

International Migration and Non-Right Spaces in Africa and in Europe

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Background

As a global phenomenon, Migration has impacted upon peoples' lives at some point in time in their respective histories. Over the centuries every continent — the Americas, Australia, Africa, Asia — has at some time been invaded by the European colonial powers, and who in the process made life a veritable nightmare for the native populations. The 'pacification' achieved through force of arms led to stabilisation in the colonised countries. Since the 20th century, however, the effects of globalisation have resulted in the migratory flux now moving in the opposite direction. This time a 'new wave of explorers' has set out in quest of the European mainland; yet they have not succeeded in imposing their laws upon the 'autochthones'. Among those are large numbers of Africans migrants beguiled by illusions of the west; they do not shrink from heading 'for the front', in search, as it were, of a better life, and one, which few succeed in finding. For those who stealthily make it to the far shore, the extremely forbidding nature of the European 'welcome' ensures that any illusions they ever had dissipate, even for the most enterprising amongst them. Denied all legal access to acquiring citizenship, what transpires is that they find themselves relegated to total social exclusion, tagged as 'illegal immigrant' or 'clandestine'. Henceforth begins the reverse process of return to sender: they are deported to their country of origin, or failing which to the one through which they transited, both of whom deemed responsible for this unwanted invasion of migrants. On the individual and state level alike, migration has developed into a key problem for those Europeans attempting to resolve the issue with security and/or judicial measures. The forced acceptance of 'illegal' migrants, that signatories to the Schengen Agreement foist upon the migrant's country of origin or one through which they transited, has become a principle pre-conditions for eligibility of development aid, and aimed at breaking down the most headstrong opposition. Despite all the measures in force, migration continues unabated, and one could justifiably ask if the hegemonic solutions predetermined by member states of the European Union will in fact curb the tide for once and all.

Malian Migration in Africa

As evidenced by its past and recent history, Mali has attracted migrants over the centuries. As an ancient crossroads for medieval trans-Saharan commerce, landlocked Mali has continuously been a transit point and melting pot for populations coming from the savannah lands and the forests. The population flow between north and south reversed following initial contacts with European colonisers who landed on the African coasts. In its place, the Europeans substituted the triangular trading system, involving slavery from Muslim countries in the north, and the subsequent international trafficking of men, women and children, the repercussions of which are still keenly felt to this day. The outward flow of migrants has now reached a critical threshold given that current estimates put the number of Malians resident abroad at the three million figure; this represents almost a quarter of the nation's population. The Malian diaspora is found throughout the African continent: the Ivory Coast, where the majority are based, has become home to some two million Malian emigrants. Malians are also to be found in the west African states of Senegal, Mauritania, Niger, Ghana and Nigeria. They have also settled in central African states: the Republic of the Congo, Gabon, Cameroun, Central African Republic, Angola, Equatorial Guinea and the Democratic Republic of the Congo. They are also present in Algeria, Morocco and Libya, all of which have become conduits for Malians migrants on their way to Europe. (Spain and Italy). Some have relocated in the Arab states, notably Egypt, Saudi Arabia, and the United Arab Emirates. On the far side of the Atlantic, they have settled in the United States, Canada, Cuba, Mexico and throughout the Caribbean islands. In Asia, they have gone to Hong Kong and China. The current head of state, in declaring that 'Malian migrants are to be found all over the world', has corroborated the above observation.

Given that they constitute merely a tenth of the entire Malian diaspora, why therefore are we concentrating on the Malian migrant outflow to Europe? European countries don't have a monopoly on meting out violence to migrants and the non-respect of human rights. Hundreds, even thousands, of Malian migrants have been violently harassed in Africa, and have on many occasions been the victims of forced removals and even pogroms (Ivory Coast¹, The Republic Of Congo, Kenya, Equatorial Guinea, Gabon). In response, the Malian

¹ Conférence Kassibo, in Bréhima Kassibo, *Les tendances migratoires clandestines en Afrique de l'Ouest Etudes de cas de Ghana, Mali, Mauritanie, et Sénégal*, under the direction of Cheikh Oumar Ba, Dakar, OSIWA, 2008. Between 2002 and 2007, 47,507 Malian nationals were deported from the Ivory Coast. In 2003 alone, following incidents in the country, 40,237 Malians were deported. Between 2002 and 2007, Libya deported 2712; Morocco: 2840; Algeria: 275; and Angola: 325. Deportations from the Maghreb nations have intensified since 2009. According to a Red Cross report from Kidal, 1704 deportees from 18 different nations arrived at the border crossing of Tinzawaten in the period between April 15 and August 8, 2009, all of them deported by Algeria. The reports received from the AAMR, a support group for deported migrants, in Kidal indicates that 89 immigrants were deported in 2008. Their 2009 report indicates that, in all, 72 migrants, aged between 16 and 26, with a dozen national backgrounds, were deported from Algeria between Jan. 10 2009 and Dec. 28, 2009.

authorities have neither demanded that their nationals' civil rights be restored nor claimed compensation. The most shocking example is the Arab states where hundreds of Malian immigrants have been arrested and thrown into prison without any recourse whatsoever to submitting an appeal. Deprived of all their belongings, they are subsequently deported and escorted back to Mali by these 'friendly countries'. Until 2005, Ceuta and Melilla, the Spanish exclaves in the north of Morocco, served as points of entry to the European mainland, but following a series of appalling incidents the northbound flow of African migrants to these ports of embarkation eased off. To this very day, thousands of migrants are to be found languishing on the outskirts of Moroccan cities, or in the bush land that acts as a no-mans land between Morocco and Algeria, (Maghnia and Oujdja)², in the hope of finding smugglers to ferry them across to European shores. The Moroccan authorities continually track down illegal immigrants, arrest them and subsequently drop them off at the Algerian border crossing through which they originally entered. In turn, the Algerian authorities dispatch and then abandon them at Tinzawaten, a frontier post on the Malian border, where they are prevented from moving for several months until being eventually evacuated to Kidal and Gao, and subsequently deported to their countries of origin. What has engendered this jeopardous state of affairs?

Mali has signed cooperation pacts with several countries, some of whom for instance do not require a visa, as is the case with Algeria, to cross its borders. Moreover, it has also ratified accords on free movement of people and belongings with other member nations of the CEDEAO (Economic Community of West African States, and the UEMOA (West African Economic and Monetary Union). A lax attitude on the part of the Malian authorities has resulted in the fact that foreign nationals transiting Mali somehow manage to obtain Malian identification papers either on false pretences or by corruption, thus enabling them to enter Algeria and continue their way towards Morocco's and Western Sahara's Atlantic coast, points of departure for migrating overseas. As a result of strenuous controls on the Moroccan border, this outflow has redirected itself towards Senegal, Mauritania, and Western Sahara. Bamako, the Malian capital, nonetheless remains a magnet for those foreign nationals in transit, as well as for those smugglers invariably at hand to transport any aspiring immigrant —after procuring them a false passport— on new routes abroad. At the same time, Mali is beginning to attract an inward flow of migrants: this is due partly to the Mali's internal stability, the creation of new employment opportunities along with persistent regional

² According to Francois Frantini, European Commisioner for Justice, Freedom and Security Communication, as cited in the British newspaper *The Independent* (no 1324, Oct 11th 2005,) 20,000 Sub-Saharan migrants were lying in-waiting and ready to restart their journey to Europe via Ceuta and Malilla, and another 10,000 were waiting in Morocco.

problems. According to FECAM, (Federation of African Communities in Mali) some twenty different nationalities have settled in Mali.³

Exploitation of Migration by Member States of the European Union

One of the offshoots of the latest international financial crisis is that most European states have fallen into recession. Faced with increasing unemployment figures, reduced standards of living, mounting debts and a decrease in growth rates, governments and populace alike have been thrown into disarray. Given such deteriorating economic conditions, immigration is considered a threat to employment stability, and has given rise to the xenophobic attitude advocated by the extremist parties throughout Europe. Migration has been exploited for political ends. With the closing of borders to prevent all clandestine immigration, we can already witness the control of the inward flow of migrants. In light of such excessive measures, it is clear that security is now the dominant concern, taking precedence over respect for the migrants' right. A repressive legal arsenal opposing migrants' rights has been set in motion, with the aim of establishing controlled and selective migration policies.

In 2008, the member states of the European Union (the European Parliament) adopted a directive on the return of illegal immigrants. What distinguishes this directive is its stated policy of across the board imprisonment for those deemed as illegal immigrants. Proper measures ensuring protection for the vulnerable is lacking, (for handicapped minors and their parents, pregnant women, those sick and handicapped to name but a few). With the co-operation of the country of origin, these readmission accords in place aim at expediting the deportation of illegal immigrants. With development aid held as the carrot, these accords are used as a means of pressurising African states from which the migrants originally started their journey, or which served as a transit point. At the same time, FRONTEX's (European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union) capacity has been increased on Europe's external borders, in those countries that play, as it were, the role of Europe's sentinels. As signatories to these readmission accords, the majority of African states are, in effect, restricting the free movement of peoples. And moreover, with the creation of such a legal and operational framework aimed at sealing their borders and preventing the inward flow of illegal immigrants, the European Union has equipped itself with a formidable apparatus for control and repression. As far as we are concerned, however, the issue is one of an ethical and legal nature. In international law, working migrants have been accorded comprehensive rights,

³ Refer to Kassibo B., Cissé N, P.2010 *Etude sur les travailleurs migrants africains au Mali*, OIT, African Regional Bureau, Geneva. The final report was approved on February 24 and 25, 2010, in Bamako.

including the free movement of persons, the right to asylum, to acquiring nationality, the right to work as well as to family reunification. Member states of the European Union have never signed nor ratified the 1990 International Convention of the Rights of All Migrant Workers and Members of their Families, which was adapted by the United Nations in the same year. Moreover, other international conventions have yet to be applied: Convention 143, for instance, the Migrant Workers Convention dating from 1975, advocates a clampdown on unfair conditions as well as equal treatment for migrant workers. The revised Convention 97, originally signed in 1949, (Migration for Employment Convention) whose objective is to protect migrant workers, to promote and ensure they receive accurate information, in addition to ensuring that they are accorded identical rights as the local workforce. The dilemma now facing the European Union is how to reconcile its migration policy with its stance on respect for human rights. In applying laws incompatible with human dignity and individual liberties, are not those signatory nations to the Schengen agreement, who regard themselves as advocates of democracy, engaged in a process of trampling upon the foundation of those very same democratic principles they espouse.

Summary

We have been deliberating over the main aspects of Malian migration policies and their various implications, either on a local and international level, and moreover the solutions we envisage to resolve, or at the vey least to mitigate, the negative aspects of the situation. Mali, in the first instance, must protect the rights of its own citizens irrespective of where they are throughout the world. In addition to ratifying international conventions in relation to migration, Mali must establish bilateral agreements with the host countries, whereby the migrants' rights and safety are protected. And yet, as it currently stands, no alignment of public policies exists: there is a lack of cohesion between the migratory, social, legal and employment policies. Mali needs to introduce a real change in policy, one that takes into account migration in all its aspects, including the inward flow of migrants, or those who use the country as a transit point. This process will be set in motion by the strengthening of its migratory policies. The authorities should not content themselves by merely discouraging migration, or with ad hoc and short-termed tactics in dealing with crises, (deportation, violence, denial of human rights to Malian nationals by third countries) but instead anticipate and prepare for the problems arising from migration. From which ultimately ensues the necessity to elaborate ground-breaking policies, involving the would-be migrants in development projects, transforming them into active participants in the development of their place of origin, and thus ensuring that it remains the centre of their lives.

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