

Illegal emigration: a notion that should be banished*

An expression is becoming commonplace in the media and the discourse of some politicians; it is the one of “illegal emigration”. It has often been used over the last few days, in reference to those Africans who, through the desert and then by sea, attempt to cross unknown territories to reach the European shores.

The notion of “illegal emigration” alarms us, due to the baleful future that it appears to usher in. It is not something new as, already on 23 June 2003, *Le Monde* featured the title: “The Fifteen [EU member states] will not punish the countries of illegal emigration”. Shortly afterwards, the Moroccan government passed law n° 02-03 of 11 November 2003, “concerning the entry and residence of foreigners in Morocco, and irregular immigration and emigration”, whose articles 50 to 52 severely punish (with up to 20 years’ detention) whoever leaves or helps people to “illegally leave Moroccan territory”. And in fact, pushed to do so by the European Union (EU), Morocco has adopted the habit of hunting down people who are leaving – which, as is common knowledge, resulted in around 15 deaths by gunshots during the events in Ceuta and Melilla in the autumn of 2005.

Today, the expression “illegal emigration” is spreading, transforming the mere fact of taking the road into a reprehensible act. It has just received the backing of the Conference of interior (home affairs) ministers of the Western Mediterranean, held in Nice on 11 and 12 May 2006 under the presidency of Nicolas Sarkozy, in a statement that “welcomes the efforts by the countries on the southern shore of the Mediterranean to limit illegal emigration towards Europe”. Further south, the Senegalese authorities have just announced that they have proceeded, in their own territory, to arrest over 1,500 “candidates for illegal emigration” who were preparing to reach the Canary Islands in *pirogues* (wooden boats) (AFP, 22 May 2006).

However, neither the concept that makes a migrant a criminal, nor the practices that it seeks to authorise, have any legitimacy with regards to a text from 1948 that commits all the UN member states. In fact, article 13 point 2 of the Universal Declaration of Human Rights (UDHR) states that: “Everyone has the right to leave any country, including his own, and to return to his country”. This right has been confirmed by several international texts that have a binding nature, including the 1966 International Covenant on Civil and Political Rights. Thus, it is only immigration that is liable not to be legal, that is, only entrance into the territory of a state is subject to its sovereign will. It is of course as a result of a fallacious symmetry that the idea of “illegal emigration” has been forged, for if no country is willing to let in a traveller, the latter loses the right to travel.

The criminalisation of migrants that takes place even before their leaving is nothing new. But it has been and remains the prerogative of countries inspired by the Soviet model, where it is natural to shoot on sight against emigrants, considered as fugitives; several authoritarian regimes have drawn inspiration from this. The UDHR had precisely this purpose: “illegal” at home, the emigrant became an immigrant who was welcomed in the country receiving him. Due to an irony that is common in political history, the same reference to the illegality of departure is now evoked as a sin against our hospitality. Thus legal principles that are universally recognised have been done away with.

In the context of racist electoralism, the creation of the concept of “illegal emigration” conceals some hard bargaining. From the EU perspective, there is an attempt to put a price on its liberalities by astutely baptising them, in turn, as “aid for border controls” and “development aid”. As for the dominated countries, it is the high bidding to become the best pupil of an EU that no longer conceals the fact that it distributes its resources depending on their ability to stem the flows of migrants. Thus, in Rabat, they complain that the forty million Euros that have been promised for this purpose have not yet been transferred, in spite of efforts by the Moroccan police and army to stop the “illegal” flows towards the North. And it is known that, if in 2005 Libya was talking of unleashing two million migrants upon Italy, this was in order to secure recognition and financial support in America and in Europe – which eventually happened. More than ever, this strategy of “filling the till” is encouraged to prosper, and they hustle to reach the EU’s counter. Addressing the Spaniards who wanted to return his “boat people” who landed in the Canary Islands, the president of Senegal, Abdoulaye Wade, cried out not to be left out: “They can send them back, but they must also give me [some money for irrigation]” (*Journal du Dimanche*, 21 May 2006).

In reality, European and African governments are in the process of imposing a concept that has no legal basis, with the sole purpose of combating illegal immigration. What is most worrying, is this expected regression towards a system that makes the exclusion of undesirable people wholesale, by resorting to their detention, more or less everywhere: on one side there is the rich countries’ sanctuary, and on the other, an area from which it will be illegal to leave, and which will increasingly look like a vast detention camp. Finally, Europe is being built by producing increasing amounts of violence at its margins. For the moment, in the countries situated in the midst of this face-to-face encounter, a racism stirred up by the dominant countries is developing, most notably towards migrants from black Africa who are caught in the trap of a migration route that is being interrupted. The stigmatisation of supposedly illegal emigration contributes to strengthening the arsenal of the police in the countries that cooperate, willingly or under constraint, with European policies whose goal is to keep foreigners at a distance.

*This paper signed by Claire Rodier, President of Migreurop, was published in *Libération* on 13 June 2006.

The original (in French), is available at: <http://www.migreurop.org/article922.html>.

[*Translation by Statewatch reviewed by Migreurop on 27 July 2006*]