Country of emigration and new country of immigration? Challenges for Moroccan migration policy between Africa and Europe[1]

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Abstract

The article traces the development of migration policies in Morocco from the earliest colonial regulations to the most recent law adopted in 2003. The recent policy changes are analysed against the background of changing patterns of migration and the transformation of Morocco from a country of emigration to country of transit migration and, albeit to much a lesser extent, also a country of immigration. It is argued that the main reason for policy change were longstanding demands by the European Union that Morocco puts more efforts into containing migratory flows directed towards Europe, a fact, which is evident from the focus of the law on policing measures and sanctioning irregular emigration. Finally, the article analyses the consequences of the change in policy for the present migration situation in Northern Africa. It concludes that Morocco will continue to yield to European policy demands, while it will at the same time try to strike a balance with the objective to maintain good relations with its African neighbours.

Introduction

Morocco has a long tradition of labour migration to Europe. Since the closure of Europe for almost every form of immigration, Morocco's location in Northern Africa has also turned it into an important point of departure of irregular migration flows into the states at the northern shore of the Mediterranean (Spain, Italy, France). Migrants are not exclusively of Moroccan origin but increasingly from Sub-Saharan Africa. These migrants intend to use the kingdom as a transit route, but difficulties in entering Europe frequently result in longer stays in the "host country". Thus, Morocco is suddenly confronted with a growing foreign, immigrant population while still considering itself an emigration country.

In this context, the country is increasingly subject to pressures from the EU and the Northern Mediterranean states to adopt more effective measures

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[1] The views expressed in this article are exclusively those of the author.

combating irregular migration. Consequently, Morocco finds itself in a dilemma between the powerful EU in the north, and its southern neighbours. On the one hand, Morocco wants to participate in the EU's Common Market. On the other hand, it does not want to alienate its neighbours, not least since most neighbouring states are also important allies supporting the kingdom in the still unresolved Western Sahara question. This was one of the reasons why Morocco long refrained from reforming its migration regulations that were essentially conceived during the colonial era. Also, transit migrants usually tend to settle in the more remote regions of Morocco, as a consequence of which there is relatively little pressure from within the country to take political action. Nevertheless, Morocco finally did take action. In 2003, a comprehensive immigration act was adopted, which addressed European demands regarding irregular emigration and immigration.

This article looks at the development of Moroccan migration policy against the background of changing migration patterns and analyses both the reasons for policy change and the consequences for the present migration situation in Northern Africa.

Emigration from Morocco

The Western Mediterranean is marked by more or less continuous migration in all directions and throughout all times (Liauzu 1996). In modern times, it was European settlers, mainly French and Spanish, who went to French Algeria and later on also to the French and Spanish protectorates of Morocco. By the end of the protectorate regime, there was a considerable presence of Europeans in Morocco. In 1952, Europeans made up a fifth of urban population and 6 % of the total population (Berrada 1993, 267).

Moroccans were much more likely to migrate within Africa than to Europe, particularly before World War II. Because of longstanding links going back many centuries, many Moroccans went to Western Africa, in particular to Senegal. These migrations were motivated by commercial interests rather than by the search for employment and were intensified during the 19th century (Abou-el-Farah 2003). Apart from Western Africa, Algeria had been an important destination for a long time, but due to political conflicts over the Western Sahara territory after 1975, migration to Algeria stopped and Moroccans were forcibly expelled. But instead of settling in Morocco, most of the expellees followed the direction that had become the most important

the expellees followed the direction that had become the most important one for Moroccan migrants after World War II – to Europe (Chattou 1998, 95f.).

However, above all, migrants went to France. The first, albeit relatively small, wave of emigration occurred just before and during World War I because France was in need of factory and mining workers. Migrants were formally recruited but many entered France "illegally". There were almost 35,000 Moroccans in France during the war while another 40,000 served as soldiers in the French army next to 150,000 Algerians (Bakraoul 1992, Mazouz 1985, 19-21, Collinson 1996, 7). The military recruits were repatriated after the war but continuing demand for cheap labour led private employer's organisations to continue to recruit Moroccans as workers. Irregular migration also continued. As a consequence, the number of Moroccans in France rapidly increased. The attempt (after the definite conquest of Southern Morocco) to control emigration (Dahir of 27 October 1931) had almost no effect.

In order to exert some control over Moroccan labour migration as well as to organise movements in a regular way, the administration of the French protectorate established a *Service d'Emigration* in 1938 (Dahir of 13 July 1938). This agency was responsible for the recruitment of workers according to fixed contingents, which had to be increased in the course of World War II. As in World War I, Moroccan soldiers also served in the French army during World War II. Although once again, North Africans were repatriated after the war, it was the recruitment for the reconstruction of France right after the war that initiated the main phase of Moroccan emigration (Mazouz 1985, 21f.; see also Stacher/Dehmel 2000).

In response to the growing emigration to France and order to monitor the recruitment of workers more effectively, the Emigration Service (*Service Central d'Emigration*) was reorganized by the Dahir of 8 November 1949. Henceforth, inquiries were centrally administered, while the Emigration Service was made responsible for recruitment procedures, issuing departure permits and similar tasks. But even if the government of the protectorate may have had a clear idea how to organise and monitor emigration of Moroccans, it was not able to effectively implement its plans (El Madmad 2004, 19). At the same time, the demand for recruited labour was no longer restricted to France but also included other Western European states. In this context, the Emigration Service served as an important intermediary for

European states entering into recruitment treaties with Morocco (Germany and France 1963, Belgium 1964, Netherlands 1969) (Mazouz 1985, 22-28; Chattou 1998, 100-111).

With these bilateral recruitment treaties emigration became an important element of economic relations between Morocco and various countries of destination. In the words of Collinson (1996, 9), the labour recruitment regime can be adequately understood as "the progressive transformation of labour into a structural component of the political economy of the region. For the sending countries, it signified their penetration by, and incorporation into, the world economy." But they were no equal partners because timing, duration, extent and the composition of migration flows were defined by the needs of the recruiting states and not by the supply side or the expectations of the sending countries. For example, whereas Moroccan officials would have preferred emigration from the urban centres, migrants were actually recruited from marginalized rural areas (Rif, Oriental, Souss) where French and other recruiters were active. Nevertheless, the government also came to regard emigration from rural areas positively because it served the overall objective of lowering (rural) unemployment, and on a macroeconomic level, providing a remedy to Morocco's negative foreign exchange balance (see below) (Collinson 1996, 10-12).

Tab. 1: Moroccan citizens in European States

	France	Germany	The Nether-lands	Belgium	Italy	Spain
1946	16,458					
1962	33,320					
1968	84,236					
1975	260,025					
1979	400,000	31,900	73,800	3,100		
1982	441,300					
1985			116,400	123,600	2,600	5,800
1990	572,700	67,500	156,900	141,700	78,000	11,400
1995		81,900	149,800	140,300	94,200	74,900
1999	504,100	81,500	119,700	122,000	149,500	161,900

Source: Collinson 1996, 11; Safir 1999, 93; OECD 2001.

In this way, the number of Moroccans in the recruiting countries rose considerably. But official data reflect only a part of reality because of a certain amount of irregular migration. These "*clandestins*" were seen by the European states and employers in a quite benevolent way since they brought financial benefits as there were no recruiting and transportation costs. Furthermore, these irregular migrants enabled employers to pay lower wages (Khachani 2003, 2).

The recruitment-stop in the early 1970s meant that sending countries were no longer able to pursue an active policy promoting emigration. For various reasons, emigration into Arab countries which were in need of labour to exploit their natural resources (oil, gas) offered no real alternative. In the case of Libya and Algeria the strained bilateral relations during the 1970s was the main reason why labour migration to these countries was no option, while a treaty signed with Saudi-Arabia in 1976, providing for a volume of 100,000 labourers, largely remained theory (Collinson 1006, 17f.).

What distinguished the period after the recruitment-stop from earlier periods most was that migration to the recruiting countries became more and more permanent. While in the 1950s and 1960s Moroccans still displayed one of the highest return rates of all "guest workers" these rates have dropped significantly in the 1970s and are now among the lowest (Berrada/Hamdouch 1988, 140). This tendency towards permanent residence occurred in almost all receiving countries and was involuntarily reinforced by growing immigration restrictions after the recruitment stop (Bade 2000, 319-321). Instead of returning after a short time, migrants tended to stay longer periods, while their families followed them to Europe. Importantly, this also brought a shift in the orientation and focus of the household, which was no longer oriented towards Morocco, but increasingly towards their respective countries of residence. As a result, return became secondary both as a perspective and in practice. In the medium term, immigrants adapted themselves to the conditions of their host countries and also became more similar to host populations in their social characteristics. Similarly, the second and third generation showed little interest in returning to their parents' country, and thus return increasingly became a mere myth. As a corollary, relations with Morocco were increasingly limited to holiday trips and similar "low intensive" ties (Boudoudou 1988, 105; Berrada 1990; Charef 1999, 288-295).

Since the 1980s a series of factors have emerged that shape current dynam-
ics of Moroccan emigration: structural and growing unemployment and
underemployment, falling incomes, and social problems because of rapid
and uncontrolled urbanisation and population growth. While France was
able to contain new immigration by strict controls, migration to Southern
European states rapidly increased, partly in response to a high demand for
labour particularly in agriculture (Giubilaro 1997; Erf/Heering 2002).

Population growth is one of the regularly cited push factors of Moroccan
migration, yet the demographic differences between the Maghreb and
Europe are at present smaller than between the Maghreb and other Arab
regions (Tapinos 2000, 286). Already in the 1960s Morocco had adopted ac-
tive policies aimed at reducing population growth. This policy yielded some
success despite insufficiencies regarding its implementation (Safir 1999, 95).
In addition, socio-cultural developments like the participation of women in
the labour market have contributed to the reduction of the fertility rate.
Demographic transition is at full pace and a fertility rate of 2.1 children per
woman, which in fact ensures reproduction but not population growth, is
expected for 2015. Until then, the Moroccan population currently amount-
ing to almost 30 million will grow only slightly. The present population,
however, is extremely young. Thus, the economically active population will
continue to grow during the next 10 to 15 years (Berrada 1993, 270f.; Safir
1999, 114). As adequate supply of labour for this population is missing, un-
employment is a central problem both in rural areas and in urban centres,
because ever better educated young people are searching for sustainable
and regularly paid jobs. In 1990, for instance, two thirds of all graduates
holding a diploma were without work. Though Morocco undertakes great
efforts to create jobs (180-200,000 p.a.), these attempts are not satisfactory.
To counter unemployment, twice as many jobs would be needed each year.
Despite a falling unemployment rate (12.8 % in 2001 versus 19 % in 1998),
poverty is still a major problem in Morocco. According to a calculation of
the International Monetary Found, almost 19 % of the population still have
to live on less than 1 US $ per day (Mazouz 1985, 29; Berrada 1993, 267, 272;
Khachani 2003, 8-10).
In addition to these factors, there are further challenges that contribute to a
rising migration potential: environmental problems like water shortages,

increasing desertification, less arable land and subsequently a higher dependence on food imports (Safir 1999, 115f.).

The reasons for the emigration are not only to be found in Morocco itself, though. Tapinos is right when he points out that one cannot look at the "supply" factor as explanatory variable only when in former decades migrations have always been explained by supply and demand (Tapinos 2000, 294). Especially the economies of the Southern European countries like Spain or Italy are in demand of cheap and flexible workforce, both in the secondary and the informal labour market, which represents an important part of their overall economic output. Foreign migrants are attractive. Their often irregular status puts them in a weak position which employers exploit to pay wages below the official minimum wage. Migrants react to a changing socio-demographic situation in the host countries, in which the strong reduction of birth rates cuts down the domestic labour force supply. Furthermore, the domestic population increasingly refuses to accept especially heavy, dirty, dangerous and poorly paid work. Moreover, the increased female participation in the labour market has strengthened the demand for domestic services (King et al. 1997; King 2000, 18f.). These pull factors are reflected in the high numbers of Moroccans currently living in Spain and Italy. The local registers in Spain showed some 379,000 Moroccans at the beginning of 2003 while the Italian statistics counted almost 173,000 Moroccans with a residence permit (Kreienbrink 2005; Fondazione ISMU, 42).

The Moroccan state's political interest in emigration

Moroccan policy was orientated to support emigration as it represented an important aspect of the national development strategy. Emigration was supposed to be a fruitful source of remittances, to reduce the pressure of unemployment and to improve the education of Moroccans. While other Maghreb States as for example Libya had the possibility to export resources like oil, Morocco could only export manpower because the profitable exploitation of the phosphate mines did not start before the 1980s. Whereas other countries in the region looked for alternative strategies for development when European countries stopped recruiting, emigration remained central to the official Moroccan development plan for 1973 to 1977. Though the plan for the following period did not support emigration any longer, it did not include any of the provisions for return migration that had become common

in comparable countries (Collinson 1996, 20f.). Weil supposed that it was the assumed inability of the Moroccan administration to implement a return agreement that prevented the French side from even negotiating such a treaty (Weil 1991, 112). But the main reason was the Moroccan interest to leave the migrants in the host countries so they were able to fulfil their "function". Therefore, the government was mainly concerned with improving the conditions of residence of its citizens abroad.

The importance of remittances cannot be underestimated. During the mid-1980s their volume corresponded to almost half of the combined revenues from tourism and the export of phosphates (Berrada/Hamdouch 1988, 141). At the beginning of this decade, Morocco received 3.3 billion US $ in remittances, which puts them in fourth position worldwide, according to data of the International Monetary fund. This sum covered more than 80 % of the trade balance deficit (Sørensen 2004, 5). The remittances have been flowing continuously with considerable annual growth rates. Yet Morocco made several additional efforts to intensify the flows and to direct them into the public banking sector for more productive investments. Between 1973 and 1981, a special bonus was paid, and in 1989, a specific Bank (Al Amal) was established for this purpose. This institute, however, had little success as most of the remittances continued to flow into the private sector. Actually, the state has only little influence on the use of the remittances (Collinson 1996, 28; Charef 1999, 87-97). Most of them, like in the former European "guest worker" countries some decades ago, go into private consumption, but in recent years a growing use for productive investments or investment into human capital could be observed, for example, a growing share of remittances are being used to finance the education of children or to invest into small industries (Berrada 1993, 269f.).

In order to prevent these monetary flows from running dry, it is a essential aim of the Moroccan government to maintain the socio-affective connections of the Moroccans abroad with their home country. This is because changes in European migration policy have not only had repercussions on the migration flows but they have also revealed Morocco's economic and financial dependence (Chattou 1998, 117). Hoping to secure the loyalty of Moroccans abroad, the Moroccan government has consistently intervened in favour of the protection of their rights and the improvement of their social conditions. Imams and teachers of Arabic language were posted to major countries of Moroccan immigration, who were also supposed to serve as instruments of

control. On the institutional level, this policy was reflected in the establishment of a Ministry of the Moroccan Community Abroad and the so-called Hassan II Foundation for Moroccan Residents Abroad. While the ministry was responsible for safeguarding rights, the foundation took care of the cultural and educational support of the second and third generations. In effect, this policy reflected the view that Moroccans should not integrate into western societies in any way. Motivated by this rationale, the government of Hassan II fiercely opposed the recognition of dual citizenship or the foreigners' right to vote at the communal level. This stance had an aspect of internal policy, too, as there were fears that migrants could take up political or unionist ideas abroad and import them to Morocco (Collinson 1996, 24f.; Chattou 1998, 118f.). It should be noted, however, that the perception of migrants as a possible source of unrest and as a social basis of the nascent political opposition is not a Moroccan particularity. Similar attitudes can be found in many countries of emigration, including Spain under Franco (Kreienbrink 2004a, 60-66).

The hopes the government had that emigration would help to reduce unemployment, while raising professional qualifications of returning migrants, were not fulfilled. In the case of unemployment, internal factors like population growth and an increasing economic active population (see above) combined with strong rural-urban migrations had a much stronger effect. And in the case of qualification, the expected effects could not come to fruition as return migration did not take place at large scale (Berrada/Hamdouch 1988, 142f.).

New challenges: Transit migration, illegal migration, actual immigration

Migratory patterns in Morocco, however, have undergone considerable change in the past decade. First, there is the transit migration of Sub-Saharan Africans trying to reach Europe. Due to increasingly restrictive immigration policies of the EU, most of these attempts are illegal. Furthermore, entry into Morocco had not been in accordance with the law either. And as a result of the difficulties to get to Europe, the stays in Morocco become longer, so that the emigration country unexpectedly finds itself in the situation of an emerging immigration country.

There are several reasons why transit migration affects the Maghreb region in general and Morocco in particular. First, there is the geographical vicinity

to Europe, which at the Street of Gibraltar is only 14 km away from the Moroccan coast. Second, there are historical-cultural and religious links that tie the region to Sub-Saharan Africa. Migration between the Maghreb and the Sahel zone has existed for a long time, in the form of pilgrimages to Islamic sites in Morocco or journeys to places of religious learning. Third, there are socio-economic reasons, namely the expectation to find work in the Maghreb states and, in case of a failing migration project, the possibility to stay temporarily there (Lahlou 2003, 124; for Northern Africa in general Faath/Mattes 1999).

Transit migration increased considerably during the second half of the 1990s in the aftermath of political crises in countries like the Democratic Republic of Congo, the Great Lakes region, Sierra Leone, Nigeria or Ivory Coast (Akokpari 1998). Besides, the economic performance in some of these regions represents the sheer opposite of development considering falling GNPs in absolute terms (Lahlou 2003, 122). Some of the southern neighbours of the Maghreb sates (Mali, Niger, Chad, Burkina Faso, Benin) are among the poorest countries of the world.

Most of the Sub-Saharans in search of better life settle down in the Maghreb countries for a shorter or longer period of time, mainly in Libya but also in Algeria and increasingly in Morocco. According to estimations, 65,000 to 80,000 persons come into the Maghreb region annually. It is assumed that there are currently more than 2 million Sub-Saharans in Libya (Lahlou 2003, 127). Furthermore, there is a number of seasonal workers from Mali and Niger in Algeria working in agriculture or transport. Along the transit routes running through the southern borders of Algeria and Libya, border towns like Tamanrasset in Algeria face a spectacular growth. Starting from there, transit migrants try to get to Tripoli or Tunisia to venture the crossing to Italy, partly working in the transit country for earning the travel expenses. Others choose the way via Morocco trying one of several routes. One runs via Rabat to the western coast where migrants cross the Atlantic Ocean with a small boat to get to the Canary Islands, particularly Fuerteventura. The second one runs from Rabat to the northern coast near Tánger from where migrants try to reach the Spanish peninsula also with small boats (*pateras*). A third possibility consists in entering the Spanish exclaves Ceuta and Melilla in the north of Morocco. And finally there are migrants attempting to enter Spain "legally" with forged documents (Lahlou 2003, 132-135; Goldschmidt 2003, 158-160; Coslovi 2004, 4-6).

As the European Union has tightened up its visa regime in the framework of the Schengen acquis and has made entry to its territory ever more difficult, all of these entry strategies are illegal. Both Moroccans and Sub-Saharans willing to emigrate are confronted with this problem in the same way. Though illegal migration has been perceived as a problem in the region as early as the 1980s, it wasn't until the 1990s that it was described as a threat by the media and politicians in the European countries bordering the Mediterranean and that it became a central political issue (Collinson 1996, 40; Faath/Mattes 1999, 19). But if we take Spain as the main destination of illegal Migration from Morocco, we can see that illegal entrance comprises only a small part of irregular migration. No more than 10,000 to 12,000 Sub-Saharans are estimated to enter Spain illegally each year. The largest part of irregularity emerges after legal entry, e.g., with a tourist visa, and the migrant overstaying the allowed time span (Khachani 2003, 4; see also Barros et al. 2002).

As a consequence of the difficulties to enter Spain and other European countries of destination, more and more Sub-Saharans decide to remain in Morocco. In relative terms they consider themselves in a better situation in Morocco than in their home countries. They are, however, confronted with the problems that result from their irregular status. As described by Goldschmidt (2003), the example of Congolese students from the Democratic Republic of Congo, who had studied in Morocco but were not able to return to their home country due to the political situation there, is a case in point. Until 1995, many of them used the summer vacation to earn money by working in Spain. With borders closed, this possibility ceased to exist. Since they still need money but don't have access to the official Moroccan labour market, for most of them the only alternative is working illegally.[2]

Confronted with the EU's closed doors to transit migrants, North African emigration countries are turning, at least to a certain extent, into countries of immigration (Lahlou 2003, 115). While the number of foreigners in Morocco was quite small at the beginning of the 1990s, it has risen in the meantime. According to the latest census of September 2004, there are about 51,000 foreigners officially residing in Morocco. Adding an estimated num-

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[2] For the year 2000 Goldschmidt (2003, 162) estimates the number of Congolese students at more or less 800.

ber of irregular foreigners, this figure rises to about 75,000.[3] With a total population of 29.9 million this would correspond to the very low rate of 0.25%. Looking at this figure and taking the estimations for granted, one could doubt if it is appropriate to label Morocco a country of immigration. Compared with the present situation of so-called new countries of immigration like Spain or Italy it certainly is not. At the present moment one can only confirm that Morocco seems to face a structural change in its migration trends that has to be confirmed in the future.

Morocco's politico-economic interests towards Europe and Africa

Migration from Morocco has been described as a "manifestation and source of economic, political, social and cultural ills and opportunities"(Collinson 1996, 3). This ambivalence is reflected in diverging perceptions on the phenomenon that vary depending on place and time. As explained above, the Moroccan government has traditionally considered migration a factor for economic growth and development. The European perspective has become quite the opposite: Rather than viewing migration as a contribution to development, the EU now regards development in the sending countries as a measure to prevent unwanted migration (Collinson 1996, 68).

This position is connected to a perception of uncontrolled migration as a threat to stability, security and national identity. Increasingly, migration, in particular from Muslim countries, is associated with the dangers of terrorism (Waxman 1997; Safir 1999; Collinson 2000, 316; Tsardanidis/Guerra 2000). Such perceptions from the European side leave Morocco in a dilemma. On the one hand, it has a vital interest to maintain good relations with Europe. On the other hand, it cannot simply adopt European positions because it has its own strategic interests towards the south, too.

As early as 1964 Morocco started negotiations with the European Community on behalf of a treaty of association that was signed in 1969. The treaty mainly regulated trade and tariffs. In 1976, both sides concluded a cooperation agreement, which was planned to promote the economic and social development of Morocco. But even then resistance from some European states became obvious when they blocked the import of competitive goods (esp. textile, cloths) from Northern Africa by restrictive protectionist measures. A

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[3] Figures and estimates by Professor Mehdi Lahlou, communication to the author, January 2005.

special problem for Morocco was the accession of Spain and Portugal to the EC in den 1980s, because they were direct competitors in agricultural products. The Alaouite kingdom tried the aggressive way and applied for admission to the EC, which was rejected (Saaf 1990). But Morocco continued to defend its interests against Europe with self-confidence, for example in negotiations on fishing agreements. After the last agreement of this sort had expired, Morocco even let the negotiations fail in 1999. It was then able to exploit its fishing grounds on its own (Marquina Barrio 2000, 520-525). This did not mean that Morocco would not look for ways to cooperate on various levels with the EU, as expressed recently in the new association agreement that came into force in 2000. It must be emphasised, however, that this agreement like its predecessors is the result of an asymmetric power relation and therefore primarily designed to serve the economic interests of the EU and its member states rather than those of Morocco (Schumacher 1998; Aghrout 2000).

Close relations to some states of Sub-Saharan Africa like Senegal, Guinea, Mali or Niger dated from times in which the influence of the sultan of Morocco reached as far as the river Senegal. After independence, however, the foreign policy performance that was marked by a harsh insistence on territorial claims was not that fortunate. The claim to Mauritanian territory provoked distrust of both the West and the newly independent states of Africa. The political isolation was reinforced by an armed conflict with Algeria over a southern border region in 1963 (Guerre de Sables) and the occupation of the formerly Spanish Western Sahara in 1975. The dispute concerning the recognition of an independent Western Saharan republic eventually resulted in Morocco leaving the Organization of African Unity (OAU) in 1984. Subsequently, Morocco established bilateral foreign relations in Africa, concentrated on its traditional allies (Senegal, Gabon, Ivory Coast, Guinea) and opened up to new states like Benin, Cape Verde, Nigeria, Ghana and South Africa. The latter has since become the most important trading partner in Africa. In this way Morocco was able to gradually regain its former standing, and several states began to withdraw their recognition of the Western Saharan Republic (Benin, Chad, Togo, Swaziland, Congo, Guinea Equatorial, Guinea-Bissau, Sao Tome und Principe, Burkina Faso) and to plead for Morocco's return into the OAU (Barre 2003).

This policy was accompanied by an intensification of the economic relations with the neighbours. King Mohamed VI announced in 2000 to abate the

debts of the African states, which was put into effect right afterwards, and in 2001 Morocco joined the *Communauté des Etats sahélo-sahariens* (CO-MESSA). This Community had been set up in 1998 and represents one of the most important regional organizations whose ultimate goal is the establishment of an economic union in the long run (see also Adepoju 2001).

Despite the extension of economic cooperation, trade with Sub-Saharan Africa is relatively small in volume and largely restricted to the region between Senegal and Congo. In view of the economic dependence on Europe, the foreign trade relations with the south turn out to be a repetition of the pattern of north-south relations. In Africa, Morocco only sells the goods it cannot sell to the EU due to trade barriers (Wippel 2003). Thus, a sustainable turn to Western and Central Africa seems unlikely, and the new king's desire to present Morocco as the advocate of African interests and as a bridge between Africa and Europe thus seems difficult to accomplish (Coslovi 2004, 10).

European pressure to contain migratory flows

Faced with increasing migrations and their perception as a fundamental problem, the European Union and its member states demand that North African states cooperate in efforts to control migrations. For this purpose, the Europeans have started several initiatives and institutionalised mechanisms on different levels (Collinson 1996, 63-67). In the declaration of Barcelona (European Communities 1995) the signatories (EU and North African states) agreed to strengthen their cooperation to reduce the "migration pressure". To this end, programmes for vocational training and job creation become part of development cooperation. In an explicit reference to irregular migration, the document provides for an extension of readmission policy. But the Barcelona process that assumes a real dialogue came practically to a standstill, despite indisputable flows of money via the MEDA programme, and it has been revived only recently (Cox/Chapman 2000, 73-82). The Cotonou agreement with the ACP-states signed in 2000, which explicitly stressed the political dimension of development cooperation, included migration issues also – besides questions of democracy, human rights, military expenses, drugs, crime and the discrimination on ethnic or religious reasons. The agreement asserted that "partnership in the context of immigration" meant dealing in a fair way with legally staying citizens of third coun-

tries and not discriminating them in terms of work, pay and dismissal. The signatories underlined the expectation that the containment of poverty, the improvement of life and working conditions, the creation of jobs and the extension of education and training would in the long run result in a reduction of migration movements. At same time, it was admitted that "structural constraints" of the partners should be considered in the framework of development planning and regulating migration. Furthermore, the agreement included a regulation for the readmission of illegal immigrants (European Communities 2000b, art. 13).

With Morocco, the EU had already signed a separate association agreement in 1996, which came into force in 2000 (European Communities 2000a). In this agreement, the section on social cooperation provides for a dialogue on migration issues (art. 69), which is intended to lead to concrete measures: reduction of migration pressure through improvement of living conditions, creation of jobs and improvement of education and training in emigration regions; (furthermore the) reintegration of readmitted persons (art. 71 letter a and b).

Although agreements on the European level included general regulations regarding migration, it was the bilateral level on which the details on issues like repatriation were settled with Morocco. Spain above all had a very strong interest in this point in order to rid itself of illegal immigrants in southern Spain, Ceuta and Melilla. In this regard Spain and Morocco had already reached an agreement in 1992 but due to political problems and a lack of cooperation on the Moroccan side it was never fully executed. But Spain's attempt to resolve its bilateral problems on a confronting stance at the beginning of this decade yielded only little success. This revealed that measures of migration regulation and control could only be resolved with a cooperative attitude. Otherwise Morocco would have been in the position to use uncontrolled migration as a sort of dead pledge. Therefore it was consistent that Spain returned to dialogue at the end of 2002, which consequently led to tangible results (Kreienbrink 2004b). Morocco signed further bilateral readmission agreements with France, Germany, Italy, the Netherlands and Belgium. A similar agreement with the EU is still under negotiation (Mrabet 2003).

Morocco is not in the position to evade the demands of the EU and its member states. Attempts to blame other responsible reasons, e.g., the existence of the Spanish exclaves Ceuta and Melilla, are obviously a lever for

territorial claims. And the reproaches on Algeria, that it would let thousands of migrants pass the officially closed border (between Maghnia and Oudja), are foremost an instrument in the political struggle between both states (Goldschmidt 2003, 168f). As migration has become an aspect of international relations between the Mediterranean states, Morocco is forced to take restrictive measures on its own against irregular migrations of its citizens and the citizens of other African countries (Alami M'Chichi 2000, 55).

There have already been some steps into this direction since the beginning of this decade (esp. since 2002). Systematic police controls have taken place at the coast and in the interior against Sub-Saharans and organized smuggling of migrants. This has not only been the result of European pressure but also of a new attitude in the Moroccan Ministry of Interior after the dismissal of the former Home Secretary Driss Basri (Lahlou 2003, 130; Goldschmidt 2003, 163f.). Yet it came surprisingly when Morocco suddenly announced a new act on foreigners and migration in early 2003. Just a few months earlier, a study of the International Labour Organization had come to the conclusion that for the foreseeable future such an act would not be expectable since Morocco, out of consideration for its southern neighbours, did not want to convert itself into the "gendarme" of Europe (Lahlou 2002b, 128). At closer inspection, however, Morocco's policy change was not that surprising at all. As early as 2001, the government had stated in its *Plan Indicatif national 2002-2004*, that regarding regular emigration and irregular emigration and immigration the "necessary" legal measures should be taken (Belguendouz 2003; Coslovi 2004, 8). An essential reason for this new act seems to be the combination of dialogue and financial means. Parallel to the Moroccan announcement, the EU released 40 million Euros from the MEDA II programme that had been frozen (Grotti 2003).

A reform of the Moroccan migration law was overdue because there existed no homogeneous corpus of current law but only several regulations dating from the colonial era. As long as the country viewed itself exclusively as a country of emigration, a reform seemed of no particular necessity.

The evolution of Morocco's legal framework on immigration, residence of foreigners and emigration, 1914-1950

The most important legal regulations for entry and stay of foreigners originated in the years between 1914 and 1950 (Lahlou 2002a). "Reforms" after

the French protectorate time only referred to administrative adaptations to territorial expansion through the takeover of the international zone of Tánger, the former Spanish protectorate, Ifni and finally the Western Sahara.

Generally, to enter Morocco a valid passport with an endorsement was required (Ordinance of 13 November 1914, art. 1; Ordre résidentiel of 8 January 1915). There was also an obligation to hold a visa with the exception of Ivory Coast, Guinea-Conakry, Congo (Brazzaville), Libya, Mali, Niger, Senegal and Tunisia (Dahir of 16 May 1941, art.1). After entry, foreigners had 15 days to register with the registration authorities or to apply for a residence permit (Ordre of 15 January 1924). This permit was issued by the Directorate General of National Security and revocable at any time. Entry without passport or authorisation was to be punished with a fine between 60,000 and 600,000 Francs and prison between one month and two years (Dahir of 16 May 1941, art. 7 as amended on 9 August 1952). If a foreigner wanted to settle down in Morocco and work, the immigration law of 1934 took effect (Dahir of 15 November 1934). The residence had to be legitimated in advance by the administration, which reserved the right to decide on the application on the basis of economic considerations. The sanction for an expired or a withdrawn visa or residence permit was an order of departure ("*déguerpissement*"). In this case the foreigner had at least a period of eight days to leave (Dahir of 16 May, art. 4). In case of administrative offences, the alien was liable to be deported ("*refoulement*") on the basis of a prefectoral decision whereas in case of offences against the public order or the security of the state it was the Director General of National Security who could decree an expulsion (Dahir of 8 December 1915). Furthermore, there was the possibility to impose compulsory residence in confined areas or centres if the national or public security was threatened or if a foreigner could not be deported (Dahir of 2 January 1940, art. 1).

Regarding foreign refugees Morocco has signed and ratified the international and regional conventions. Besides, the country has several national regulations, mostly inspired by Islamic law, but they are insufficiently implemented. The UNHCR is present in Morocco (although a permanent UNHCR Liaison Officer is only installed since 2002), and since 1957 there has been a specialized Moroccan *Bureau des Réfugiés et Apatrides* responsible for assistance to and protection of refugees. Observers consider the asylum provisions to be largely irrelevant in practise because application appar-

ently requires legal entry as applicants at the border are normally sent back (in violation of the ratified conventions). All applicants who have entered through other ways are often treated as illegal immigrants. In 2001 there were 2,105 recognised refugees 1,600 have been granted convention status according to the 1951 Geneva Convention while 505 have been recognised as refugees falling under the mandate of the UNHCR according to its 1950 statute (Lindstrom 2002; Coslovi 2004, 11; see also El Madmad 2002).

The Moroccan migration act of 2003

With the act on entry and stay of foreigners and irregular immigration and emigration, passed in June 2003[4], Morocco gave itself a legal basis for the new challenges as country of emigration, transit migration and, to a lesser degree, immigration. However, legal emigration and immigration and the protection of migrants are not the central focus of this act. It is rather about the sanctioning of illegal emigration and immigration (El Madmad 2004, 17). Compared with the former situation, the act has the advantage to consolidate various legal regulations in a single law and to make it more consistent. From a Moroccan perspective, it might be also of interest that after approximately 50 years of independence these regulations have finally become "decolonised" as the old texts were full of terms referring to the times of the protectorate. The act contains 58 articles arranged in three titles. The central first title (arts. 1-49) comprises the regulations on entry and stay[5], while the second one (arts. 50-56) is dedicated to sanctions and the third one (arts 57-58) to transitory regulations. The "standard" regulations on entry and stay have not undergone any considerable change. At the same time, in regard to these standard procedures, the act does not meet the standard of comparable regulations that exist in European nations today. No reference is made, for example, to social, economic or political rights of foreigners. On the contrary, the administration is given ample room for discretionary decisions. Residence titles can be withdrawn in the case of violations against public order, which are defined in a rather vague way (art. 4). In addition, there is

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[4] Loi n° 02-03 relatif à l'entrée et au séjour des étrangers au Royaume et à l'immigration et l'émigration irrégulière (B.O. n° 516 du 20 novembre 2003). See Belguendouz 2003.

[5] Divided in seven chapters: General regulations, residence titles, deportation to the border, expulsion, general regulations on deportation to the border and expulsion, diverse regulations, sanctions.

no possibility to appeal against expulsions (art. 25). Like in Spain, but following a national tradition, the act offers the possibility to set up internment centres for expulsions. Such regulations provoked sharp protests from Moroccan human rights groups (El Yazami 2003, 2f.; Coslovi 2004, 10-12).

New – and this is the main point from the EU perspective – are the restrictive regulations against irregular emigration and immigration within the second title. On the one hand Morocco introduces sanctions against migrant smuggling. Art. 51, which addresses civil servants, members of the security forces and employees of transporting enterprises, provides for punishment of two to five years of prison and fines from 50,000 to 500,000 Dirham (5,000 to 50,000 Euros) in case of participation in or assistance to actions of irregular emigration or immigration. Other persons organising clandestine immigration or emigration of Moroccans or foreigners or making it possible are threatened with prison terms between six months and three years and identical fines (art. 52). If the offence is pursued habitually, the sanctions rise to prison terms between 10 and 15 years and fines between 500,000 and 1,000,000 Dirham (50,000 to 100,000 Euros). With regard to the perilous crossing of the Street of Gibraltar or to the Canary Islands, the same article states that in case of migrants being injured with an ensuing durable handicap the imprisonment rises to 15 to 20 years. If migrants die, which sadly all too often happens, the organisers shall be convicted to a life sentence.

On the other hand, the act addresses the irregular migrants themselves that are both foreigners having entered Morocco irregularly and foreigners and Moroccans daring the passage (“*l'ahrig*“) (Belguendouz 2002) to Europe. According to art. 42, entry or attempted entry without valid documents and the stay for a longer period than allowed respectively shall be punished with a fine of 2,000 to 20,000 Dirham (200 to 2,000 Euros) and/or prison terms between one and six months. Art. 43 punishes the stay without valid residence documents (*carte d'immatriculation* or *carte d'résidence*). This offence is to entail a prison term of up to six months and/or a fine between 5,000 and 30,000 Dirham (500 to 3,000 Euros). Anyone who has failed to renew the prescribed documents must pay 3,000 to 10,000 Dirham (300 to 1,000 Euros) and/or has to expect prison between one month and one year. According to art. 50 non-allowed emigration is threatened with prison between one and six month and a fine of 3,000 to 10,000 Dirham (300 to 1,000 Euro) or only one of both notwithstanding further regulations of the Penal Code. Such stiff penalties are hardly consistent with the freedom of emigration guaran-

teed inter alia by the UN convention of the rights of migrant workers from 1990, which has been signed by Morocco in 1993 and came into force on 1 July 2003 (United Nations 1990, art. 8). Only a few years ago, in commenting the convention from a Moroccan point of view (Boudahrain 1991) such a policy restricting the freedom of migration has been criticized because it represented a disadvantage for migrants from Morocco and other southern countries. Apparently it is now Morocco itself adopting this "irresponsible" policy (see also El Madmad 2004).

The new act does not include regulations concerning the organisation of legal emigration though it suspended the old Dahir of 8 November 1949 regulating these issues. The current regulations are part of the Labour Code passed in 2003 and come into force 2004 (El Madmad 2004, 19).

In its design the new act is a clear answer to the demands of Europe, but – as Belguendouz points out – these are increasingly shared by Morocco. The externalisation of the European borders goes along with the "schengenisation" of Moroccan policies and eventually of other Maghreb countries, too. In this way the problems of migration will be conferred further to the south, to the borders with Algeria and again to the Algerian borders with Niger, Mali and Libya (Belguendouz 2003; Coslovi 2004, 8; Lahlou 2003, 114).

Passing the act was combined with a change in interior policy due to which migration, after years of almost total concealment (Charef 1999, 297f.), suddenly became a topic in Morocco's national media. The media however, focussed less on Moroccans than on Sub-Saharan immigrants who have been arrested at the Algerian border, who stayed in coastal regions, and who had died by crossing the Strait of Gibraltar. Like in European states the media were speaking of the "breaking" of "waves of clandestine immigrants from black Africa", of "invasions" and the successes of the national security forces, of "scouring actions" and "cleansing actions", of arrests and mass expulsions (El Yazami 2003, 3). Immigration is presented as a security problem in the same manner as in Europe. The parallels to Europe concerning the subliminal equation of immigration with crime become even more striking if one considers that a law against terrorism was passed together with the migration act.[6] The Moroccan public was easily convinced of the anti-terrorism-bill's necessity after the assassination of Casablanca in May 2003. As Goldschmidt suggests, this recent representation of migration in the me-

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[6] Loi n° 01-03 relatif à la lutte contre le terrorisme (El Yazami 2003, 2).

dia is possibly only a roundabout for discussing migration issues of the own population (Goldschmidt 2003, 165).

Consequences of the new policy

Since the new act has been in force, Morocco has established two high level and specialized organizations: a police directorate for migration and border guard as well as an observatory for migration to collect and generate reliable information about this phenomenon. The country demonstrated its determination at the end of 2003 by a wide-range operation for the expulsion of several thousands of Sub-Saharan Africans who stayed without documents near Oudja next to the Algerian border (Coslovi 2004, 12).

Bilateral negotiations with Spain finally resulted in an agreement on the return of unaccompanied minors, which was accompanied by the commitment of the Spanish government, to provide 390 million Euros of development aid to Morocco. As a further result, the Guardia Civil del Mar and the Moroccan Royal Gendarmerie conjointly patrol the coast of Morocco since early 2004. Therefore, it was no surprise that the (new socialist) government in Madrid praised Moroccan cooperation in migration issues in the summer of 2004, because the neighbour effectuated arrests and readmissions to a remarkable extent and prevented *pateras* from casting off. At the same time the foreign secretary of Morocco Benaissa commented that they would win the fight against the "international plague" of irregular migration.[7] Yet all these measures were not able to stop migrations totally prompting representatives of the government of Fuerteventura (Canary Islands) to attack Morocco for an alleged lack of cooperation in late 2004 (APDHA 2004, 15).

On the European level, the Moroccan measures were not deemed sufficient. Therefore in the summer of 2004, the German Minister of the Interior reissued a British proposal of the previous year to establish retention camps in Northern Africa. Such centres can hardly bring the solution the EU is searching for, irrespective the form in which they would be organised. Apart from Moroccan territorial objections (in the case of EU-led centres) and the immense costs, such reception facilities, as for example in Ceuta and Melilla, develop an almost magnetic attraction to migrants. But even if stranded migrants do not have any realistic chances of actually getting to Europe, such

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[7] El País, 2.8.2004, p. 12. El País, 22.8.2004, p. 13.

Europe, such reception centres are unlikely to keep other migrants from daring the illegal passage (Alt 2004; Kreienbrink 2004b). Such experiences are surely the background for the Spanish and Moroccan refusal of the German proposal, though there are some indications for bilateral negotiations on this topic (AFP 2004; APDHA 2004, 15).

Another consequence of the new act and the new representation of migration in Moroccan media is the question of credibility faced to its subjects. Until recently emigration of Moroccans had been described in a positive way and the government has considered it its mission to criticise the restrictive aspects of other countries' migration policy. Together with the new negative stance on migration and the own restrictive measures the government runs the risk of losing the legitimacy to criticise other countries (Coslovi 2004, 9). In 2004 the UN report on human rights advised Morocco to pursue a policy that avoids the dichotomy of claiming assistance and protection for Moroccans abroad while refusing to grant foreign migrants in Morocco the same level of legal protection (Rodriguez Pizarro 2004, 20).

Conclusion

Countries like Morocco are economically heavily dependent on Europe. The European Union, however, will continue to tie financial aid, in particular, however, development aid to cooperation in the field of migration policy and will continue to pursue the objective of creating a *cordon sanitaire*, a buffer zone around its territory, in other words, to, externalise entry controls. This strategy has already been employed towards Eastern European states before their accession to the EU and since enlargement, has become an important part of the EU's "neighbourhood" policy towards CIS[8] countries sharing a border with the EU.[9] As these eastern European states the states in Northern Africa have no perspective of accession. As consequence of this externalisation, Morocco, like other states, will proceed against its southern neighbours in a stricter way. Regarding possible human rights violations, this does not seem to be a good prospect - much less so if a stronger regional cooperation is intended. Confronted with the question to whom Morocco should turn to, the economic argument will possibly be the decisive one. However, the EU will increasingly need to reflect, how the claim to support democratisation and, by implication, to advance human

[8] Commonwealth of Independent States.
[9] Belarus, Moldova, Russia and Ukraine.

support democratisation and, by implication, to advance human rights, can be reconciled with the pressure exerted on Morocco in regard to tightening its migration controls. Subordinating financial means to good governance as well as to effective fight against (irregular) migration will lead to problems, at least in the short term. A possible political way out for Morocco could be a variant of the double strategy that South European states have employed (if not always consciously so). It would mean to formally comply with requirements as defined by the EU while actually getting around at least some of these. Such an approach seems to be probable in the view of an insufficient implementation of the law and borders that are actually hard to control. But it will neither prevent illegal migrations nor the related human tragedies.

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