

# The Historical Context of Migration in Morocco to Europe: from Forced Migration to Irregular Migration - Study in International Law

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## Abstract

Considering that migration is moving to live from one place to another, with an intention in the place that was intended for a long time, due to the frequent movement of individuals from one place to another, and due to the different purpose of migration, we find external migration classified into legalized and irregular migration, and the reasons The growth of illegal immigration is due to economic, social, and psychological motives, and therefore we find that it has multiple effects, both on the country hosting immigrants in terms of economic, security, social and health terms, or on the level of organizing international relations between countries, so countries sought to mitigate this phenomenon and deal with immigrants As stipulated in its internal laws and in accordance with international law, while ensuring that their rights are not violated, and this is what Morocco has worked to achieve.

**Keywords:** Migration, Regular Migration, Irregular Migration, International Relations, The Growth of Migration.

## السياق التاريخي للهجرة من المغرب الى اوربا من هجرة قسرية الى هجرة غير نظامية - دراسة في القانون الدولي

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### المستخلص:

على اعتبار أن الهجرة هي الانتقال للعيش من مكان إلى آخر، مع وجود قصد في المكان الذي تم قصده لمدة طويلة. ونظرا لتكرار انتقال الأفراد من مكان إلى آخر لمقاصد وأغراض مختلفة، فإننا نجد الهجرة الخارجية تصنف إلى هجرة مقننة وهجرة غير نظامية. وترجع أسباب تنامي الهجرة غير النظامية إلى الدوافع الاقتصادية، والاجتماعية، والنفسية، وبالتالي نجد لها أثراً متعدد سواء على الدولة المُستضيفة للمهاجرين من الناحية الاقتصادية والأمنية والاجتماعية والصحية، أو على مستوى تنظيم العلاقات الدولية بين الدول. لذا تسعى الدول للتخفيف من آثار هذه الظاهرة والتعامل مع المهاجرين بما ينص عليه قوانينها الداخلية ووفقا للقانون الدولي مع ضمان عدم المساس بحقوقهم، وهذا ما عملت المغرب على تحقيقه.

تتضمن هذه الورقة دراسة نظرية حول الهجرة النظامية وغير نظامية، وكذا التطور التاريخي لظاهرة الهجرة المغاربية نحو أوروبا بالإضافة إلى نظرة القانون المغربي للهجرة. **الكلمات المفتاحية:** الهجرة، هجرة نظامية، هجرة غير نظامية، العلاقات الدولية، تنامي الهجرة.

## Introduction

The issue of migration is one of the issues that have aroused the attention of the international community as a whole in general and the Arab Maghreb countries in particular, due to its close link to security, development, human rights, integration and others. On the other hand, the phenomenon of migration in the current era has become one of the priority international issues for States and international organizations, and it is also receiving the attention of academic studies and research in various fields of knowledge, given its causes, dimensions and multiple repercussions on migrants, societies and States alike, and <sup>1</sup>this is what prompted the international community to adopt a set of legal and institutional mechanisms through the enactment of international and regional conventions and treaties, to ensure the protection of the rights of migrants, especially those in a vulnerable and vulnerable situation.

The phenomenon of migration in the Maghreb region is one of the oldest phenomena known to the region, but irregular migration has worsened significantly in light of the establishment of restrictive conditions for migration, and its pace from the Maghreb countries to Europe has increased significantly, for several reasons, most notably the deterioration of economic and social conditions, which have increased in recent years for political and environmental reasons.

The issue of migration has become one of the factors affecting the functioning of European-Maghreb relations, whether politically, economically or culturally, due to a long history from the colonial era to the present day, despite the development of a set of policies and laws to regulate regular migration and the enactment and a set of measures to reduce irregular migration.

Therefore, through the above, we raise the following problem: To what extent has the European legal system and its migration policies contributed to the emergence of migration from Morocco to

Europe, and its evolution from regular migration to irregular migration?

**To answer this problem, we have developed the following design:**

**The first topic:** a theoretical study on regular and irregular migration

**The second topic:** the stages of immigration in Morocco towards Europe

## **The First Topic**

### **A Theoretical Study on Regular and Irregular Migration**

First of all, it is necessary to define regular and irregular migration from one country of origin to another country, and to identify its types, then we will go back to identifying its most important causes.

#### **The First Requirement**

##### **The Definition of Immigration and Its Types**

Migration is defined as the movement, transformation or change of an individual or group from an area in which they used to reside to another area or from one region to another, whether within the borders of one country or outside the borders of this country, and this process may take place by the will of the individual or group or against their will by forcing them to do so forcibly, and the process of moving and shifting in the usual place of residence from one area to another may be permanent or temporary, and migration may be legal (regular) or non-migration Regular.

In this paragraph, we will identify the most important classifications of migration. We will start, first, with the study of migration in terms of will and legal criterion, and secondly, we will try to study migration in terms of time and place.

## **First: Classification of Immigration in Terms of will and Legal Criterion**

When talking about migration, it is necessary to distinguish by classifying it in terms of voluntary or forced, or in terms of its legality from its illegality, and we can explain its differences according to the following:

### **1- Classification of Immigration According to the Criterion of the will of the Individual**

Sociological studies distinguish between two types of migration: voluntary or voluntary migration and forced or forced migration:<sup>2</sup>

#### **A- Voluntary Migration**

The decisive factor of this migration is the will of the people without any external interference beyond their will, that is, to migrate without the extreme necessity of their movement and change of place of residence from one place to another, but rather as a matter of adventure and ambition, or to improve their financial, scientific and living conditions, or to change their lifestyle and the nature of their living without a *prima facie* reason to do so.

#### **B- Forced Migration**

It is migration that expresses "the compulsion of some individuals or groups to leave their homes, displacement, evacuation of a certain area or displacement from it for fear of disaster, earthquake, flood, war forced and forced migration."<sup>3</sup>

### **2. Classification of Immigration According to the Legal Standard**

The legal standard defines migration as a move from one country to a particular country, which may be in a legal manner that does not conflict with the laws imposed by the receiving country or in an illegal manner, i.e., clandestinely and illegally (irregular) in conflict with the immigration laws imposed by the host country.

They are divided into regular migration and irregular migration and this is explained in the next paragraph.

### **A- Regular Immigration as a Law**

It is a migration that is legally managed, and its members are subject to national and international conditions and procedures for the purpose of moving from one country to another, that is, the thing stipulated by the United Nations General Assembly on December 18, 1990, under the International Convention on the Protection of the Rights of Migrant Workers from Article V (5) of the first paragraph, which states: "Migrants and their family members are considered to be in a legal situation, if they are authorized to enter, reside and work in the State in which the work is carried out in accordance with the system in force in that The State, in a manner that does not conflict with the international conventions to which it is bound." <sup>4</sup>

### **B- Irregular Migration as a Matter of Law**

In its general sense, it means the illegal entry of migrants through land, sea or air borders through airports, contrary to immigration law, with the intention of residing in a country other than their own. On the other hand, regular and temporary migration (with a fixed date) may meet the legal requirements, and later turn into irregular migration as a result of the expiry of the previously specified date and illegal stay within the State. Based on this definition, the European Commissioner defines irregular migration as "any illegal entry by land, sea or air into the territory of a member state by means of forged documents or with the help of organized crime networks, in a legal way through the consent of the authorities to obtain a visa and then stay after serving the specified period or expression of the purpose of the visit and remain without the consent of the authorities, and finally there are asylum seekers who do not get approval for their application but remain in the country"<sup>5</sup>

As for the definition of irregular migration according to the International Labour Organization (OIT): it is the one in which migrants are in violation of the conditions set out in international conventions and national laws.

- People who cross the border illegally and surreptitiously from imposed censorship.
- Persons who are licensed to work under a contract, and who violate this contract, whether by performing an unauthorized work or a work punishable by local law.
- Persons who enter the territory of a country legally and a residence permit and then exceed the duration of their stay and become in an irregular situation.<sup>6</sup>

### **Second: Migration Classifications in Terms of Time and Place**

Individuals generally seek a better life, so most choose to migrate to new countries and places that help them improve their standard of living, or escape political turmoil and wars. However, migration may constitute a set of effects on migrants and the countries to which they go, as migration affects some individuals through the difficulty of adapting to the nature of life in the new country, especially with the emergence of cultural and social differences.

Therefore, we will try to study migration in terms of time, which may be permanent migration or temporary migration or it may be migration in terms of space, internal or external migration.

#### **1- Classification of Migration by Time**

What is meant by time here is the duration of migration and is divided into two types, namely permanent migration and temporary migration.

##### **A- Permanent Immigration**

It is the migration from the area of origin to the place of current residence of the migrant with the intention of not returning to the

area of origin, for many reasons that may be humanitarian, social, political, and legal, such as the refugee situation, for example.

### **B-Temporary Immigration**

It is the migration of people from the country of origin to a country other than their own for a period and for a specific purpose such as studying or working for a temporary period, or for tourism and visiting family... Etc.

## **2. Classification of Immigration by Place Criterion**

What is meant by the place to which the individual moves, and here migration is divided into two types: internal migration and external migration

### **A- Internal Migration**

If we want to identify its characteristics, "perhaps at the forefront of the distinctive characteristics of internal migration at present is the increasing importance of migration from rural to urban migration in almost all developing countries, while its importance has decreased in developed regions. The contemporary world has witnessed several internal migrations, whether in developing or developed countries, such as the displacement witnessed by Morocco after independence, represented in the movement of individuals from the countryside to the city, so cities became a population bloc compared to the countryside after it was the opposite during the French occupation due to the social and economic changes that the country has witnessed, for example in the United States of America, which is witnessing the largest internal migration movements in the contemporary and modern world, and three main streams of internal migration can be distinguished They are: migration to the west, migration from the countryside to the cities, migration from the south to the northern and western regions of the country... The range from rural to urban areas in all European countries, however, migration movements from rural to urban areas



stopped in most European countries in the sixties and the adverse migration trend intensified, and in fact internal migration is much greater than external migration, due to several reasons, the most important of which is that it is low in cost, as the migrant within the country does not cost him high costs, as well as the availability of common cultural aspects that do not affect his usual lifestyle such as religion, language, customs and traditions<sup>7</sup>

### **B-Foreign Migration**

He spoke of the movement of a number of members of society to another society beyond the political boundaries between the two societies in search of work, or fleeing persecution, or aspiring to better opportunities in life or others, and the main foreign or international migrations that the world has witnessed in the modern era are European overseas migration to America, international migrations within Europe, African migrations and Asian migrations.<sup>8</sup>

## **The Second Requirement**

### **The Causes of the Phenomenon of Migration towards Europe**

There are many reasons for irregular migration from the countries of the African coast to or through the Maghreb region, due to its strategic geographical location, which made it a gateway for Africans to cross either to settle in it, or in their attempt to reach Europe on it, and it has increased its severity due to the political, economic and even environmental crises witnessed by the African Sahel countries as the most important sources of migration other than the region to Europe, especially after the crises left by the Arab movement since 2011 AD, and from here it is necessary to take note of the most important reasons for the immaculate region being a station Transit and reception of African illegal immigrants.

### **First: The Political and Security Reasons**

After the Arab Maghreb countries gained independence, they witnessed a set of problems of a political nature, which led to a

worsening of the political situation and this conflict continued, which led to the failure of all development plans that they aspired to activate, which led to the failure to carry out the necessary reforms harmful to achieving development and well-being for their societies.

As for the other reasons contributing to the increase in migration to Europe in general, or immigration to the Maghreb in particular, we can attribute them to the conditions that the countries of the African Sahel were experiencing, especially the state of political instability, the tyranny of rulers, and the spread of corruption in all its manifestations, which was completely reflected in the security situation of individuals, and contributed to the spread of terrorism and human trafficking and finally led to a lack of respect for the rights and freedoms of male and female citizens.

Statistics indicate that due to internal conflicts in the African Sahel, the number of irregular migrants infiltrating through the Algerian border has increased, for example, in 2013, the Algerian security services stopped more than ten thousand irregular migrants from 23 African countries<sup>9</sup>. .

Thus, the political and security challenges in the African Sahel countries are one of the main reasons for the increase in the number of African migrants infiltrating the borders of Algeria, Morocco, or Libya as a gateway to the European Union.

### **Second: Demographic, Social and Economic Causes**

The demographic challenge is one of the main factors contributing to the social and economic transformations leading to migration from the Maghreb to Europe; the population increased during the 20th and 21st centuries in an unprecedented way in history. For example, Morocco recorded a population increase of 500,000 in 1971 to 1997, while it recorded only weak economic growth rates, rarely exceeding 5 percent per year, resulting in important imbalances at the social level. With regard to the provision

of employment, or the provision of social services such as medicine and education, the increase in the population has also led to a series of transformations, including the fact that a large proportion of the population is borne by the active population, which constitutes only 39 per cent, which requires heavy expenses borne by the family and the State in order to provide various social services to these unproductive groups.<sup>10</sup>

As for migration from the African Sahel countries to the Maghreb countries (transit countries) heading towards Europe, many social problems have risen in recent years, as ethnic, religious and linguistic diversity has led to continuous historical conflicts to bridge control and influence between the various tribes settled in the region, in addition to conflicts over resources, especially water, to obtain opportunities worthy of life, in addition to the sharp deterioration in the provision of public services, and the lack of health facilities Education, which has led to widespread poverty, illiteracy and increasing unemployment, has led many people to flee these conditions to seek better life opportunities through irregular migration.

In terms of demographics, statistics indicate that the population in the African Sahel region is more than one hundred million people, where the countries of this region are characterized by high births ranging between 30-48 thousand, with a low mortality rate to the range of 13-22 per thousand, and the natural growth rate is within 2%, due to the spread of illiteracy, ignorance and weak economic indicators, in addition to the high fertility rate, which is estimated at seven children for women of reproductive age, and from it the demographic factor is the cause of One of the reasons for the growth of migration in the regular African Sahel countries united by the Maghreb countries as a transit station in Europe<sup>11</sup>.

While the economic challenges witnessed by the countries of the African Sahel are among the most important reasons for the growth of irregular African migration to the countries of the Maghreb or through them to Europe, you find that statistics indicate, for example, that four countries of the African Sahel (Niger, Chad, Mali and Mauritania) fall into the list of the 15 poorest countries in the world, which are reasons that drive irregular migration towards Europe from the countries of the Maghreb and even try to settle in it<sup>12</sup>.

### **Third: Environmental Causes**

These causes are represented in drought, desertification and natural disasters and can be observed as the most important reasons for the growth of the phenomenon in the countries of the African Sahel towards the countries of the Maghreb region, as you find for example Ethiopia, Somalia, Chad and Senegal from countries that are located in a hot range with drought, which causes damage to the agricultural sector, which is one of the reasons driving irregular African migration towards the Maghreb countries to Europe.

In view of the above reasons for African irregular migration, everyone who was unable to reach Europe ended up settling in the countries of the Maghreb, where Algeria and Morocco are one of the most receiving countries in the Maghreb region for the phenomenon of irregular migration, which is one of the problems it has suffered from over the years, especially in light of the deterioration of the political, economic, security and environmental conditions in Mali, Niger, Libya and the rest of the African Sahel countries.<sup>13</sup>

The United Nations has estimated that 23 percent of the population of the Middle East and North Africa lives on less than two dollars a day.<sup>14</sup>

The Kingdom of Morocco is a major transit point to Spain due to its location close to Europe, which made it a country, a point of

contention and a preferred route for African migrants who gather in forests surrounding the cities of northern and eastern Morocco, and in the forests and imagination contributing to the cities of Ceuta and Melilla in anticipation of immigration to Europe, but the intensity of control at the borders of the "Schengen" countries and its adoption of a unified policy in the field of migration made Morocco a country as well as receiving numbers of migrants from sub-Saharan countries, and the origins of these migrants are due to Mali, Senegal, Angola, Ivory Coast, Cameroon, Gambia, Ghana, Urea and Sierra Leone.<sup>15</sup>

## **The second topic**

### **The Stages of Immigration in Morocco towards Europe**

After dealing with the theoretical framework of migration and clarifying its classifications, we will go through this research to present the most important historical stages of migration in Morocco, with a review of some similar events to neighboring and brotherly countries such as Algeria and Tunisia, due to the convergence of events and facts during colonialism.

### **The First Requirement**

#### **From the Colonial Period to the Borders of the Cold War**

Migration from Morocco to Europe, especially to France, began with historical milestones, and this was linked to the First and Second World Wars, which prompted the French colonial authorities to impose forced immigration on Moroccans in order to participate in the First and Second World Wars, and after Morocco gained independence, a set of restrictions were imposed on Moroccans in order to reduce the phenomenon of immigration, and this was linked to the solutions of the oil crisis that the world witnessed.

#### **First: Migration from Morocco in the Interwar Period**

The phenomenon of immigration in the Maghreb countries towards Europe during colonialism was known as individual

irregular immigration since 1899 AD and their settlement in the French regions was numbered, but with the beginning of the 20th century immigration became a distinct social phenomenon, in 1913 a decree was issued by the General Wali followed by the law of July 15, 1914 that canceled the passport that was imposed on the Maghreb countries, which doubled the number of immigrants, but with the beginning of the First World War in 1914 it will turn from individual immigration to mass immigration after France's entry into the war, which forced the citizens of the colonial countries to emigrate in order to strengthen its military units and fill the shortage of labor for its factories in its economic and military needs, and we find statistics, despite their conflicting opinions, indicating that the number of individuals who were called up during the war is about 220 thousand, including Algerians, and 5000 thousand Tunisians, while Morocco<sup>161718</sup> is 75898

In the aftermath of the war, most foreign workers, including Moroccan workers, were displaced to their homelands due to the nature of temporary employment contracts.<sup>19</sup> .

But a year after the end of World War I, the French economy recovered, and there was an urgent need to compensate for the losses caused by the war, and on the other hand, the decline in the birth rate led to an imbalance in the demographic growth of French society, which in return made the lack of effective control over new immigrants, and the number of Moroccan immigrants recorded between 25,000 and 30,000 immigrants in order to fill the shortage of labor.

However, with the increase in the number of Moroccan immigrants to France, the colonial authorities worked within a year by issuing a Dahir on September 27, 1921 prohibiting the opening of media offices in operations abroad, and later issued a Dahir in 1924 strictly prohibiting the export of Moroccan labor abroad and

setting up a set of measures to control and regulate the movement of immigration, such as the imposition of obtaining an employment contract as a condition of residence with a medical certificate proving the ability to work and safety from infectious diseases, but despite these prohibition measures, The current of migration is a continuity and 21,000 Moroccan immigrants were registered in 1930, most of whom joined French factories through clandestine immigration through Algeria. A new Dahir was issued in 1931 regulating the mobility of Moroccan workers and restricting the conditions of their exit from the French region of Morocco by requiring them to obtain a passport from the head of the district from which they originate, in addition to a number of documents related to the completion of the immigrant military duties, a document of judicial precedents, a medical certificate, and other conditions were added to provide a receipt proving the payment of a sum of 150 French francs to cover the costs of any possible expulsion<sup>2021</sup> . .

The same thing applied with the beginning of World War II, where the same method was adopted related to the forced migration of Moroccan Arab youth in order to strengthen the combat fronts and save the French economy, but after the end of the war and in light of the shortage of labor, European countries found themselves in a new situation due to the remnants of war, and their need for foreign labor to grow, as they began to bring labor from Algeria, Morocco and sub-Saharan countries, and this stage was characterized by European countries' control over the movement of migrants through On the other hand, the crystallization of human rights discourses motivating immigrants, France will know a different equation than what happened during the Second World War. Immigrants were able to go on strikes in 1947-1948 to pressure France to improve their situation and facilitate freedom of movement between France and the countries of the Maghreb.<sup>22</sup>

While during the year 1950-1955, the colonial authorities began to tighten control over Moroccan immigrants after the Moroccan resistance against the colonizer and the demand for independence, while the area of Algerian immigration expanded due to the mechanisms applied by the French National Office for Migration under the law issued on 20-09-1947 to grant the right of French citizenship to Algerians and lift the obstacles that prevent their movement to France, which led to an increase in the number of Algerian immigrants by about 21,359 people and an increase in their percentage of the foreign population from 1.3% in the year 1946 to 12 percent in 1954 while the proportion of Moroccans remained 0.6 percent.<sup>23</sup>

After Morocco's accession to independence, there will be a new wave of Moroccan immigrants to France, represented by the turnout of Moroccan students to French universities and institutes in order to obtain the scientific qualifications that the era of independence aspires to acquire due to the absence of educational structures for higher studies in Morocco, in addition to these reasons the issue of cultural dependency due to the complete control of the French education system over Moroccan educational institutions, so French universities were considered as a product of these data as a natural extension of these curricula that were established at the beginning of the era of protection. Algerian immigration declined since the outbreak of the revolution until after 1962, allowing Morocco 15% and Tunisia 23% to Europe, specifically to France.<sup>24</sup>

### **Second: From the Independence to the Borders of the Cold War**

After the Arab Maghreb countries gained independence, they will find themselves facing many problems, including the remnants of the French colonizer, which contributed to political and diplomatic tensions, which prompted a large group of foreign capital to leave the country for fear of political fluctuations, and on the other



hand, the inability of the Arab Maghreb countries to build an integrated economy to provide employment for their youth, and therefore these problems contributed to high unemployment and an imbalance on external resources, and the incomes of migrant workers became one of the main sources of currency Difficult.

Maghreb countries have come to view with satisfaction the large numbers of citizens who leave the country for Europe in order to seek work during the early years of independence as they were contributing to solving a range of problems mainly related to employment and education, but as the years have passed, these immigrants have come to be seen as one of the main factors contributing to the preservation of financial <sup>25</sup>balances.

With the decade of the sixties of the last century, Maghreb countries encouraged their citizens to emigrate to reduce pressure on the local labor market and to avoid exacerbating poverty and political instability; the first labor agreements were signed between European countries such as the Netherlands, Belgium, France, Germany, England, Scandinavian countries and even newly established countries such as Spain and Italy to open "employment offices" in some Maghreb cities, and the first wave of Moroccan immigrants towards Belgium began in 1964, while Algerian and Tunisian immigrants preferred to <sup>26</sup>migrate to France <sup>27</sup>

The European continent witnessed a new face in this period, as it constituted the beginning of economic prosperity between 1950 and 1970, as it was founded in 1957 "European Economic Community and the European continent became a destination for immigrants, that is, some European countries turned from source countries for immigrants until the early twentieth century to sending countries such as Spain and Italy, although the movement of immigration to European countries has been affected by the global economic crisis "the oil crisis" during the seventies, and Western

European countries stopped receiving labor From outside Europe, especially from the southern Mediterranean countries. In addition to the idea that technological progress will compensate the European continent for labor, especially from the southern Mediterranean, specifically from the Maghreb countries, and as a result, most European countries, led by Britain, France and Austria, hastened since the mid-seventies until the eighties of the last century to develop a set of legislation and laws related to immigration<sup>28</sup>.

France also issued a decree "Marcellin Fontanet" under which the suspension of immigration to France was approved in 1974, in addition to the 1980 law, which granted the authority to the French administration to take measures to suppress foreigners who are in an illegal situation, with the possibility of placing them in penal institutions if they do not leave French territory, followed by Law 4/17 of 1984, which granted the right to residence and work for immigrants residing legally for more than three years and who have family ties there, and under the annex 22/12/1985 was Approval of bilateral agreements with Morocco and Tunisia, and the first Franco-Moroccan agreement was concluded on 09/10/1987 on residence and residence and income, which entered into force in January 1994.<sup>29</sup>

### **The Second Requirement From the Post-Cold War Stage until Now**

The Cold War period in general witnessed flexibility in European immigration policies, due to the data of the international conditions at the time on the one hand, and on the other hand to the internal conditions of some European countries that witnessed an economic recovery against a clear shortage of labor in various fields, but after the end of the Cold War and the accession of Spain and Portugal to the European space, the issue of immigration became of worrying dimensions that prompted the Madrid government, which hoped for the integration of its citizens into the European space, to

tighten its laws and procedures to prevent immigration operations From the southern Mediterranean.

### **First: Legalization of Immigration**

With the mid-eighties to the mid-nineties of the last century, the contradictions associated with regular immigrants and their crowding of the natives of the country began, with the increasing desire of the people of the south to migrate towards the northern countries, which led to the closure of the borders, especially after the end of the Cold War, as it constituted a radical turning point in the course of security and strategic studies, during which the concept of security and security threats witnessed a conceptual and theoretical development, after traditional comparisons knew it, especially the realistic approach with its narrow concept that focuses on solid military traditional threats, it emerged A set of new security approaches in the early nineties of the twentieth century that calls for the establishment of a broader and deeper academic field known under the so-called "<sup>30</sup>Critical Security Studies" that focuses on the expanded concept of security and new security threats, this role was considered as one of the core issues in the new security issues of the The international transformations that followed the end of the Cold War brought the world into a state of deep chaos, resulting in a conviction that the current complex new security threats have become more widespread, as the German writer (Ulrich Bech) considered that this period promises the era of globalization of risks, and in this regard (Ole Wnever) believes that one of the most prominent new security threats that accompanied globalization is cross-border threats such as irregular migration, which emerged after the tightening of laws regulating migration and became one of the most important issues that This situation has led to the consolidation of the logic of the security phenomenon and made it a security bet

that may be linked to other dimensions of security in the military, such as terrorism and organized crime.<sup>31</sup>

This stage has taken a strict character since the mid-nineties, during which European countries turned to a security policy approach through the implementation of the decisions of the new immigration law, which was based on the adoption of strict measures regarding family gathering, and the conclusion of agreements to reduce the phenomenon of irregular migration, the most important of which is the Schengen Agreement 1985, which established the visa system for non-citizens of the European Union, and then the MastYacht Agreement 1992, which defined the concept of citizenship for non-EU citizens, the 1997 Amsterdam Convention, which aimed to unify European migration policy, and the 1999 Tampere Convention, which adopted a comprehensive approach that requires not focusing on combating clandestine immigration, which has shown its limitations, but taking into account the revival of cooperation with sending countries, and the integration of migrants into legal status.<sup>32</sup>

But with the events of September 11, 2001, African countries have become a source of danger and security threats according to international geo-security perceptions, because of the terrorism and transnational organized crime they face, so we find that European countries have changed their security strategy and doubled immigration control procedures in terms of security measures, which prompted an increase in the frequency of asylum for irregular migration<sup>33</sup>.

### **Second: The Emergence of Irregular Migration**

The term irregular migration was not known in ancient societies due to the absence of the emergence of the civil state, although man knew it since ancient times through his search for the climate and nature that he likes and adapts to, so migration at that time was

carried out in the form of groups in order to search for water and pasture for livestock, where it takes place automatically without condition or permission.

With the emergence of the idea of the modern state, most countries rushed to draw their borders and define their features, impose visas on foreigners to enter their territories, and enact laws regulating them, so European countries were the first to impose these visas European countries due to their fear of the economic, social and security effects of migration. Therefore, whoever violates these laws and enters the territory of these countries is an irregular immigrant. Irregular migration has spread in the modern era in a way that has made it the focus of attention of many countries, especially countries that live in a stable economic and security situation, due to the wars spread here and there on the one hand, and due to poverty and the low standard of living in some African countries<sup>34</sup>.

According to Euronews, the number of irregular migrants residing in the European Union reached 618,780 in 2017, and in general, in mid-2019, the number of international migrants was recorded at 272 million, representing (3.5% of the world's population), distributed by 52% of males and 48% females.<sup>35</sup>

A report issued by the United Nations also stated that the causes of irregular migration are due to the increase in the number of young people in third world countries and the decrease in job opportunities, in addition to the increase in disparities between rich and poor countries, and the increasing awareness of these disparities.<sup>36</sup>

In view of the danger posed by the phenomenon of irregular migration to security systems and to the societies of the Mediterranean countries, these have taken a set of mechanisms to reduce the exacerbation of this phenomenon and its consequences, whether on the sending countries or the receiving country, and in this

regard, the European Union countries have taken a set of security measures, which were represented in:

**1- Establishment of Detention Centers for Irregular Migrants:**

The European Parliament passed a law allowing the establishment of detention centres for irregular migrants apprehended on European shores, where they are detained and deported to their countries of origin, followed by undocumented migrants and asylum seekers whose applications have not been approved, as well as unaccompanied children for a maximum of 18 months with a five-year ban on entry into the EU, but this law has not succeeded.

**2-Method of Deportation of Irregular Migrants:** The adoption by the Council of Europe during the French presidency of the European Union in 2008 of the Agreement on Migration. This agreement imposes tighter controls and calls for the reunification of migrant families, on the other hand it sought to adopt expulsion and payment of money to migrants to return to their countries of origin, and finally called for entering into agreements with countries of origin to deport irregular migrants.<sup>37</sup>

**3-Tightening Security at the Borders of the European Union Countries:**

The European Union has taken a series of security measures to tighten security along its coastal borders, including the Spanish project funded by the European Union to build a wall up to six meters high, a wall equipped with long-distance radar, thermal image cameras, night vision devices and infrared rays, and the launch of a satellite project called "Sea Horse Network" to monitor irregular migration in the Strait of Gibraltar, which It connects the two continents, Africa and Europe, in addition to Moroccan-Spanish naval patrols working to combat networks specialized in smuggling migrants with advanced logistical equipment and equipment<sup>38</sup>.

**4- Rabat Communiqué 2006:** In 2006, 60 African and European countries requested UNHCR to address the problem of irregular

migration from Africa to Europe, and 57 ministers, including 30 European ministers and 27 African ministers, issued a statement in the Moroccan capital in Rabat in which they agreed to cooperate and assume joint responsibility to address the problem of irregular migration from Africa to Europe<sup>39</sup>.

**5- Bilateral Agreements between the Countries of the Mediterranean Basin:** There are a number of bilateral agreements linking the countries of the Mediterranean basin to each other in the field of irregular migration, including the Moroccan-Spanish agreement.

This bilateral agreement between Morocco and Spain focused on the fight against irregular migration in the Mediterranean basin, and under this agreement, a set of conditions were set that allow Moroccan workers to enter Spain, provided that the period of work does not exceed 9 months (seasonal work, especially in the field of <sup>40</sup>agriculture).

After the success of this type of bilateral agreement in an attempt to reduce irregular migration, the rest of the other European countries are on the same path in the same way, which led France and Germany to hold a meeting of the European Union countries in the British city of "Stanford", a proposal aimed at solving the problem of irregular migration by reviving the formula of the seasonal factor, through the conclusion of work contracts of a specific nature <sup>41</sup>of time.

Despite all the policies pursued by the European Union in general, or national laws in particular, the phenomenon of irregular migration is increasing day by day, especially in light of the crises experienced by neighboring countries - Maghreb countries or sub-Saharan countries, and this is what happened in the same way after the events of the Arab Spring, irregular migration increased in an

unprecedented way from Moroccan countries heading towards Europe.

### **Third Requirement The View of Moroccan Immigration Law**

The Constitution of the Kingdom of Morocco of 2011 stipulates under article 30 of the third and fourth paragraphs that foreigners enjoy the fundamental freedoms recognized by Moroccan citizens in accordance with the law and the exercise of their rights, but it is restricted by the principle of reciprocity, and it is noted here that the Moroccan legislator did not differentiate between foreigners and those who are officially or unofficially in the country, and this is after a positive point calculated in his favor.

We also find that the Moroccan legislator in the Constitution in July 2011 stipulated in its preamble that the international conventions ratified by Morocco, within the scope of the provisions of the Constitution, the laws of the Kingdom, and its established national identity, immediately after their publication, shall prevail over national legislation, and work to harmonize these legislations with what is required by such ratification.

The Moroccan legislature has ratified a number of international conventions related to migration and migrants, such as the International Convention on Civil and Political Rights (3 May 1979), the International Convention on Economic, Social and Cultural Rights (3 May 1979), the Convention on the Rights of the Child (CRC) 21 June 1993, the International Convention on the Elimination of Discrimination against Women, the Convention on the Elimination of All Forms of Racial Discrimination, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (21 June 1993).

Article 1 of Act No. 03-02 on the entry and stay of foreigners in the Kingdom of Morocco and on illegal immigration stipulates that:



"The entry and residence of foreigners in the Kingdom of Morocco shall be subject to the provisions of this law, taking into account the effect of officially published international conventions This is under the text of Article 50, 51, 52.

It is noteworthy that the provisions of the Moroccan legislature are generally based on combating irregular migration out and inside the country rather than on protecting the rights of migrants, and although there is an explicit provision for the presence of the term migrants in most of its texts, we find that many rulings are issued regarding the establishment of a legal framework for administrative detention, guarantees during deportations, and appeal procedures.

## الخاتمة

### Conclusion

After talking about the most important historical milestones of the phenomenon of migration in the Mediterranean field, specifically migration from Morocco to Europe, we conclude that European countries adopt a pragmatic doctrine in their internal laws and foreign policy, and this is reflected in the adoption of double standards for migration policy according to its requirements and characteristics, when its basic structures were destroyed after the two world wars, it put facilities to attract young Moroccans through its legal system to rebuild its destroyed economy and recruited them to defend, and after achieving its economic growth and achieving political stability after the formation of The European Union and the abolition of the internal borders of member states through the Schengen system, the migration of Maghreb youth has become for them a direct security threat to European national security at all levels, which prompted the European Union to impose a set of restrictions and led to the emergence of the so-called irregular migration, and with the increase of the latter, countries pushed the European Union to adapt immigration laws to the developments of the phenomenon, and to conclude agreements with source and transit countries to reduce irregular migration.

The study concluded with a set of findings and recommendations:

#### **First: Results:**

1. The need for serious action and cooperation between European countries in order to achieve sustainable development in Morocco, which directly contributes to reducing the phenomenon of irregular migration.
2. International migration (irregular migration in particular) is a product of economic problems, where economic motives are the most prominent causes of migration... There is no doubt that this is

due to the low economic situation in the countries of origin of migrants, which are witnessing deficient development processes, lack of job opportunities and low wages.

3. The difficulty of determining the size of the phenomenon of irregular migration, due to the informal nature in which it takes place as clandestine and illegal migration, as it is not registered, and the estimates provided by the different parties for the number of irregular migrants often vary, because there are multiple patterns and images.
4. Irregular migration has become one of the dangerous phenomena that threaten the security and stability of the countries receiving illegal immigrants.
5. The rules of international law give States the right to regulate their borders and exercise their territorial sovereignty in a manner that guarantees their territorial integrity and national security.

## **Second: Recommendations:**

1. Morocco has passed a unified legislation criminalizing irregular migration, extending the criminalization umbrella to brokers, intermediaries and fishing boat owners by imposing deterrent penalties on them in order to preserve lives.
2. States must be obliged to abide by the provisions of international conventions and treaties related to migration, as well as to conclude bilateral international conventions and treaties to encourage international judicial cooperation.
3. Concluding bilateral labor agreements between labor-exporting countries and those in need of seasonal labor, in order to make the most of the migration phenomenon, for both sending and receiving countries.
4. The need to reformulate Moroccan legal texts and tighten penalties, especially for members of organized and transnational criminal gangs and organizations that regulate irregular migrations, as well as for persons interested in assisting in people smuggling.
5. Information processes should be carried out by the authorities and civil society should be involved to publicize the risks associated with irregular migration and its negative impacts.

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