A NEW LOOK: THE OBSERVATORY ON INTERNATIONAL MIGRATION, REFUGEES, STATELESS PERSONS AND ASYLUM (OMIRAS)

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Europe is experiencing a major migration crisis and is likely to experience a surge of unprecedented migration from Africa over the next 50 years (Stephen Smith, 2019). In the collective memory, the African context, with its underperforming economic realities and its demographic growth, suggests massive flows of migrants from the African continent to the European Eldorado. This assertion notably contrasts with recent studies, which postulate a low rate of emigration from the Global South to the North compared to intra-African migration (Vincent Chetail, 2019). The global volume of South-South migration accounts for almost 40% of total migrants (97 million), that is more than the volume of South-North migration (89 million). Only Latin America is reversing this trend (World Bank, 2016). According to the International Organization for Migration (IOM), Africans largely move within their respective regions [Appiah-Nyamekye Sanny and Rocca (2018) and IOM, AU, (2019)]. Moreover, migration from the South to the North occurs more commonly in a regular rather than in an irregular manner (Vincent Chetail, 2019). Images of overcrowded boats of desperate migrants fleeing war or harsh economic conditions are all too familiar, still 94% of African migration across the oceans is regular (IOM, 2019). Some states, when describing the phenomenon, prefer to rely on ideologies rather than academic work (François Gemenne, 2021). This distortion of data is mirrored by the restrictive migration policies of the European Union (EU), despite the various contributions by researchers and experts, who have undeniably highlighted the limited impact of South-North migration. This stance is reflected in the restrictive entry and residence measures that have been in place since the 1970s for nationals of African countries. In this regard, there remain major contradictions between these security policies and the forecasts announced by various studies on the desire of Africans to migrate to Europe in particular.

It is in this context that the Observatory on International Migration, Refugees, Stateless Persons and Asylum (OMIRAS) was created in 2018 by Professor Ndeye Dieynaba Ndiaye. This organization is composed of 8 researchers, experts and migration specialists from different countries and migration specialists from six universities (UQÀM[1], Université Laval[2], Collège militaire Royal de Saint-Jean[3], Université

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de Sherbrooke[4], Université Cheikh Anta Diop de Dakar[5], Université virtuelle de Dakar[6]), and more than a dozen students from various backgrounds. The observatory aims to analyse issues related to human mobility in a cross-sectional manner, such as irregular migration (Bogusz, Ryszard Chelowinski, Adam ygan and Erica Syzsczak, eds, Irregular Migration and Human Right, 2002), economic migration (Crépeau and Nakache, 2007), development (Kabbandji, 2013), professional integration, temporary migration (students and temporary workers), diasporas (Mangala, 2020), as well as the protection of refugees and stateless persons, and internally displaced persons, in order to suggest tangible, just and sustainable solutions. It is a platform that promotes research about the mobility of people in an inclusive manner, which follows a multidisciplinary approach and offers a place of confluence for all actors (academic and others) with the aim of proposing sustainable solutions to international migration. OMIRAS aims to democratize research by promoting research among young researchers from countries of origin or transit. Both an epistemological perspective and the participation of researchers from various backgrounds are essential to further reflect on structural and inclusive solutions.

Our approach is interdisciplinary and aims to deconstruct this vision of international law and migration policies that is based on partial data, which exclude certain African realities that are essential for the regulation of coordinated, fair and sustainable transnational mobility.

Thus, we have started working on three pillars for elaborating on a global, holistic and inclusive strategy on migration issues that reconciles security and the promotion of human rights and allowing the identification of the real causes of regional, transnational and international migration. This also includes the scope of migration in its demographic, economic, historical, social, legal, political and cultural aspects, among others.

Most importantly, it is essential to note that despite the existence of a rich and diversified body of theoretical thought (Pichet 2020), new issues related to human mobility still require the mobilisation of researchers, and, more specifically, those from migrant-sending countries. The aim, therefore, is to highlight the relevance of revisiting international migration law (Aleinkoff, 2002) and current migration paradigms to better reflect on a new migration theory that is inclusive in its micro (individual) and macro (collective) aspects and that integrates all aspects of the migrant's trajectory. This includes questions of identity and the integration of migrants in the countries that are at the heart of our reflections.

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Likewise, when operating within a context that strongly criminalises migration (Bigo, 2004) and externalizes migration policies (Lahlou 2009; Ndiaye, 2018), it is important to consider the fact that migration does not only follow a universal logic. It is dynamic, evolving, but also includes specifics such as gender, geographical location, culture, economic and demographic considerations, environmental issues, development challenges (Chetail, 2011), politics, borders and forced migration.

Since the adoption of the *Geneva Convention on the Status of Refugees* in 1951 and its Protocol in 1967, various forms of protection have been granted. However, current configurations, which have been marked by the emergence of new considerations, such as economic issues, social inequalities, environmental issues, internal displacement and statelessness, require a comprehensive analysis of the global asylum system.

Indeed, there are more than 10 million stateless persons worldwide and about 1 million in West Africa according to official UNHCR figures (UN 2019). There are multiple causes of statelessness: discriminatory laws against women, migration, conflicts, secession, laws of inconsistency, etc. The consequences are equally disastrous: violations of economic and social rights, loss of rights to recognition of legal personality, family reunification, right to freedom, security, and freedom of movement, etc. Given the scale of this phenomenon, our objective is to create a framework for reflection, study and production that will make it possible to examine the link between statelessness and migration, to document cases of statelessness, particularly in Africa, and to propose avenues of reflection for better consideration of the rights of this vulnerable category, which is often ignored because of their status which is well described by the UNHCR as "those who live in the shadows", and who sometimes must move because of environmental consequences.

Due to climate change, the most at-risk populations must emigrate from their countries, and according to the World Bank, 216 million people will be "internally displaced" by 2050 (IPCC, 2021). Africa is the continent most adversely affected

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by the harmful impacts of climate change despite being one of the regions that produces the least amount of greenhouse gasses (GHG). The continent accounts for 4% of total GHG emissions. This is the lowest percentage of any continent; however, its socio-economic development is threatened by the climate crisis. In other words, Africa is the continent that produces the least emissions, yet suffers the most consequences, according to the chair of the African Group of Negotiators on Climate Change under the United Nations Framework Convention on Climate Change (UNFCCC) (Gahouma-Bekale, 2021). Thus, more than 80 million Africans will be forced to flee their countries because of land degradation, desertification, erosion and food insecurity. One of the areas most at risk is West Africa, where more than 30 million people will be forced into exile due to environmental reasons (Rigaud, Kanta Kumari et al, 2021). This issue is of major importance to the international community, but the legal framework necessary to confer status to these people has been slow to materialise (Christel Cournil, 2006). The recent decision by the Human Rights Committee in the case, *Teitiota v. New Zealand*, Communication 2728/2016, Doc off CDH NU CCPR/C/127/D/2728/2016 (2019) in which the "Committee recognizes that the effects of climate change are likely to affect the right to life under Articles 6 and 7 of the International Covenant on Civil and Political Rights and thus trigger a non-refoulement obligation for receiving States", is receiving a lot of positive reactions insofar as it is viewed as the beginning of a response from international human rights law.

In addition, various activities have been carried out by OMIRAS since its launch symposium in December 2018, including a seminar on migration concepts in February 2020 and a round table on the mobility of researchers within the Canada-Senegal corridor in June 2021. In October 2021, a conference on the impact of climate change was moderated by Professor Amadou Aly Mbaye, Rector of Cheikh Anta Diop University in Dakar, Senegal. Over the past year, OMIRAS has undertaken various initiatives to provide its members with the opportunity to participate in the discussions surrounding international migration and to propose solutions to its underlying issues. In May 2022, the Observatory also took part in the 89th ACFAS Congress. ACFAS is the premier francophone network for the scientific community with over 4,500 active members and 32 countries represented. OMIRAS held a one-day colloquium entitled "*Migration, asile et apatridie: le mythe des vagues migratoires du Sud (Afrique) vers le Nord à l'épreuve de la science.*" The Observatory facilitated the participation of some fifteen experts, professors, and students from different backgrounds, which has earned it the recognition of ACFAS, which included OMIRAS in its Congress highlights because of the originality of our scientific approach and the diversity of our themes.

In addition, the Observatory is collaborating with a local partner, the Saint-Louis Economic Research Laboratory (LARES) on a project addressing the socio-economic reintegration of migrants returning to Senegal, and more specifically to Dakar. In view of this, OMIRAS held a symposium in December 2022 in Dakar, Senegal, which brought together more than 150 participants to collectively rethink human mobility from an African perspective. The symposium, based on a multidisciplinary approach, was an opportunity to document new issues facing migrants, asylum seekers, stateless and displaced persons in a context marked by increasingly restrictive migration policies which unquestionably undermine all efforts deployed on the African continent and internationally.

REFERENCES

Aleinkoff, Thomas Alexander, (dir), "Le droit international et la migration, tour d'horizon" dans *Migration Policy Institute* (MPI, Washington, D.C.) et de l'Institut Universitaire des Hautes Études Internationales (IUHEI, Genève), dir, Le droit international et la migration, Programme sur les politiques et la recherche en matière migratoire, Genève, 2002.

Atak, Idil, *L'européanisation de la lutte contre la migration irrégulière et les droits humains de migrants*, Une étude des politiques de renvois forcés en France, au Royaume-Unis et en Turquie, Bruxelles, Bruylant, 2011.

Abdelkhaleq Berramdane et Jean Rossetto, dir, *La politique européenne d'immigration*, Paris, Éditions Khartala, 2009.

Bigo, Didier, "Criminalisation of "Migrants": The side Effect of the Will to Control the Frontiers and theSovereign Illusion" dans Barbara Bogusz; Ryszard Cholewinski; Adam Cygan; Erika Szyszczak, dir, *Irregular Migration and Human Rights: Theoretical, European and International Perspectives*. Hotei Publishing, 2004. pp. 61-92

Chetail, Vincent, (dir), "Migration, "Droits de l'homme et souveraineté: le droit international dans tous ses États", dans *Mondialisation, Migration et droits de l'homme: Le droit international en question, Volume II*, Bruxelles, Bruylant, 2007.

Chetail, Vincent, "Dialectique Migration et Développement" dans M. Maes, M.C. Foblets, et al, dir, *Dimensions externes du droit et de la politique d'immigration et d'asile de l'UE*, Bruxelles, Bruylant,2011.

Bogusz, Barbara, Ryszard Chelowinski, Adam ygan et Erica Syzsczak, dir, *Irregular Migration and Human Rights: Theorical, European and International Perspective*, Leiden/ Boston, Martinus Nijhoff Publishers, 2004.

Crépeau, François, Delphine Nakache "Le contrôle des migrations et l'intégration économique: entreouverture et fermeture" dans Vincent Chetail, dir, Mondialisation, *Migration et droits de l'homme: le droit international en question*, vol. II, Bruxelles, Bruylant, 2007

Delas, Olivier, "Le renvoi des étrangers vers un risque de mauvais traitement: l'arrêt N.C. Royaume-Uni ou la Cour européenne des droits de l'homme en terrain glissant ?", dans *Liber amicorum Peter Leuprecht*, Bruylant, Bruxelles, 2012 321 à la p. 334.

Jiménez, Estibaliz, "Pourquoi l'immigrant est-il perçu comme une menace pour la sécurité nationale?" dans Jean Poupart, Denis Lafortune and Samuel Tanner, dir, *Questions de criminologie*, Montréal, Presses de l'Université de Montréal, 2010.

Kabbandji, Lama, "Migration et développement: Quelles politiques menées en Afrique Subsaharienne", dans Cris Beauchemin, Migrations africaines: Le Co développement en question, Essai de démographie politique, Paris, Armand Colis, 2013.

Koslowski, Rey. 2011. *The Evolution of Border Controls as a Mechanism to Prevent Illegal Immigration*. Washington, DC: Migration Policy Institute.

Last, Tamara et Spijerboer, Thomas, "Tracking deaths in the Mediterranean", dans Organisation international pour les migrations, *Fatal Journeys: Tracking Lives Lost during migration*, OIM, Genève, 2014.

Lahlou, Mehdi, "Externalisation, politiques migratoires au Sud et État de droit", dans Marie Claire Caloz-Tschopp et Pierre Dasen, dir, *Mondialisation, migration et droits de l'homme: un nouveau paradigme pour la recherche et la citoyenneté*, Vol. 1, Bruxelles, Bruylant, 2007.

Weber, Serge, *Nouvelle Europe, nouvelles migrations: Frontières, intégration, mondialisation*, Paris: Éd. Du Félin, 2007, 118 p.

Withol de Wenden, Catherine, "Les enjeux fondamentaux du renvoi des étrangers dans une perspective européenne et internationale", dans Cesla Amarelle et Minh Son Nguyen, dir, *Les renvois et leur exécution*, Berne, Éditions Stampfli, 2011

Withol de Wenden Catherine et Madeleine Benoit-Guyod, *Atlas des migrations: de nouvelles solidarités à construire*, Paris: Éditions Autrement, [2021] Sixième édition

Atak, Idil, "La coopération policière pour la lutte contre la migration irrégulière au sein de l'Union européenne", (2006) 36 RGD 433-481

Crépeau François, "L'émergence d'une conversation globale sur les politiques migratoires – Retour sur un mandat de Rapporteur Spécial des Nations Unies sur les droits de l'homme des migrants (2011-2017)", *Droits fondamentaux* – Revue électronique, n° 17, janvier 2019 – décembre 2019, en ligne: www.crdh.fr/wp-content/uploads/L%E2%80%99%C3%A9mergence-dune-conversation-globale-sur-les-politiques- migratoires.pdf

Crépeau François, et Idil Atak, "La régulation de l'immigration irrégulière dans le respect du droit international des droits de l'homme", Recueil des cours de la 38e session d'enseignement (2007), Strasbourg, Institut International des Droits de l'Homme, sous presse.

Diop, Abdou Khadre, "La Cour africaine des droits de l'homme et des peuples ou le miroir stendhaliendu système africain de protection des droits de l'homme" (2014) *Les Cahiers de droit*, 55: 2, 529 à la p. 555.

Mubiala, Mutoy, "Vers l'Institution d'Une Cour africaine des Droits de l'Homme et des Peuples" (1997) 5 African YB of Intl L 261.

Nakache, Delphine et Midori Kaga, "Whose Needs Count in Situations of Forced Displacement? Revaluing Older People and Addressing Their Exclusion from Research and Humanitarian Programme " (2019) 5:1/2 *Migration and Border Studies*, 134 à la p 151.

Ndiaye, Ndeye Dieynaba, "L'implication des pays tiers dans la lutte de l'Union européenne contre l'immigration irrégulière.", *Études internationales*, volume 49, number 2, spring 2018, p. 317–353. https://doi.org/10.7202/1055689ar

Rigaud, Kanta Kumari; de Sherbinin, Alex; Jones, Bryan; Adamo, Susana; Maleki, David; Abu-Ata, Nathalie; Casals Fernandez, Anna Taeko; Arora, Anmol; Chai-Onn, Tricia; et Mills, Briar, *Groundswell Afrique: Migrations climatiques internes dans les pays d'Afrique de l'Ouest*. Washington, DC: Banque mondiale, 2021.

Saroléa, Sylvie, "La jurisprudence récente de la Cour européenne des droits de l'homme en matière d'éloignement et de détention des étrangers au départ de l'arrêt CHAHAL" (1997) *Revue du droit des étrangers* — no. 92 à la 19.

Timera, Mahamet, "Aventuriers ou orphelins de la migration internationale. Nouveaux et anciens migrants «subsahariens» au Maroc", (2009) 115: 3 *Politique africaine*.

Wihtol de Wenden, Catherine (coordonné par), "Mondialisation et migrations internationales" (dossier), *Hommes & Migrations*, n° 1272, mars-avril 2008, pp. 6-140.

Wihtol de Wenden, Catherine, "Pour un droit à la mobilité et une démocratisation des frontières", *Panoramiques*, n° 55, 4e trimestre 2001, pp. 8-14.