, Ghana, the Gambia, Sierra Leone, Liberia, Senegal, Togo, Benin, Côte d’Ivoire) and Central Africa (Cameroon, Congo, DRC) whereas migrants from Mali and Niger are often illiterate. Nigeriens are a special case in the sense that they are rarely attracted by Europe. Their main destination is Libya and they are called “wanderers”. Nigeriens generally migrate for food reasons, looking to fill the “slack” between the last harvest and the next agricultural season.

It is very difficult to quantify the flow of migrants taking the Niger corridor towards the far North, Libya, Algeria or Europe. An annual figure of about 100,000 Sub-Saharanans is usually suggested for the period since 2000. Routes via Libya to Italy and via Algeria and Morocco to Spain seem to have accounted for most of the traffic up to now. More effective and better-organised control systems in destination countries mean that more is known about the number of those stopped in North Africa and on the coast of Europe. According to data collected at Agadez station in August 2007 by an NGO which assists migrants in transit, Nigeriens constitute the majority of the migrant population leaving Agadez at 42%, followed

by Nigerians (33.5%), Ghanaians (15.32%), Senegalese and Malians (4.6%). The least numerous are Burkinabés, Ivoirians, Cameroonians and those from the Central African Republic.

Figures from Niger's DRPN (the national police regional directorate) indicate that 80% of migrants head for Libya and 20% for Algeria. Nonetheless, out of the 80% going to Libya, some, impossible to quantify, move on to Algeria to follow the Algerian and Moroccan routes into Europe.

The figures are unreliable but those travelling on the official route show a difference between those entering and leaving, which indicates that the population of migrants "in transit" is significant.



Which routes are taken by migrants from Niger?

Since the 16th century, Agadez has acted as a crossroads for the movement of people and goods between the North and South of the African continent. Its geographical position, at the intersection of major caravan routes linking the Mediterranean to trading Hausa lands, is now used by migrants and migration networks. Agadez has especially managed to retain its great tolerance of others, an attitude which means that it still appeals to migrants in transit to this day. Migrants arrive in Agadez by bus and minibus by taking international roads from Niger's South, East, West and North, connecting Nigeria, Benin, Burkina Faso and Mali. Tougher controls at Europe's borders make clandestine migration routes longer and more difficult. The final stage in a trip to the North involving, in this case a desert crossing and a sea crossing, now needs to be looked at carefully. The lengthening of the "transit" period is not always without impact on the stopover towns (Agadez, Arlit and Dirkou which are the final stops before Algeria and Libya respectively). To a lesser degree, mention could also be made of the towns of Konni and Zinder, on the border with Nigeria, the main stopovers before Agadez. Increasingly, migrants are stopping over in these two towns to rest and fatten their wallets, in order not to have to linger from Agadez onwards.

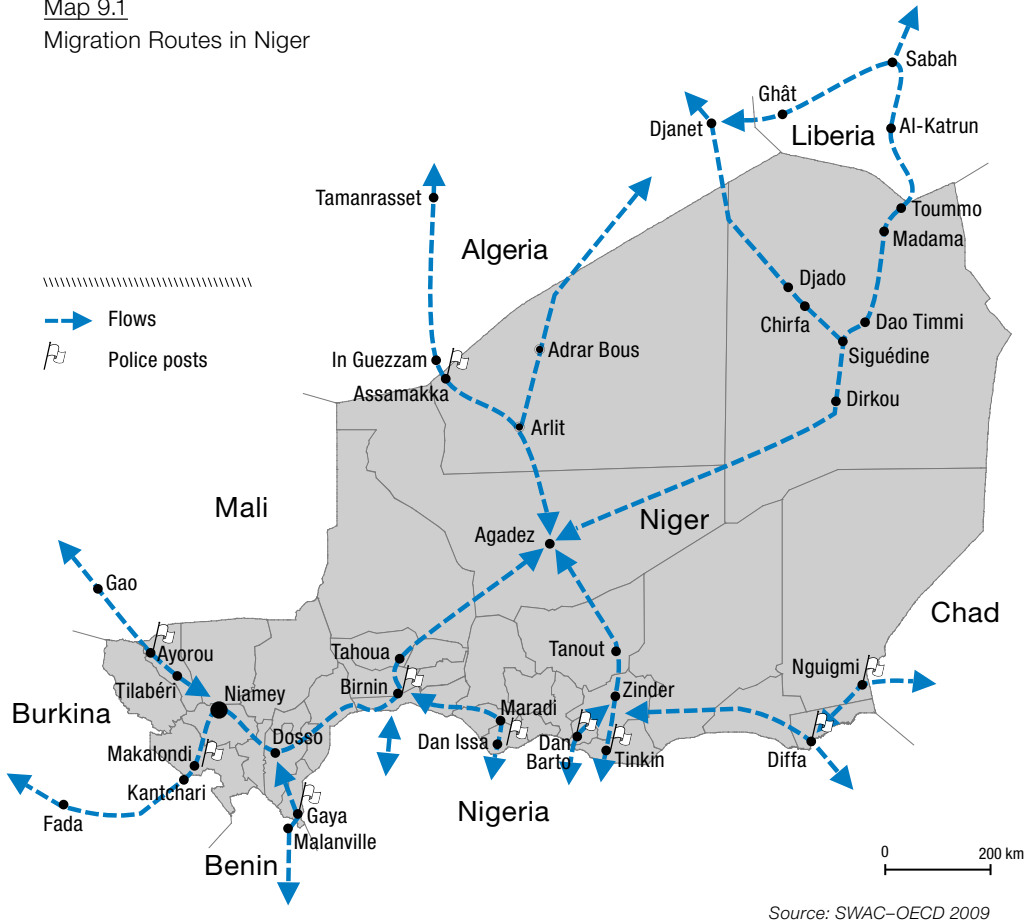
The main entry points are:

- The Nigeria-Niger border for those coming from Nigeria or Central African countries.
- The Burkina Faso-Niger border for those coming from Burkina Faso, Ghana, Côte d'Ivoire, Mali, Senegal and Guinea.
- The Mali-Niger border for those coming from Mali via Yassane (Ayoru) in Northern Niger.

Niger has 10 official police stations to control these entry points, i.e. Makalondi (Niger/Burkina Faso), Gaya (Niger/Benin), Sabon Birni, Birnin Konni, Dan Issa, Dan Barto, Tinkin (Niger/Nigeria), N'Guigmi (Niger/Chad),

Ayorou (Niger/Mali) and Assamakka (Niger/Algeria). Migration routes tend to converge on three key stopovers, i.e. Agadez, a meeting point for migrants pending departure to Algeria or Libya, Dirkou, a mandatory waypoint to or from Libya and an indirect gateway into Algeria, and Arlit, with one official waypoint and one clandestine route for entry into Algeria.

Map 9.1
Migration Routes in Niger



As regards the Agadez-Dirkou corridor, the routes are as follows:

- To the North-East/East (towards Libya): Agadez – Dirkou – Siguedine – Dao Timmi – Madama (border post) – Toummo – (Al Katrun – Sabah, in Libya).
- To the North-East/North-West (towards Algeria): Agadez – Dirkou – Siguedine – Chirfa – Djado – Djanet (Algeria).

As regards the Agadez-Arlit corridor, the routes are as follows:

- To the North-West/North (towards Algeria): Agadez – Arlit – Assamakka (border post) – (In Guezzam – Tamanrasset in Algeria). This is the official route, consequently the least difficult, but the least used.
- To the North-West/North-East (towards Algeria): Agadez – Arlit – Tchingalen – Adrar Bous – Tchibarakaten well – Djanet (Algeria). The latter route, formerly preferred by clandestine migrants, is no longer used since the outbreak of armed rebellion in the area.

With these four (4) “official” routes to the North, one towards Libya and three to Algeria, Agadez is located at a strategic stopover point between Southern and Northern Africa.

The Agadez-Dirkou corridor heading towards the border with Libya has the heaviest traffic according to smugglers and transporters. On the face of it, migrants on this route are heading for Libya. Nevertheless, this cannot be known for sure because Dirkou is also a crossroads and as such constitutes another transit destination (towards Algeria). Similarly, some pass through Libya to reach Algeria, i.e. Dirkou – Siguedine – Dao Timmi – Madama – Ghât (Libya) and on towards Djanet (Algeria) across the Tassili mountains.



Based on your experience in the field, what do you see as Niger’s forthcoming challenges in respect of West African migration?

Migration is currently more of a topic for debate in Europe than in Niger. 3% of West Africa’s population is migrant and over 80% within the region (compared with 0.5% of the European population). West Africa has therefore a long tradition of mobility, voluntary or otherwise. Furthermore, in the few statistics we have, migrations lasting less than a year, or of a seasonal, trading or cross-border nature, are not counted. Niger complies with community development as governed by the regional treaties on free movement of people and goods (ECOWAS protocol). Travelling is not a crime and no migrant from the community area is troubled on account of travelling. Failure to produce identity documents is the only obstacle in force to moving around Niger, along with a stay of over 90 days with no application to become resident. Niger’s domestic legislation is different to the awkward and paradoxical situation found in Senegal, where according

to its legislation², Senegalese migrants could be arrested and tried within Senegal itself for entering Europe, virtually and fictitiously (see the Robin-Ndiaya case study). There is therefore no clampdown on migration. The country nevertheless finds itself confronting more than one negative trend brought about by tougher controls when leaving by the North and West African borders.

The first involves the increased number of migrants stuck or in transit in towns such as Dirkou, Arlit or Agadez (a similar phenomenon can also be found in Tamanrasset). A lucrative trade is growing involving smuggling (or not necessarily smuggling), and very visibly so, in Agadez, directly linked to the growth in the number of migrants and their settling while they save up the money needed for the remainder of the trip. It should also be known that it is standard practice to pay “entry fees” in stopover towns at police roadblocks and “visitor fees” to local councils.

The second trend involves the organisation of the migrant’s route, now handled by a “ghetto”. Migrants are no longer going it alone, but are forced to use a network. This situation has not yet deteriorated to the extent in Morocco where organised trade in migrants has supplanted routes that have always existed. It should not in fact be forgotten that where there is criminality, it is the smuggler and not the migrant committing the crime, in line with the UN Protocol.³

The third trend involves the human dimension to the phenomenon – migrants stuck in stopover towns because they have no more money or dare not return home out of shame; West African deportees from Libya or Algeria taken back to the Niger border irrespective of their nationality and finding themselves with no means of support, at best in Agadez and at worst in the desert. This last point raises a danger of undermining efforts towards community development and regional construction. Up to what point can Niger continue to play host to deportees from countries in the sub-region while observing the protocol on the free movement of people, crucial to West African balance?

NOTES

- 1 *A landlocked West African country, 700 km from the sea, with Niamey as its capital, Niger covers 1,267,000 km² and has 7 rectilinear artificial borders inherited from colonial times. Niger is bounded to the North by Algeria and Libya, to the East by Chad, to the South by Nigeria and Benin, to the South-West by Burkina Faso and to the West by Mali.*
- 2 *Senegal’s law number 2005–06 on combating human trafficking and similar practices and on protecting victims*
- 3 *The Protocol Against the Smuggling of Migrants by Land, Air and Sea; Supplementary Protocol to the United Nations Convention Against Transnational Organised Crime, United Nations (2000), entered in force in 2004.*

Chapitre 10



Migration Towards and Transiting Through the Central Sahara: From International to Local Patterns and Practices

Interview with Julien BRACHET



Julien BRACHET, researcher at the Institut de recherche pour le développement (UMR 201, Université Paris 1 Panthéon-Sorbonne), is working on the local stakes of international movement in the central Sahara and the impact of the tightening of European migration policies on these regions.

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« For several years migratory movements between Sub-Saharan Africa and North Africa have received wide media and political coverage. Is this a recent phenomenon?

No, it is not a recent phenomenon. There has always been the trading of goods and movement of persons within the Sahara and between both sides of the vast desert. But besides isolated cases, economic migration really began in the central Sahara at the end of the 1950s, notably with the arrival of low-skilled workers in Ekker and Reggane, in Algeria, where the French had set up nuclear bases. Then during the 1960s, following Algeria's independence (1962) and Libya's sudden wealth due to the discovery and exploitation of oil deposits, the leaders of these two States set up development policies for the Saharan regions of their countries. The greatest work and the economic development projects which followed created high demand for low-skilled labour, notably in the agricultural sector, to which it was impossible to respond locally, even nationally. Thus foreign labour was needed. Within this economic context in the Maghreb Sahara, the serious droughts in the Sahel (1960 to 1973) occurred leading to a famine and a severe pastoral crisis. This drought acted as an accelerator and often as an instigator of migration towards the Algerian and Libyan Sahara. At first, this migration only involved the relatively young male population from Sahel and Sahara regions of Sahelian States, with a few exceptions. Up to the 1980s, the amount and organisation of this migration evolved slowly. On the other hand, the following decade, during the 1990s, there was a renewal of these migratory movements with a wide range of migrants from different countries of origin and a well-known increase in the amount of flows.

Thus, this migration phenomenon existed well before all the media attention and the interest of researchers, African and European

governments. For a long time, migration remained on the sidelines in the work on these African regions which has now become a key issue to the extent where it is now impossible to count the number of conferences, publications and calls for projects on this subject. Moreover, this raises the issue of the autonomy of the research agenda and approaches to the migration phenomenon, notably when it is addressed as a problem to resolve or as a potential driver of development, which corresponds more to political views rather than scientific views.



What happened in the 1990s? Why has there been a migration revival?

Up to the end of the 1980s, migratory movements to the central Sahara remained indeed relatively isolated geographically and socially. However, North African migrants returning with the notorious nest-egg, generally material in nature rather than financial, contribute to the construction and dissemination of the Eldorado image of Libya and Algeria greater far from the Sahel regions. Also, when the Libyan leader, Muammar al-Gaddafi, launched a rapprochement policy with various African States (as a result of the failure of his pan-Arab policy and in order to limit the effects of UN, US and European embargoes on his country¹) and openly came out in favour of African immigration in Libya, he spurred on many young Africans who were motivated to migrate for various reasons. Existing Saharan and trans-Saharan networks, progressively set up over the last few decades, facilitated the rapid increase in migratory flows towards Libya, and to a lesser extent Algeria.

Other factors explaining this migration boom are:

- The toughening of European migration policies through which the visa process and the conditions for issuance have become much more complex (as from 1985 bilaterally then more globally as from 1995 with the application of the Schengen agreement on border checks);
- The devaluation of the CFA Franc in January 1994, which resulted in the impoverishment of a portion of “middle class” Africans living in the Franc zone.

These economic and political factors resulted in a favourable local context which led to the increase in migration between the two sides of the Sahara and migration’s diversification. However, examining each individual case separately, migration is difficult to explain. In effect, at the beginning of the 1990s:

- Algeria intensified its combating of clandestine migration which began in 1986 by turning back many Sub-Saharan migrants from outside its borders;
- Despite discourse implying that it is more open, Libya also continued collective deportation of aliens;

- Most of these migratory flows are not going towards Europe nor only to Libya;
- The intensification of these migratory flows preceded the devaluation of the CFA franc.

It is still difficult to know overall the reason for the development of this Saharan migration. It is important to focus on the individual aspect as well as the various reasons for these migratory flows which alter during the journey. These reasons cannot be explained only due to structural factors. Hence there are migration policies that are only based on structural factors and thus have an influence on structural aspects. Yet they rarely achieve the desired effects.



What are the institutional frameworks currently governing migration in the central Sahara?

The examining of migration policies and legislation related to international migration highlights two different yet complementary approaches to the issue.

- On one hand, the principles and standards which come under State sovereignty (right to protect its borders, admission and expulsion of foreign nationals, combating human trafficking and illicit trafficking of migrants, etc.) and which can apply to inter-state groupings.
- On the other hand, human rights of persons engaged in the migratory process, recognised at the international level through various conventions, without the explicit mention of international migrants (such as human rights, humanitarian rights, refugee rights, the right to work, etc.).

The diversity of these texts (actual non-binding laws or conventions) and their levels of application (national, bilateral or international) lead to the general complexity of migrants' rights. This complexity is found in the central Saharan migration system in which various institutional frameworks protecting migrants and/or governing international migration often overlap.

Only the broad lines of the legal frameworks used to determine migrants' rights and their status during their crossings of the Sahara are set out here. This strategic thinking thus enabled the highlighting of their possible contradictions, and differentiation of the *de jure* (by law) from those *de facto* (concerning the fact) practices of all the actors, in particularly State customs officials and police working on migration itineraries.

At the supranational level, while the UN conventions are accepted, the central Sahara falls is included in two main institutional frameworks concerning international migration, from two African inter-State

organisations, ECOWAS and CEN SAD. These two organisations, each bringing together numerous states including Niger, advocate the free movement of persons within their country.

Within the ECOWAS zone, the Dakar Protocol governs this free movement since 1979, and should enable many migrants to go to Niger and up to the southern borders of the Maghreb without any administrative concerns. Nevertheless, whether or not they are nationals of an ECOWAS member State, have ECOWAS travel documents and a vaccination certificate, they are all allowed to move about within Niger. However, they all must pay bribes to Nigerien border agents; without a doubt leading to migrants' affirmations that they do "not need a visa" in order to go from one country to another. "No need for papers in order to move about the ECOWAS zone, but required to pay bribes" seems to be more the reality.

The second inter-state institutional framework concerning international migration is that of CEN SAD, which is in the process of setting up an area of free movement of persons between member States, and notably on both sides of the Sahara. Unlike the previous protocol, signed and ratified by all ECOWAS member States, it only involves the recommendation which is not binding for the States. Also, while CEN SAD foresees the creation of a global economic union, guaranteeing free movement, residence and right to work, none of the States have truly applied these principles (only through some temporary bilateral agreements, notably between Libya and the Sudan).

Along with these two African institutional frameworks, the European Union as well as some of its member States (France, Italy and Spain) is having increasing influence on these regions. Within the Euro-African Partnership for Migration and Development framework and the bilateral agreements (for example between Italy and Libya), European States are increasingly encouraging North African States, and more recently those of Sub-Saharan Africa, to strengthen control of their borders. The objective is to curb migratory flows from Saharan regions although this goes directly against that which has been set out by organisations such as ECOWAS and CEN SAD.

Nevertheless, the level of application of all of the free movement legislation and thus their practical coherence remains at the national level. Niger, Algeria and Libya, the three states of the central Sahara, have contrasting migration policies.

At the judicial level in Niger, international migration is not considered a problem to resolve and there is no truly specific defined policy. International legislation ratified by the Nigerien Government (thus the Dakar Protocol) is applied with more or less success. EU pressure to curb migratory flows from regions to the north of this country (counter to the principle of free movement of ECOWAS member State nationals) does not seem to have any real effects.

Algeria is not part of the previously mentioned inter-state groupings. For a long time it was perceived as only an emigration country. Although the practice of combating irregular migration began in the mid-1980s, Algeria's migration policy is based on laws incorporating issues related to immigration and transit only since the 2000s. Currently, movement of aliens on Algerian territory only depends on fulfilling the consular visa formalities for which Algeria applies the rule of reciprocity. But new laws being prepared foresee distinguishing individuals who enter and stay on in Algeria from those who are only passing through, that is to say who are presumed to be going to Europe. We find the same patterns of these migrations which have led to the creation of this legal abomination of "illegal emigration."

This notion is highly criticised because it is based on suppositions and not on acts. It is counter to Article 13.2 of the Universal Declaration of Human Rights which stipulates that "Everyone has the right to leave any country, including his own, and to return to his country." This notion is becoming ever more the reality in African Atlantic coast and Mediterranean countries.

In Libya, the founding country and leader of CEN SAD, movement and residence of aliens of all African nationalities requires a visa. One of the important aspects of Libya regarding is the promotion of free movement and pan-Africanism (notably through the discourse of its leader Mr Gaddafi), all while accepting to play the police of Europe with regard to migration and by not regularising the many African immigrants on its soil and by regularly carrying out collective deportations, by plane or by land.



In the regions that you studied, is trans-Saharan migration systematic of clandestine migration?

Firstly, I would like to recall that it not only involves trans-Saharan migration but migration towards and through the central Sahara because some migrants that transit through Niger, and no doubt most of them, arrive in towns and oases of Saharan regions of Algeria and Libya. They don't thus cross the Sahara, but they go there.

Concerning the characterisation of these flows to central Sahara (to Niger, in Algeria and Libya), we should distinguish between regular, irregular and clandestine migrants. Clandestine migrants move about irregularly off the radar of State border officials. During the journey, migrants often pass from one of these categories to another: a regular migrant whose documents have been stolen or whose visa expires becomes irregular. Entering or exiting secretly is a situation always redefined by the contact or avoidance between migrants and officials of the State in which they are moving about.

In Niger, there are two types of migrant status: either migrants in a regular situation (case of Nigeriens and aliens who have legally entered this country), or in an irregular situation. In fact, this matters little because the legal status does not modify the possibilities to be mobile or the conditions for mobility. To be in a regular situation does not mean that bribes do not have to be paid to State officials when crossing Niger. To be in an irregular situation does not prevent crossing this country by official routes from the moment that these same bribes are paid (this explains why one need not necessarily be clandestine to move about irregularly in the south of the Sahara).

Concerning the entrance of migrants in Algeria and Libya, the categories are the same but with a different distribution of the workforce. In order to deal with the more or less strict application of these States' migration policies at their Saharan borders, migration networks developed different ways to cross the borders, with various costs and risks. Firstly, there are much fewer regular migrants as it is costly to acquire an Algerian or Libyan visa and rarely are they obtained. However, contrary to popular belief, they actually exist (mostly Malian nationals who can go to Algeria without a visa). Then, there are migrants who cross the borders in an irregular manner but not clandestine: a simple bribe paid to border officials at the Algerian border (Assamaka) or tolerance on the part of Libyan border officials (Tumo). These types of border crossings illustrate, in the first case, the limits of possibilities to apply the migration policy, besides constraints in the natural environment, and in the second case, the manoeuvring of the Libyan authorities. For a long time the status of their border with Niger has varied where it is declared open, or sometimes partially or totally closed. Nevertheless, for the last several years, tolerance and bribes paid at Algeria and Libya's southern borders have greatly declined. Fewer and fewer people wanting to cross the border seem in a position to negotiate at the borders the entrance of irregular migrants of these two States. Clandestinely, still rare in the south of the Sahara, is the way in which to enter North Africa, the surest and least costly.

« How great are the migratory flows today?

It is very difficult to evaluate the volume of these migratory flows for several reasons. If we take the case of Niger, which is a known transit country:

- The data produced by official State services, notably the border police who count the entries into and exits from the national territory, is very approximative and even incomplete.
- The conditions in which border checks are carried out and the counting of persons at border police posts of Assamaka concerning

movement between Niger and Algeria and of Dirkou for movements between Niger and Libya, and notably the corruption that results in some movements not being registered hence sabotages the validity of the data produced.

- But the main pitfall, well-known and inevitable regarding migration statistics, is the movement of clandestine migrants who, by definition, are not counted.

In order to deal with this problem of deficient national statistics devices, it is possible for researchers to produce his own figural data, attempt to quantify flows as they are observed, then to provide estimates according to various criteria. This way, which seems to be the most relevant as it is based on a long-time experience on the ground, we can obtain the order of magnitude which responds to the needs of scientific research in human and social sciences.

For example, after the research that I have been carrying out for several years in Niger, I believe that there are approximately 40,000 to 80,000 migrants who go to North Africa through this country, and with a view to returning by land, only 10 to 20% seem to continue their journey to Europe. This range can be considered too wide to be useful for policy decision-makers, but in this case, is it for the researcher to produce precise figures on the subject while the relevant authorities are not doing so, or do not have the means to do so, as some States are showing sufficient interest in these migratory movements? In addition, the media and politicians are generally not waiting for scientists to put forward figures which are often unreliable but which provide the media with the sensational news they so desire and the political intent of the relevant authorities.

The importance of the quantification of migration between Sub-Saharan Africa and the Maghreb cannot be ignored. This enables at times to curb sometimes manipulative discourse or discourse that is based on extrapolations which are not very precise nor supportive of the reality. But at the same time, the limits of quantifying migration flows should be recognised and notably by making public the methodologies used to produce this type of data.

« Finally, do you think that co-operation on migration policy between the European Union and these African States is based on a true understanding of the ongoing phenomenon?

This is without a doubt one of the key questions raised or that should be raised with policy decision-makers. On what models of actuality are they basing their interventions? As for co-operation on migration issues, I would say that our policy strategists require and produce too many global analyses, without focusing enough on the historic and anthropologic

complexity of these phenomena about which they are talking, or without focusing on the dynamics of local societies on which they are intervening.

For example, the Saharan regions of Algeria and Libya are today considered in Europe as priority zones to combat irregular immigration coming from the south of the Sahara as well as the Mediterranean and Atlantic coasts of Africa. Now while it is true that some of the migrants arriving in Europe illegally have first crossed the Sahara, few of those crossing the central Sahara are aiming to go to Europe.

The focus of attention by the media, European and African Government on migrants who continue their journey arriving in Europe makes it seem as though all these migratory movements are transcontinental economic migration towards Europe. This situation sustains the fear of a “migration invasion” and obscures the diversity and complexity of contemporary Saharan mobility. This comparison of migration towards and through the Sahara to trans-Mediterranean migration is based on an erroneous perception of the phenomena underway. It seems to go in the direction of a certain ideology of the threat from the South, carried on in Europe by governments who perceive and depict the alien from the south as a problem, risk or threat.

While studies show that even today migration to the Sahara is mainly Sahelo-Maghrebian, European countries intend to combat irregular immigration coming from Sub-Saharan Africa (which numerically is minimal with regard to the two continents) by inciting Maghreb States to curb migratory movements in the Sahara. Through diplomatic pressure and economic and military co-operation, Europe thus upsets an age-old cross-border migration system which does not concern them if very little. But while this co-operation with the EU, which is conveyed through a toughening of migration policies in Africa, has effectively made movements and residence of migrants increasingly difficult, risky and costly in many countries, it is very difficult on the other hand to determine its effects on flow volumes. Besides, we can ask ourselves if States such as Algeria and Libya, who are subject to pressure from their European neighbours, have the veritable willingness to put an end to these migratory movements, or if they are only pursuing an age-old practice of “managing” aliens on their territory through arrests and collective deportations, and thus not taking into account many international conventions. Libya, and to a lesser extent Algeria, is indeed aware of its need for foreign labour and more globally the benefits for their economy brought about by these migratory movements, where sometimes ambiguous positioning on this issue and the discrepancy between official discourse and their application. Ambiguities and discrepancies also exist, in other ways, on the north bank of the Mediterranean.

NOTE

1 *Embargoes imposed as from 1992 following the bombing of Pan Am Flight 103 over the small Scottish town of Lockerbie in 1988, and the bombing of UTA Flight 772 over Niger, for which Libyan nationals, protected by their government, were suspects. These embargoes were progressively lifted as from April 1999, following an agreement authorising the two Libyan nationals involved in the "Lockerbie bombing" to be judged in the Netherlands. At the same time, six Libyans involved in the bombing of the UTA DC-10 were sentenced.*

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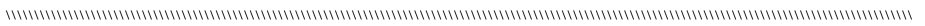
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Chapter 11



The Relationship between Migration and Development

by **Jean-Christophe DEBERRE**

The cause and effect relationship between migratory flows and development for both origin and destination countries is often assumed to be obvious, but it involves different realities throughout the world for which consequently there are no universal one-size-fits-all conclusions. For these reasons, in October 2006, the General Assembly of the United Nations launched a High-Level Dialogue. This dialogue culminated in a world forum on migration in Brussels in July 2007. The UNDP, among other equally pressing potential topics, has now decided to make the relationship between migration and development the theme for its 2009 annual human development report. Why? What can the EU and Africa, top-level partners for the UNDP and the United Nations system expect from it?

1. Firstly, the creation of conditions for dialogue dedicated to a phenomenon which too often generates tension: given the complexity of the migration phenomenon, the search for a community of actors on a topic which deeply affects human development is not only unavoidable, but is also desirable. In this way, each organisation's expertise could be convened and coordinated to contribute to understanding such a complex reality. This shared challenge argues in favour of the varied approaches and contributions being placed within a more effective framework of complementarities, indeed coherent public policies, than that currently seen. From this viewpoint, the principle of EU-African dialogue is not entirely without benefit in terms of seeking a balanced solution to a problem which in fact ultimately reflects the world's deep-seated structural imbalances.
2. Shared responsibility for the migration phenomenon obviously stresses that of international organisations active in the field. But it firstly reflects the sovereignty of nation states, at this time insurmountable when dealing with population mobility, including at the regional level, as the seeking of agreements between states clearly shows. It outlines a potentially-conflictual zone if there is little or no control. But some consensus, even solidarity, is conceivable, both intra-regionally (Africa on one side, Europe on the other) and inter-

regionally when they understand that this is in their fully-understood common interests. Such is the case with Europe and Africa who, since the Rabat and Tripoli meetings, have intended to share responsibility in this domain. Subsequently they must mobilise all the infra-State actors who are aware of these common interests. These include the vast network of civil society, the labour and business world, professional organisations; and local authorities, given their responsibility for local planning and development, and naturally the democratic process, which are all directly involved. From each of these angles, the migration issue poses a formidable challenge in terms of building converging interests, and thus getting beyond, “a priori”, conflicting actors, which can lead to the tension being experienced. It is therefore firstly a governance issue, at the State and regional levels to which they belong.

3. No country can now envisage dealing independently with the challenges raised by migratory flows because they reveal powerful interdependencies. As they are cross-border phenomena by their very nature, they generate evermore complex processes because they are rarely anticipated and thus almost never prepared for. Migration’s unpredictability is due to its root cause. Most often related to governance issues, migration results from a latent period and a lack of political management of the phenomenon. This leaves ample time for one or more societies to become corrupt, or even to ignite the sources of exasperation and hatred which can degenerate into civil crises. Economic crises in themselves would not dramatise migration if, again, their consequences could be somewhat managed. Migration “trends” owe much to this in recent history, with a backflow of populations from states that previously welcomed them but no longer do so in a period of recession or crisis. Sometimes a scapegoat effect even arises when the much deteriorated domestic situation transforms a previously welcoming tradition into violent rejection overnight. In West Africa, recent calculations made on the basis of census data indicate that countries in this sub-region are today home to some 7.5 million migrants originally from another West African country, i.e. approximately 3% of the region’s population. This level, up since 1990, is above the African average (2%) and vastly exceeds that of the European Union, which is 0.5%.

This means:

- that intra-regional migration is foremost and demonstrates the need to find a genuine preventative governance strategy;
- that detailed knowledge of the driving forces behind such migration is absolutely necessary to prevent it and deal with it; and

- that the issue is inextricably linked to that of development, when populations feel they have no visibility in their home country. The quality of education, underemployment, in particular of young people, and the lack of a welfare safety nets for the most disadvantaged are, to some extent, part of the initial motivation for young people along with the common practice of migrants saving up for the education and health of younger family members. If climate change experts turn out to be right, then this region of the world, one of the most vulnerable (which is also, due to demographics one of the most populated), is to enter into a new phase of turbulence. This topic is addressed through the 2008 human development report. Let us then say for this third point that while migration is a governance issue, it remains first and foremost a governing development issue.
4. From this aspect, the question is crucial – what can be done to maximise and pool migration’s positive impacts while minimising the negative impacts as they are the result of huge global imbalances? Now that we are becoming accustomed to thinking about human development in terms of “global public goods”, such as health, water, climate, food security, economic and capital flows, and so on, it is not immaterial to note that some people quite freely include migration in that category, not in itself but quite naturally as an effect of proper or improper management of these global public goods. This is no surprise when it is ultimately the result of “global public issues” being handled poorly or not at all. As an indicator of the state of governance in the modern world, it should be addressed not as the “adjustment variable for national or regional interests” but as a feature of common, even global, interest.
 5. Migration is not the term used when it results from a reciprocal desire. There are indeed cases where migration is managed peacefully, when states rely on invited and supported foreign labour to cultivate their own development – which does not reduce the “brain drain” effect. Difficulties most often arise when the national or regional context becomes unfavourable, forces changes in the rules, and once again hits head-on those who, as the most likely candidates to leave, become the most vulnerable for the second time. From this perspective, migration often first and foremost causes formidable issues in terms of respect for human rights. Often apparent when there is an obvious crisis, they also constitute, as is known, the silent cases, for instance in the countless cases of unlawful labour migration, offering no protection to individuals. Hence dialogue between Europe and Africa should provide an opportunity for open dialogue on the management

Chapter 12



A Few Questions for the Foreign and Commonwealth Office (FCO)

Interview with the FCO

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The role of the FCO Board is to provide corporate leadership to the organisation in delivering the policies and services decided by Ministers. The Board is chaired by the Permanent Under-Secretary and the work is sub-divided into Directorates: Central Group headed by the PUS, Europe and Globalisation, Defence and Intelligence, Political, Information, Change and delivery, Finance, UK Trade and Investment.

Regarding Migration issues, the FCO uses its network of posts and geographical expertise, and delivers Government policy on:

- managing migration;
- protecting genuine refugees;
- reducing abuse of the asylum system;
- controlling our borders against illegal immigration.

◀◀ How will the UK incorporate into its legislation the Directive on return of illegal immigrants recently adopted by the EU-27? (various responses)

The UK did not opt-in to the Returns Directive and therefore will not be incorporating this into our legislation.

◀◀ A readmission agreement was signed with Nigeria. To the best of our knowledge, it has not yet entered into force. What is set out in this agreement? Will it allow the readmission on Nigerian soil of migrants with other West African nationalities? If yes, do you think that this could hinder the ECOWAS Protocol on Free Movement?

Government policy is to not disclose the contents of any readmission agreements.

◀◀ Do you think that the new European policies, such as the recent European Pact on migration, adequately respond to migratory realities and perspectives in Europe and West Africa (labour market needs, demographics, development, etc.)?

The UK welcomes the European Pact on Migration. We believe that it was an important step forward: it represents the first time that all twenty seven member states have signed up to a wide ranging agreement on all aspects of migration policy. The UK has always supported EU co-operation with

East and West Africa and the Migration Pact reaffirms the EU's commitment to engage with African nations on tackling illegal migration, facilitating legal migration and aiding development.

« Which Ministry in the United Kingdom is responsible for migration issues?

The Home Office is the lead Department for policy on migration to the UK. Other Departments (including the FCO and DFID) work with the Home Office on migration issues as appropriate to their Departmental policy portfolios..

« What have been the major changes related to migration over these last five years?

The biggest change related to migration over the last five years in the UK has been the Points Based System. This is a five tier scheme designed to make sure that both the UK and migrants benefit from the advantages that international migration can bring. Tiers 2 and 5 both went live on 27 November meaning that tiers 1, 2, and 5 are now all active. Tier 1 is for highly skilled workers – for example scientists and entrepreneurs. Tier 2 is for skilled workers with a job offer – for example teachers and nurses. Tier 3 is for low skilled workers. Tier 4 is for students. Tier 5 is for youth mobility and temporary workers – for example musicians or actors. Tier 3 is currently suspended and Tier 4 is in the process of implementation. The Points Based System is the biggest shake up of the UK immigration system for 45 years – it replaces over 80 routes to work and study in the UK with just five. The system only applies to citizens from states outside European Economic Area and Switzerland. It is based on the successful Australian Points Based System and under the new system each potential migrant will have to pass a points-based assessment before they are given permission to enter or remain in the United Kingdom.

To ensure that our migration policies continue to be well informed the UK has established the Migration Advisory Committee and the Migration Impacts Forum. The first is independent and will advise Government on the labour market needs of the economy and the second is made up of experts from local government, health, education, the police, the criminal justice system, the voluntary sector, the Confederation of British Industry, and the Trade Union Congress and advises on migration impacts.

FCO. January 2009

Annex A

ECOWAS Common Approach on Migration¹

Introduction

ECOWAS Member States launched a process to establish a regional economic zone. In 1979, they adopted a Protocol on Free Movement of Persons and the Right of Residence and Establishment. The protocol, along with the supplementary texts later added, testifies to member countries' determination to place the free intra-regional movement of persons at the heart of the regional integration process.

West African citizens are among the world's most mobile populations. Population censuses indicate that the region's countries now harbour approximately 7.5 million migrants from other West African countries – i.e. almost 3% of the regional population.

From the West African viewpoint, the objective is to establish a link between migration and development, define its negative impacts and give priority to the following six questions:

- How can the gains of intra-regional mobility be promoted and how can free movement within the ECOWAS zone be guaranteed?
- How can mobility be supported and local development in departure zones and other potential host areas be encouraged?
- How can regular migration to third countries be optimised, notably in Africa, Europe, North America?
- How can irregular migration be brought under control effectively?
- How to protect migrant's and asylum seekers rights?
- How to include the gender dimension in migration policies giving the growing number of women migrants?

Fully aware of the issues involved in migration, the 30th Ordinary Summit of ECOWAS Heads of State and Government, held in Abuja in June 2006, mandated the ECOWAS Commission to define a common regional approach on migration. Meeting in Ouagadougou on 20 December 2006, the ECOWAS Mediation and Security Council reaffirmed this priority,

requesting the Commission President to: «pursue the consultative process for the definition of a common approach to the management of intra-regional migration and migration to Europe in all its dimensions».

In executing this mandate, the ECOWAS Commission initiated a strategic thinking process with a view to defining a common regional approach on migration.

I. ECOWAS Common Approach on Migration

1.1 The Legal Framework

ECOWAS member States carry out their actions within the framework of the revised ECOWAS Treaty and more particularly Article 59: «Citizens of the community shall have the right of entry, residence and establishment and Member States undertake to recognise these rights of Community citizens in their territories in accordance with the provisions of the Protocols relating thereto».

Member States also adhere to:

- The United Nations General Assembly Resolution No.60/277 on International Migration and Development of 7 April 2006;
- The International Convention on the Protection of the Rights of All Migrant Workers and members of their families which entered into force in July 2003;
- The political dialogue between the EU and ACP countries as set out in Articles 8 and 13 of the Cotonou Agreement of June 2000;
- The Rabat Action Plan and Declaration of July 2006;
- The ECOWAS General convention on Social Security;
- The high level dialogue on migration and development initiated in New York in September 2006;
- The Tripoli Declaration of November 2006;
- The 1951 Geneva Convention and its additional protocol of 1967 on the status of refugees;
- The 1969 OAU Convention on the status of refugees in Africa.

1.2. The principles

1) Free movement of persons within the ECOWAS zone is one of the fundamental priorities of the integration policy of ECOWAS Member States.

Mobility with the ECOWAS zone is a vital component of regional integration, which is itself a prerequisite for the West African economy's successful integration into the globalisation process.

Furthermore, there is a well-defined relationship between freer movement within the ECOWAS regional area and migratory pressure. In fact,

it is establish that the free movement within the region has contributed to the reduction in the migratory pressures beyond ECOWAS borders.

2) Legal migration towards other regions of the world contributes to ECOWAS Member States' development

ECOWAS Member countries reaffirmed the principle put forward during the Rabat and Tripoli Conferences, according to which international migration impacts positively on both the host and home country when they are well-managed. They reiterated that within every region of the world, at one time or another in their history, resorting to migration was an integral part of their development process. In 2005, 56% of West Africa's population was below 20 years of age and 65% under 25 years old, while in Europe these shares represented 23% and 30% respectively. In this context, ECOWAS member countries believe that a joint management of migratory flows should enable West African migrants have access to labour markets based on opportunities available in these countries.

3) Combating human trafficking is a moral and humanitarian imperative

ECOWAS Member States reaffirmed their willingness to combat all entities, in the North and South, which promote the recruitment, transportation and exploitation of irregular migrants, particularly women and children.

ECOWAS Member States reaffirm the need to ratify the United Nations Convention on the Protection of Migrant Workers' Rights and their Family member's rights and are calling on EU countries to do the same.

4) Harmonising policies

ECOWAS Member States are reaffirming their commitment to ensure policy coherence at three levels:

- In accordance with Article 84 of the Revised Treaty, harmonise bilateral agreements linking different ECOWAS Member States and third countries, with ECOWAS community texts and protocols; including agreements involving free movement.
- Harmonize economic, trade and development aid policies of the North with migration policies of said countries.
- Harmonize national migration management policies with sector development policies.

5) Protection of the rights of migrants, asylum seekers and refugees

Member States reaffirm their commitment to ensure the implementation of the Protocol on the Free Movement of Person within the ECOWAS zone and the International Convention on the Rights of Migrants and their Families.

Aware of the increasing movement of refugees in West Africa and in view of the difficulty in managing them and regularising their status after conflicts, Members undertake to put in place regional integration mechanisms.

6) Recognizing the gender dimension of migration

ECOWAS Member States recognize the increasing role of women migrant within and beyond ECOWAS border by providing gender disaggregated data on the profiles of migrants and ensuring the inclusion of gender dimensions in migration policies.

II. Migration and Development Action Plans

ECOWAS Member States, relying on the orientations of the Tripoli Declaration, establish a direct link between migration and development. Consequently, the link between migration and development should be conveyed in a parallel approach to these two components and by striving continuously to harmonise policies related to one another.

Suggestions set out in the action plan described below are indivisible from one another.

2.1. *Actions to promote free movement within the ECOWAS zone*

1) Implementation of the Protocol on Free Movement of Persons, the Right of Residence and Establishment

ECOWAS Member States are committed to taking the necessary measures to remove all obstacles to the free movement of persons.

- Ensuring the issuance and security of ECOWAS travel documents.
- Organising technical and administrative training programmes as well as awareness building and educational campaigns on the rights and obligations of the community's citizens among officials in charge of migration and populations.
- Ratifying the United Nations Convention on the Protection of Migrant Workers' Rights and their Family member's rights and are calling on EU countries to do the same.
- Harmonising labour laws related to professional occupations, in accordance with the Protocol's clauses on the right of establishment for professional purposes;
- Removing all forms of harassment along the road.

2) Making the regional fund to finance cross-border co-operation operational

In order to promote mobility within the ECOWAS zone, it is important to give particular attention to border and cross-border areas.

ECOWAS Member States thus recommend that the Regional Cross-border Co-operation Fund be made operational. The fund will help to:

- Facilitate free movement through concrete actions such as the setting up of joint border posts, border markets, joint health centres, shared schools, etc.
- Support border populations through development actions geared towards the poorest, most marginalized populations.
- Develop good neighbourly relations rooted in realities on the ground among ECOWAS Member countries and between the ECOWAS zone and its neighbours.

3) Defining a regional territorial planning strategy

West Africa is a very vast territory, with huge development potentials that are yet to be exploited. Many areas still remain relatively unpopulated, although they present considerable agricultural potential and a network of dynamic secondary towns; these zones could host a sizable population. Naturally disadvantaged areas are population departure zones where the potential could also be improved. All these zones are areas shared by several countries.

ECOWAS Member States are committed to defining a regional territorial planning strategy, both rural and urban. This strategy aims to develop new growth and development areas as well as provide more disadvantaged zones (in particular Sahelian and border zones) with well-developed equipment, infrastructure and other means for development.

Member States have mandated the ECOWAS Commission to define and implement this strategy.

2.2. Actions to promote the management of regular migration

1) Implementation of pilot experiments at the national and regional levels

- Create pilot centres for information, orientation and support for potential migrants, in accordance with employment opportunities in other migratory regions, especially Europe, in close collaboration with the diplomatic representatives of the concerned countries.
- Create pilot host, orientation, and support centres for returning migrants as well as reinsertion centres.
- Strengthen ECOWAS analytical capacities and sharing information on these pilot centres at the regional level.

2) Measures concerning students and young professionals

- Facilitate West African students' access to universities, institutes and African, North American European, Asian and other professional institutes;
- Facilitate students' return to their country of origin at the end of their studies;

- Conclude young professional exchange agreements in order to improve their linguistic and professional knowledge and acquire salaries work experience in another country, and define measures to ensure the return of these immigrants to their countries of origin at the end of their stay;
- Develop partnerships between West African scientific and technical institutions and the rest of the world;
- Broaden the range of university and technical courses offered, taking into account the labour market needs (public and private);
- Create or strengthen entrepreneurship training and excellence centres and business development support structures.

3) Measures concerning Diasporas

ECOWAS Member States mandate the Commission to carry out strategic thinking on the development of expertise and financial resources of West African Diasporas with a view to contributing to the development of their countries of origin and effectively combating brain drain.

This consultation should take into account best practices and propose joint measures notably with regard to the facilitation of financial transfers and investments in the region as well as supporting the Diaspora's involvement in development projects.

Member States are committed to strengthening solidarity between the Diaspora and countries of origin.

2.3. Actions for policy harmonisation

1) Setting up a system for monitoring migration and migration policies

Setting up of information and monitoring system on migration. Monitoring should cover:

- Migratory flows inside and outside the ECOWAS region.
- Factors triggering migration to other regions and intra-regional mobility.
- The evolution of socio-economic indicators within the different ECOWAS zones in order to enable the formulation of specific investment policies.
- The establishment of migrants' profiles.

2) Harmonising policies related to migration and development

ECOWAS Member States are convinced of the need to jointly define with their partners the following measures:

- Broaden the capacities of mechanisms for monitoring and combating irregular migration by sea to include the protection and conservation of fisheries resources in West African territorial waters. Ensure media coverage of this initiative establishing the complementarity between combating clandestine migration and combating irregular fishing.

- Establish the link between exporting subsidized or used products to West Africa, and the rise in unemployment and underemployment in the region.

2.4. Actions for controlling irregular migration and human trafficking particularly of women and children

1) Fight against irregular migrations and human trafficking

- Information and awareness campaigns for potential migrants on the dangers of irregular migration and smuggling networks ;
- Co-operation between ECOWAS Member States with regard to controlling clandestine migration and dismantling the mafia-like networks ;
- Co-operation between ECOWAS Member States with a view to combating clandestine migration and in collaboration with host countries ;
- Co-operation with host countries to provide logistics and funding for voluntarily returning migrants in transit countries and countries of origin ;
- Affirmation of the principle of the return of clandestine migrants respecting their dignity and fundamental human rights ;
- Implementation by ECOWAS Member States, of measures enabling the reinsertion of irregular migrants upon their return ;
- Development of technical and financial co-operation with ECOWAS Member States in the area of managing emergency situations with regards to irregular migration.
- Compliance with international commitments made by Member States regarding migration.

2) Strengthening the dialogue framework between ECOWAS, host countries and transit countries

In view of the numerous challenges related to irregular migration, especially the turning back of migrants often in difficult conditions, human trafficking and irregular migration, human rights of migrants, forced or voluntary returns, it is clear that bilateral agreements concluded by some ECOWAS Member States with host countries are not sufficient to address these multi-dimensional problems. ECOWAS Member States undertake to strengthen their co-operation with regard to controlling irregular migration within the ECOWAS framework.

3) Strengthening Migration Management capacities

- Improving the training of ECOWAS Member States' immigration departments and providing modern ECOWAS travel documents checking equipment;

- Setting up a shared digitized database in ECOWAS Member States' immigration departments to effectively combat irregular immigration;
- Establishing an ECOWAS early warning system with a view for it to be a tool enabling the precursory signs warning of potential irregular immigration as well as activities by criminal trafficking organizations.

4) Strengthening the protection and assistance system for victims of human trafficking

Strengthening co-operation between ECOWAS Member States in the judicial and police sectors against human trafficking particularly of women and children and clandestine immigration channels:

- Identifying and strengthening co-operation mechanisms and, if necessary, joint action between countries of origin, transit and destination, including maritime, land and air co-operation for dismantling criminal organizations in order to check trafficking across national borders ;
- Encouraging ECOWAS Member States to ratify and increasingly resort to the mechanisms stipulated by the United Nations Convention against Transnational Organized Crime (Palermo, Italy, December 2000) and its Protocols ;
- Setting up project to help and promote the rehabilitation of human trafficking victims in collaboration with external partners ;
- Promoting at the national level a solidarity fund to support victims of human trafficking ;
- Harmonizing national legislation on combating human trafficking in line with international standards;
- Strengthening co-operation within the framework of providing humanitarian assistance to migrants in distress.

2.5. *Actions to protect the rights of migrants, asylum seekers and refugees*

1) Protection of the rights of migrants

- Formulate an active integration policy for migrants from ECOWAS Member States and combat exclusion and xenophobia.
- Encourage Member States and their EU partners to ratify the UN Convention on the rights on migrants.
- Put in place regional mechanism to monitor the UN Convention on the Rights of Migrants.

2) Protection of asylum seekers and refugees

- Put in place mechanisms for granting rights of residence and establishment to refugees from ECOWAS countries.

2.6. *Actions aiming to take into account the Gender and Migration dimension*

Women account for 47% of the 17 million immigrants in Africa and are mostly from the West African sub region. In view of the growing number of women who migrate and their crucial role in the economic and social development process in our countries, ECOWAS Member States undertake to implement the following actions and measures:

- Include gender dimensions in migration policies ;
- Establish and strengthen support institutions for entrepreneurship training for female migrants ;
- Remove all illegal trade barriers which stifle the entrepreneurs potential of women when they migrate.

NOTE

1 ECOWAS Commission, 33rd ordinary Session of the Head of State and Government, Ouagadougou, 18 January 2008.

Annex B

Article 13 – Migration ⁷

| | |
|---|---|
| 1 | <p>The issue of migration shall be the subject of in-depth dialogue in the framework of the ACP-EU Partnership.</p> <p>The Parties reaffirm their existing obligations and commitments in international law to ensure respect for human rights and to eliminate all forms of discrimination based particularly on origin, sex, race, language and religion.</p> |
| 2 | <p>The Parties agree to consider that a partnership implies, with relation to migration, fair treatment of third country nationals who reside legally on their territories, integration policy aiming at granting them rights and obligations comparable to those of their citizens, enhancing non-discrimination in economic, social and cultural life and developing measures against racism and xenophobia.</p> |
| 3 | <p>The treatment accorded by each Member State to workers of ACP countries legally employed in its territory, shall be free from any discrimination based on nationality, as regards working conditions, remuneration and dismissal, relative to its own nationals. Further in this regard, each ACP State shall accord comparable non-discriminatory treatment to workers who are nationals of a Member State.</p> |
| 4 | <p>The Parties consider that strategies aiming at reducing poverty, improving living and working conditions, creating employment and developing training contribute in the long term to normalising migratory flows.</p> <p>The Parties will take account, in the framework of development strategies and national and regional programming, of structural constraints associated with migratory flows with the purpose of supporting the economic and social development of the regions from which migrants originate and of reducing poverty.</p> <p>The Community shall support, through national and regional Co-operation programmes, the training of ACP nationals in their country of origin, in another ACP country or in a Member State of the European Union. As regards training in a Member State, the Parties shall ensure that such action is geared towards the vocational integration of ACP nationals in their countries of origin.</p> <p>The Parties shall develop co-operation programmes to facilitate the access of students from ACP States to education, in particular through the use of new communication technologies.</p> |

- 5 (a) In the framework of the political dialogue the Council of Ministers shall examine issues arising from illegal immigration with a view to establishing, where appropriate, the means for a prevention policy.
- (b) In this context the Parties agree in particular to ensure that the rights and dignity of individuals are respected in any procedure initiated to return illegal immigrants to their countries of origin. In this connection the authorities concerned shall extend to them the administrative facilities necessary for their return.
- (c) The Parties further agree that:
1. Each Member State of the European Union shall accept the return of and readmission of any of its nationals who are illegally present on the territory of an ACP State, at that State's request and without further formalities; each of the ACP States shall accept the return of and readmission of any of its nationals who are illegally present on the territory of a Member State of the European Union, at that Member State's request and without further formalities. The Member States and the ACP States will provide their nationals with appropriate identity documents for such purposes. In respect of the Member States of the European Union, the obligations in this paragraph apply only in respect of those persons who are to be considered their nationals for the Community purposes in accordance with Declaration No 2 to the Treaty establishing the European Community. In respect of ACP States, the obligations in this paragraph apply only in respect of those persons who are considered as their nationals in accordance with their respective legal system.
 2. At the request of a Party, negotiations shall be initiated with ACP States aiming at concluding in good faith and with due regard for the relevant rules of international law, bilateral agreements governing specific obligations for the readmission and return of their nationals. These agreements shall also cover, if deemed necessary by any of the Parties, arrangements for the readmission of third country nationals and stateless persons. Such agreements will lay down the details about the categories of persons covered by these arrangements as well as the modalities of their readmission and return. Adequate assistance to implement these agreements will be provided to the ACP States.
 3. For the purposes of this point (c), the term "Parties" shall refer to the Community, any of its Member States and any ACP State.

NOTE

- 1 *2000/483/EC: Partnership agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 – Protocols - Final Act – Declarations (Official Journal L 317, 15/12/2000 P. 0003 – 0353).*

Annex C

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The Demo-Economic and Spatial Approach of WALTPS¹

Development experts and their partners in development agencies and developing countries have generally found it convenient to divide the real world into sectors (farm, non-farm) and environments (rural, urban), and to use different reasoning for each component. One of the effects of this sectoral approach has been to hide the spatial dimension of development processes, which is a crucial one in those countries in settlement transition that are still marked by extreme spatial and social differences.

If the attempt is to be made to picture the real world and work with real stakeholders, rather than the abstract beings who inhabit macro-economic and sectoral models, it is essential to re-introduce space. Re-introducing space means conceiving the economy of a given area (country or region) not merely as a set of sectors of activity whose linkages can be described in a table of intersectoral exchanges, but also as a combination of local economies within which and among which all sorts of linkages occur that depend largely on neighbourhood relationships between the actors. Understanding and describing local economies means first understanding and describing these linkages, and primarily those between places with differing characteristics, such as cities and their rural hinterlands.

In order to understand and interpret these linkages, as for any professional endeavour, it is essential to adopt an adequate conceptual framework and models, taking into account, therefore, the demographic, economic, spatial and social dimensions involved in these linkages. These models will be demo-economic and spatial in nature. Again, as in any scientific discipline, modelling, or the simplified representation of reality, is a necessary and justified approach, although, of course, the limitations of any model must be borne in mind.

The scientific approach uses iterations between models and observation on the ground. As with all human sciences, it is obviously impossible to observe and measure everything at a given date, and even impossible to measure the past record of every variable. Some recourse to modelling

is therefore inevitable. Better to use explicit models than merely intuition or rule-of-thumb.

West Africa, along with the rest of Sub-Saharan Africa, is the last part of the world to undergo its demographic transition. There is massive migration in the region, between countries, from the interior to the coast, from country to city and from city to city. Despite urbanization, the rural population continues to grow in almost all countries. There are now five times as many cities as there were in the 1960s and these cities play an increasingly important role in the region, with economic and political influence out of proportion to their population size, while an increasing proportion of the rural population and economy is concentrating around the cities. The development process in West Africa exhibits the following features:

- Settlement patterns are extremely mobile: people actually move far more than net migration measured at long intervals can show. This tendency towards mobility makes population growth more tolerable, but also creates tensions that are hard to manage;
- There are sharp differences between geographical areas, which tend to increase as migration continues;
- Transaction costs are high, resulting from the huge size of the region, the low density of population and economic activity, and the under-developed state of the infrastructure.
- Priority is generally given to work over productivity: African societies have a duty to absorb newcomers by creating what are termed “informal” economic activities; higher labour productivity is generally only a secondary objective.
- Large numbers of people have more than one job. Many households have one foot in the city and one back in the village, dividing their time between crop production and trade, or a salaried job and an “informal” activity.
- Large transfers between households, especially between village and city, facilitate mobility and help people survive hard times.
- Different modes of functioning coexist in the economy, from the most capitalist and outward-oriented to the cashless subsistence economy, with the informal or popular economy between the two.

The demo-economic and spatial approach used in WALTPS to describe and interpret the changes in the “real economy” starts from the changes over time in settlement patterns. The patterns show the total population distributed among a variety of habitats (urban, rural, cities, towns, land-locked, coastal) and strata representing broad life-styles and living standards (mainly agricultural, informal or modern). Each population category is allocated to a specific demand (for goods and services, and income) and supply that varies by location and form of interaction, by means of spatial models.

To take account of the fact that the population is in itself, and not via employment, a factor of production, the economy is considered to be made up of two interdependent sub-systems or levels, one on top of the other:

- A base level, corresponding to activities that meet the basic needs of households. It demand-driven and only indirectly depends on the business cycle, insofar as this cycle affects the distribution of the population between the various types of household;
- A second, more “conventional” or “exposed” level, depends more directly on the macro-economic situation, linkages with the outside world and supply constraints. The structure and growth of “real” gross domestic product resulting from the combination of these two levels are thus linked both to the behaviour of the exposed economy, which depends heavily on relations with the rest of the world, and to trends in settlement patterns.

NOTE |||||

1 Cour, J.M. and S. Snrech (1998), *West Africa Long-term Perspective Study: Preparing for the future, A vision of West Africa in the year 2020*. OECD Publishing. Club du Sahel. *Étude des perspectives à long terme en Afrique de l'Ouest ; pour préparer l'avenir de l'Afrique de l'Ouest, une vision à l'horizon 2020*. Editions OCDE. Club du Sahel.

Glossary¹

Alien: A person who is not a citizen of the country in which he/she lives. A “legal alien” is someone who lives in a foreign country with the legal approval of that country. An “illegal alien” (or undocumented alien) is someone who lives in a foreign country without having legal status in that country. A distinction is made between illegal immigrants and illegal aliens; the former being someone who wishes to settle permanently in the new country. A distinction is made between illegal immigrants and illegal aliens – the former being someone who wishes to settle permanently in the new country.

Arrest Warrant: An order give by the examining judge to the police to seek and arrest someone for indictment then take them to a correction centre.

Circular migrant: One who moves regularly between his/her home country and a foreign country for employment-related reasons. Typically, though not exclusively, circular migrants do agricultural or construction work, returning home when employment opportunities wane, or when they have saved a bit of money. The term “circular migrant” is not entirely synonymous with guest worker, because the latter term implies that the individual fits into a specific employment-visa category of the host country; a circular migrant can be in a host country illegally or legally. Further, a guest worker may come to a host country for a set period of time and only return home when the visa expires – in other words, there is no back-and-forth and hence no circularity

Economic migrant: *Sometimes used as an equivalent to the term labour migrant or migrant worker. However, the two concepts may cover different categories. The term “labour migrant” can be used restrictively to only cover movement for the purpose of employment while “economic migrant” can be used either in a narrow sense, which includes only movement for the purpose of employment, or in a broader sense that includes persons entering a State to perform other types of economic activities such as investors or business travellers.*

Expulsion: A measure undertaken by the police by which an alien is ordered to leave the country. There is a tendency to systematically use the word “expulsion” every time an alien is forced to leave a country. There are several expulsion measures:

- Arrested and sent to the border: on the basis that the alien is in an irregular situation.
- Deportation order: ordered if the alien constitutes a threat to public order (sentenced to a long prison term, for example).
- Legal exclusion from the country: often goes along with a prison term whereas at the end of the term, the alien is deported from the country as a result of a judge-ruled exclusion. It can be used in cases of irregular situations, for certain offences or crimes.
- Surrendered to another country: can only take place in application of an agreement between two countries to which the alien is surrendered.

There are cases of protection from expulsion measures following the individual situation and the alien’s country of origin: protection from being led to the border, protection from expulsion, protection and guarantee from judicial banning from the country

Flagrante delicto: Delicto or offence in process of being committed or which was just committed and registered by the police. When the crime is punishable by a prison term, the Prosecution can quickly present the suspect before the judge for a hearing called an immediate appearance for a decision to be made.

Flow: The term used for the unstable and changing portion of an overall population figure

Forced departure: So as to avoid using the word “expulsion” (a legal-technical term in State immigration law), we speak of “forced departure” of an alien in cases in which authorities enforcing the decision of expulsion have used physical or other pressure to force an alien to leave his former country of residence.

Illegal migrant: A person who comes to settle in a country without the correct legal documentation, or who lives there using false identification or no documentation at all (“sans papiers” – without papers), or who otherwise resides in a country without formal permission. E.g., a person who enters a country on a tourist or student visa and then overstays his or her visa becomes an illegal immigrant.

Intergovernmental method: Negotiation sessions between representatives of national governments

Irregular migration: As defined by the Global Commission on International Migration, it is a complex and diverse phenomenon in which the main focus is irregular flows and entries, rather, for example, than the various challenges posed by stocks or irregular migrants such as undocumented work.

Immediate appearance²: A procedure which makes it possible to make judge quickly somebody following the police custody.

Labour migration: Movement of persons from their home State to another State for the purpose of employment.

Migrant smuggling; smuggling of migrants: Defined in the relevant Protocol as follows: “Smuggling of migrants” shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident. Trafficking victims can be, at least in the beginning, consenting and candidates for emigration, unlike those described by the expression “human trade.”

Naturalization: In law, refers to an act whereby a person acquires a citizenship different from that person’s citizenship at birth. Naturalization is most commonly associated with economic migrants or refugees who have immigrated to a country and resided there as aliens, and who have voluntarily and actively chosen to become citizens of that country after meeting specific requirements. However, naturalization that is at least passive and often not voluntary, can take place upon annexation or border adjustments between countries. Unless resolved by denaturalization or renunciation of citizenship, naturalization can lead to multiple citizenship.

Non-refoulement: *A core principle of refugee law that prohibits States from returning refugees in any manner whatsoever to countries or territories in which their lives or freedom may be threatened. This principle is usually considered a part of customary international law and is therefore binding on all States, whether or not they are parties to the 1951 Convention relating to the Status of Refugees.*

Refugee: Defined under Article 1 of the Geneva Convention (28 July 1951) relating to the Status of Refugees as “any person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the

country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country”.

Return migration: I.e., migrants returning to their country of origin – going home.

Statutory Refugee: In France, refugee status is a legal status recognised by the Office français de protection des réfugiés et apatrides (OFPRA), in accordance with the Geneva Convention of 28 July 1951 as well as the law of 25 July 1952 (in its draft of the law of 11 May 1998) referring to two categories of persons: - anyone meeting the definitions set out in Article 1 of the Geneva Convention of 28 July 1951 related to the status of refugees; – “any person persecuted due to his/ her actions on behalf of freedom” (L. 11.5.1998, Article 29).

Stock: In migration statistics, used to describe the stable portion of an overall population figure.

Total population (Contribution by J.-M. Cour): as set out in the WALTPS women, the aged and children, “inactive” and “unemployed” included is comprised of three strata:

- The primary strata corresponds to the total population of urban and rural households who depend on most of their total revenue (including non-monetary) from a primary activity;
- The formal non primary strata corresponds to households having a formal private or public salaried employment and households involved in formal (officially registered businesses) non agricultural businesses (non primary); and
- The informal non primary strata corresponds to the total population of households not classified in the two other strata. The non-primary population is that of two non-primary strata, formal and informal.

This breakdown of the total population into three strata, which abolishes in fact the household entity and ignores the notions of activity and unemployment, can evidently be disputed, but it enables the aggregates and ratios to be calculated taking into account the totality of the population which is often the only known data and prevents disputes over the definition of active (over 7 or 15 years of age? Less than 60 or 90 years of age?) and the unemployed (concept which has no sense except in the formal and modern sector).

Primary value added (Contribution by J.-M. Cour): is that of the primary sector of the economy, agriculture, livestock rearing, fisheries and forestry.

Warrant of Committal: An order given by a magistrate or judge to enforce a judgment or order to receive and maintain an indicted person in detention pending trial.

NOTE //

- 1 *The text in italics has been translated based on the official source text. www.iom.int and United Nations Multilingual Terminology Database <http://157.150.197.21/dgaacs/unterm.nsf>*
- 2 *www.speedylook.com/Immediate_appearance.html*

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West African Studies

Regional Challenges of West African Migration

AFRICAN AND EUROPEAN PERSPECTIVES

Over the last few years, the international agenda on migration has been particularly intense. Regular meetings between Africa and Europe, such as in Rabat (July 2006), Tripoli (November 2006) and Paris (November 2008) exemplify this. Within this context, the Economic Community of West African States' (ECOWAS) Common Approach on Migration, adopted in January 2008, confirmed the need for a coordinated regional response. Indeed, 90% of West African migration is intra-regional.

This publication presents contributions by international experts on various aspects of West African migration. It provides a contrasting perspective to current debates which essentially focus on security issues. This rather non-institutional approach promotes a constant dialogue based on analyses of the actual situation: the authors encourage "win-win" mobility for all parties involved (Europe, North Africa and West Africa), whether it be a host, transit or departure country.

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