

The EU Migration Regime and West African Clandestine Migrants

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Abstract

This article examines the relationship between the EU migration regime and clandestine migration from West Africa to Europe. A review of the development of EU border and immigration policy reveals significant and sustained moves towards securitisation of migrants and the externalisation of border controls to countries of origin and transit. This emphasis on repression limits the scope of cooperation with 'third countries' (those outside Europe) in co-development, labour mobility, sea patrols and repatriation, which are examined separately as deterrents to uncontrolled emigration. This paper then analyses the motivations and intentions of Senegalese youth around the Cap Vert peninsula. This analysis includes the role of emigration in development and more recently, the impact of human losses and repatriations resulting from the clandestine journey by *pirogue* (open fishing boat) to the Canary Islands. This article argues that in this case, youth are excluded both from labour and asylum policies and instead are managed as a security threat, contradicting the factors driving this journey.

Keywords

AFSJ; Amsterdam Treaty; border security; JHA; labour mobility.

THIS ARTICLE EXAMINES THE OBJECTIVES AND OUTCOMES OF EU MIGRATION POLICY and of West African clandestine migration.¹ The first section will review developments in European migration policy from the mid-1980s to 2005. The Treaty of Amsterdam in 1997 incorporated the Schengen Agreements into the EU structure, leading to an incremental dismantling of Europe's internal borders and a stronger focus on external control. The control emphasis deepened as part of the general securitisation of policies that followed the events of 11 September 2001. The second section will examine the EU's Global Approach to migration, adopted in 2005, which combines development and security. The Global Approach has a particular emphasis on Africa and the Mediterranean and paves the way for further cooperation with third countries (countries outside the EU). This second section looks at co-development, labour mobility, FRONTEX² sea patrols and repatriation agreements as methods of deterrence to potential immigrants. EU policies seek, as part of the Global Approach, to address the root causes of migration, but the motivations and intentions of migrants are not referred to and could be of practical value to an

¹ The author thanks Khady Niang Gueye for her research assistance in Senegal.

² Frontières extérieures: European Agency for the Management of Operational Control at External Borders of Member States of the EU

immigration policy which is not dominated by the self-perpetuating logic of securitisation. These motivations and intentions are briefly outlined in the third section; with the purpose of the third section being to highlight the exclusion from labour, visa and asylum policy which West African youth face, and how they are forced into the category of 'illegal immigrant' and securitised before leaving African shores. In conclusion, the outcome of the Atlantic journey for different actors is considered.

Section I: Development of EU migration policy

The Schengen Agreement, initially involving France, the Federal Republic of Germany and the Benelux countries, was established in 1984. It establishes an area of free movement and has provided the basis for deeper EU cooperation on immigration and asylum. The Schengen *acquis*, which incorporates the agreements, now includes all member states with some exceptions. The UK and Ireland have partial participation in the *acquis* (they participate in police and judicial cooperation but separate visas are needed for visitors from outside Europe), and Denmark can opt-out of certain measures under Title IV of the EC Treaty. Adherence to the external border control *acquis* is a requirement, however, for accession states. The 1986 Single European Act further provided for the free movement of people, services, goods and capital within Europe. This dismantling of intra-European border and migration controls left a 'security deficit' as institutions of border management and immigration were abandoned, moving the focus to their external borders (Den Boer 2001: 296; Huysman 2000: 759). European states had become more restrictive in their immigration policies following the oil price hikes in 1973. The security emphasis in European consolidation, however, would intensify the inequality between Europe and Africa. Europeans could easily enter Africa but Africans would need to fulfil increasingly prohibitive criteria in order to enter Europe.

'Unwanted' migration was framed as a threat in the development of EU immigration policy. The Dublin Convention in 1990 sought to establish a standardised asylum procedure within the EU and move towards the development of new forms of restriction on asylum such as the rejection of applicants from 'safe' third countries and fast-track rejection for "manifestly unfounded" applicants (Geddes 2001: 24). In the case of Africa to Europe migration, the Dublin Convention resulted in sending asylum-seekers to the southern European countries of entry. The Maastricht Treaty on European Union in 1992 sought to formalise immigration and asylum within an intergovernmental pillar dealing with Justice and Home Affairs (JHA) issues. This 'third pillar' supported the EU 'roof' along with the central Community pillar and the Common Foreign and Security pillar. As a result, the Commission, the European Court of Justice and European Parliament were largely excluded from this area and the Council was the focus of decision-making. Legal output was limited, but there was significant development of a security-oriented understanding of immigration and asylum (Geddes 2001: 25; Huysmans 2000: 751).

The 1997 Treaty of Amsterdam, and the incorporation of the Schengen Agreements into the EU framework as the Schengen *acquis*, moved the management of the EU's external borders from the third pillar to Title IV and a 'slimmed down' pillar concerned with judicial and police cooperation. Concerns about the incorporation of the Schengen Agreements are based on their opaque construction, which took place outside of the democratic and legal framework of the EU. JHA became an 'area of freedom, security and justice' (AFSJ). Guild *et al.* (2008: 2) note three processes which have been decisive in the construction of the AFSJ; firstly, securitisation, "the discursive construction of wider categories of persons and practices as threats"; secondly, the application of technology to resolve issues constructed as threatening; and thirdly, a move towards intergovernmentalism as a response to common security problems. The Schengen Information System (SIS), central to the Schengen mechanisms, was adopted; a system of information exchange between

border authorities that gives access to reports on persons and objects. This system, followed by SIS II, further Customs and Visa Information Systems (CIS and SIS) and Europol systems are one component of the technological approach. Data protection issues have arisen as a result of the 'cross-pillar complexity' of the Amsterdam Treaty (Guild *et al.* 2008: 4).

Following the Amsterdam Treaty and the incorporation of the Schengen *acquis* into the EU, the Tampere summit on 15 and 16 October 1999 called for a common immigration and asylum policy with a root causes approach (Geddes 2005: 797). This was reinforced in the Seville European Council in 2002, where emphasis was placed further on the root causes of migration and the impact of migration processes on the EU and countries of origin. (Balzacq 2008: 18). The process of 'communitarisation' following Amsterdam has raised concerns because it would strengthen the role of states' executive actors and produce a framework of control. The basis for decision-making would remain intergovernmental and thereby exclude parliamentary approval and consultation (Geddes 2001: 25-6; Jeandesboz 2008: 2). The Treaty also extended Community powers to external relations, leaving the Community in a position to create agreements between member states and third countries (Mitsilegas *et al.* 2003: 39). These mechanisms for external relations have supported the intensification of 'policing at a distance'. Furthermore, agreements between member states and sending countries have been markedly focused on the objective of excluding unwanted third country nationals from entering member states' territory. The 'root causes' approach is, therefore, limited in scope because the objective is predetermined and inflexible. This article will return to these limitations in its analysis of the management of clandestine migration from West Africa, which orients policy measures towards exclusion and repression.

Balzacq (2005: 177) describes security as a 'self-referential practice'. This is evident in a discourse in which the problem with illegal immigration is that it challenges states' abilities to maintain their borders and to regulate the number of people entering the country. Furthermore, illegal migrants are expensive to process and provide for (Mitsilegas 2003: 42). The current era of securitisation, however, is perhaps best described by Bigo and Guild (2005: 259) as having "meaningless" intentions, but where "the social effects are meaningful". 'Hypertechnologisation' is not expected to stop unwanted immigration but is useful in order to obtain finance, social power and legitimacy for European forums on immigration (Bigo 2005b: 78). If the objective of security is to perpetuate itself, Treaty of Amsterdam reforms, which have also given higher jurisdiction powers to the Court of Justice, (Mitsilegas 2003: 36) provide mechanisms with which to 'reason' with its dominance over migration policy. There is continuing competition among member state authorities and networks, however, for example in the Treaty of Prüm, signed on 27 May 2005 initially by seven member states. This treaty has the objective of furthering EU cooperation in exchange of information, particularly in combating terrorism, cross-border crime and illegal migration. Guild *et al.* (2008: 5) argue that Prüm has created a hierarchy and a 'multilevel game' and that its intergovernmental arena excludes the European Parliament, thereby lacking democratic scrutiny and transparency.

This short analysis of the development of European immigration policy in its present form demonstrates that the events of 11 September 2001 did not change the direction of policy, but it did lead to a "state of exception" in which the rights of foreigners could be subsumed by constructed security imperatives (Bigo 2005b: 72). The Hague Programme, agreed by the European Council on 4-5 November 2004, referred to a "new urgency" of security in the EU and its member states following 11 September 2001 and the Madrid bombings on 11 March 2004, and states the continuation of firmer establishment of the AFSJ (Council 2005). Under the Finnish Presidency, the Council agreed on the common definition of Integrated Border Management (IBM). On 4-5 December 2006, the Justice and

Home Affairs Council defined the IBM model as comprising: (1) border control, including border checks and surveillance, risk analysis and gathering of intelligence; (2) detection and investigation of cross-border crime; (3) a four-tier access control model, including measures in non-EU countries, cooperation with neighbouring countries, border controls and controls within the area of free movement; (4) interagency and international cooperation for border management; and (5) coordination and coherence among the member states and with EU bodies. The IBM aims to 'fight against' illegal migration, but also discusses cooperation and building links with third countries. Unlike other migration-related documents, there is no mention of fundamental human rights and freedoms (Jeandesboz 2008: 3). The First Generation of IBM adopted the Schengen Borders Code and further developed the *acquis* on internal and external borders, including the establishment of FRONTEX, which I will return to later on in this paper. Carrera (2007a: 71) argues that the Schengen Borders Code demonstrates the involvement of European Parliament in decision-making procedures and includes "a wider set of guarantees and rights in the event of refusal of entry onto EU territory". Repatriation agreements, however, remove these rights as the responsibility of refusal is shifted to the home government or governments in countries of transit. Refusal of entry carries political and social implications that will be examined with reference to West Africa. In late 2005, Moroccan forces shot at Africans attempting to enter the heavily militarised Spanish enclaves of Ceuta and Melilla. The next section examines the EU's Global Approach to migration, which originates partly in this violence.

Section 2: The Global Approach: security, development and labour mobility

The European Council adopted the Global Approach to migration in December 2005, with a focus on Africa and the Mediterranean. This focus has been catalysed by pressure from EU southern member states, which lobbied for more financial and human resources after becoming the frontline of clandestine immigration (Wolff 2008: 257). Irregular migration to Spain, via Morocco or the Atlantic, was recorded at 2506 people in 2002, increasing to 19,176 in 2003, of which 76.6 percent were Senegalese (ACCEM 2006: 13). The Global Approach combines development and security and has been reinforced by Franco Frattini (2006), European Commissioner for Justice, Freedom and Security, who stated that "we need to address legal migration, combat illegal migration and deal with subjects covered by the migration and development agenda". The declaration of the Euro-African Ministerial Conference on Migration and Development was adopted in Rabat on 11 July 2006 and committed participating states to:

...work together following a comprehensive, balanced, pragmatic and operational approach and respecting the rights and dignity of migrants and refugees. (UNHCR 2008: 1)

The paradox of fighting against illegal migration and protecting the human rights of migrants, when the organisers are the migrants themselves, pervades West African-European migration management. With often tragic results, responsibility of protection is transferred outside European boundaries, resulting in an *Afrique humiliée* (Traoré 2007a). In the Communication on 'the Global Approach to Migration one year on', the objective is set to agree 'Mobility Packages' with third countries, which would enable third country nationals better access to the EU (Commission 2006: 7). These packages, which changed to 'mobility partnerships' in 2007, are strongly tied to the continuation of the EU security agenda and to the banning of south-north migration. The partnerships are to be tailored to the specific needs of each third country, to the ambitions of the country concerned and of the EU, and to the level of commitments that the third country is ready to take on. These commitments from third countries, in a typical mobility partnership, include: identifying and readmitting its own nationals; readmitting third country nationals and stateless

persons who arrived in the EU through its territory; initiatives to discourage illegal immigration; efforts to improve border control and/or management, supported as appropriate by operational cooperation with Member States and/or FRONTEX; improving the security of travel documents with biometrics where appropriate; exchanging information with relevant authorities in EU Member States; and initiatives to combat migrant smuggling and promotion of productive employment and decent work. Along with these commitments, the labour mobility in these partnerships is based on the labour market needs of EU Member States and emphasises the mobility of students, researchers, young professionals and volunteers (Commission 2007a).

The interim progress report on the Global Approach to Migration referred to several meetings and summits in Rabat, Tripoli and Lisbon, between the EU and the African Union, the Economic Community of West African States, and the countries of Cape Verde, Ghana, Mauritania, Senegal and Ethiopia. The Migration and Development Agenda aimed to integrate migration issues and concerns in Poverty Reduction Strategies and to establish micro-projects aimed at the use of remittances for income generation. Border controls, at the same time, were to be stepped up and the Rapid Border Intervention Team (RABIT) Regulation was adopted on 11 July 2007 (Commission 2007b). External border protection was a priority of the German Presidency for the first half of 2007. RABITS were introduced as a means of providing rapid assistance to Member States facing 'urgent and exceptional' pressure at the external borders, to be managed by FRONTEX. The management board will decide by a three-quarters majority on the profile and number of border guards (Monar 2008: 115).

The French Presidency built on the Global Approach with the European Pact on Immigration and Asylum, adopted by the European Council on 15 and 16 October 2008. The Pact has five key elements: (1) to organise legal immigration to take account of the priorities, needs and reception capabilities determined by each member state; (2) to control illegal immigration by ensuring the return of illegal immigrants to their country of origin or a country of transit (strengthening cooperation between countries of origin and transit); (3) to make border controls more effective – *by which cooperation with countries of origin and transit will be intensified to enable them to improve control of their own borders*, (4) to construct a Europe of asylum, (5) to create a comprehensive partnership with countries of origin and transit to encourage synergy between migration and development (Ministère de l'Immigration, de l'Intégration, de l'Identité Nationale et du Développement Solidaire, France 2008 – italics added). The Pact and EU strategies are in conflict, where the Commission calls for "clear and transparent rules for the entry and residence of third country nationals" and for fair treatment of migrants; both excluded in the Pact (Carrera and Guild 2008: 7).

Returning to the italicised Part Three of the Pact, Bigo and Guild (2005: 234), in their examination of European controls, note that the frontier "relates more and more to the act of leaving one's country of nationality than getting into another". They argue that dangers for civil liberties are located less and less at the state borders:

...they are less visible and they structure the world into two spheres: one composed of people allowed to travel and a second one, of people who are banned from it without any possibility to protest since they have no appeal against the decisions and are miles away from the border because they cannot even board a plane or leave their own country. (Bigo and Guild 2005: 235)

In 2008, meetings on legal migration, combating illegal migration, and migration and development were held in Rabat, Ouagadougou and Dakar respectively. Agreements simultaneously offer the provision of visas for labour mobility, co-development and protection of asylum, whilst controlling illegal immigration. The next sections examine

separately co-development, labour mobility, FRONTEX and repatriations as means of controlling migration.

Development as deterrent

This paper will illustrate in the final section that migration to Europe is not desirable for many clandestine migrants and that in turn, clandestine migrants are undesirable in European policy discourse. Co-development is an approach that encourages potential migrants to stay in Africa and can thereby potentially reconcile these mutual aims. One undervalued issue that arises in the use of development as a deterrent is the often explicit and insensitive goal of preventing Africans from reaching Europe – a rejection that is common knowledge amongst households in Senegal, Mali, Burkina Faso and other West African countries, which have a history of mutual dependence with Europe on labour migration. Linked with this, the condition of stepping up security in order to receive development aid challenges democracy and the aims of development. A third issue is the distribution of development aid and whether or not this reaches the potential clandestine migrants.

Emanuelle Bouilly's study in Thiaroye-sur-Mer, a suburb of Dakar that is traditionally a fishing community, shows an intriguing analysis of the Collective of Women for the Fight Against Clandestine Emigration (2008: 16). In March 2006, 162 youths died at sea in two pirogues. After supporting the departures by pirogue, sometimes by selling jewels and other valuables, these mothers of disappeared youth carry the anti-migration discourse of the north and raise interest from the media and actors of development. The Collective has become the central office for arranging visas granted by the Spanish government, and the Senegalese state, having been reticent, signed an agreement of migration management with Spain. This agreement includes the reinforcement of FRONTEX controls, repatriation of clandestine immigrants, granting of 4000 work visas for targeted employment between 2007 and 2008, and 13 million francs CFA (€19,818) for Senegalese agricultural development (Bouilly 2008: 29). In 2006, 4000 Senegalese migrants were repatriated (BBC 2006c) but the target of 4000 visas was not reached and legal options have diminished whilst controls have expanded. Locally, however, connections made with President Wade and his son Karim, through the 'political labour' of the women, attracted development aid (Bouilly 2008: 29). The Comisión Española de Ayuda al Refugiado (Spanish Commission for Assistance to Refugees) was one donor to the association, illustrating the blurring between humanitarian crisis and labour migration in this village community. Conflicts arose about the use of this aid, between the mothers and the repatriated youth. The importance of political connections in Senegal is clear when, in asking the youth about visas, the response is frequently that you need 'long arms' (friends in high places) in order to benefit.

France has a history of co-development that began at the end of the 1960s. The aim was to develop export sectors in the targeted countries, in favour of the paying countries. Initiatives for aiding the return of migrants began in the 1980s. In 1994-5, the PDLM (Programme Développement Local Migration) was launched in Mali, Senegal and Mauritania. The programme financed micro-projects in regions of strong emigration around the Senegal River valley, and was criticised for its coincidence with reform of the French office for protection of refugees and stateless persons (Ofpra) and a hardening of the politics of asylum (Gubert 2008: 49-50). This approach to development aid to curb migration was reinforced by French Foreign Minister Bernard Kouchner in 2007, but has met with concerns in part because it has been seen as a continuation of clientelist relations described as 'Françafrique' (Economist 2007). Furthermore, French President Nicolas Sarkozy is strongly associated with *refoulement* after returning African immigrants on 'Sarkozy charters' as Minister of the Interior. France already has bilateral agreements with Senegal, Gabon, Congo-Brazzaville, Benin, Tunisia, Mauritius and Cape Verde that

involve the hindrance of illegal migration to Europe. The Malian government has not as yet cooperated with France in deportation agreements, which would include delivery of development aid and labour contracts (BBC 2009). The remittances gained from Malian emigrants are of too much importance for their government to rush this politically sensitive issue. This highlights the unequal trade-off of carrots and sticks that guides European-African migration management.

Labour mobility: what provision for labour migrants?

Legal migration is not as Europeanised as other policy areas: it is subject to unanimity rule and consultation with the European Parliament. Within the Community framework, labour migration is based on the principle that the individual has the right to choose whether or not to migrate for economic reasons (Guild 2005: 127). External labour migrants, in contrast, are subjected to the requirements of the labour market. There was a 'golden age' of European recruitment, in which guest-worker rotations in Austria, Germany and Switzerland or neocolonial worker regimes in the UK, France and the Netherlands, guided labour migration during the 1950s and 1960s. States recruited labour in Spain, Portugal, Greece, Turkey and the Maghreb countries (Samers 1999: 187; Guild 2005: 103). The recessionary impact of the oil price crisis, and deindustrialisation associated with the completion of postwar reconstruction, led to a decline in foreign workers and the start of 'Fortress Europe' in 1974. In Germany and France, the number of foreign workers fell by less than half a million in each from 1973 to 1980 (Sassen 1999: 102).

Following the restrictions on immigration that have been consistent since the mid-1970s, immigrant labour can be characterised by recruitment to the upper and lower extremes of the labour market (Guild 2005: 114). On one hand, therefore, have been concerns about 'brain drain', especially concerning medical professionals at the upper end, and on the other, exploitation of cheap labour. It is observed by Amin and El Kenz (2005: 119) that Europe has sought an 'immigrant labour force' but not an 'immigrant society', leading to the establishment of quotas and seasonal contracts. This is evident in the Blue Card proposal of 27 October 2007, which is aimed at highly skilled immigrants and provides enhanced freedom to access labour markets. In contrast with the US Green Card, it can be withdrawn, however, if the member state decides to give priority to EU citizens as a result of changes in the labour market (Niessen 2008: 56).

In December 2005, the Commission issued a Communication on a Policy Plan on Legal Migration that would divide economic migrants into categories of highly qualified workers, seasonal workers, remunerated trainees and intracorporate transferees. For seasonal workers, it proposed the provision of a residence/ work permit allowing the third country national to work for a certain number of months per year for four to five years. The report states that:

...even in presence of high unemployment, this category of immigrant workers rarely conflicts with EU workers as few EU citizens and residents are willing to engage in seasonal activities. (Commission 2005: 7)

The legal logic for the EU visa follows a principle in which no third country national can access EU territory if considered a risk to a member state. National police databases, Interpol and the Schengen Information System (and linked database of Sirene) contain information about people who have tried to enter the EU or are 'undesirable' for other reasons (Bigo and Guild 2005: 238). The first commitment of the European Pact on Immigration and Asylum is to organise legal immigration to take account of the priorities, needs and reception capabilities determined by each member state (Ministère de l'Immigration, de l'Intégration, de l'Identité Nationale et du Développement Solidaire

2008). Spain signed an agreement with Senegal in March 2007 to grant temporary visas for Senegalese workers in the fishing and farming sectors. Visas have declined, however, as a result of the global economic downturn (IRIN 2008b). Despite this decline, EU policy of expulsion of illegal immigrants has contravened the interests of southern European countries, which have large informal economies and depend on migrant labour (Baldwin-Edwards 2005: 5). Dependence on 'irregular' immigration in southern Europe can be expected to continue throughout the economic downturn which began towards the end of 2008, although more of this labour force will be unemployed. The next section examines the most repressive restrictions on migration in the form of FRONTEX and repatriation.

FRONTEX (frontières extérieures), refoulement and West African migrants

In November 2006, the European Commission called for reinforced management of the EU's southern maritime borders and to maximise the capacities of FRONTEX. Established as an Agency in May 2005, FRONTEX tasks are governed by a Management Board, in which delegation members are all border chiefs or in a similar position. Its purpose is linked with the prevention of tragedies at sea, leading to calls to gear up the patrols and enhance the capacity of third countries, "from which unseaworthy, overloaded boats set sail for the Canary Islands, Greece, Lampedusa and Malta" (Bertozzi 2008: 1). Although the UK can opt-out of aspects of the Schengen *acquis*, it contributes funds, security staff and airport facilities to FRONTEX. This is on the basis of the UK's leadership role in strengthening border control by:

...creating a new offshore line of defence, by checking individuals as far from the UK as possible and through each stage of their journey, using new technology, particularly biometrics and new approaches to managing risk and intelligence. (Home Office, Border and Immigration Agency 2007: 4)

"Border security is a constant compromise between the freedom of movement of EU citizens and third-country nationals who enter the EU", argues Lt. Gen. Minze Beuving, the FRONTEX Management Board Chairman (Beuving 2008: 4). This highlights the tension and contradiction between freedom of movement within the EU and *refoulement* of those wishing to enter; their processing at the borders constitutes a threat to ease of movement for EU citizens. Neal argues that FRONTEX is not a product of securitisation, but on the contrary aims to harmonise and regulate the border practices of member states. The development of a core curriculum for border guard training and the Common Integrated Risk Model illustrates a technocratic "move away from the political spectacle of the security emergency" (Neal 2009: 348). Carrera (2007: 27), however, argues that FRONTEX is overly-politicised and that "compliance with the principle of legality may be open to debate". Legal issues with FRONTEX accord with Bigo's description of post-11 September securitisation, which "constructs a group as abnormal, justifying the solution of changing the law, and affecting justice, citizenship and the norms of liberal regimes" (Bigo 2005a). The Agency is an institutionalised and formalised securitisation measure, which is increasing its ability to take the exceptional measures that are linked with securitisation. It is, in another sense, apolitical, aiming "to prevent illegal border crossings regardless of the motive" (Beuving 2008: 8).

The prioritisation is placed on reinforcement of security at common EU external territorial borders (Carrera 2007a: 68). The European Border Surveillance System (EUROSUR) proposal, following two feasibility studies conducted by FRONTEX, sets out the long-term objective of developing common tools and instruments for border surveillance, with a particular focus on the southern maritime borders of EU member states. It sets out several options, however, which range from maintaining the status quo, to interlinking existing

surveillance systems, and further to developing new technologies such as unmanned aerial vehicles and earth observation, and establishment of a “common pre-frontier intelligence picture”, which reinforces externalisation and bilateral agreements with non-EU countries. (Jeandesboz 2008: 10). The development of EUROSUR and the expansion of FRONTEX’s competences would change the scope of FRONTEX activities: the Agency would participate in the Schengen evaluation mechanism and be able to run pilot projects with non-EU countries, giving more autonomy to the EU’s external relations and within the common foreign and security policy (Jeandesboz 2008: 11-12). The implications of this enhanced role for the fundamental values of the EU are challenging, as reflected in FRONTEX joint operations in the Canary Islands described below. The number of pirogues entering Spain is relatively small, despite an emphasis upon this type of migration in FRONTEX operations. Between 1990 and 2007, 3,641,669 immigrants entered Spain, of which 34,915 arrived by pirogue (Institut Nacional d’Estadística 2007a). Most illegal immigration in Europe is via airports. The importance of this clandestine entry is not, however, ‘created’ (See Carrera 2007b, Jeandesboz 2008). An ignored dimension is the socio-political importance of clandestine emigration in West Africa, where it has profoundly affected sending districts and is problematic if Euro-African international relations are to be strengthened, an aim of Euro-African agreements.

Operation HERA I was based on a request from Spain and started in July 2006. It aimed to determine the countries of origin of ‘irregular’ migrants, with experts from France, Portugal, Italy and Germany, and two subsequent groups. HERA II ran from August to December 2006 and aimed to facilitate technical equipment for border surveillance. In the zone between the Atlantic coast and the Canary Islands, the pirogues were to be intercepted, and then the authorities of the sending country would deal with the immigrants and their return: the boats would only be escorted to the Canaries if they were intercepted over 24 miles away from the West African coast. Operation HERA III was announced in February 2007, combining the first two operations of identification and interception. This represents, therefore, the externalisation of EU border control with a legal basis in bilateral agreements between the EU member state and third countries in Africa, in this case between Spain, and Mauritania and Senegal. These agreements have been secret, thereby challenging European principles of democratic scrutiny and transparency, embodied in the First Pillar under which FRONTEX was created (Carrera 2007b; Jeandesboz 2008). 2006 is also a year of tragedies associated with pirogue migration. About 6000 African migrants died at sea or went missing on the journey to Canary Islands, and 600 bodies were picked up on their shores. 31,000 migrants reached the islands, more than six times as many as in 2005, and fewer than 5000 were intercepted. Almost as many Africans reached the Canaries as the last 4 years combined according to Spanish immigration officials (BBC 2006a). In the same year, Spanish authorities and the Mauritanian government installed a detention centre in Nouadhibou for illegal immigrants, which came to be known as ‘Guantanamo’. Food and other support, such as access to telephones, is provided by the Red Cross of Spain and Red Crescent of Mauritania. Between October 2006 and June 2008, 6745 people were held in the centre (Lamazou 2008). Aminata Traoré, former Malian Minister for Culture and Tourism, has argued that Africa is becoming a prison in which violence is subcontracted to countries of origin and transit (Traoré 2007b). These more repressive measures of keeping Africans within their own borders, seen in the enclaves of Ceuta and Melilla, the Mediterranean and the Atlantic and in detention centres, depict a fortress in North and West Africa.

Routes of migration have dispersed, however, challenging this fortress. As patrols close in on Senegal’s beaches, migrants will go further afield, to Gambia or Guinea, and the journeys become more perilous. In October 2006, boats were leaving from the Gambian beach of Tanjeh after Senegalese and Mauritanian beaches were patrolled (BBC 2006b). Boats still continued to leave Senegal in small numbers, however, in 2008; once from

Yarakh beach in July, despite Spanish reports that Senegalese migration has ceased. The next section examines repatriation agreements as another tool of migration prevention.

Repatriations

The April 2004 Council Decision, to coordinate joint removals by air of migrants who are the subjects of individual removal orders, was also adopted by the UK and Ireland. Readmission agreements are a key part of the Schengen *acquis* and of the conditionality applied to candidate states. The agreements oblige the contracting states to readmit their nationals if they do not fulfil the conditions for entry, presence or residence. The meeting of the Council in Seville in June 2002 called for a speeding up of readmission agreements, and readmission became integral to the comprehensive plan to combat illegal immigration (Balzacq and Carrera 2005: 30-31).

Spain has signed agreements with Cape Verde, Gambia, Guinea Conakry, Guinea-Bissau, Mauritania, Nigeria and Ghana for readmission (IOM 2008). The repatriations, either to transit countries or countries of origin, have not evidently reduced migrations by sea. There have additionally been concerns raised by Human Rights Watch and Amnesty International about the repatriation of minors, in Spanish bilateral agreements with Morocco and Senegal. The agreements leave a lack of legal representation and include Spanish funding for a reception centre in Morocco (Human Rights Watch 2008). The use of elbow and wrist x-rays to determine osseous age has also been questioned as a method of identifying minors. The Dublin II Regulation and the EUODAC regulation add to the indignity of being an irregular migrant. Dublin II, adopted on 18 February 2003, modifies its predecessor by placing the responsibility upon member states where the first claim is lodged, rather than the first state of entry. This supposedly lessens the burden for frontier states (Balzacq and Carrera 2005: 44). EUODAC is a computerised database that holds information, such as fingerprints, about any individual applying for asylum, irregularly crossing borders, or staying illegally in a Dublin II country, which includes the UK and Ireland. The fingerprints are sent to the EUODAC central unit, which is managed by the Commission Directorate-General for Justice, Freedom and Security and expected to link up with the SIS II, raising questions about data boundaries and fundamental freedoms (Balzacq and Carrera 2005: 45-6). Under the Dublin Convention II, Spain transferred 266 migrants in 2005, mainly to France and Germany (Comisión Española de Ayuda al Refugiado 2007: 244)

Table 1 shows that a large proportion of migrants embark on the journey to Spain in transit countries (Mauritania, Morocco and other North African countries).

Table 1: Immigrants to Spain by place of departure and type of transport since 1990

Origin	Number of people	Of which pirogue	Of which pirogue from country of transit as distinct from place of birth
EU27 excl. Spain	1,246,101	258	258
Morocco	415,451	27,587	21,435
Rest of African countries	134,342	7070	6118

Figures from Institut Nacional d'Estadística 2007b

Repatriation is therefore a misnomer, unless we consider Africa to be a country. Senegal's repatriation agreements with Spain and Mauritania have led to the 'return' of West

Africans who are not Senegalese, often at the Senegal-Mauritania border town of Rosso on the Senegal River. The following description illustrates the messiness that occurs in dealing with migrants between northern and southern countries:

When we were in Morocco, the Spanish signed an accord with Morocco on taking charge of the clandestines. But since there was no plane, they decided to lead us to the Mauritanian border. During this time, the Mauriticians refused then we were returned again to Morocco... they brought coaches to return us to Morocco. For our return to Senegal from Morocco, things started truly to drag out, Morocco decided finally to lead us to Senegal. (*Repatriated Senegalese fisherman, 7 June 2008, Thiaroye-sur-Mer*)

As this article discussed earlier, repatriation responsibilities have been transferred to countries of origin in exchange for development aid and labour contracts. Migrants in Senegal consider that President Wade has requested their return, distancing them from the state. Repatriation, particularly after considerable resources have contributed to the migration, leads to financial difficulty and depression.

Section 3: Motivations and intentions of West African clandestine migrants

Some of the illegal immigrants, some of them have been to Spain and they have been repatriated 4 times, some of them have had accidents, the others died...even if they construct a wall, if they want to enter Europe they will pass...they take a route, they go one week, they lose fuel and everything and they die. (*Ghanaian migrant in Nouadhibou, Mauritania. 17 May 2008*)

I tried to go twice. I sold my livestock in Mali. I returned to Senegal to get to Nouadhibou...we had problems at sea. We returned to Nouadhibou to repair the pirogue. We stayed 2 days for the repairs and when we returned, the guy had disappeared with our money. I paid 400,000F [€609.80]. I returned to try a second time. I sold the rest of the livestock at 350,000F [€533.57] to go from Mauritania. I redid the same thing. I paid 325,000 [€495.46]. (*Failed migrant 3 March 2008 Thiaroye-Sur-Mer*)

Irregular, transit and asylum migration can be approached as a continuum. People in need of international protection increasingly take the irregular route, entering the country illegally and aiming to apply for asylum, and may remain undocumented if this is rejected (Papadopoulou 2005). This distinction blurs in Mauritania, where in the busy markets of Nouakchott, migrants from both 'conflict' and 'labour-exporting' countries can be found operating small businesses such as restaurants, barbers and textile manufacturing. Women constitute half the migrant labour force in Mauritania but only a third of asylum seekers; this is because asylum is an insecure route and it is safer to draw on contacts and associates. In addition, there is no state provision for refugees in Mauritania, although there is a framework for asylum application (UNHCR interview). After the military coup in Mauritania on 6 August 2008, there was a reported increase in departures by pirogue. The heavily guarded port, where sub-Saharaners enter fish processing work in zones divided into different West African nationalities, experienced a security gap after the change of government. On 13 August, more than one hundred African migrants reached Tenerife beach, bringing the total to more than four hundred arrivals in that week (IRIN 2008a).

In the 14th ECOWAS (Economic Community of West African States) – EU Ministerial Troika Meeting of 23 November 2008, the following statement was released:

Turning to country specific situations in West Africa, the parties discussed the consolidation of peace and democracy in Côte d'Ivoire, Guinea, Guinea Bissau and the Sahel region. In a number of these countries scourges such as terrorism, organised

crime, trafficking of drugs and small arms as well as human trafficking are causing growing concern. (Council of the European Union 2008)

The crime which has been associated with the securitisation of migration as a means of justification, therefore, is connected with the countries that have experienced conflict and serious refugee and humanitarian crises - not Senegal, which is the source of over half of the clandestine migrants in Spain. On the continuum of irregular and forced migration, however, this journey to the Canary Islands moves towards forced migration. The forced element of this journey arises because there is a lack of alternatives to the decision to emigrate, the place to emigrate to, and how to reach this destination.

The following list of drivers of Senegalese clandestine emigration from communities around the Cap Vert peninsula, where Dakar is situated, reveals a distance from the organised crime and trafficking networks that are supposedly being fought against.

Firstly, Senegal has a history of seasonal migration rooted in colonial regimes of labour. Senegalese historian Cheikh Anta Diop's (1960: 114-5) description of colonial plantation workers claimed that they did not constitute a class, but "represented a transitory stage in the life of a young unmarried man, who would engage in this monotonous seasonal work in order to return and marry". This echoes in contemporary analyses of Senegalese migrants, in which the description of the journey as *l'aventure* (Ba 2005) implies a rite-of-passage under social pressures and is still overwhelmingly dominated by young men, despite a general feminisation of migration elsewhere.

However, as the second driver, poverty is also a strong force and married men are leaving their wives and children behind at great risk. Poverty as a driver is distinct from *l'aventure*: rather than a rite-of-passage, poverty introduces a forced element, returning to the problem of how to classify the migrants. Although it is often argued that the poorest people do not migrate and that 'economic migrants' have already achieved some form of mobility, for the fishing communities around Dakar, St Louis or the Casamance region in the south, the journey is on the migrants' doorstep. It is free if they can offer navigation skills, assemble passengers or are a friend of the organiser, and therefore in sight. It is not a naïve optimism which drives many Senegalese to the European 'El Dorado' but the common knowledge that it is possible to earn €600 per month in Europe, a wage which is practically unreachable in Senegal's traditional communities and can sustainably transform the lives of whole families there. Some of the pioneers of this Atlantic route are now legally living and working in Spain, and sending regular payments to their relatives. The migration is economically-driven, but not based on the 'pull factors' of Europe. On the contrary, migrants do not consider staying where they are to be an option.

Here, if youth leave clandestinely for Spain it's because there's no work here and people who lead us don't take responsibility, otherwise young people wouldn't try *l'aventure*. No clandestine wishes to leave in these conditions. But the situation obliges it, to take a wife, to start a family and to meet the needs of our relatives...nothing is more beautiful than leaving the house in the morning and going to work. (*Brother of clandestine emigrant at sea*. 24 June 2008. Rufisque, Senegal)

The individual can only bloom in his country of origin. And if we travel to Europe it's because we don't have a choice, because emigrating is not an easy thing...we are obliged to leave in order to have a good future. (*Returned migrant*. 24 June 2008. Rufisque, Senegal)

Linked to this motivation to migrate is the intention to return once sufficient funds have been earned to sustain families, and there is a lack of attention to this in policy discourse. Bigo (2005b: 69) points out the 'Europe narrative' in which "globalisation and unequal

distribution of wealth in the world push the poor to immigrate to prosperous countries and to remain there". The assumption of migrants wishing to remain in Europe runs through different policy areas, despite overwhelming evidence to the contrary in West Africa. The implications of these short-term aims are that migrants who reach Europe and cannot find work are, due to their illegal status, trapped inside the 'Fortress'.

Third, Senegal's demographics also help to explain emigration. 43.6 percent of Senegalese of working age are unemployed. In addition, the population is young: the average age is 21.8 for men and 22.6 for women (DPS 2004).

Fourth, prices of food and oil rose steeply in Senegal following the devaluation of the franc CFA in 1994, and in the months preceding the global economic downturn towards the end of 2008. Between 2006 and 2008, the local purchase price of rice rose by 74 per cent (IRIN 2008c).

Fifth, locations in West Africa for labour migrants are limited. Côte d'Ivoire has the largest stock of migrants in sub-Saharan Africa, at 2,371,000 in 2005, yet the collapse of the state in 2002 led to a large exodus (IOM 2008: 407). While migration within West Africa is significant, there are no magnets to attract labour migrants to the scale of Ghana, Nigeria and Côte d'Ivoire in the 1960s and 1970s.

Sixth, the reduced availability of legal routes to Europe has led migrants to the Atlantic coast instead, departing from the peninsulas of Nouadhibou in Mauritania, Dakar in Senegal and Bissau. In 2003, Spain launched the SIVE (Sistema integrado de vigilancia exterior), which halted clandestine migration in the Straits of Gibraltar and was strengthened in 2004 after cooperation with Moroccan mixed patrols. In September 2005, thousands of West and Central Africans approached the Spanish enclaves of Ceuta and Melilla in northern Morocco, where Moroccan security forces and the Spanish Guardia Civil were deployed. On 29 September in Ceuta, bullets were fired and 5 migrants reported dead, and similar events occurred in Melilla in the night of 5-6 October (Traoré 2007a: 118).

Seventh, the 'pirogue phenomenon' is largely connected with the fishing industry. A decline in profits has led fishermen to enter the more profitable enterprise of smuggling, to attempt to enter Europe along with the passengers, or to sell their pirogues. There has been an increase in the number of foreign ships which freeze fish for better profits and keep their fleets in the Senegalese waters, leading to collapse for the artisanal fishermen (Mbow 2007: 5-6). Studies undertaken in Saint Louis and M'Bour in Senegal, by Sall and Morand (2008), also connect the dynamism of artisanal fishing with the migration phenomenon. Between 1950 and 2000, the number of pirogues multiplied six times to 20,000 on West African coasts, and the number of fishermen grew by 4-5 percent annually, compared to a growth in rural populations of between 1.7 and 1.9 percent. 15 percent of the active population in Senegal is linked with fishing (Sall and Morand 2008: 34).

Everything has become expensive and all sectors, agricultural, fishing, factories are touched. Line fishing and net fishing have difficulty because of the big boats – the fish have fled because of the noise. (*Fisherman, 5 June 2008. Thiaroye-Sur-Mer, Senegal*)

Diokoul is a traditional Lebu district and it's because of this that many young people have had the ability to get to Spain by pirogue. People often advise [against this] but here there is no work activity that can retain them. (*Imam, 8 July 2008. Rufisque, Senegal*)

The Lebu is a Wolof-speaking ethnic group that is concentrated in the *quartiers traditionnels* of Thiaroye-sur-Mer and Rufisque. This community is strongly linked with fishing. The ability which the *imam* is describing refers to fishermen's knowledge of the sea and its conception as an area without boundaries.

Conclusion

While there is a lack of uniformity and cohesion in European immigration policy and an emphasis on state decision-making rather than a superstructure, there has been a fast and continuous growth of mechanisms that formalise and reinforce the ban on south-north movement. These mechanisms have included the deployment of patrols to intercept clandestine migrants, restrictive visa and asylum policies, agreements with sending countries for repatriation and the prevention of emigration through development. The objectives of these measures are linked to the demands of security institutions, and in this sense the securitisation is successful, especially as support for FRONTEX and new technologies has expanded. This securitisation, however, causes dangers and indignities as a result of detentions, longer sea journeys to avoid patrols and 'repatriation' to transit countries. The discourse in which the freedom of EU citizens requires security from threats, such as unwanted immigration, sidelines justice in the AFSJ, posing a serious challenge to the EU institutions of justice and democracy.

The intentions of clandestine migrants have received little attention from policy makers, who assume a longer-term move to Europe. Pressure on southern European countries to control migration has diminished opportunities for seasonal work, and this has been exacerbated by the economic downturn that began in autumn 2008. Pressure from southern European countries on controllers of migration has, in turn, increased the risks of clandestine journeys. Repatriation often amounts to the loss of significant investments in the journey from families or the individual, and longer journeys make failure and tragedy more probable.

Policy and practice related to labour mobility is in favour of the needs of member states and has not been sufficiently connected with fundamental rights. A rights-based approach to labour migration could help to address clandestine migrants' disjuncture from the criterion and expectations of both economic migration and asylum. In the case of the migrants who attempt to reach the Canary Islands by pirogue, there are issues with classifying this migration: irregular migration is strongly connected with trafficking and organised crime, but this type of mobility has little relation to crime networks. Furthermore, refugee and labour movements have merged. This places the prevention of emigration by African governments, a component of the European Pact on Immigration and Asylum, in contravention with the Geneva Convention and with the fundamental human rights values of the EU. European-African cooperation that takes a realistic and flexible approach to clandestine migration and addresses the root causes of European immigration policy, instead of pursuing a pre-determined set of restrictive measures, could bring the JHA regime and migrants closer to their objectives.

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