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Migrating out of Poverty

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Encouraging 'returns', obstructing departures and constructing causal links
The new creed of Euro-African migration management

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Abstract

This paper explores whether the policy level constitutes a new element in what Hernández-León coined as “the migration industry” in 2005. The paper unravels the impact of semantic and legal shifts at different scales over the past two decades on the framing of irregular migration. Several key moments have marked Euro-African relations in the field migration. Through the decoding of political exchanges between African and European actors, this article shows the predominant objectives of migration policies. The first aims to encourage "returns" of migrants from Europe to Africa. The second seeks to dissuade potential African candidates from leaving (implied towards Europe), and the third presupposes that the returns of some migrants will make potential migrants renounce the journey. In order to prevent departures and to justify returns, new causal links appear in speeches. There is here an idea of an archetypal model linking returns and deterrents. This binary justification of a presupposed causality between returns and departures is questionable however because evidence shows that returns will not necessarily have the expected deterrent effect. Nevertheless, the migration and development nexus has gradually come to complement the migration and security nexus. At different scales and through semantic and legal shifts, emigration has been framed as a “problem” then as a “crime” in the dominant policy discourse. Through the design and implementation of departure deterrence programmes, actors from NGOs, international organisations, political institutions and the media are strengthening the controversial notion of "illegal emigration" which, gradually, has become a new resource in the field of migration management.

Executive summary

At a time when migration, security and development have become increasingly intertwined in policy discourses and political debates, this paper raises the question of whether the policy level constitutes a new element in what Hernández-León coined as “the migration industry” in 2005. The paper unravels how semantic and legal shifts at different scales in the dominant policy discourse has framed emigration, first as a “problem” then as a “crime” while taking advantage of the obstacles experienced by people in the South to encourage returns to the country of departure rather than facilitating mobility.

Faced with European measures designed to strengthen border control, states in the Maghreb and West Africa have responded with different combinations of agreeing, negotiating, circumventing and resisting the framework promoted by the European Union (EU). Some states have adopted repressive legislation. They have signed agreements with the European agency Frontex, agreeing to "readmit" their nationals, or even non-nationals, in exchange for legal migration opportunities (visas, temporary residence cards), assistance for co-development actions, or simply to maintain cooperation with the EU and its Member States, as these have made contributions to migration management a condition for cooperation. Over the past two decades, several key moments have marked Euro-African relations in the field of migration. Through the decoding of political exchanges between African and European actors, this article shows the predominant objectives of migration policies.

The first objective is to encourage the return of migrants from Europe to Africa. While the question of readmission of irregular migrants has become an underlying theme of most bilateral or multilateral negotiations about migration and development, it is imperative to unpack the terminology used. The term “return” is substituted for the term “readmission”. By using such a broad-spectrum term, the EU and its member states play on the imaginary and, in particular, on the idea of an enterprising diaspora that serves development through "productive investments" and voluntary return. The terminology used seeks to valorise returns and pays no heed to involuntary returns or the dimensions of constraint that migrants experience.

The second objective of the framework promoted by the EU and its member states is to deter potential African candidates from leaving (implied towards Europe). Assuming that migrants are not aware of what awaits them, campaigns are promoted that inform of the risks involved in irregular migration. In addition to deterring migration through awareness raising, it is also believed that populations in the South can be “fixed” in their location and to that end, development programmes are promoted.

The third objective is an amalgamation and reiteration of the former two. In order to prevent departures and to justify returns, new causal links appear in speeches to uphold that the returns of some will make others renounce the journey. Documents from the Justice and Home Affairs Council October 2015 reveal how the promotion of “returns” is presented increasingly as a deterrent i.e. as a binary justification of “returns”. And yet, the failure of one does not necessarily lead the other to give up his project. Departures are never limited to a single cause, the triggers can be multiple (search for well-being, security, leakage of multiform deficits), thus such simplifications feed false evidence on the intentions of people in migration

and returns will not necessarily have the expected deterrent effect. In her work on adventure migrations on African soil, Sylvie Bredeloup recalls that "contrary to popular belief, migration is not only determined by misery and danger. Economic imbalances between continents, demographic pressure in certain regions of Africa, political and military turbulence in Africa do not by themselves justify population departures. Individual motivation is also essential; personal ambition is an important driving force that drives the boldest elements on the road" (Bredeloup 2008, 287). These are all variables that the EU and its member states do not take into account.

Over the past two decades, several semantic and legal shifts have taken place. Pretending to prevent departures, the migration and development nexus has gradually come to complement the migration and security nexus. Through departure deterrence programmes, different actors, ranging from NGOs, international organisations, political institutions and the media, are tackling the controversial notion of “irregular emigration”. By doing so these organisations have contributed to the transformation of deterrence programmes into a new resource in the field of migration management.

Introduction

Confronted with European measures to strengthen border controls and to link migration and security, states from the Maghreb and West Africa have either agreed, negotiated, bypassed or resisted the framework endorsed by the European Union (EU) (Bigo 1998, Collyer 2016, El Qadim 2010, Gabrielli 2011, 2010, Guiraudon, Mazzella 2014, Perrin, 2009, 2011, Rodier 2012). Some states adopt repressive legislation; they sign agreements with the European agency Frontex[1], they agree to 'readmit' their nationals or even non-nationals in exchange for legal migration opportunities (visas, temporary residency cards), support for co-development actions or simply to maintain cooperation with the EU and its member states. Contributing to European migration management has become a condition for cooperation.

Since the 2000s, the focus on security has been associated with a managerial rhetoric disseminated by international organizations. It is an approach inherited from New Public Management (NPM) presenting itself as a public management doctrine which is 'consistent, universal, apolitical and international' (Bezes 2005, 10). According to this doctrine, public actors should follow the criteria of the private sector 'in order to improve effectiveness' (Bezes 2005; Georgi 2010, 56, Geiger and Pécoud 2010, Pécoud 2015, 20). Within this approach, migration management is a response to 'over-politicization' which prevents the development of 'good practice' in migration policies (Pécoud 2015, 20). The underlying managerial logic is that the approach is neutral and technical. However, it is mostly disseminated in Mediterranean and sub-Saharan Africa by actors such as the International Organization for Migration (IOM) and the International Centre for Migration Policy Development (ICMPD) (Andrijasevic and Walters 2011, Geiger and Pécoud 2010). By adopting a managerial logic within their structure and on the African continent, these international organizations tend to depoliticize migration issues by promoting indisputable objectives - development, 'protection of vulnerable migrants' or 'good governance' - and claim that they act for the benefit of all parties (Pécoud 2017, 93). They therefore appear as 'ideologically neutral, disinterested and technocratic' actors (Geiger and Pécoud 2014, 877, Lee 2007, 253, Pécoud 2015, 20).

For the last two decades, several key moments have punctuated Euro-African relations on migration. Several European Councils,[2] 'dialogues', conferences on 'migration and development' or other negotiations such as those carried out under the Cotonou Agreement have taken place. By untangling these political talks between African and European actors, we will try to understand the predominant purposes of migration policies. We will focus on three purposes: the first aims at encouraging the 'return' of migrants from Europe to Africa, the second seeks to deter potential African migrants (implied: from coming to Europe) and the third presupposes that the return of migrants will make others renounce their trip. Within this context, several questions arise: precisely what is covered by the generic term 'return'?

[1] European agency for operational cooperation at the external borders of the EU. On 6 October 2016 it became a European border and coast guard unit.

[2] The European Council defines the guidelines and political priorities of the EU. Its members are the heads of State or Government of the 28 Member States of the EU, the president of the European Council and the president of the European Commission. The High Representative of the Union for Foreign Affairs and Security Policy also takes part in European Council meetings when foreign affairs issues are discussed. http://www.consilium.europa.EU/FR/European-Council/

How does readmission appear in the background of bi or multilateral negotiations? What is the role given to official development assistance (ODA) in the fight against supposedly 'irregular' migrants? We will also look at different semantic and legal shifts at work: how, over the past two decades, has emigration been first considered as a 'problem' and then as a 'crime'? We aim to answer all these questions by using evidence mainly from Senegal where the author has undertaken field research on the topic during seven months in 2016-17.

1. Encouraging 'returns'

In this first part which analyses the main phases of Euro-African relations on migration, we will look at the mechanisms at work to facilitate 'returns'. Looking at past European Councils, we can highlight the 1999 one in Tampere when governments of the EU member states wished to lay the foundations for *communitarizing* asylum and immigration policies based on three axes: the integration of immigrants in a regular situation, the protection of asylum-seekers and refugees, and the management of borders to combat irregular immigration. Almost twenty years later, it is the third axis, the 'fight against irregular immigration' which is clearly predominant.

1.1 'Global approach', 'common approach' and the Rabat Process: readmission is implicit

In 2000, the EU and 79 countries from Africa, the Caribbean and the Pacific (ACP)[3] - including 48 in sub-Saharan Africa - signed the Cotonou Agreement. This association agreement, concluded for a period of twenty years, regulates the partnership between the EU and ACP countries. It covers development cooperation driven by the European Development Fund (EDF)[4], economic partnership agreements (EPAs) and the political dialogue between Europe and ACP countries. Article 13 deals with migration and mentions possible readmission agreements, defined as 'acts by which the signatory states commit to readmit on their territory their nationals arrested whilst in an irregular situation on the territory of another state, and also in some cases other foreigners who are not their nationals but who transited[5] through their territory before being arrested in another state' (Charles 2007, 6). In other words, these agreements facilitate expulsions. Without agreement, removals are difficult to achieve.

[3] To date, the agreement has been ratified by 20 out of the 28 EU Member States and 56 out of the 79 countries that make up the ACP Group.

[4] The EDF is the main tool of cooperation between the EU and the ACP countries; it is not part of the general Community budget. The 11th EDF has a budget of 30 billion euros for the period 2014-2018. It is funded by voluntary contributions from member states on a five-year basis. The main contributors are Germany, France, the United Kingdom and Italy.

[5] The notion of 'transit' raises questions here. What exactly does this term cover? Does it refer to having travelled across a country or to having lived in it at some point? For example the agreement on the management of migratory flows and solidarity-based development signed between Burkina Faso and France on 10 January 2009, provides in article 11 'the readmission of third state nationals'. Beforehand, the requesting party (France in most cases) must 'establish that the third state national used to have principal residence on the territory of the requested party before arriving on its territory' (article 11, 7).

With the Cotonou agreement, it is the first time that an instrument of economic cooperation financed by the EDF - that is, by Official Development Assistance[6] - contains questions related to the removal of individuals in an irregular situation. The clause in question, which is as yet not binding because some ACP states oppose it[7] (Collyer 2011, 12), specifies that: 'each ACP state will accept the return and will readmit its own nationals illegally present on the territory of an EU member state at the request of the latter and without further formalities' (article 13, paragraph 5). The clause also covers migrants from other countries having 'transited' through the territory of an ACP country. Along the same line as this 'without further formalities' wording, the European Commission highlights the fact that, once signed, European readmission agreements have 'the advantage [contrary to bilateral agreements] of imposing a deadline to the consular authorities of the contracting parties for issuing consular travel passes. After the deadline, the authorization to expel a person in an irregular situation is granted.' This point may seem attractive to some EU member states because the removal will be carried out more quickly (Cassarino 2016, 36‑37). Indeed, the authorities of European states regularly consider that the consulates of the countries of origin of migrants do not sufficiently cooperate in issuing travel passes. This ad hoc travel document establishes the nationality of the persons in question and allows effective enforced removals. This is important for the 'deporting' state because the 'non-cooperation' of consular authorities can block removal procedures. It has been shown, for example in France, that to facilitate the issue of consular passes, countries deemed as not very cooperative[8] receive incentives ('passes can be bought') or sanctions (Spire 2004, 32). This question of incentives comes up in discussions at several levels. It has for example been addressed by the former European Commissioner of Justice and Home Affairs, Franco Frattini, who was unequivocal on this issue of incentives before the French Senate in March 2006:

> 'The negotiation of readmission agreements was not easy. [...] The main reason for their slowness is that, although these agreements are in theory reciprocal, it is clear that in practice they essentially serve the interests of the Community. [...] The completion of the negotiations depends a lot on the 'levers', or should I say the 'carrots' of the Commission, i.e. incentives strong enough to get the cooperation of the country in question[9] '.

In 2002, with the Seville European Council, the link between migration and security is reinforced. In its final statement, the Council 'urges that, in all future co-operation agreements, [...] a clause be inserted on the joint management of migration flows as well as

[6] NGOs warn about using EDF funds for security purposes. See the statement of the Cotonou Working Group of Concord: 'The concerns of Concord about the future revision of the Cotonou Partnership Agreement', Brussels, April 2009. See also the analytical note of Migreurop on the revision of article 13 of the Cotonou Partnership Agreement, http://www.migreurop.org/article1626.html

[7] At the time of the June 2010 revision, ACP countries pushed to keep readmission issues on a bilateral level.

[8] This was for example the case of Cameroon and Mali. Senegal and Turkey had an attitude that is described as 'very co-operative' with the French authorities (Spire 2004, 34).

[9] Franco Frattini, European Commissioner for Justice, Freedom and Security, Hearing in the French Senate, Illegal Immigration: recent and future measures, Paris, March 7, 2006, pp. 5 – 6 http://europa.EU/rapid/press-release_SPEECH-06-146_fr.htm

on compulsory readmission in case of illegal immigration'[10]. Three years later, after the drama of Ceuta and Melilla - when on 29 September 2005 eleven migrants are killed by the Moroccan and Spanish police whilst trying to cross the barrier between Morocco and the Spanish enclave of Ceuta, and others are driven into the desert and left on the Algerian border - the European Council adopts its first 'Global approach on the issue of migration' focused on Africa and the Mediterranean Basin. It gives priority to 'cooperation with third states, the fight against irregular immigration and co-development' (European Council 2005). In the EU vocabulary, 'third states' are non-European states, especially those located on the Southern and Eastern borders of the EU and regarded as countries of origin or transit of migrants.

In 2006, the first Euro-African conference on migration and development in Rabat gathered African and European ministers of foreign affairs as well as the European Commissioner and ministers involved in migration and development. The final declaration initiated what is called the 'Rabat Process' with the implementation of a 'partnership between countries of origin, transit and destination to provide specific and relevant answers to the central issue of the control of migration flows.'[11] Here, development issues are discussed again in order to reduce migration. The same year, an ECOWAS-EU work group on migration is created. In 2008, the European Council, under French presidency, adopts the European Pact for Immigration and Asylum. It encourages the signature of readmission agreements 'either at the EU level or on a bilateral basis, so that each member has the legal tools to ensure the removal of foreigners in an irregular situation' (Pact 2008, 7). In line with the Rabat and Tripoli conferences[12], ECOWAS adopts in turn a 'Common approach to migration' that 'endorses [...] an approach focusing on the control and restriction of interregional migration, particularly to Europe, at the detriment of the consolidation of freedom of intra-regional movement' (Kabbanji 2011, 67). Up to the Summit of Valletta on 11 and 12 November 2015, successive European decisions retain the same tone.

1.2 From 'readmission' to 'return': a generic term masking constraint

It should be pointed out that, in these agreements, the term 'return' is substituted for that of 'readmission' (already a euphemism). However, with a generic term covering a broad spectrum of situations, the constraint dimension tends to fade. People's imagination is engaged to promote a positive idea of return, exemplified by the return of an entrepreneurial diaspora that facilitates development via 'productive investments'. The less visible returns are also covered by this generic term, however, and it is used more and more in official programs[13] to refer to enforced removals and, to a certain extent, so-called 'assisted returns'

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[10] Conclusion of the Presidency of the Council of Seville, 21 and 22 June 2002. http://www.consilium.europa.EU/ueDocs/cms_Data/docs/pressData/FR/EC/72640.PDF

[11] Euro-African partnership on migration and development, Declaration of Rabat, 11 July 2006

http://www.diplomatie.gouv.fr/FR/IMG/PDF/00_decla_rabat.PDF.

[12] 22-23 November 2006: Euro-African conference on migration and development in Tripoli (Libya). This conference is marked by the formal adoption of the plan of action against human trafficking developed in Ouagadougou (Burkina Faso) in 2002. Source: http://www.ladocumentationfrancaise.fr/chronologies/1ere-conference-euro-africaine-sur-la-migration-et-le-developpement-a-tripoli-libye

[13] See, for example, the conclusions of the Council of the EU 'on the future of return policy', October 2015 http://www.consilium.europa.eu/fr/press/press-releases/2015/10/08/jha-return-policy/

described as voluntary and executed by the IOM and other non-governmental actors. Here, the term of return would be more synonymous with forced return, renunciation, 'exit from the bottom' rather than with *success story* (Bredeloup 2014, 132). In this context, among the prerogatives of the Council of October 2015, the European agency Frontex is expected to play a greater role in the 'return' policy with the proliferation of eviction charter flights called 'joint return flights', i.e. shared joint returns between several European countries. The expansion of the agency's expulsion mandate is acknowledged: it is allowed to 'organize on its own initiative joint return operations, and [...] its role in regard to obtaining travel documents for people subject to a return decision is strengthened ' (COM 2015, 17). Forced returns are made possible, as we have seen in the first part, through readmission agreements signed with European states but also between African states. This is the case between Algeria and Niger which signed a readmission agreement in December 2014. The 'management' of 'returnees' from Algeria once in Niger is a new market for actors such as the IOM that totals today more than 120 employees in Niger and has opened its fifth 'transit centre'[14] in the country.

1.3 Negotiating 'returns' multilaterally, bilaterally and through less formal agreements

Attempts at multilateral talks alternate with bilateral operations throughout the 'Euro-African agenda'. For reasons of feasibility, the bilateral level is more common[15] and negotiations are gradually moving towards signing agreements that Jean-Pierre Cassarino calls 'non-standard', in the sense that they can take less constraining forms like exchange of letters, administrative agreements, memoranda, police cooperation agreements, etc. These agreements, in their vast majority, do not require a long process of ratification by the national parliaments and are immediately applicable as soon as they are signed. They are more 'flexible, easily re-negotiable, less visible', which can be an advantage for the authorities of many African states, given the unpopularity of readmission in civil society and the [national] media (Cassarino 2016, 35). With African states, these agreements have now become the majority. In 2015, out of 72 agreements, 51 were 'non-standard', mainly bilateral ones (Cassarino 2016, 33). To obtain the signature of these agreements, European states link the expulsion clauses or agreements with various compensations: legal migration opportunities, official development assistance[16], commercial benefits, etc. This is the approach taken by France linking the so-called 'concerted' management of migration with co-development in a series of agreements concluded at a fast pace between 2006 and 2010 with the countries of origin of migrants[17].

[14] Two centres in Niamey, a centre in Agadez (the largest), Arlit and Dirkou.

[15] Only one multilateral readmission agreement has so far been concluded between the EU and an Africa country, Cape Verde, in 2013. The negotiations have accelerated with Nigeria and Senegal (COM 2017, 9).

[16] The Franco-Senegalese agreement signed in 2006 comprises the modification of the project of modernization of Senegalese police and the 'creation of mobile units to patrol on the coast' funded by the Priority Solidarity Fund (PSF). The PSF qualifies as Official Development Assistance (ODA).

[17] France has negotiated 13 agreements tying the management of migratory to a co-development strategy presupposing that migrants contribute to the development in their countries of origin. Agreements have been signed with Benin, Congo, Gabon, Senegal, Tunisia, Mauritius, Cape Verde, Burkina Faso, Cameroon, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Lebanon.

This is also the case of Spain with the *Africa Plan*[18] and Italy with administrative agreements or 'quick return agreements'. These, signed at the time of the 'Arab spring' by Italy with Tunisia and Egypt, are agreements whose texts are difficult or even impossible to access. They allow the interception of boats when they arrive in Italian waters and the expulsion of migrants within 72 hours without the need to study individual cases[19].

Other 'non-standard' agreements have been signed directly by Frontex on the basis of article 14 of its regulations. The purpose of 'working arrangements' is to set up cooperation with enforcement authorities of so-called third countries (training of police officers, financial support, purchase of surveillance equipment and cooperation on returns). They allow Frontex to deploy observing agents from the EU at the sea, land and air borders of the said countries. To this day the agency has signed 18 agreements including two in Africa with the national police of Cape Verde in 2011 and the immigration service of Nigeria in 2012. It is currently negotiating with Senegal, Mauritania, Morocco, Tunisia, Libya and Egypt[20]. A great ambiguity must be highlighted: on one hand the agency is entitled to make deals with so-called 'third' countries, but on the other hand it does not consider itself able to assess whether or not human rights are respected in the countries to which it sends migrants back[21]. In addition, these agreements are not public: this is another ambiguity. They do not pass before national parliaments or the European Parliament. They are signed without validation of the European Commission or of the chargé d'affaires for fundamental rights that the agency recruited under its new mandate amended in November 2011. Agreements signed after 2012 contain a clause on fundamental rights, but it is non-binding because the agreements are not assimilated into treaties bound by international obligations. Finally, these agreements tend to put the responsibility of border control on non-European countries. Some actors from Euro-African civil society are questioning the basis on which the agency signs such agreements with countries giving few guarantees on fundamental rights[22].

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[18] As part of the *Africa Plans* 2006-2008 and 2009-2012. Several agreements have been signed between Spain and Senegal. We can for example mention joint statements 'on the role of the Frontex agency' (5/12/2006 and 21/05/2008) or 'on the management of legal emigration' (5/12/2006).

[19] See the report by François Crépeau, special rapporteur on the human rights of migrants, mission in Italy (29 September - 8 October 2012). http://www.OHCHR.org/documents/hrbodies/hrcouncil/regularsession/session23/a-HRC-23-46-add3_en.PDF. See also the interview with François Crépeau in La Libre Belgique, 30/05/2013: http://www.lalibre.be/ACTU/international/article/819046/Le-migrant-n-est-pas-un-criminel.html

[20] Source: Frontex website: http://www.frontex.europa.eu/partners/third-countries

[21] Study on the European Agency for a reform of its mandate, carried out by the Euro-African network Migreurop at the request of the Greens/European Free Alliance group to the European Parliament, (2010), 'Frontex: what guarantees for human rights?' p.12.

[22] On this subject see the Euro-African Frontexit campaign supported by twenty associations, researchers and individuals from civil society, North and South of the Mediterranean. http://www.frontexit.org/fr/

See also: Human Rights Watch, Libya: Whipped, Beaten, and Hung from Trees. Detained Migrants, Asylum Seekers Describe Torture, Other abuses in Detention, 22 June 2014, https://www.hrw.org/news/2014/06/22/libya-whipped-beaten-and-hung-trees and Amnesty International. Scapegoats of Fear: Rights of Refugees, Asylum-Seekers and Migrants Abused in Libya, 2013.

2 Obstructing departures: shifting notions, resource availability and hazardous causal links

2.1 Emigration as a 'problem' then a 'crime': semantic and legal shifts in Euro-African migration management

Another key issue to unpick in the dominant discourse on migration relates to the 'fixing' of populations in the South. This is to prevent departures through programs that include development aid.

To deter people from leaving, controls have been implemented in the countries of departure. Many scholars have relabelled such controls as 'the externalisation of border controls' (Blanchard, 2006); they consist in either implementing surveillance of the borders in countries of departure and transit or subcontracting it. These controls are composed of several filters. They take place in the consulates with the Schengen visa[23], in airports with the airport transit visas – what Caroline Lantero describes as 'policing instruments to keep asylum seekers at bay' (Lantero 2013) – in the airports of Southern countries in the presence, since 2004, of European liaison officers, but also through sanctions towards carriers (especially airline companies)[24]. This outsourcing of controls also takes place through cooperation agreements and changes in legislation. This lockdown on legal migration possibilities has helped create the controversial notion of 'irregular emigration'. Since 2003, in Morocco, Tunisia and Algeria, restrictions on the right to emigrate have been legally recognised with the creation of the 'crime of emigration'. As part of a wave of law revisions of the 2000s, Morocco was the first North African state to develop a legislation in 2003 (Act 02-03) which provides for the detention of migrants, along with other provisions that criminalize both irregular emigration and immigration. For Tunisia, the organic law 2004-6 of 3 February 2004 contains the same criminalizing direction[25]. In Egypt, with Bill 88 of 2005[26], people who leave irregularly are now facing criminal proceedings of six months' imprisonment if they return. In Algeria, the Act of 2008, implemented since 2009, provides for the detention of 'illegal' foreigners, and, in conjunction with the reform of the penal Code in 2009, criminalizes immigration and emigration labelled as 'irregular'. Leaving one's country other than through border checkpoints is considered an offence, as is assisting undocumented foreigners but with far longer sentences than in neighbouring countries.

Until recently, emigration was not considered a 'problem' in countries such as Mali or Senegal. The Malian law of 25 November 2004 on the conditions of entry, stay and settlement of foreigners in the Republic of Mali establishes the freedom of movement of foreigners in the territory and does not criminalize emigration. This is a rather open legislation in terms of legal trends of the 2000s. Prior to 1999, Senegal, through the ratification of regional instruments, wanted to consolidate legislation favouring the free movement and the right of residence and settlement of ECOWAS nationals. Lama Kabbanji shows in her work how mechanisms of

[23] Visas granted in priority to businessmen, skilled workers and tourists.

[24] For example payment of expenses and fines.

[25] Tunisian law of 1968 and 1975 already penalized illegal exit, the 2004 law criminalizes assistance to irregular migration.

[26] Revision of Law 89 of 1960.

liberalization of the movement of people decreased from the 2000s when debates about border control and the fight against so-called irregular emigration predominated (Kabbanji 2011, 60). In the 2008-2013 'Country Strategy Paper and National Indicative Programme' between the Republic of Senegal and the European Community, adopted under the 10th European Development Fund (EFD),[27] we note that the theme of migration is named 'migration problem '. Absent from the previous funds, this theme appears as 'intersectional' in the same way as governance, environmental issues and gender issues. The theme of 'irregular emigration' (expression cited 16 times in the document) is the subject of financing for 'targeted and priority measures for a better management of migration flows and the problem of irregular emigration (communication, research, institutional support, rehabilitation etc.)'.[28]

Senegal is committed within the assessment of its 'governance profile' to 'define a migration policy that puts an end to irregular emigration and facilitates the return of Senegalese expatriates'[29]. Through this example, we see that the ability of African countries to 'manage migratory flows' appeared as early as the 10th EDF as a criterion for assessing 'good governance' such as respect for human rights or its economic policies[30].

On another level, the text of the 'common approach on migration' developed in 2008 by the ECOWAS heads of state, shows the fight against 'irregular emigration' among its priority objectives. There is in this sense a «transfer of vocabulary and of the European security logic to these West African elites [...] who agree to participate actively in the fight against emigration understood as destined for Europe' (Brachet 2010, 21-22). Finally, during the 106th session of the IOM Council which was held in Geneva from 24 to 27 November 2015, the representative of the Senegal delegation, while declaring that 'politics of barbed wires and barricades cannot be the solution' welcomes the 'strong mobilization of the international community in the face of recurring tragedies of irregular emigration'. To borrow the words of Didier Bigo: 'it is the fight that determines the contours of its 'object' and not the object that determines the fight' (Bigo 1998, 8).

Deconstructed by several authors (Rodier 2006, Perrin 2009A, Brachet 2010), this notion of 'irregular emigration' may be considered as a 'legal fiction' for international law and for the constitutional law of some states[31] (Perrin 2009A, 30, 2012, 87). It is contrary to article 13,

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[27] In this document signed on 9 December 2007, the main budget (budget A) totalled 288 million euros, supplemented by a second budget (B) of EUR 9.8 million.

[28] Republic of Senegal-European Community Country 2008-2013 'strategy paper and national indicative programme', Lisbon, 9 December 2007, part II, p. 7. Document co-signed by Abdoulaye Diop, Minister of Economy and Finance at the time and Louis Michel, member of the European Commission for Development and Humanitarian Aid.
http://eeas.europa.EU/delegations/Senegal/eu_senegal/development_cooperation/pin_10_fed/index_fr.htm
See also the Cimade report, http://www.lacimade.org/wp-content/uploads/2011/01/fiche_senegal.pdf

[29] Republic of Senegal-European Community, (2007), 2008-2013 'country strategy paper and national indicative programme', op. cit., p. 88

[30] This profile provides access to funds equivalent to one third of the national budget (about 500 million euros for Mali). Observation report AEC, Cimade, AMDH, AME op.cit., p. 60.

[31] Several countries guarantee their citizens the right to leave the national territory, with constitutional value. This is the case of the Algerian constitution (article 29), Mauritanian constitution (article 10) or Tunisian constitution (section 10) (Perrin 2012, 79).

paragraph 2 of the 1948 Universal Declaration of Human Rights - UDHR – stating that 'everyone has the right to leave any country, including their own, and to return to their country'[32]. This right is also confirmed by the 1966 international Covenant on Civil and Political Rights (article 12, paragraph 2), a binding text that Senegal has signed and ratified[33]. 'Illegal emigration' (and the associated crime of 'illegal departure') are qualified as 'legal aberration' in the sense that it condemns individuals on the basis of supposed intentions and not on acts (Brachet 2010, 21). In Senegal the 2005 Act to combat human trafficking provides for penalties of 5 to 10 years in prison for 'organized illegal migration' (art.4); its ambiguous wording led to many arrests between 2006 and 2010 of people accused of 'illegal emigration or immigration' (AEC, AMDH, AME, Cimade, 2010). Mauritania has no legislative framework, but from June 2006, under Spanish injunction, it began to practice interceptions and to lock up people suspected of 'attempting illegal immigration' (implied to Europe) before sending some of them back to the land border with Mali or Senegal without legal basis (AEC, AMDH, AME, Cimade, 2010). The formulas 'illegal emigration' or 'clandestine emigration' and their administrative consequences (such as imprisonment and expulsions) have appeared even if Mauritanian law does not consider illegal departure as a crime (Perrin 2012, 79).

2.2 The 'emigration dissuasion': a funding niche

As early as 2005, since the events of Ceuta and Melilla and the episode of the pirogues[34], the stigmatizing concept of illegal emigration has been a bargaining chip in Senegal. The use of this notion has been trivialized, especially by 'mothers victimized by emigration' who have created the 'collective of women against illegal immigration of Thiaroye-sur-mer'. Emmanuelle Bouilly's work shows how this organization was sustained by funding granted in part by international agencies on the basis of an anti-migratory discourse and its actions corresponded with 'the growing trend in co-development programs of trying to 'fix' migrants spatially. (Bouilly 2008, 28). Talking about dissuasive campaigns conducted by her association, the chairwoman confided to the Afrik.com reporter: 'It's basically to say that when someone is born on a continent, they must stay there and find ways to cope'[35]. Here the assumption of a continent that it would be forbidden to leave is internalized. We can also mention the work of Anaïk Pian on the 'National Association of Returnees from Spain' whose members used to organize awareness days on the 'dangers of irregular emigration' to dissuade their compatriots from a potential departure. These actors' narratives may therefore take on 'political and moralizing dimensions that exceed or extend aborted migration experiences' (Pian 2014, 182). By using the 'repertoires of action, justification and argumentation' of international organizations, the association was aiming, among other things, at the funding of projects for those who had returned involuntarily and for potentially securing its members seasonal work contracts in Spain (Pian 2014, 191). Similarly, to other areas invested by international organizations, these campaigns are based on the assumption that irregular

[32] The UDHR commits all member states of the United Nations, but it is not binding.

[33] Senegal signed the 1966 International Covenant on Civil and Political rights on 6 July 1970 and ratified it on 13 February 1978. https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY & mtdsg_no = IV-4 & chapter = 4 & lang = en

[34] In reference to the means of transport of Senegalese and Mauritanian migrants to the Canary Islands from 2006 to 2008.

[35] Bangré, Habibou, 'Senegal: mothers on a crusade against illegal immigration', 3 October 2006. Online: http://www.afrik.com/article10486.html accessed 8 May 2016.

departures are the result of 'individual failures [the lack of 'perception' of the risks], that training or awareness should be able to remedy' (Revet 2009, 34, 49). Migrants would not know what awaits them; therefore, they should be made aware of the risks involved. However, among ordinary people the failure of one does not necessarily lead another to renounce their project. Everyone thinks they can try their luck. We agree with Antoine Pécoud's argument which considers information campaigns 'as a form of 'consensual' surveillance' (Pécoud 2012, 37).

In the Malian context, following calls for tender published by the Centre for Migration Management and Information - CIGEM-, to finance the implementation of campaigns to dissuade departures, we have witnessed a veritable mushrooming, albeit ephemeral, of new 'associations'[36] and 'briefcase associations'.[37] Sometimes these associations are set up by former migrants who have become the privileged contacts of international organizations (Streiff-Fenart, Poutignat 2015, 105) and who, in the process, are transformed into *lay experts* of the 'fight against irregular emigration'. This migration utilitarianism - to quote the concept coined by Alain Morice – is applied here to nationals: those suspected of being future migrants (implied to Europe) and to those who are migrating (Morice, 2004).

Today, through the emergency fiduciary fund to 'fight the root causes of irregular migration', the European Commission finances new awareness campaigns entitled for example 'Being successful in Senegal'[38]. The logic adopted here by the institutions has an economic dimension, i.e. the opportunity to make money in one's country of origin is supposed to deter emigration. This new generation of campaigns encourages 'staying at home' by differing from previous initiatives that had been criticized by researchers and a part of the public in Senegal. We are thinking here about an IOM clip to raise awareness released in 2007, co-funded by the EU and the Spanish Government[39] in which the singer Youssou N'Dour, 'the planetary griot'[40] but also former Minister of Culture, is sitting in a dugout at night and addresses in Wolof the Senegalese youth, 'the future of Africa', so that they do not 'risk their life for nothing'[41]. The majority of these campaigns broadcast in countries of departure are 'funded

[36] In 2011 in Mali, the overall budget for the 'fight against illegal immigration' campaigns reached 150 million FCFA in 2011, that is 5 million FCFA per call for project. Around hundred associations benefited from these funds.

[37] Thus designated because they have no established outlet, everything is in the 'briefcase': grants, dissuasive programs, etc.

[38] European Commission - Press release, 'Commissioner N. Mimica visiting Senegal', Brussels, 26 April 2016, IP/16/1575.

[39] This campaign with a budget of EUR 1 million lasted from August to September 2007 in Senegal. It was first promoted by the IOM and then was broadcast from September to November 2007 through 600 radio commercials, 100 TV clips, and 15 ads in newspapers. Awareness sessions with distributions of t-shirts, balloons, hats, pins and stickers on the theme of the campaign were also organized. See the article: El Mundo, 'El Gobierno lanza una campana en Senegal para reducir la inmigracion', 'No arriesgues tu vida para nada, tu eres parte del futuro de Africa' es el lema de la campana que el Gobierno de España y la Organización Internacional para las Migraciones (OIM) han lanzado en Senegal, para frenar la inmigracion ilegal, 20/09/2007.

[40] Title of a book on Youssou N'Dour, Gérald Arnaud, 'Youssou N'Dour, the planetary griot', collection Voix du Monde, Editions Demi-Lune, 2008, Paris.

[41] This clip is online on the website of the Spanish newspaper El Mundo : http://www.Elmundo.es/Elmundo/2007/09/18/Solidaridad/1190115314.html

by Western countries as part as cooperation and development aid' (Pécoud 2012, 44). They disseminate false evidence about the intentions of migrants, in that departures can never be reduced to a single cause and their triggers are multiple (search for well-being, security, multifaceted deficit leaks). Sylvie Bredeloup, who has explored migratory adventures in several African contexts, points out that 'contrary to popular opinion, migration is not only determined by misery and danger. [...] Economic imbalances between continents, demographic pressure in some parts of Africa, political and military turmoil in Africa do not explain totally why people emigrate. Individual motivations are also essential; personal ambition is an important driver pushing the more adventurous on the road' (Bredeloup 2008, 287). These are variables that institutions do not take into account, reasoning in a univocal way.

2.3 The idea of one man's return preventing another's departure

The October 2015 documents of the Justice and Home Affairs Council justify 'returns' because their function would be to prevent departures. The increase and promotion of 'returns' are presented as deterrents. The Council of the EU insists on the strengthening of cooperation with so-called 'third' countries based on returns and on the means of pressure needed so that 'the increase in the rate of returns has a dissuasive effect on irregular migration' (Council of the EU 2015). Returning to the country of origin is presented as 'one of the most effective ways to prevent and reduce irregular migration' and its effect is referred to as 'strongly deterrent' by the European Commission (CE, 2015).

This causal link is also advocated in Senegal by the IOM which offers 'reintegration' programs in which 'migrants who have come back raise the awareness of potential candidates for departure' and would therefore prevent emigration (IOM 2017). A failed trip followed by a successful reintegration - a *success story* in some way - would contribute to dissuade candidates for the trip. The aim of the organization is to promote standards and *success stories*[42] and to advocate rules of both 'good border management' and 'good practices' which again hides the coercive dimension of those programs (Düvell 2003).

Here there is a notion of setting an example, a model equation: the return of the ones must prevent the departure of the others. This binary justification of an assumed causal relationship between returns and departures is challenged in nuanced ways by several authors who show that returns will not necessarily have the expected dissuasive effect (Cassarino 2016, 36). Marie-Laurence Flahaux, in her work in Senegal and the Democratic Republic of Congo, shows how institutional support after returning does not have the expected positive impact on the reintegration of returned migrants (Flahaux 2017, 12).

Although expounded differently, the causal link advocated by institutions between successful return and delayed departure is the same logic as the relationships between migration and development. Income gaps between countries of departure and destination would be the cause of migration, and a reduction in these differences would reduce the need to emigrate (Guengant 1996, 114). Development thus appears as a way to prevent migration departures.

[42] The IOM aims at 'promoting programs, including through the achievement of success stories and communication support. Several of their brochures are called ' Success stories ', http://iom.md/attachments/110_temp_return_eng.pdf

The ‘preventive’ logic would be to act on the ‘root causes of migration' (root causes approach) (Kabbanji 2011, 49). Accordingly, all that is required supposedly to 'fix' populations in the South and to force returns is an increase in aid and investment for countries of emigration and at the same time a ban of immigration in countries of destination. However some works have shown the futility of these presumed links. The rhetoric underestimates the complexity of the relationship between migration and development; at first development encourages mobility (Massiah 2008, 12). The reasoning at work does not take into account all aspects of the act of emigrating.

Conclusion

This recontextualization of the key moments in the Euro-African register of migration questions allows a threefold conclusion. In this context, generally speaking, the term 'management' applied to migration is the euphemistic side of a desire to reduce ‘irregular’ emigration. A desire which, despite the freezing of migration policies, seems to be a futile goal, ‘migration being more complex than just a matter of politics and controls’ (Sassen 2009, 147). These policies, based on dissuasion and repression, do not deter people from migrating. Rather, people adapt their migratory strategies and diversify their routes.

With the analysis of Euro-African relationships regarding migration policies, we have showed how, in the last two decades, their directions have aimed primarily at increasing returns and deterring departures of African migrants to Europe. Under the pretence of dissuading departures, the migration-development nexus has gradually transformed to a migration-security nexus. Official development assistance has been made conditional upon a stronger ‘management of migration flows’ and the signing of readmission agreements. The EDF funds are increasingly used for this purpose. The control priorities remain in place and are now funded with ODA; in other words in the name of solidarity. In addition, to prevent departures and to justify returns, we have seen that new causal links, that we consider hazardous, have appeared in the discourse: the return of the ones would deter the departure of the others.

Finally, at different levels, so-called irregular emigration has become a 'problem' then a 'crime' which must be ‘fought’. It has especially become a new resource in migration management. Through several programs to dissuade departures, actors from NGOs, international organizations, political institutions and the media have seized this notion and contributed to disseminating the stigmatizing category of the ‘irregular migrant’ (in the making). Although it is a notion ‘without legal basis’ (Rodier 2006), it has gradually turned into a notion which can be used by organizations for fund-raising purposes. Could we not designate this phenomenon as a new 'migration industry' (Hernández-León, 2005) when, rather than facilitating the mobility of people, a profit is made out of their obstacles and their return to the country of departure is encouraged?

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