

Tunisian Forum for Economic and Social Rights

IN SEARCH OF DIGNITY



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Thwarting social protests and the Project of irregular immigration: A sociological study about the causal link between social protests and irregular immigration

Tabbabi Khaled

Introduction

All the reports of scientific research centers, international organizations, human rights associations and press articles spoke about the tragedies happening in the Mediterranean since the nineties. Thousands of people tried to cross the Mediterranean irregularly but the journey was dramatic, ending with the sinking of an infinite number of boats and the drowning of many, many people. The dangerousness of the adventure, didn't keep Tunisian Youth from embarking in a deadly journey, fleeing from poverty, marginalization and exclusion and seeking their dream even after the passing of more than 8years in a flustered transitional process. It should be mentioned that many experts and human rights activists insisted on the necessity of reviewing governmental policies, but sadly, the government kept following the same choices causing increased economic downturn and recession. These impacts could be clearly seen through some technical indicators such as; the deepening of unemployment crisis, the deterioration of the Tunisian currency, the high cost of living,

the precariousness of basic public utilities and infrastructure in the whole country in general and in the interior regions in particular. All of this deepened class and regional disparities even further, and all of these factors (even if they were cited generally and concisely) were a direct cause of the outburst and growth of social protests especially, after the revolution of January 14th 2011, claiming the creation of new prospects and perspectives for employment, freedom, democracy and regional development. These realities combined with the context of the economic, social, and political crisis led to refraction and desperation and nurtured, as a result, the flow of irregular immigration especially among the youth.

When trying to explain the immigration phenomenon, we cannot overlook the causal factors related to the economic and social situation; neither can we ignore the cultural and political factors.

This article aims to find new factors, and to determine the causal link between social protests and irregular immigration. We noticed that the government always tends to break the increasing wave of protests by making promises without keeping them, or by ignoring the claims of the protesters, or criminalizing the activists. The thwarting of social protests always ends with an increase of the irregular immigration flow.

Thus, this article aims to explain the irregular immigration phenomenon through connecting it to the protests' dynamics.

First Chapter: Conceptual and Methodological Framework

PROBLEMATIC

Youth from all categories always seek to achieve higher social status. Unfortunately, in Tunisian society this status was far from reach before the revolution of January 14, 2011. For this reason, the majority of the categories, and especially the youth, chose to accompany the opposing political parties and syndical and human rights movements in their protest against the ruling model. The 2011 revolution was a continuation of previous movements, such as the mineral basin revolution in 2008, and it aimed to achieve sustainable development, social justice and democracy. However, the slogans defended by Tunisian youth since December 2010 and in which he believed in January 14th 2011, and kept fighting for, for years after the revolution failed to be achieved under the rule of the successive governments until today. Feeling despaired; the Tunisian youth chose another road to achieve the higher social status they desired, fleeing poverty, exclusion and marginalization and psychological and social fragility. They chose to embark in a deadly adventure, crossing the Mediterranean towards their dream. Based on the foregoing, we can present the central problematic of this article as follows:

To what extent can we consider that the scuttled social movements, especially after 2011 and in the mineral basin, Tataouine, Sidi Bouzid, Kebili, Kasserine and the island of Kerkennah, and the feeling of despair they left among the activists, a major factor for the youth involvement in irregular immigration projects and for renewing its flows?

HYPOTHESES:

Based on the above-mentioned problematic and the questions raised about it, and following the sociologist bases of a research which calls us to establish one or many hypothesis to test the key ideas and the fundamental questions, we established a work hypothesis stating:

The economic, security, political and social crisis that hit the Tunisian society exactly after 2011, the growth and increase of social protests, and the high feeling of frustration and disappointment combined together, pushed the youth to flee the country. Whenever social protests failed to achieve their goals the waves of irregular migration increase and the local network that organizes them expand to regions that didn't know such a phenomenon before.

THE QUALITATIVE METHOD:

In this article we followed a method based on studying the situation of some young activists who participated in social protests in Sidi Bouzid, Kebili, Tataouine, Redayef, Kasserine and Kerkennah after the revolution, and whose slogans and

claims haven't been achieved, so they chose to immigrate irregularly.

Studying only one case in each region can't allow us to deduct exact scientific results unless we follow a qualitative method. Analytical introspection abstracts essential features by studying only one case than standardizes them. Numerical introspection abstracts through standardizing whereas analytical introspection standardizes through abstraction. The French sociologist Raymond Boudon explains the analytical introspection when studying a case as follows: "There are specific situations when it is necessary to use qualitative methods for budgetary reasons and rapid completion of the research. For example, the research of Mirra Komarovski about the impact of unemployment on the status of the head of household within its family included a sample of a few number of cases. Yet, the researcher provided satisfactory explanations. This example can show that precise and deep inspection can compensate (to some extent) the tightness of the scope. The example also demonstrates that analyzing the cases is governed by the same principles that apply to quantitative studies."¹

¹ Ibrahim (Abdallah) « scientific research in social sciences”, Arabic cultural center, Morocco, Casablanca 2008 p221

RESEARCH TECHNIQUE: SEMI-STRUCTURED INTERVIEW

In our field research, we opted for the semi – structured interview technique, in order to establish a comprehensive conversation that would allow us to understand how did they experience the details of social movements and immigration? What are the circumstances surrounding protests and decision? Why and how did they feel disappointed and despaired? What did they think after feeling despaired and other comprehensive questions... In this technique the researcher guides the interview, and in the same time, he is free to choose the manner of asking the question as long as the subject remains defined. He also can ask further questions if the interviewee is saying something important or if he didn't really get what was meant. This technique allows collecting more specific information, grants freedom to the researcher on one hand and gives an opportunity to discuss matters that weren't pre-planned on the other hand². Therefore, the interview gives us more space to understand the circumstances of social movements, decision making process, the migration journey and the factors of exclusion and attraction.

² Debret Justine « the different types of interviews' » www.scribbr.fr, 08/06/2019, 16 :27 h

RESEARCH SAMPLE:

We are trying in this article to study cases. We chose the research sample according to the needs of the subject: Young people who were engaged in social movements that were later thwarted, and who felt despaired so they chose to immigrate irregularly. The sample is distributed as follows:

One person from each region: (Sidi Bouzid, Kebili, Jemna, Tataouine, Gafsa, Redayef, Kasserine, MajelBelabbes, Sfax and the island of Kerkennah), aged between 20 and 45, male, and from different education levels (from basic education to university graduates). Their experiences are also different whether regarding social movements or the crossing route. Some chose to cross the Mediterranean, other tries to immigrate across land borders (Moroccan Spanish borders). Some succeeded to arrive to the other shore, some were intercepted and others were deported. This diversity and difference enriches the results of the research. We are going to introduce every interviewee on the margins of the article.

MIGRATION THEORIES: THE SOCIOLOGICAL THEORIES

In this part we are going to explain why we chose to analyze following a sociological theories. In general, **the economic approach** explained the phenomenon of immigration by presenting four major theories: the neoclassic theory (called also the renewed classic economy), the new economy of

immigration theory, the dual labor market theory and the world systems theory³. These theories explained the phenomenon of immigration but the explanation was limited because it didn't concentrate on the factors of exclusion and those of attraction. They only provide a classic analysis without really analyzing the role of social structures, social capital and the context of social movement with relation to decision making. Even if they mentioned these aspects, they didn't really focus on them in the content of the analysis.

Political and systemic theories didn't focus on this aspect either. Since the beginning of the 20th century, most of the immigration policies are considered immutable and once uttered cannot be changed: Immigration is a privilege and not a right. Immigration policies are based on the economic needs of some countries. Thus, they are oriented to the job market. Immigration policies are also based on the principle of national sovereignty⁴. Many other theories were also drafted to explain the international immigration phenomenon. These theories reflected the complexity of the matter on one hand, and the necessity of its integration on the other. Thus, the systemic theory relies on establishing a concept for the immigration system, such as a group of countries related to each other through migratory exchanges and which dynamics are created mainly through the work of different networks that unites the

³ Mabrouk (Mehdi), Sails and salt, culture, households and the organization of clandestine migration in Tunisia, Sahar edition, 2nd edition, Tunis 2012 p19 - 20

⁴Piché (Victor), *Migration Theories*, Ined Editions, Paris 2013, P 44

major actors of the field of immigration by different levels of networking and by using a group of micro and macro variables⁵.

This method also studies immigration movements following the system of the different flows between the source and the origin: the flows of immigrants but also the flows of ideas, services and merchandise⁶. Since immigration creates a **unified space** between the origin and the destination regions, we should take the system, or the systemic method into consideration in order to understand migration, its causes and the obstacles it confronts. The main constraints for which we didn't use a systemic method are the shortage of complete and comparative data and the lack of information about international immigration in some countries. It should be mentioned that political and systemic approaches didn't speak about many aspects, especially with relation to the social depth, whereas the **sociological approaches** always tend to dig deeper in the explanation of the phenomenon. It considers the different factors (economic, social, cultural, and political) and enriches conclusions by publicizing exclusion and attraction factors, circumstances of the decision, family position and analyzing the migration networks. It also tries to understand the importance of the role played by the social scene and environment in the decision making process. This approach also analyses information relying on social psychology approaches such as motivation approach and the approach of expectations

⁵ Mabrouk (Mehdi), sails and salt... opcit, p30-31

⁶ Piché, (Victor), « Contemporary migration theories through the prism of foundation texts », Population Vol68, n1, 2013, pp153-178 p14

and values⁷. The sociological method is unique, because it tries to depict the migratory project⁸.

Chapter Two: Social Movements and irregular migration flows

1. GENERAL DESCRIPTION OF SOCIAL PROTESTS ACCORDING TO THE GEOGRAPHIC ORIGINS OF THE INTERVIEWEE

It is useful and epistemological to start with a general description of the protest movements in all the regions mentioned above, in order to depict protests and to conclude that when these movements were blocked and felt depressed, they fed the flow of irregular immigration. In general, protest movements escalated due to the “failure of the prevalent development modal, which was implemented in the context of the structural reform in 1986, with compliance to the dictates and recommendations of world financial institutions and specifically the International Monetary Fund and the World Bank which are responsible for disseminating the neoliberal choices designed in the Washington Convention⁹.”

⁷ Piguet (Etienne) « Migration theories, synthesis of individual decision making” European review of international migration, Vol 29 – n3, 2013 pp 141-161 p148

⁸ Mabrouk (Mehdi), Sails and Salt ...opcit p27

⁹ Bedoui (Abdeljelil) « Economic and social problems and challenges during the democratic transition process in Tunisia – For an alternative development” / “Tunisia: the troublesome democratic transition” Cairo center for human rights studies – reform cases series 36, 2017 pp 61 – 103 p 62

Thus, the fragile social policies were a major cause of the escalation of protest movements. In its contemporary history, Tunisia experienced the longest revolution in 2008 in the mineral basin. “The question that was raised in all the media was if the mineral basin events would be the beginning of a priority changing process and the sliding of Tunisia in a dangerous path because of the impacts of the international economic crisis and the continuing increase of prices (foodstuff and hydrocarbons) and the repercussions of the structural reform on the social security of a vast category of Tunisians¹⁰.

Essentially, the raised claims were economic and social, but they faced police repression and many people were injured, many people died. The number of prisoners increased, and the region was besieged by security forces, media and politicians. All of this didn’t extinguish the flame of protest: the activists of the mineral basin joined the revolution of January 14th, 2011 and the social protest movements escalated again. **Khalil¹¹ told us:” I participated in protest movements from 2008 until today (2019). The majority of protests have three main demands: Development, Employment and condemning the frequent disruption of water supply... I participate as a political activist and as an unemployed citizen on the same time...”** We can conclude from this testimony that the social

¹⁰ Tabbabi (Hfayedh) The Mineral Basin Revolution in Gafsa (2008) Tunisian Books House 2012 p07

¹¹ An interview carried out in June 09th 2019, at 11o'clock with Khalil: a young citizen from Redayef, aged 27, a social movement and political activist, has a secondary education and a vocational training certificate. He tried to migrate irregularly once in January 2019 through the Moroccan Spanish borders but he was intercepted.

claims raised in 2008 are still on hold, and the youth of the region is still fighting for this claims until now, accompanied by opposition political parties and syndical and human rights organizations.

The Mineral basin revolution was the seed that brought protest movements to what they became. Social Movements were at their peak in Feriana, Sekhira, Bengerdane and finally in Sidi Bouzid in December 17th 2010, when the movements prevailed over the whole republic which resulted in civilians casualties, but also in the end of a totalitarian regime that ruled the country for 23 years. The system that couldn't respond to the economic and social needs of the population was displaced, but protests persisted after January 14th, 2011 and continued to grow stronger until today (2019). Claims were essentially related to development. During the last years for example, the teachers of the black forest school in Regueb protested in 2015 against the sanitary situation. Protests increased after the death of a student. Demonstrations related to the sanitary situation also reached the region of Saida following the death of a student after contracting hepatitis. Citizens of Ouled Boudlala also protested to demand the enhancement of regional roads' infrastructure whereas the protests in Ouled Zid in Bir Lahfay delegation demanded to start the works of the irrigated area. Peasants in Sidi Bouzid protested against the smuggling of sheeps from Libya and against the poor quality of fodder that led to the death of an important number of

sheeps¹². The suicide attempt of the young man “Ridha Yahyaoui” in Kasserine in 2016 led to a series of protests that covered all the delegations of the governorate and kept growing to reach all the regions of the country. These movements mostly demanded employment and the improvement of the economic situation. Thus, employment became the main claim of all social movements in the area.

The beginning of the year 2017 was marked by the increasing number of social movements in the delegations of Manzel Bouzayen, Souk Jedid, Mezouna and Bir Lahfay to claim development, employment, the enhancement of infrastructure and providing irrigation and drinking water...”. The situation in Tataouine governorate was really heating up since April 2017. The pace of protests escalated and the levels of anger and friction reached the peak. Protesters blocked the main roads of the city and all the routes leading to the petroleum production fields. Citizens marched to the Kamour region in response to the government’s silence and disregard of their demands, and they blocked the roads to the gas fields...

This protest movement was the most important one that took place during that period, and it mounted again at the end of May of the same year when the employment minister visited protesters. The activists tried to block the roads again but they were repressed by the police forces. The police used excessive

¹² Sahbani (Abdessattar) and a team of work “Social protests in Tunisia in 2015”, The Tunisian Forum for Economic and Social Rights, the Tunisian Social Observatory 2015 pp 220-221

force including tear gas and truncheons, and confrontations resulted in the death of one of the protesters after being hit by a police car. Tension and anger grew stronger, but the General Tunisian Union for Labor mediated to solve the problem by signing an agreement that was accepted regionally in June 2017¹³.

However, the agreement didn't stop protests in the region. They are persisting until today, claiming employment, health and social justice.

In general, it could be said that the feeling of injustice and exclusion is the main motive of the rise and growth of social movements. **Walid**¹⁴ tried to explain this feeling when he talked about his experience as one of the activists of the Kamour movement: **“A young Tunisian citizen, when I was told that our petroleum is being exported to France, while I’m suffering from unemployment and from being marginalized by the state, while I visit the governorate’s headquarter regularly and they always answer me that there are no jobs for us ... I decided to protest....”**. **Ahmed**¹⁵, from Sidi Bouzid also told us:

¹³Sahbani (Abdessattar) and a team of work “Social protests in Tunisia in 2016 and 2017”, The Tunisian Forum for Economic and Social Rights, the Tunisian Social Observatory 2017 pp336, 349, 383, 384.

¹⁴ An interview carried out on June 1st 2019 at 22:13 with Walid, a young man from Tatouine aged 27, and one of the activists and founder of the Kamour movement, university graduate, tried to irregularly immigrate by crossing the Mediterranean in October 14th 2017 but was later deported.

¹⁵ An interview carried out in June 6th 2019 with Ahmed, a young man from Sidi Bouzid, aged 25, participated in the protests in the region, a university graduate, immigrated irregularly by crossing land borders from Morocco to Spain and lives now in Madrid

“We are always seen as unequal citizens, people from interior regions are considered as second class citizens, and that’s why, even when we tried to rebel they are always trying to distort and to erase the revolution”. Samir¹⁶ from Kasserine, Majel Belabbes delegation said: **“I want to live my life... I’m 24 years old now and I never felt alive even for one day.”** This feeling of **contempt** generates an internal fight for **recognition**. When an individual feels that he has no value in social institutions, it’s is not only about him, but it’s the same feeling experienced by a vast group of population who are suffering the same situation. That’s how the fight between the groups that are seeking social privileges and political systems that are incapable of enforcing human rights is generated. The governorate of Kebili also knew the rise of social movements claiming development, employment and social justice, and it also hosted a radiant movement that was highly supported by the civil society activists and human rights’ organizations. We are talking about the movement of Jemna. “It is a fight between some strong private employers, supported by the state’s laws and authority and some citizens who felt that they are more entitled for exploiting the land of their ancestors. In January 14, 2011, and in the middle of the revolution, tens of Jemna citizens went to the “Land of Steel” to get it back, and since then, the region’s inhabitants fought for their right to regain the land until they did, and started to exploit it voluntarily

¹⁶ An interview carried out in June 11, 2019 at 21:42 with Samir, a young man from Majel Belabbes in Kasserine, aged 24, participated in the movements of precarious workers, primary education, tried to immigrate by crossing Moroccan Spanish land borders but was intercepted

under the supervision of the “association for the oasis of Jemna”¹⁷.

The experience was successful to a certain extent, in spite of the legal, administrative and financial obstacles, but protests kept going on until September 2016. The workers of the Land Steel, civil society activists and some Jemna citizens protested when the ministry of the state’s properties annulled the permit of the association to manage the land. The experience of nationalizing land didn’t solve the region’s crisis which is still suffering from poverty and exclusion, and protests rose again. For example, “the citizens of the area stood in protest in front of the governorate headquarter in April 2017 to demand development and employment. The month of May was also marked by an increasing pace of protests in conjunction with the Kamour movement¹⁸” to designate employment and development as the main slogan of social movements in Kebili. During the following years of the revolution, the island of Kerkennah also knew a strong wave of protests, from which the Petrofac company crisis in April 2016, which escalated to confrontations between protesters and security forces, and then to the declaration of a general strike. The repercussions of the crisis reached Sfax city, where citizens also protested in solidarity with Kerkennah activists against the violent police

¹⁷ Ben Khalifa (Ghassen) « the Land Steel of Jemna: public interest before private profit” 19/06/2019 « nawaat.org » 17:18h

¹⁸Sahbani (Abdessattar) and a team of work “Social protests in Tunisia in 2016 and 2017”, The Tunisian Forum for Economic and Social Rights, the Tunisian Social Observatory 2017 pp 412-413

intervention¹⁹. Employment and development were among the demands raised by the people of Kerkennah, but their movements were marked by **the fight for environmental rights**. Environmental movements are a significant part of the social protests in the region. **The sailor Amor²⁰** talked to us how the environmental pollution and catastrophe caused by the **Thyna Company for Petroleum Services** forced him to go out to the streets to stand up for his living and for the future of the island. He said:” **I’m defending my children’s food, fishes are dying, and pollution is destroying everything. Even when the environment protection agency and the state demanded compensation, when the company paid 50 thousand dinars because it polluted the sea, this money can’t help the people. We want to protect our fishery resources and our children’s future....”**

The environmental crime is destroying fishery resources, and that left the citizens of the island with a feeling of persistent anxiety and fear for their future and their living. That’s how environmental movements became the major force that made the difference between the protests in Kerkennah and other regions, to a certain extent. Pollution and especially how to deal with pollution is a detail that allows many categories of the island’s citizens to guarantee their economic and social rights

¹⁹ N.m Dito p 307

²⁰ Interview carried out in June 14, 2019 at 21 :44 with Amor the sailor, from Kerkennah, aged 41, an activist and influencer in the environmental movements of the region, primary education, tried to migrate irregularly across he Mediterranean in June 2018 but was deported.

since this category is living from the bounties of the sea, and if they are destroyed they will be destroyed too.

In general it could be said that employment, development, social justice, reducing pollution and controlling frequent water interruption, and promoting health and education sectors are the major claims of all interior regions and the island of Kerkennah.

2. SOCIAL PROTEST : A CHALLENGE AND AN ORGANIZATION TO FIND THE PATH FOR TRANSFORMATION

Despite the fact that each one of the interviewees is different in terms of age or geographic origins or academic achievements, the most striking element is that they all originate from modest families composed of high number of members and with a low – income. Most often, the father is the only one who works to provide for the family, or his children are engaged in precarious works to help him. For example, **Ahmed** told us: **“My father is retired. He gets 300 dinars monthly and he has 11 children”**. **Ramy**²¹ said: **“Actually, our family is composed of two families. My uncle died and my father had to provide for the two families”**. **Samir** was obliged to drop out of school because his family couldn’t afford to buy him school supplies. He said: **“There was only one shoe that I must share with brother, so I let him wear it and go to school because he had better**

²¹ Interview carried out in June 06th 2019 at 14 :00 with Ramy, aged 29 from Kebili – Jemna, participated in the movement of Jemna, primary education, irregularly immigrated by crossing the Mediterranean in October 2017 but was deported

grades... and I had to quit.” Khalil said: “we are a humble family, our father is dead and we are still spending from his salary of 600 dinars. We are 8 members and all of us are unemployed. Only one of us got a job lately in the environment company, after he got married.” Amor, the sailor explains:” we have no stable income, what we earn differs from one day to another.” Walid also said: “My brother lives in France, he is an undocumented immigrant, he immigrated irregularly, my other brother was deported and I was deported too, and my father is paid half of his salary now because he applied for early retirement.” The common thread among all interviewees is the difficult social situation of their families. This economic downturn generates a feeling of contempt, as explained by **Axel Honneth**, and is the predominant motive that is driving these people, in order to **obtain recognition** from the other. The other in this situation is nothing but the regions, which are employing material and symbolic violence on them, by robbing them of their economic rights and marginalizing them in social institutions. This condition drives them to join social movements that aim for rehabilitation, whether as individuals by providing employment, preserving their dignity and their physical integrity, or as regions by fighting for an equal distribution of resources, ensuring the rights to development and healthy environment. **Charles Tilly** also considers that these social movements that destitute different social groups sharing the same feeling of injustice and oppression; translate the tension into a common action that aims to establish a new order of life.

In this respect, he explains that: "Social movements, as the name suggests, are comprehensive regulations, composed from different groups with various interests that include pillar categories of the community, such as women, workers and university students. The common thread uniting all these various social categories that are defending different interests is their common feeling of injustice."²²

These marginalized categories chose to engage in a protest course, to express their anger on one hand and to claim their rights to employment and development on the other hand and they found themselves fighting among other groups suffering the same tragedy and having the same dream. Then, the mobilization process starts through communication techniques, diversifying the forms of protests and organization and the political and syndical support. **Khalil** told us: **"the Tunisian General Labor Union, especially the local union in Redayef and some opposition political parties (especially left wing parties) are the most prominent supporter. They helped us in different ways"**. He also explained that their support has a militant dimension, and said: **"they are patriotic, and they care, I didn't notice any political agenda in their support"**. And he added, with relation to mobilization and organization of social protests: **"we organize meetings and negotiations and we determine the approach and the form of the protest. Our meetings take places in the labor union headquarter or in one of the political parties' offices and we negotiate with**

²² Charles Tilly, « social movements », translation Rabii Wahba, Haigher Council for Culture, Cairo 2005, p33

everybody not only with political parties...". Ahmed spoke to us about his experience as an activist in social movements in Sidi Bouzid, and about the techniques of organization and mobilization: "political parties support us only when elections approach. But we only follow our own path, we are all conscious and we know our rights and our responsibilities. Even if we use an underdeveloped method, throwing stones or blocking roads, burning wheels or protesting at nighttime, it is only because snitching is still widespread, like it was under the past regime". The Kamour movement was created through coordination and organization between the different protesting groups, and they started at first by presenting the movement. **Walid** spoke about the movement saying: **"we started the sit – in slowly, beginning with placing only two tents in the people square, in the city center. We wanted to demonstrate that the movement is not about tents, we wanted to say that all the city of Tataouine is angry, and then the number of tents multiplied... we created the coordination of El – Kamour sit –in, according to the tents (the tent of Ennoor Neighborhood, Mahrajan Neighborhood, people square etc...).** The leader of each coordination assists to the meeting and we coordinate together. **When we decide to block a road, we block it. Everyone suggests an idea and then we vote, we distribute tasks and we appoint someone to manage communication, another to speak to the media and so on...".** The movement of Jemna started just after the revolution, and **Ramy** spoke to us about it: **"We burned the police office at the beginning of the revolution, and we**

headed to the Steel land, we were very angry. We established a committee and its members were mostly politicians. They were always at the front, they decide and we apply, but when we are not convinced of something we don't do it. We had an understanding, we listen to each other and then we got the support of important politicians."About the circumstances of the movement and about the love of the oasis **Ramy** told us: **"we organized it – ins, we placed tents, we blocked the roads, we spent the nights awake guarding the oasis, we irrigated palm trees to keep them alive because the movement took almost two years to reach an understanding, we volunteered to work our land, we organized cultural activities during the protest..."**. The environmental movement in the island of Kerkennah wasn't only limited on defending their living, considering that pollution is threatening fishery resources, but it was also patriotic and guided by the ecological motive. **Amor** said in this respect: **"Kerkennah citizens love their city, we want to live in a safe environment, we want our sea to remain clear, and that's our right. Pollution is not threatening Kerkennah alone, we are exporting fish from Kerkennah, Safx, Tunis and our fish is crossing the national borders. It's an international matter, it a national interest and all of our country is losing."** The awakening of the citizens of Kerkennah and their awareness of the impacts of the environmental catastrophe on their living in particular and on the national interest in general, led them to engage in an environmental social movement in order to put an end to pollution and to protect the sea resources. It should be mentioned that the

marginalized categories and the victims of environmental pollution participate in social protests in order to find a path that leads towards positive change. This pace and this solidarity between social movements can be described as an internal change, and we should remind of the fact that every change begins at an internal level and not externally. When an individual or a group feels, threatened, impoverished or deprived, he starts thinking of alternatives to reach a state of comfort and stability. The protest organization is led by a rational strategy, and in this respect, **Michel Crozier and Friedberg** said that: “the pace is a concrete technique used by individuals to structure power relations, and to organize them while preserving their freedom.”²³ **Crozier and Friedberg** both denied any interference or external pressure in any organization. Pressures only affect the organizations and lead to their failure. The process of management and change is only directed by activists within the organization or the network and never from the outside. The strategic school shows that the activist builds his strategy without regard to the constraints of the structure. The need for change is an internal need: when the poor categories felt deprived, they spontaneously engaged in groups and organizations of people who have the same feeling and who live the same tragedy in order to find an alternative.

Almost all the interviewees were unanimous in acknowledging the major role played by the social networks in raising

²³Crozier (Michel), (Friedberg), *the actor and the system, collective action's constraints*, Seuil Editions, Paris 1997 pp 97 - 98

awareness and mobilization. In this context, **Ahmed** said: **“Facebook is the alternative media, it’s the revolutionary media”**, and we understand from this declaration that they don’t trust media institutions. **Amor** confirmed this conclusion when he said: **“Television is censored; they reported a small part of the truth and didn’t transmit the necessary information.”** We can further explain the role of social networks today according to **Darin Barenly**²⁴ who presents them as a website that provides different services for the users, such as Facebook and Myspace and Google. These websites made a significant difference in how to communicate and interact between people and communities and in the exchange of information.

Based on the foregoing, we can say that the social categories with low income, impoverished materially and economically, engaged and organized community circles in order to claim their right to dignity, decent living and social justice, in search for a dignified social status.

They invested all their resources to mobilize and this explains that: **“Protest and social movement are nothing but a policy by other means. The groups poor in resources or weak in position, use them to gain the power and the ability to influence political decisions and to enroll in a political process**

²⁴ Darin Barenly, the network community, translated by Jamaaoui Anouar, The Arab Center for Research and Policies’ studies – Beirut 2015

by invading the streets, or sometimes, by participating in collective violence²⁵ .”

3. WHEN THE ARSENAL OF PROTEST BUMP INTO DESPAIR AND FRUSTRATION:

It can be said the concept of **relative frustration** is inspired from knowledge and theoretical frameworks, since this concept analyses a range of social and community cases and phenomenon. The first framework of the relative frustration has a psychological nature and dimension, while the second conceptual framework is that of democracy: when democracy takes into consideration social comparison, and becomes supportive of the legitimate equity of class communities, and equality is replaced then by democracy. Lastly, the theories of collective action and social movements assigned a central role to the concept of relative frustration, which on based on two major axes: the first axe is about **structural tensions**. It is when an individual commits to achieve his dream and reach personal success, but he is socially unequal, which means that other people are more likely to succeed because of the social disparities. This generates relative frustration. The second axe is about social change especially in the context of the economic crisis that is causing frustration because of the interval between ambitions and satisfaction. Relative frustration occurs when the gap widens between ambitions and the possibility of their

²⁵ Johnston (Hank) « countries and social movements” translated by Ahmad Zayed, National Center for Translation, Cairo 2018, p51

achievement²⁶. Accordingly, we can say that failing to achieve social equality, in the context of the social and economic crisis creates a feeling of despair, but the marginalized youth chose to protest in order to provide their legitimate needs, according to the interviewees. When the marginalized categories engaged in protest organizations or social movements they were blocked by unfulfilled promises, or by repression, criminalization and arrests, or by governmental solutions that don't correspond to their expectations. **Khalil said: "Security and judicial treatment are not the same compared to the pre – revolution period. Before, security forces raid the homes of protestors, now; whoever organizes a sit in is called in by the police for questioning. There are protestors who discover that they are wanted by the police when they are about to travel, there are protestors were imprisoned for almost a year...".** When asked about the government's responsiveness to their demands, he answered: **"Too many protests and sit in(s) were organized but they always overlook them"**. He added with regards to the governments solutions: **"Environmental companies aggravated the crisis; they are not productive at all. The state manipulated social demands"**. **Ramy** told us that when environmental firms opened their doors, the benefits of the Steel Land of Jemna increased remarkably. Opening a youth center and improving the local market of the region also improved the situation but the problem of unemployment remained unresolved. He said: **"The problem is that they don't**

²⁶ Dubet (François), « Relative frustration and the individualization of inequalities », OFCE review, n150, p11 p26 2017 p3, 4, 5.

accept that two members of the same family work in the company, so I let my brother work in the Steel Company.”

Walid, one of the founders of the Kamour Movement faced the same problem, and he didn’t get a job. With relation to the social protests of the precarious workers in Majel Belabess, Samir told us that: **“The Mayor didn’t convince us when we met with him, he didn’t give us any promise and he said that he can’t do anything for us. The labor union negotiated with the government and they gave us a health booklet... but we want to be enrolled in the public sector, we want to help our families. Our salary of 300 or 400 dinars doesn’t cover our needs; I suffer monthly to make ends meet.”** Samir and his colleagues dream to be enrolled in the public sector, to enhance their financial and legal status, but the state couldn’t respond to these simple demands of some categories who didn’t claim the impossible. **Amor** thinks that the police are harassing him because he is an influential agent in the environmental movement of Kerkennah. He said: **“they told me; either you stop calling us and you stop calling radio stations or we are going to frame you.”** **Ahmed** expressed his discontent of the current situation and the current political scene. He said that the revolution carried out by the youth of the country didn’t do them justice and he spoke about the symbolic violence of the senior category on youth. He said: **“How is it acceptable to be ruled by a 90 years old president. I don’t care about his political orientation. We want a young president who can understand our demands.”** He also talked about the methods of repressing the social movements: **“Even**

when do nothing the security team arrests me, they ask me about what I did today and yesterday... they know that I always participate in protests. They harass me so I do nothing, and even when I do nothing they harass me so I don't think about doing something". It should be mentioned that frustration is multidimensional. We can't always link it to the material beneficial side. **Ahmed** for example said: **"I had a project to live from; I own five cows and three calves. I can cover my needs."** And **Ramy** said: **"I own a small coffee shop"**. Frustration, as an emotional situation, can be related to achieving the intrinsic value of the human being. Most of the interviewed said that they are losing hope and don't think that the situation is going to change. Furthermore, these movements are aiming for recognition, as analyzed above. **Ramy** summarized the whole idea when he spoke about the difference between the police treatment in Europe and in Tunisia. He said: **"in Europe you are treated as a human being, in Tunisia you are treated as an animal."**

Based on these testimonies, we can say that collective protest crashed into despair and frustration on various levels: the repression of protests and their criminalization and the employment policy followed by the government and based on providing precarious work. These solutions can't break with the economic crisis. Successive governments also failed to put an end to the ecological disaster, pollution and the continuous disrupt of drinking water. The government couldn't solve the problem of precarious workers and couldn't address their legal and financial problem. It failed to find permanent solutions to

promote the sectors of health, education and infrastructure. Despite the fact that human rights organizations, syndical institutions and political parties supported the social movements, they nonetheless crashed into a feeling of despair and frustration when they saw that their dream can't be reached. False democratic and social disparities, as we explained above, are democracies that fail to advocate for economic and social rights. They spread a feeling of frustration among marginalized categories, who find themselves engaged in communitarian circles to achieve their dream. And when they still can't achieve what they are aiming for, they start to look for another alternative that can help them reach a higher social status.

4. FROM THE FEELING OF FRUSTRATION TO THE ENGAGEMENT IN IRREGULAR IMMIGRATION PROJECTS:

a. Making the decision to immigrate

Based on the above analysis relating the social movements, their organization and mobilization, to the feeling of desperation and frustration, we conclude that it's when their actions fail to provide their needs that the activists start thinking about an alternative that can help them achieve the dream. According to the interviews carried out, the frustrated activists start looking for other horizons and better worlds. We can say that the feelings of frustration and desperation of the social movements' activists was a **push factor**. Thus, **push**

factors are more than the pull factors, since they are looking for higher social status in their homeland but they can't find it, and host countries become the destination to achieve their lost dream. We reached this conclusion when **Walid** described the feeling of frustration: **"I lost hope, I don't believe that the situation of the country is ever going to improve, neither my own situation."** **Ahmed** said: **"This country will never develop, I saw the laws written but I never saw them applied"**. **Khalil** expressed his feeling of desperation saying: **"Nothing changed; the situation is always the same"** and he added as a political activist: **"I struggled for years but the crisis deepened and our frustration became huge."**

Frustration is considered as a generator of the irregular migration decision. Passing to the implementation phase can take many forms as explained above. **Khalil** for example, was mainly motivated to embark in this venture in order to find a job and he said: **"I was primarily motivated by unemployment. When they told me about how people are living abroad, the living conditions there, I felt more motivated to migrate."** **Ramy** thought the same, and he explained that the idea arises when an individual tries repeatedly to find a job that preserves his dignity without success. He said: **"I applied to every job offer I could find, I filled every form, but I can see now that I won't be able to find a job without paying a bribe."** The motives can also be related to the failure to achieve the claims of the social movements. **Samir** said: **"I'm 24 years old and I never felt alive."** His feeling of frustration was so deep that he can't feel his humanity anymore. On another level, the motives

are related to the unchangeable general situation of the country; the permanent social reality, corruption, injustice and the lack of horizon. **Khalil** said: **“we voted before and even if we vote again nothing will change.”** And **Ahmed** said: **“everything is the same, even snitching still prevails.”** This is what pushed most of the interviewees to choose irregular migration. They feared to be charged of malicious prosecution and be imprisoned, and even this fear is nothing but the outcome of frustration and of the lack of trust in justice and in the judicial system. **Ahmed** said: **“the police encourage me to migrate irregularly when they sent me three summonses.”** And he added; **“I just want to have peace, I will go crazy if I stay in Tunisia because if I speak against injustice I will end up in prison.”** **Walid** said: **“the state is cruel. They are watching every one of us and it’s possible that they charge falsely and we end up in prison for many years.”** And he added **“the police want revenge, they want to break our spirit. They arrested one of us and he is still in prison.”**

With relation to the environmental movement in Kerkennah that rose against sea pollution, **Amor** said: **“I choose Kerkennah over Europe. All the citizens of Kerkennah love their region.”** However, the repression of the environmental movement pushed him to engage in the deadly journey despite that he has a residence permit that allows him to enter Europe regularly. Harassing the movement and harassing him personally because he was a social activist were the motives that led him to decide to migrate irregularly. He said after expressing his love to Kerkennah: **“I have a residence permit but I migrated**

irregularly. **I was maliciously charged and they could have arrested me at the airport.**” Besides of the fragile social situation and migration policies, the immediate entourage (family, neighbors, and friends) is also a motive that creates the decision of migrating irregularly. **Ramy** for example told us: **“My parents encouraged me”**. **Ahmed** said: **“my friends who live abroad told me to just join them and they will take care of everything there.”** And **Khalil** talked about how his family financed his migration project. He said: **“When my family was reassured that the journey won’t be dangerous, they encouraged me to migrate. We are still repaying the money they borrowed until today.”** We can also conclude that the frustration and desperation felt by the social movements and by the youth category created a **push atmosphere**, and thus, it could be said that there is **a causal link between repressing the social movements and the engagement in irregular migration projects**. Furthermore, all of the interviewees told us that they **made the decision to migrate when the revolution and the protest process let them down**. They chose to escape what their country deprived them from and flee to Europe. This frustration damaged Tunisian psychologically especially after the revolution “53.6% of the Tunisian youth category think that the situation of the country is unstable, 50.1% find it boring and 44.7% find it tiring. This demonstrates that the Tunisian atmosphere is full of pressure and boredom. **Tuniscopie magazine** published in February 13th, 2013 the comments of **Doctor Soufien Zribi, the president of the association of Tunisian psychiatrists for private practice**. He said: “Tunisians

consume more sedatives and anti anxiety medication since the revolution. The number of Tunisians visiting psychiatrists is persistently increasing since January 2011²⁷.” Based on the sociological theories that we presented in the context of the theoretical framework, we can conclude that the push factors prevail over pull factors (push and pull factors). Relationships and social capital also played a major role in the decision making process, and also the difficult psychological factors that can be explained in the context of the theories of stimulation, expectations and values enshrined in social psychology where individuals are seeking for higher value, wealth, independence, affiliation (to be associated to other people) and ethics ... all of these factors facilitated the process of the decision making. Lastly, we conclude that the frustration of social protests in the context of the security, political, social and economic crisis provided a pushing climate and a motive to make the decision.

b. Repressing protests and renewing the waves of immigration:

We started the article by describing social protest in general, and we talked about the first protests that started in the mineral basin area in 2008 in order to understand the causal link between social protests and irregular immigration. To enrich our study, and since immigration waves increase after repressing the social movements, it's important to say that “The policy of repressing the revolution of the mineral basin in

²⁷ Ibn Hmida (Moez), calvi (Jermano), Gomez Bont (Vencent), Brina (Franco), Folechli (Stephano), a report about minor Tunisian, Moroccan and Egyptians'immigration tendencies and experiences IOM 2013 p48

2008 continued for six months (January – June 2008), during which tens of activists and national, regional and local leaders were arrested and charged. This strengthened the feeling of desperation and frustration among Tunisian youth in general and among the mineral basin youth in particular. During the summer of 2008, the ruling political authorities made many promises which weren't kept and that pushed many young people from the mineral basin to engage in irregular immigration. There were two roads that lead to the island of Lampedusa: either through Tunisian Libyan land borders or through crossing the Mediterranean from Libyan shores. The number of newly arrived immigrants to Lampedusa increased in 2008 in comparison to previous years (they reached 31.250 immigrant in 2008 compared to 12.184 immigrant in 2007). In 2008 and for the first time, Tunisians were ranked first in terms of the total number of irregular immigrants. Their number in the island of Lampedusa reached 6.762 immigrants among whom we find 52 women and 184 minors. The number of Nigerians was 6.084 immigrants, from whom 1787 women and 351 minors. In 2007 the number of Tunisian in Lampedusa was 1100 immigrants and they were ranked fourth in terms of the irregular immigrants' nationalities²⁸". In the context of the economic crisis and the repression of social movements in the mineral basin region, the Tunisian republic recorded a high wave of immigration in the beginning of the year 2008, however, by the end of the year 2010 "the northern and

²⁸ Boubakri (Hassan), « International Migrations and the Revolution in Tunisia », Migration Policy Center, research report n1, 2013 pp1-37 p3

southern coastal Mediterranean countries were able to control the irregular immigration phenomenon coming from the Maghreb, African and South African countries towards Europe. The total number of 39.800 immigrants in 2008 decreased to 11.000 immigrants in 2009 and to 4.500 irregular immigrants in 2010²⁹.”

With the beginning of the revolution in January 14th 2011 in Tunisia, and during the period between January and April 2011, nearly 30.000 irregular immigrants reached the Italian shores³⁰”. “According to the Tunisian Interior Ministry, the number of irregular immigrants in 2011 reached 22.000, whereas according to the stats of the Tunisian Forum for Economic and Social Rights they reached 35.000 irregular immigrants excluding drowned and lost victims³¹”. Thus, it could be said that the revolution of January 2011, which resulted in civilian injuries and casualties and in the fall of dictatorship, wasn’t able to produce a political government that supports economic and social rights which aggravated the feeling of despair and frustration, and renewed the irregular immigrations waves. Besides, protest movements increased after the revolution, “they reached 4960 protests in 2015, 9532 protests in 2016 and 8000 protest during the last nine months

²⁹ Boubakri (Hassan), « Migrations in Tunisia two years after the revolution: asylum management and international stakes” Mediterranean confluence. Mare Nostrum for migrants n87, 2013 p5

³⁰ Boubakri (Hassan) Potot (Swanie), « Migration and the revolution in Tunisia” Tunisian Social Sciences Review n141, 2013, p51-78 p60

³¹ Tunisian Forum for Economic and Social Rights, Observatory of Migrations in the Maghreb, report: irregular migration Tunisia 2017, p6.

of 2017³²”. After realizing the causal link between the increase of protests and the rise of irregular immigration waves the Tunisian Forum for Economic and Social Rights published a study entitled **“Youth and irregular immigration in Tunisia”**. The study covered six popular neighborhoods in six different governorates (Ezzouhour city in Kasserine, Zarzis City, Ezzahra in Mahdia, Taieb Mhiri city in Kef and Sourour city in Gafsa). The sample included 1168 interviewees, 53.3% males and 46.7% females at a rate of 200 interviewees per neighborhood. Having different educational levels and social status, 53% of the interviewees confirmed that they talked about their friends about the possibility of engaging in irregular immigration, 29.7% considered to immigrate irregularly before the revolution, 25.1% thought about it with the beginning of the revolution and 45.2% are thinking about immigrating irregularly at the moment (2016). The study showed that 30.9% of the interviewees are ready to engage in irregular immigration if they can't find a way to immigrate regularly. Also, 9.2% of the total number of the sample tried to immigrate irregularly and 29.6% of them (those who tried) failed to reach the other shore³³”. Despite the number of the people missing at the Mediterranean Sea, that reached 350 in 2012³⁴ and in spite of the tragedy that occurred in September 6th, 2012 which resulted in the disappearing of three women, a child aged

³² Ibid, p2

³³ Tunisian Forum for Economic and Social Rights, Rosa Luxemburg (North Africa Office) “Youth and irregular Immigration: Field study of social representations, practices and expectations” December 2016 p5, 7, 9.

³⁴ Report of the Tunisian Forum for Economic and Social Rights –Tunisians missing at the sea in 2012, Mars 2013

between 5 and 8, and 74 other people and the death of 9 other immigrants whose bodies were found floating on the waters separating between Sfax and Lampedusa³⁵, irregular immigration waves still increase after every protest ending with repressing and arrests. “According to the stats of the United Nations Delegation, 10 thousand people died in the sea between 2014 and 2016. The International Organization for Migration confirmed these numbers and added that 3500 people drowned in 2014, 3771 people drowned in 2015 and 2814 during the first semester of 2016³⁶”.

In spite of the dramatic data and numbers, immigration waves kept increasing in Tunisia, and we recorded “119369 immigrants who reached the Italian shores in 2017, from whom 9329 Tunisians tried to cross the borders, and 6151 were intercepted in Italy, 3178 Tunisian immigrant were intercepted before crossing the borders during the first trimester of the year 2017³⁷”. The year 2017 also recorder that a percentage of 89% of the total number of irregular immigrants, were arrested in detention centers in Italy. The Tunisian Forum for Economic and Social Rights published on his official page on Facebook that during the period between January 1st 2018 and July 31st 2018, 3221 Tunisian irregular immigrants reached the Italian

³⁵ Lefèvre (Grégoire), Quivy (Pascale), « When Europe pulls and pushes” project review, Migrations: What other policies for Europe? N335, 2013 pp14-21 p15

³⁶ Sahbani (Abdessattar) « Youth and irregular immigration in Tunisia, a field study of the social representations, practices and expectations”, Boats for People project – Rosa Luxemburg Foundation and the Tunisian Forum for Economic and Social Rights, December 2016 p10

³⁷ Tunisian Forum for Economic and Social Rights “annual report: irregular immigration in Tunisia in 2017” pp 1,2

shores, compared to 6150 during the year 2017. This number ranked Tunisians first of all other nationalities arriving to Italy. The Tunisian Forum for Economic and Social Rights also published that from the beginning of the year 2018 until April 2018, the number of minors reaching Italian shores irregularly reached 309, which is 30% of the total number of arrivals. In general, Tunisian authorities intercepted 1053 border crossers in 2015, 1881 in 2016, 3178 in 2017 and 7046 border crossers during the period from January 1st 2018 and December 10th 2018. 569 Tunisians reached the Italian shores in 2015, 820 in 2016, 6151 in 2017 and 6006 immigrants in 2018 from which we find 1028 unaccompanied minors and 120 accompanied minors and 138 women. The age group that prevailed between January 1st and December 10, 2018 was that of 21 years old³⁸.

Based on the above and since the revolution of the mineral basin in 2008, we can conclude that immigration waves increase after every social protest ending with repression and criminalization. According to the previous numbers and to the testimonies of the interviewees with relation to the feeling of frustration after the failure of their protests, we underlined another time the causal link between repressing the protests and the increase of irregular immigration waves.

³⁸Tunisian Forum for Economic and Social Rights "Numbers and stats of the migration department of the FTDES from January 1st to December 10th 2018"

5. THE EXPANSION OF THE LOCAL TRANSMIGRATION NETWORKS

a. The birth and the forms of transmigration networks

It could be said that the birth of irregular immigration networks took place in three main regions, which can be defined as **migratory centers**. This can be related to the geographic origins of the immigrants: the **first** is the North eastern center. It gathers the regions of the northern coast, Tunis, Bizerte (more specifically; Jarzouna, Ras Jbal, Ghar elmelh), Rades, Raoued, Kaleet Landalous, La Goulette, Kelibia and Menzel Temim and Beni khir in Nabeul. The **second** geographic origins are the middle coast and Sfax and it includes Chatt Sidi Abdelhamid in Sousse; Moknine, Sayada, Teboulba in Monastir, Chebba in Mahdia and Sidi hamed, Skhira, Sidi Mansour, Abebsa, and the island of Kerkennah in Safx. The **third** category of geographic origins of the immigrants include the regions of the far South and the regions near the Libyan borders, which are the governorates of Gabes and the island of Djerba in Medenine³⁹. We notice then, that the first generation of irregular immigrants cross the Mediterranean for economic reasons, but also because they are familiar with the nature of the sea and the migratory route. Immigration networks developed from one generation to another and they prevailed over three decades and throughout three stages as follows:

³⁹ Mabrouk (Mehdi) Sails and Salt, opcit p125-126

- **Amateur Immigrants:** this group includes popular neighborhoods inhabitants, friends and neighbors who collect the fees of the journey by threatening their families by suicide, theft or extorting the family. Then they buy a vessel from the black market. The biggest black market of vessels and boats is based in Menzel Kamel in Monastir and vessels cost about 5000 Tunisian Dinars.
- **Mid – level networks and organizations:** among which we find professionals and in which there's a kind of roles' distribution such as machinist, secret member, captains. Revenues are distributed among all leaders and it's expensive.
- **Transcontinental networks:** they emerged in the south, and they include different nationalities. The Tunisian Interior Ministry recorder 70 to 80 nationalities entering and crossing Tunisian territory every year. Among this category we find professionals and a mixture of nationalities. For example, the captain can be Egyptian while the leader can be from another nationality. Slavery prevails within this category and it can be said that it's a form of gangs⁴⁰.

In general, we conclude that the networks of immigration started during the nineties. It started with the first generation of irregular immigrants and it was mainly due to economic and social motives on one hand and to the familiarity of the immigrants with the waters nature on the other hand. These networks expanded after two decades in the context of the

⁴⁰ Mabrouk (Mehdi), a round table entitled "Irregular immigration, the economic crisis and the proposed solutions" – the center of Islam and democracy, June 28, 2018 – Africa Hotel Tunisia

security, political, social and economic crisis and with the increase of social protests that crushed into the feeling of frustration and desperation.

b. When migratory pressure and security tightening supports the crossing rituals:

In the context of the social and economic crisis and the increase of protest dynamics especially after 2001, and following the choice of the successive governments to follow security approaches instead of economic and development approaches, and with the increase of the number of irregular immigrants, two migratory routes appeared according to the interviewees: the first route isn't really dangerous. It consists on travelling to Morocco, then heading to the Mellila border and asking for asylum in Spain. **Ahmed** explained: **"A Moroccan prepared my false passport. I wore a running suit and passed with a group of foreigners. When I arrived to the border police I gave my Tunisian passport and asked for political asylum."** **Khalil** also tried to cross the Moroccan Spanish borders through Mellila. He said: **"A Moroccan prepared a false residence permit for me. When we arrived to the Spanish borders, Moroccan police intercepted us. I tried to pass by bicycle in the weekend, since many Spanish people are used to do it, but it was January and the weather was bad so there were no Spanish people entering Morocco."** Travelling through this route costs about 5thousnads to 6 thousands Tunisian dinars. The second route is really dangerous. It consists in crossing the sea borders and it's organized by immigration networks. **Ramy** talked about the

dangers of the journey: **“70% of the immigrants die and only 30% arrive to the other shore”**. He added: **“we didn’t eat or drink for three days, and there were children and old people among us. It was windy and we couldn’t reach Lampedusa. Then two immigrants volunteered to swim and declare our boats to authorities so they can rescue us. In the middle of the way, one of them was no longer able to swim, he said to the other let me drown and go ahead. Save them they are many and I’m only one. Then he surrender to the waters and died.”**

In general, local transmigration networks expanded and crossing rituals varied in the context of the socio economic crisis especially with the repressive security approach against social movements which coincided with the elevation of migratory pressure and the increase of irregular immigrants’ number. Youth engaged in these networks after being disappointed and frustrated when the revolution and all social protests failed to meet their hopes and aspirations. Repressing protests facilitated the enrollment of youth in the migratory and smuggling networks, which led to their expansion and prevailing and that is due to the unresponsiveness of the government to the claims of social protests. The government only responded by providing precarious solutions or by harassing and arresting the activists. Thus, protesters engage in irregular immigration as the only hope left to achieve their dreams. Migratory and smuggling networks become the alternative and the refuge from a harsh reality of poverty and repression.

GENERAL CONCLUSION

The French sociologist **Alain Touraine** summarizes the three communal principles of every social movement: “the principle of identity, the principle of inconsistency and the principle of inclusion⁴¹.”

The first principle demonstrates that every movement should grant an identity to itself, which means defining the people, or category it is representing and the interests it’s defending. The principle of inconsistency is related to the fact that social movements emerge when certain ideas or interests are not recognized to claim them. Since every movement would face opposition, the principle of inclusion is about the high noble values that the movement is defending. These three principals were marked in the social movements that rose in the regions of the interview. These movements were supported by political and syndical forces but they weren’t able to achieve their goals and the activists ended up feeling frustrated and depressed especially when their fight was faced by repression and precarious solutions that couldn’t cut with the economic crisis. Frustration became a push factor, and thus there’s a causal link between repressing protests and the renewal of irregular migratory waves and the expansion of transmigration networks. The phenomenon of irregular immigration cannot only be explained through economic and political hypothesis or by cultural or causal factors alone. It could also be explained by

⁴¹ Touraine (Alain), the sociology of action, Seuil Edition, Paris 1965 p466

the frustration that follows the repression of protests which highlights the causal link between protest and immigration. Every increase of tension and social movements' number is followed by high waves of immigration. This article doesn't disapprove the other explanations, but it adds another angle from which we can relate immigration to the protest dynamics. The interviewees told us that they are willing immigrate again, some are planning to do it regularly while others are considering irregular routes. They all expressed their desperation of obtaining their claims by engaging in social movements and they don't trust any political party.

It should be said that the socio economic crisis will deepen uncontrollably if the government doesn't review its policies and doesn't cut with the dependency and with the attachment to the World Bank and the International Monetary Fund. "Arab burghers are determined in general as colonial burghers that evolved and developed in consequential link with the capitalist market. Their structural dependence caused its failure in solving national social problems. This failure is not temporary but structural and historical. They weren't able to develop into a capitalist independent model. Thus, the renewal of Arab systems and their transition from classic burghers to small burghers only caused more problems since this transition didn't include a real change of the colonial production system that is still controlling the moves of Arab burghers⁴²."

⁴² Aamel (Mehdi) « Discussions about the cases of National liberation and the specificities of the Marxian concepts in the arab world" Farabi House, Beirut , Lebanon 1990 p 14

Finally, it should be underlined that following the same precarious development model, which is unable to provide economic and social needs, the fall of the Tunisian currency, the fragility of the middle class, the prevalence of unemployment, the lack of development, repressing social movements and the incapacity to shoulder economic and social rights, along with the precarious policies of employment and the failure to review immigration policies in a way that guarantees the right to free circulation we can expect a further increase in the immigration waves, and thus, more tragedies in the Mediterranean sea.

An Access to justice or a search for dignity.

Hela Meddeb

Introduction

If I'm guilty it should be remembered that I am also inviolable and that truth doesn't answer to falsehood... if there's justice, it should be clear that my inviolability is greater than my mistakes and my rights are well known, recognized by all, sane men and ignorant people.

“Barrani...and Barrania⁴³” (meaning the foreigner); Tunisian words that reflect an ancient mindset and belief of a population, built and maintained through successive civilizations. These words carry with them an xenophobic view of the other, full of rejection and racism. The concept is very similar to the Nazi and Arian schools of thought, aiming to protect a unique group, a unique culture and a single element that doesn't tolerate plurality.

These words, born out of the Tunisian culture, are nothing but some expressions that are concealing a social situation and a legal background. Based on this observation we can begin to read correctly all the legal provisions which have nothing to do with reality and are nothing but the translation of international interests and nationalistic concerns.

⁴³Souheima Ben Achour : individual freedoms of foreigners in Tunisia: Republic Foreigners

Studying law today refers us to the fears of the Tunisian legislator of losing his inner security and not being able to keep the existing or the so-called balance and preserving the interests of certain groups. This created a legal issue that affected Tunisian citizens in general and irregular migrants who chose to settle in Tunisia in particular. When reflecting on this legal challenge we conclude that we are faced by a bigger issue, which is the access to justice.

Our research will be based on an analytical human rights approach, and will be related to the migrants' rights to access to justice regardless of whether they migrated regularly or irregularly.

The Tunisian legislator didn't define migration or migrants and this can be considered as a failure on his part because in the absence of a legal definition the situation of the migrants can't be adequately framed. This leads to dropping legislations in an effort to fill the existing legal gap.

Immigration is commonly defined, in its most basic sense, as a movement of individuals or groups from one place to another looking for a safer and a better economic and social situation. Irregular immigration deviates from this concept only in its contravention to the legal texts legislated by the state to control the entrance and exit at its borders⁴⁴. Historically, immigration contributed in repopulating lands with different people having diverse cultures and it was considered as a natural reflex of an individual to preserve his life.

⁴⁴ Informative human rights definition

Nowadays things have taken another turn and irregular immigration became a complex case. The evolution of the concept of the state and the efforts to control borders subjected mobility to a number of conditions which led to the emergence of the irregular immigration phenomenon. Irregular immigration developed to be an international phenomenon and became a source of concern to the international community. European countries which welcomed irregular immigrants in the past since they filled their need for low cost workforce are now focused on regulating the immigration process and are externalizing their borders as a first step. Despite the immense efforts made by the different states to deal with the phenomenon of immigration, the severe security approach failed to eradicate irregular immigration and the main reason is the disparity in the level of development between the countries.

The legal explanation of irregular immigration is based on the use of this concept in legal treatment since it violates laws and systems related to immigration and to the freedom of individuals' circulation between the countries.

All of these factors pushed a big number of young people to engage in irregular immigration despite the deadly nature of the journey, since this process implicates the use of illegal forms of travel without going through regular immigration procedures.

Therefore, the irregular immigration concept implies a legal content since it involves the entry of an individual to the border

of a foreign state without legal documents. Mostly, immigrants infiltrate across desert, mountainous or sea borders. Also, entering a state for a predefined period and extending the stay without legal approval, like for example traveling as a tourist or to visit relatives and then settle down in the host state, is a form of irregular immigration.

This common legal presentation is very limited and it doesn't cover all the factors of immigration.

From a human rights point of view, the international conventions define immigration as follows:

According to the Universal Declaration of Human Rights, everyone has the right to freedom of circulation and residence within the borders of each State, as well as the right to leave any country, including his own, and to return to his country. The International Covenant on Civil and Political Rights of 1966 also stipulated that everyone who lives legally in a state has the right to move and to choose his/ her place of residence and has the right to leave any country including one's own. The European Convention on Human Rights of 1950, and the American Convention on Human Rights of 1969, and the African Charter on Human and People's Rights of 1986.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990 defined the migrant worker as the person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national. The convention also provided conditions and disciplines to be

applied in favor of the migrant worker to guarantee his rights and the rights of the members of his family. The United Nations Convention against Transnational Organized Crime and its protocol of the year 2000 aimed to consolidate cooperation in fighting transnational organized crime. Its protocol insisted on treating migrants humanely and highlighted the necessity of fighting the activities of organized criminal groups in the area of smuggling immigrants⁴⁵.

Despite its limits, the legal characterization of irregular immigration doesn't forbid irregular migrants of claiming their rights, regardless of their nationality or situation. Based on this fact, we developed this research to analyze the irregular migration phenomenon following a human rights approach and to study the right of the migrant to access to justice and to claim its rights. The study refers us to a legal issue related to the texts criminalizing irregular immigration and their implication of legal barriers to the right to access to justice and in that case to the extent of its respect to the migrants' rights.

To fully explain this legal issue, the study will be divided in two chapters. The first chapter will cover with an analytical approach the legal barriers to the right to access to justice and the second chapter will be about the procedural barriers to the right to access to justice.

⁴⁵SarrahHalfi « human rights indicators with relation to migrants and their families in Tunisia »

I. THE ANALYTICAL APPROACH OF THE IMPEDIMENTS FACED BY THE MIGRANT TO ACCESS TO JUSTICE:

Violated rights are restituted by law, as law is the best guarantee for upholding human rights and fundamental freedoms. But when the law deprives people from their rights enshrined in international agreements, access to justice becomes only possible when the international community and civil society organizations interfere to provide redress for the victims.

I. The conditions for obtaining a residence permit are burdening the migrants:

All migrants are entitled to enjoy their fundamental rights; social security, health care, education, full and productive employment in decent conditions, access to justice on equal terms... they are also entitled to have their rights protected a workers and to enhance safety in the workplace.

The Tunisian law didn't provide any specific text or system to defend the rights of irregular migrants. The law of 1968 regulates the foreigners' situation⁴⁶, the specific terms of their residence in Tunisia and describes sanctions for cases of contravention. According to this law, every foreigner who lives in Tunisia for more than three months should obtain a permit that authorizes residence. According to the National Institute of Statistics, every person who lives or intends to live in Tunisia for more than six months is considered a foreigner.

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The concept of the resident foreigner in Tunisia allows us to differentiate this category from the broader category of international migrants which includes every person who changes the country of his habitual residence. Accordingly, migrants in Tunisia are foreign citizens residing in Tunisia temporarily or permanently, for any reason (job seekers, university students, asylum seekers...), to settle in or to transit from, including regular and irregular migrants.

We can thus identify two categories of migrants: regular and irregular migrants in terms of residence and/or employment. The regularization of the foreigners' situation in Tunisia is subject to two interlaced conditions: respecting the rules organizing residence in Tunisia and respecting the condition of providing a pre – certified work contract.

Acquiring residence is severely restricted. The residence permit contains a permit to work and has similar power as the document it justifies and does not exceed one year.

The National Observatory on Migration defines the migrant as follow: “there is no common internationally accepted terminology for this term. It is used when someone chooses maritime migration or immigration for private motives and without any external pressure. This term applies to people who move to another country to seek improvement in their material and social conditions or to seek better future possibilities for them and their families⁴⁷”.

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Getting a residence permit and the difficult conditions that need to be filled to obtain it are considered as the main obstacle faced by the migrant to access to justice. The main problems that face Sub-Saharan African university students are related to the difficulty of getting a residence card and its late delivery. The administration doesn't deliver the permits to the migrants in time and when the police request to check their documents they end up being deported since their circulation is considered irregular. The student pays the price of the administration's fault. "Nadia" a university student from Cameroon is exhausted of the long, complicated procedure of renewing her card especially with the reluctance of the administration's employees. She confirmed that "this is the major problem of all foreign students in Tunisia".

Under these difficult conditions, sub – Saharan African students can't claim their rights, enshrined in international conventions, for fear of deportation or eviction.

In addition to the passivity of irregular migrants in demanding their rights, most of them are unaware of their right to access to justice. The few who know about these rights prefer to remain silent and not to file complaints.

In addition, sub – Saharan African students are faced with the problem of fictitious universities and registrations. Many fraud networks from the students' countries coordinate with other in Tunisia to market these institutions through social media. Many students who sign up via these networks, discover as soon as they come to Tunisia that they were victims of fraud and are

then forced to peruse certain fields of study that are not within their competence.

Additionally, we should refer to the exorbitant costs of studying in private colleges. "Joseph", one of the interviewees told us that he was obliged to sign up in an expensive private university when he came to Tunisia for fear of being a victim of these fictitious universities fraud networks.

2. Violations against migrants:

Violations against irregular migrants are registered at every level; economic, social and even ethical.

3. Human Trafficking and violations against irregular migrants:

Tunisia endorsed the Convention against Transnational Organized Crime by the law n°63 of the year 2002 dated July 23, 2002 and ratified it by order n° 2101 of the year 2002 dated September 23, 2002⁴⁸. Tunisia also endorsed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children of the year 2000, supplementing the Convention against Transnational Organized Crime by the law n° 05 of the year 2003 and ratified it by order n°698 of 2003 dated March 25, 2003⁴⁹.

Legally, dangers and difficulties experienced by irregular migrants in Tunisia can only be described as an organized crime

⁴⁸ Salma Abida, a presentation of the Organic Law of 03 August 2016 related to the crimes of human trafficking

⁴⁹ Ditto

as defined by the Tunisian legislator in the law of 2016 related to human trafficking and the national observatory of migration and that is :” attracting and recruiting people, and transfer or divert or harbor them by force or arms or by threat or any other form of coercion or kidnapping or fraud, or an abuse of power or of a position of vulnerability, or delivering or accepting cash or gifts to control a person and abuse him.⁵⁰”

If we apply this description to the reality in which the irregular migrant lives, we notice that these laws are merely words on paper, since the state always remains silent in the face of the violations of the migrants’ rights and the right to access to justice on equal terms.

Violations to which irregular migrants are subjected are numerous, especially in terms of economic rights’ violations, related to work and to the way they entered Tunisia to find a job. Some migrants were deluded by mediators who promised them jobs, and offered them falsified work contracts. Once arrived to Tunisia, the migrant finds himself homeless and jobless and that’s how he becomes prone to exploitation and ends up working in houses, hangars and coffee shops.

“Conny”, an Ivoirian migrant was a victim of exploitation as soon as he arrived to Tunisia. He worked in a factory in Sfax and his boss didn’t pay him for six months. “Conny” didn’t react for fear of being deported and even when I asked him why he didn’t file complaints against his boss, he was afraid to talk

⁵⁰ Ministry of social affairs, the national observatory of migration, the dictionary of terms related to immigration, migration and asylum

freely and finally he just told me: “We, irregular migrants, don’t have the right to claim any of our rights. If we do, the Tunisian state will deport us...Also, I can’t file complaints, I can’t press charges against my boss because he took my passport in exchange for giving me work, and I have to work for him every day, all day while he provides me shelter, food and drinks”.

It should be mentioned that « Conny » lived with his wife and has a two years old daughter who doesn’t enjoy any of her rights, not even those related to health care. “Conny” confirmed that he was obliged to take her to private clinics. He also told us that his wife is working as a maid in a Tunisian household.

The sufferance of irregular migrants goes beyond the harsh working conditions, the physical and psychological mistreatment during work hours and the difficulties in receiving treatment and medication. Women migrants are suffering the most since they are more vulnerable and more subject to sexual harassments. Many women come to Tunisia under falsified work contracts and as soon as they arrive the mediator confiscates their passports and asks to be paid. They discover, too late, that they were victims of a human trafficking network.

“Alice”, an illiterate Ivoirian migrant was one of these victims. She is a mother who left her daughter with her grandmother and came to Tunisia thinking that she signed a work contract and that her situation is going to finally improve. She has no choice now except working anything to pay the mediator and get her passport back so she can fly back home to her daughter.

“Alice” was so afraid when I interviewed her; she kept looking left and right as if there’s someone watching her. When I told her to relax she answered: “I am shocked! I am always afraid since I came to Tunisia. Everyday people harass me, every day I get insulted because of the color of my skin; every day my employer rapes me... I have no choice. Either I give him what he wants or he will hand me over to the police.” And she added: “people here are racist. When I talk to people they avert their eyes because I’m black, they loath me.”

Alice wasn’t only abused physically and economically. The Tunisian state forbade her to leave the country until she pays back her dept without giving any consideration to her critical situation or to the fact that she lost both her father and her sister without being able to assist to their funerals.

Despite the fact that Tunisia is the only Arab country that legally criminalizes racism, the road to its eradication is still far.

4. Ethical violations and the difficulty of integration:

Tunisian children still yell and throw rocks at sub Saharan, black people passing by in the streets, like “Conny” told us. He said: “Me and and sub Saharan friends feel so sad when children do that. It’s like we have committed a crime or a sin for having a black skin... everybody humiliates us.”

One of the factors that further complicate the integration of migrants in the Tunisian society is that they don’t speak Arabic language. It’s the main obstacle that faces migrants either

when they have to contact administrative administrations or when they want to use public transport means.

An Ivoirian migrant was raped by a collective taxi driver when she left the house where she works as a maid. The driver deposited all the passengers and drove to an isolated field to rape his victim. He knew that she doesn't speak Arabic and can't call for help. The victims told me: "I tried to defend myself; I tried to stop him with all my force until I lost consciousness."

5. Access to Justice from a humanitarian approach, based on the law of 2004 related to passports and travel documents:

The discrepancies found in the legal and penal texts are creating a trust crisis especially at the level of the Tunisian state's treatment of the irregular migrants on one hand and its clear adulation for her European partner on the other hand.

Tunisia has enacted several provisions to face irregular migration and immigration waves, which kept increasing to reach the peak lately. The summit "5 plus 5"⁵¹ that was held in Tunisia in December 12, 2003 had a major role in the emergence of new laws, since the Maghreb countries were harshly criticized by the European countries and urged to review their policies regarding irregular immigration⁵².

The new draft legislation issued by Tunisia came as a courtesy to the countries of the European Union in order to maintain

⁵¹ Mohamed Ridha Temimi, papers on laws and policies : irregular immigration in national provisions and international conventions

⁵² Ditto

diplomatic relations especially with France and Italy. Despite the opposition of human rights organizations in Tunisia and some members of the House of Peoples Representatives to the law, which they considered as a threat to personal freedoms and to the right of free circulation, the House of Peoples Representatives ratified the draft legislation related to passports by the end of the year 2003. The legislation tried to fill gaps found in laws dating back to 1975. The Tunisian legislator criminalized all the elements of the irregular immigration project, including the captains of vessels, the owner of the houses or places where they hide before they embark in the journey etc... the legal text criminalizes all the organizations or groups of people who conspire to organize an operation of irregular immigration.

By ratifying this law, the Tunisian legislator gave more space to the criminal court judge to interpret the omissions of the law of 2004 while he deprived the irregular migrant the possibility of claiming his rights, although granted by international conventions that were signed by Tunisia and therefore considered as part of the national legal texts in force⁵³.

The gaps and omissions of the law of February 2004, especially in its chapter 38 with the punitive character deprive irregular immigrants of their basic rights such as the right to live, the right to equality, the right to physical integrity, the right to freedom and the right to security and it should just be remembered that these rights are guaranteed by international conventions ratified by Tunisia⁵⁴.

⁵³RebahKhrayfi – Chepter1 : Irregular immigration in the Tunisian court system

⁵⁴Souheima Ben Achour - Ditto

Constitutionally, the Tunisian legislator hasn't specified any texts for refugees or migrants. However, he acknowledged access to fundamental rights for every person regardless of his nationality. Moreover, many texts have been ratified after the promulgation of the Constitution of 2014 to provide protection for the most vulnerable categories.

Despite all these laws and legislations, there were no specific procedural or practical solutions to defend the right of irregular migrants to access to justice. Complicated residence procedures are the major problem of all irregular migrants, who fail to obtain the permit and become a victim of abuse and mistreatment. Even the judicial police agents have never wavered to mistreat and judge migrants in general and especially irregular migrants.

Joseph, a sub Saharan university student was a victim of fraud and is now living in Tunisia undocumented. When he was on his way to the Cathedral to pray, a police officer threatened him and forbade him to enter the Cathedral before clarifying his legal status.

Fear becomes the major factor that is depriving irregular migrants to access to justice. They all fear from being deported.

II. THE JURISDICTIONAL LIMITS TO ACCESS TO JUSTICE:

“*To name things wrongly is to add to the misfortune of the world*”⁵⁵

Individuals don't have an international legal identity recognized by international law. That's why they should claim their rights in national courts, which decide appropriate penalties and compensation for the abuse they suffered⁵⁶.

The article 108 of the Tunisian constitution guaranteed the right to a fair trial for all individuals. The legal text didn't specify that the individual should be a citizen but made the right to fair trial constitutional in accordance with the requirements of article 10 of the Universal Declaration of Human Rights and the article 14 of the Universal Convention of Human Rights⁵⁷.

The legislator and the drafters of the constitution's commitment to respect international conventions is illustrated in all legal texts related to the principles of fair trial, which confirms what was written in the introduction of the constitution about the commitment and respect for human

⁵⁵ Albert Camus

⁵⁶ Raoudha Abidi, Media statement of the president of the High Commission against Trafficking in Persons

⁵⁷ The Practical dictionary of the humanitarian law: Doctors without borders

rights principles. However, the final provisions of the constitution as stated in the articles 143 and 144 reveal that the legislators violated their commitment to respect human rights by themselves, before anyone else does.

Guarantees for irregular migrants to fair trial:

“Truth is the ultimate purpose of all penal procedures. However truth doesn’t come out easily, it only comes out with research and investigation. Looking for truth is like digging in rocks⁵⁸.” If penal protection of the public interest decides according to the judicial law and procedural penal law, protecting rights and freedoms should be decided according to constitution and there must be a set of principles that guarantee protection for individuals whose freedom is threatened by law.

I reached this conclusion when I interviewed the previously mentioned sub Saharan irregular migrants. All those who filed complaints in court were denied their rights, especially regarding the rights to a lawyer and the right to fair trial. Even if a lawyer was appointed, his lack of competence was another problem to face. Judicial guarantees offered for irregular migrants are very limited whether regarding lawyers and judicial representation or regarding judges who are poorly trained in migration’s legal system.

In procedural terms and regarding the pre-trial detention periods in the Tunisian law, many questions are

⁵⁸P. Mahmood Daoud, P. Hager HichriYaakoob : guarantees for fair trial in Tunisian Law

raised in the absence of deadlines. The pre-trial detention period is set for three days renewable one time but the decision is made by judicial officers. The legislator didn't specify any system to determine the types of crimes necessitating extension. This gave the way to judicial officers to abuse their power, which was the case with "Aissa", a regular Guinean migrant who was arrested not for committing a crime or an offense or even a contravention, but just for playing ball on the beach. The gaps in the legal texts opened the door to racism and segregation.

Another major issue that faces the migrants is the slowness of judicial procedures and their expensive cost. This delay is caused by many factors related to laws and legislations, to the law enforcement officers in courts such as lawyers and judges and assistants of judges (experts and officers) and to the procedures and means of implementing provisions. Problems related to lawyers are mostly about their lack of competence and their ignorance of the rights of irregular migrants.

The limited deadlines to lodge an appeal to the Court of Cassation are another violation of human rights especially migrants' rights since it doesn't respect the complex situation of the migrants and the long time it takes them to regularize their situation and to complete all the procedures to get their residence permit.

CONCLUSION

Access to justice is the dream of every migrant living in Tunisia. Sadly, this dream is far from being reached because of the policies adopted by the Tunisian government, which are based on repression.

The silence of migrants and their subordination to the violations of their right enabled the state to further repress and abuse them. The situation worsened to the point that we are talking today of cases of human trafficking.

In February 2019, a mediator sold an Ivoirian woman to a Tunisian family⁵⁹.

Without having a residence permit, migrants in Tunisia have no rights and their right to access to justice is then compromised on the procedural level.

These violations are the outcome of a policy of repression, whether practiced by society or by judicial agents. We conclude in this research that access to justice is access to dignity and that the state is responsible for granting the migrants their rights, by working hand in hand with civil society and international community. In order for that to happen, we formulated some recommendations:

⁵⁹Raoudha Abidi, Media statement of the president of the High Commission against Trafficking in Persons

- Repeal the law of 03 February 2004 concerning passports and travel documents
 - Signing the UN convention about the rights of migrant workers and the members of their families
 - Mandating commissions of human rights activists and experts working on migration and international law to develop a draft of law that protects regular and irregular migrants
 - Training lawyers and judges to specialize in migration and establishing Chambers within the existing court structure to try migrants' cases
1. Intensifying efforts and cooperation between civil society organizations to validate the law project relative to fictitious employment offices (on which the High Commission against Trafficking in Persons is currently working)

REFERENCES

1. Souheima Ben Achour : individual freedoms of foreigners in Tunisia: Republic Foreigners
2. Mohamed Ridha Temimi, papers on laws and policies : irregular immigration in national provisions and international conventions – Arbi Ben Mhidi University, OumBoueki, Algeria
3. Rebah Khrayfi – Chapter 1 : Irregular immigration in the Tunisian court system
4. The Judge Salma Abida: Presentation of the Organic Law
5. Raoudha Abidi, Media statement of the president of the High Commission against Trafficking in Persons
6. The Practical dictionary of the humanitarian law: Doctors without borders
7. Mohamed El Afif: Legal Agenda 19 – 02 – 2014
8. P. Mahmood Daoud, P. Hager Hichri Yaakoob : guarantees for fair trial in the Tunisian Law in light of the provision of the 2014 constitution.
9. National observatory of Migration: Glossary of migration and asylum

The Situation of Migrants, Refugees and Asylum Seekers in the Region of Medenine

*D. Naima Fekih*⁶⁰

Introduction

Since the revolution of January 14th 2011, the Governorate of Medenine knew a significant increase of the flow of migrants coming from Libya. This situation became a matter of great interest on both national and international levels in the last few years, especially with the different problems raised by the phenomenon of mixed migration on one hand, and with the pressures exerted by the Europe Union to make of Medenine the biggest refugee camp that ever existed on the other hand. It's true that Tunisia was among the first states to approve the Convention relating to the Status of Refugees of 1951 and its protocol of 1968⁶¹, but the legal framework is ambiguous since the asylum law is still not approved until today, which forced local authorities in Medenine to deal with the situation and accommodate arrivals in cooperation with humanitarian associations with available resources.

⁶⁰ D. Naima Fekih, holds a PhD in demography, published several researches and studies about migration on a national and international level, a member of the scientific research unit: inheritance, transition and activism in the university of human and social sciences, a member of scientific and consultative committees in several international scientific magazines, a civil society activist – email: naimafakih6@gmail.com

⁶¹ UNHCR, 2004, United Nations Refugee Agency, States Parties to the 1951 Convention relating to the Status of Refugees and/or its 1968 Protocol (as at 31 December 2004), Annex to the 2004 Global Report, p. 499.

The awareness about the problems and difficulties that both the migrants and the region of Medenine face is still limited which is why the migration and asylum situation was considered as “an internal political matter” that the governor of the region and the nongovernmental organizations should deal with, in spite of holding the international community responsible for failing to modernize migration policies following a humanitarian approach. Migrants and refugees are part of the vulnerable population that requires particular attention of the national government and international community and the implementation of a clear plan of action. The region of Medenine drained its efforts during the last few years to accommodate a staggering number of arrivals and to provide them with the necessary services, but these efforts were not sufficient and migrants are still suffering the lack of basic services and needs.

Many questions are raised in this context; *is the region of Medenine still able to assume its responsibility towards refugees, migrants and asylum seekers? Is the crisis in Medenine due to the lack of a true political will or to the shortage of resources? Is there a clear strategy that guarantees minimum rights to decent living conditions and to facilitate local integration for the refugees, migrants and asylum seekers? Is there any urgent procedures that could be taken to speed up the ratification of the refugees law, or has any strategies been implemented to protect the vulnerable category of migrants?*

Based on his experience and knowledge of the Migrants' rights, The Tunisian Forum for Economic and Social Right assigned us to prepare this research paper about the situation of migrants, refugees and asylum seekers in the region of Medenine. The research was edited in October 2019, following a field visit to the area in September 11th and 12th 2019, during which we examined the situation and conducted a qualitative survey with the different parties involved with the arrivals. Interviews were carried out with the governor of Medenine, representatives of humanitarian associations and human rights organizations such as the IOM, the UNHCR, and the Tunisian Council for Refugees, the Red Crescent and the Arab Institute for Human Rights⁶². We also interviewed a number of migrants, refugees and asylum seekers using the Focus Group technique to better understand their situation and know more about their living conditions in the reception centers and with the local community. This work aims to find an answer to the different raised questions and to provide the Tunisian forum for Economic and Social Rights with information about the migration context that is generating a lot of controversy because of the arrivals' suffering and the inability of the region to provide the necessary services despite the involvement of many parties. The collected information is highly important and will be helpful for local and national authorities as well as for national and international civil society organizations, which is why we presented some

⁶²Besides the governor of Medenine, migrants, refugees and asylum seekers, Interviews were carried out with: representatives of the UNHCR (02), a representative of the IOM (01), representatives of the AIHR (02), a representative of the Tunisian council for refugees (01) and representatives of the Red Crescent (03).

recommendations that would support the rights of migrants and contribute in the improvement of their situation and support the region of Medenine to cope with the crisis.

I. THE DYNAMICS OF MIGRATION INTO THE REGION OF MEDENINE

I. An increasing number of arrivals: numbers that vary depending on the situation in Libya and a renewed composition of populations’ movements

Table1 : Number of refugees and asylum seekers – statistics of 31st Agust 2019

Country of Origin	Palestine	Somalia	Sudan	Eritrea	Cote d’Ivoire	Syria	Other Nationalities	Total Number
Number	44	146	201	228	333	1190	345	2487
Percentage	%1.8	%5.9	%8.1	%9.2	%13.4	%47.8	13.9%	100%

Source : UNHCR

The United Nations High Commissioner for Refugees (UNHCR) recorded an important increase of the number of refugees and asylum seekers in Tunisia during the last years. According to the statistics of August 2019, the number of arrivals reached 2487 from different Arab and African nationalities. Even though migrants came from different countries such as Palestine, Senegal, Guinea, Cote d’Ivoire, Nigeria and Syria with the highest rate of arrivals reaching 47.8% due to the war and the different crisis suffered by the country, we observed in the recent past years that migration is involving the states of the

Horn of Africa too such as Eritrea, Ethiopia, Somalia, Sudan, the Southern Soudan and Mali which indicates a renewal in the composition of populations' movements which involved diverse nationalities and different age groups from children aged between 15 and 18 to youth and adult men and women. In his statement, the representative of the Arab Institute for Human Rights (South branch) said, quote: "In the beginning of the year 2019, 30 to 40 migrant, refugee and asylum seeker arrived to Medenine monthly, but this number increased by more than 50% to reach 200 people in June 2019⁶³". However, the recorded data showed that there weren't any new arrivals to Medenine during the month of September 2019, which can be explained by the stabilization of the security situation in Libya, which remains the main cause of the increase and decrease in the number of arrivals to the region of Medenine.

In line with the saying of the representative of the International Organization for Migration "who has the statistics owns the information and the field", statistics confirmed the mixed nature of migration to Medenine, combining irregular migrants and asylum seekers. And even though the number of arrivals varies from one zone of the area to another, there's no doubt that the biggest number of migrants is coming through Libyan borders and that there are definitely some serious reasons and motives behind the growth of this phenomenon. Actually the

⁶³ The representative of the Arab Institute for Human Rights, (South Branch), M Mustapha Abdelkabir, gave us in his declaration statistical info and talked about the increasing number of migrants and asylum seekers arriving to Medenine. Ms Nadya Elrayedh, coordinator and director of the technical counseling service talked about the interventions of the AIHR.

migration phenomenon has grown to a level that predicts a serious crisis in this middle income region that doesn't have the necessary and sufficient potential to receive such a high flow of arrivals and to provide for them in accordance with internationally recognized standards.

2. The reasons for arriving to the region of Medenine:

A number of migrants told us that they were heading for Europe but when they crossed Libya and saw the extent of its security crisis, they feared death and sought sanctuary in the South of Tunisia. Some of them confirmed that they are staying in Medenine temporarily until they find a way to cross to a European country where they can finally find a decent living, freedom, urbanization, security, good income and adequate education for their children.

In this context, we quote the testimony of a migrant from Sudan who is living since one month in the accommodation section of the international organization for migration with his wife and four children:

"I fled my country when my father was killed for political motives. My life and my family's life were threatened so I fled to Libya through a trafficking network. In my way I was sold more than once, they took my money and I was treated poorly. I finally arrived to Libya but even with the help of the international organizations the situation was scary. We expected to be shot and killed in every moment of every day so I gave all of what was left of my money to a trafficking network to help me reach the borders. I entered Tunisia and sought asylum. In reality I don't want to stay here, it's not what I am

looking for. I want to work and collect money to cross to Europe where I can live a better”.

There are many stories that are similar to that of this irregular migrant who is currently waiting for approval as a refugee which demonstrate that there are diverse and numerous reasons for migration such as fleeing political and security crisis in the country of origin where there’s war, exploitation and violations of political and civil rights or escaping poverty and unemployment driven by the desire of improving the living conditions. According to the representatives of some human rights organizations, reaching the European soil is the ultimate dream and objective of a big number of arrivals, who are doing their best to concretize it and end up sometimes in Medenine, as a transit region.

The Tunisian Forum for Economic and Social Rights conducted some studies in cooperation with specialists in population movement that proved that the orientation of migrants towards Medenine is mainly due to the European Governments’ decision (such as the Italian and German governments) to establish refugees’ camps in the South of Tunisia and to block the entries Sub-Saharan migrants may try to reach across the Mediterranean to ask for asylum in Europe, in a way that they don’t have any choice left except crossing through Libyan borders.

According to the specialist in migration and asylum issues, Doctor Naima Fekih “The protocol against the smuggling of

migrants⁶⁴ contained both preventive and remedial measures in order to deter the smuggling of migrants' crime through strengthening maritime and land borders' control (articles 7 and 11) and through verifying travel and identity documents (articles 12 and 13) and through adopting mechanisms to help the smuggled migrants to get back to their countries of origin (articles 16 and 18). The protocol also stressed on the necessity of fighting the causes leading to irregular migration by promoting developing programs in the countries of origin". The researcher noticed after having examined the content of the protocol text, that there is a paradox between its rules and procedures and what is actually happening. The international community is still adopting until today a security approach to fight the smuggling of migrants without applying any of the set out economic and social solutions that guarantee the right of migrants to a decent life by addressing the root causes of migration, especially poverty and protection in times of distress.

This is reflected in the transformations of the European policies since the year 2017 that became more restrictive and inhuman, operating by blocking the European borders and criminalizing rescue boats⁶⁵ which caused an increase in the number of arrivals to Medenine, the only destination left for migrants to escape dangers.

⁶⁴ Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime 15 November 2000

⁶⁵ D. Naima Fekih, fighting the smuggling of migrants and the right to stay in the country of origin: the protocol against the smuggling of migrants between reality and expectation, migration booklet n1, FTDES May 2019 pp 154 – 165, pp 159 - 160

In light of the above, we conclude that migration constitutes an individual or a family project, governed by a number of expectations and motivated by several factors, to become a choice performed despite all risks. Migration became a whole culture that flourished with the successful experiences of previous migrants and refugees; a dream that passes from one migrant to another and a type of contemporary life investment in spite of the uncertainty of its results.

The presence and increasing arrival of irregular migrants and asylum seekers to Medenine regardless of its motivation, will lead, according to the researcher Hassan Boubakry, to “a new perception of the other in the local social scene”⁶⁶ and “to change perspectives on social issues”⁶⁷. This will raise a number of questions about the services provided for arrivals and the extent of the existing crisis.

II. THE SERVICES PROVIDED FOR MIGRANTS, REFUGEES AND ASYLUM SEEKERS IN MEDENINE: THE DIMENSIONS OF THE CRISIS AND THE AREAS OF GAPS AND DEFICIENCIES

I. The services provided for migrants, refugees and asylum seekers:

Our field study and the different reports issued by the Tunisian Forum for Economic and social rights confirmed that as soon as the migrants and asylum seekers enter the Tunisian borders, local authorities transfer them to one of the humanitarian

⁶⁶Boubakri, Hassan, 2015, « *Migration and asylum in Tunisia since 2011 : towards new migratory figures ?* », REMI : international migration reviews, 31, (3&4), pp. 17-39, P 24

⁶⁷Bensaad Ali, 2009, « *The Maghreb faces the challenge of sub-Saharan migration. Immigration on migration* », Kharthala edition, P6.

organizations operating in the region. These organizations provide housings⁶⁸ and temporary assistance and support to the arrivals (by land or by sea) until they regulate their situation.

Tunisia didn't adopt the draft of law related to asylum until today. In the absence of a clear legal framework, the UN Refugees Agency in organizing mixed migration in cooperation with its partners by covering the needs of migrants and processing the demands of asylum in accordance with internationally recognized terms. When deciding on a migrant file, three possibilities open up: If there are substantial grounds for requesting asylum, an asylum card can be granted to the migrant, which enables him to get his residence permit and to have the same rights as Tunisian citizens. The second possibility is helping the migrants to return voluntarily to their country of origin. Thirdly, if the migrant doesn't claim asylum and doesn't approve to go back to his country, he is immediately considered as an irregular migrant and he should assume his own responsibility, the UN agency doesn't provide him with any assistance. Despite the cooperative efforts of many humanitarian organizations to provide diverse services for the migrants and asylum seekers, these services remain insufficient and fall short of expectations. The most prominent services provided are:

⁶⁸ There were 4 housings dedicated to shelter migrants, the IOM manages two of them but they closed one (Elhamdi residence) in April 2019 and the other is located in the way leading to Djerba, Medenine. The other two are managed by the UN refugee agency and they are located in Zarzis. These housings are not detention centers, they are residences dedicated for sheltering migrants and asylum seekers temporarily.

- **Residence:** Residence is provided to Migrants, refugees and asylum seekers. We visited the housings dedicated to migrants and managed by the IOM and we describe them as follows: A building of 20 apartments, each apartment is composed of a room, a kitchen, a shower room and a hall. Every room is equipped with a number of beds, furniture and blankets, kitchen utensils and a fan. Every floor of the building is dedicated to a category of migrants: a floor for unaccompanied minors, a floor for families and another for single mothers and their children. Male migrants are accommodated in another residence in Zarzis. There is also a space dedicated for children in a floor supervised by the Red Crescent to provide leisure and education services. The housings are guarded by security agents to protect the residents from any danger.

The period of stay in these residences is limited to 60 days, but it can be extended for humanitarian reasons such as sickness or child birth, etc ...

Some of the interviewed migrants described the living conditions as good⁶⁹ while others pointed out many deficiencies such as the inadequate kitchen space which forces the inhabitants to eat in the living room, the one room apartments that are insufficient to accommodate a whole family and the share of television and refrigerator by a large number of residents, which causes a lot of problems and

⁶⁹ We interviewed a group of migrants, refugees and asylum seekers composed of 14men, 5women and 3 children

disputes (the housing is equipped by 8 televisions and 8 fridges shared by all the inhabitants of the 20 apartments).

- **Personal Hygiene Kit:** When the migrant first arrives to the housing, he is provided with two personal hygiene kits that should cover his needs for two months. Each kit contains a tooth brush and toothpaste, two bath soaps, laundry soap, a bath towel, shampoo, a shaving machine, clippers and lingerie. The value of the kit is estimated at 80 dinars. Many interviewed migrants confirmed that the kit isn't sufficient to cover their needs for a whole month.

- **Healthcare Services:** the representatives of humanitarian organizations assured that the arrivals are provided with healthcare services⁷⁰ and confirmed the presence of health stuff in the housings. There's a doctor and two nurses working in the IOM housing for example. The doctor visits the residence two times a week (Wednesday afternoon and Saturday morning) and when he is called for emergencies, while the nurses are constantly present. Data revealed that the migrants can get their treatment in public hospitals or in clinics (with all expenses covered). Children get their vaccination in time in the national office for family and population and sick migrants are accompanied constantly by health stuff when needed.

⁷⁰During an awareness-raising event that was carried out by IOM for public health staff/south district, held in Douz- Governorate of Kebilli, on 16 November 2018, health staff presented a list of health services available and accessible to migrants that are: the care structures of the first three lines (regional hospitals and teaching hospitals and national public health programs such as the national reproductive health and family planning program, the national vaccination program, school and university medicine, the national tuberculosis control program, the national HIV/AIDS control program.

- **Food:** Every migrant receives a food receipt with a value of 30 dinars weekly that should be totally spent on only one purchase from a commercial space. All the interviewed migrants told us that the amount isn't sufficient to cover their needs which drives them to steal and causes many security issues in the residence.

- **Access to information:** Data confirmed that the migrants are unaware of their rights which put them in a vulnerable situation especially in the absence of translators who can help them express their needs and demands. The suicide attempt of an Eritrean migrant because of the harsh living conditions confirms this problem. The migrant is hospitalized until today in the Hedi Chaker Hospital in Sfax and doctors still can't understand him and help him adequately because of the language barrier. In addition, our field investigation confirmed that children don't enjoy any special or additional services with relation to their rights concretized in the international convention on the rights of the child of 1989⁷¹.

- **Psychological and Social Support:** Representatives of the United Nations High Commissioner for Refugees and the Tunisian council for refugees, confirmed that migrants and asylum seekers are getting the necessary assistance and support to be integrated in the local society. They are followed up by psychiatrists and enrolled in language courses. They also participate in clubs to practice their hobbies (painting for example) and in cultural events in cooperation with local

⁷¹ Tunisian Forum for Economic and Social Rights, Tunis, a report on the situation of migrants in the Red Crescent center in Medenine. P4

institutions such as celebrating the international day of women, the national handcrafts day and the international day of African children. These successful efforts helped in developing the sense of creativity among refugees and asylum seekers. We watched marvelous paintings of a Sudanese refugee who succeeded in catching the attention of many people and of the officials of the UNHCR and participated in changing the perspective of local society towards refugees and migrants. In spite of the diverse provided services, many interviewed migrants expressed their despair and critical psychological situation due to the horrible experience they survived in Libya and to the shortage of psychological, healthcare and financial support.

- **Economic Integration:** the United Nations High Commissioner for Refugees works in cooperation with the Tunisian Council for refugees and the Arab Institute for Human Rights and The Tunisian Association for Management and Social Stability to integrate the refugees in professional life and to help them find opportunities to access employment and to ensure a life of dignity by organizing professional relations, initiating projects for migrants and monitoring refugees to protect their rights. Among the interviewed migrants, a Syrian refugee told us how she was enabled to work in one of the major beauty centers in Sfax. Our conversations with migrants, asylum seekers and refugees have uncovered different realities, all about how difficult it is for migrants to access the labor market, and even when they do, they are always subject to exploitation and abuse. Some have confessed that they have no

idea how to protect their rights or how to facilitate their integration into economic life.

- **Children support:** Humanitarian organizations provide special care for children by creating playground areas for them in the migrants' housings and organizing leisure and cultural activities. They also work on integrating them in educational institutions to pursue their studies; The UNHCR started this experience by enrolling a number of migrants' children in schools in Zarzis in 2018, and since the director of several primary schools showed cooperation the IOM will work this year (2019) on enrolling 17 students with the possibility of providing transport means.

- **Legal services:** The legal assistance unit of the Arab institute was established in 2018 under a UNHCR project to provide legal support and orientation to the refugees and asylum seekers and to help them solve their legal and judicial problems (marriage, children at risk, under – age marriage, employment, cases of exploitation...) as well as represent them and defend them in court. The Arab Institute plays a major role in raising awareness of the migrants about their rights and in developing the capacities of social activists with relation to promoting and defending the rights of migrants and asylum seekers. Despite all these efforts there are many legal gaps that are preventing migrants from obtaining their refugee cards or reintegrating them in a country that guarantees their rights as refugees. According to their representatives, the services of the humanitarian organization provided in cooperation with the local structures of the region of Medenine are mainly related to

rescuing and to emergent situations and are limited according to the available logistical and material potential and resources. These services do not satisfy the migrants, refugees and asylum seekers who describe their situation as miserable. They represent a fragile and vulnerable category that is in need for real assistance and not just some modalities aiming to impress the international community.

2. the dimensions of the crisis and the areas of gaps and deficiencies

Despite the intervention of international organizations in Medenine, there is still an extreme shortage of services. The provided services didn't meet the expectations of migrants who expressed their discontent as follows, *quote*:

“In this housing, they provide us with food, clothing and health care services but we are seriously short of lot of things. The value of the receipts they give us is insufficient and we don't have money to use transport means. Besides, a lot of people share one television and one fridge. The housing's managers are kind and treat us well but we are missing a lot of things and are feeling deprived”. (An asylum seeker from Sudan)

“Health care services are bad and we can't pass all the medical tests in public hospitals. We prefer to have money instead of receipt so we can cover our needs easier. Why do we have to buy from one specific market? We're really suffering poverty, hunger and deprivation. Where are our rights?” (An irregular migrant from Nigeria)

“We are being exploited sometimes. We are generally poorly paid and some employers don’t pay us when we finish our works. We don’t feel safe, we are psychologically exhausted. We are human being and we want to guarantee our rights”. (An immigrant from Southern Sudan)

“I can’t do anything without my refugee card. I want to find a job to cover my needs and help my family but as you can see I can’t leave the housing for fear of being caught by the police. I don’t have any document to protect myself”. (An irregular migrant from Southern Sudan)

Some of the interviewed migrants talked to us about the different difficulties they face during their stay in the region such as; the insufficient value of the receipts that doesn’t cover their basic needs, their inability to get a legal job or a decent private home and their irregular situation since they don’t have any legal documents. They also talked about exploitation, racial discrimination, precarious jobs and the inability to contact their families in their country of origin. Some of the migrants described the situation as catastrophic since they feel deprived at different levels.

Protests that coincided with the World Refugee Day in June 19th, 2019 proved that the migrants and asylum seeker are suffering to access their economic and social Rights. Based on field information, these protests aimed to exert pressure on the higher officials of the region to remind them of the tragic situation of the migrants in order to ask the Tunisian Government and international organizations for help and assistance to enable this vulnerable category to access its rights

and to reintegrate asylum seekers in other countries able to guarantee their rights. The representative of the IOM confirmed that the living conditions and services in the migrants' housing are considered good and that they are in line with international standards in terms of the rooms' space, accommodation capacity, the value of receipts and the quality of health, social and legal services... these services are provided in accordance with available resources and they represent, as he explained "emergency services", so the migrants and asylum seekers should accept this reality. From his part, the representative of the UNHCR said that they are trying to readjust the value of the receipt according to market analysis and the provided services are really good.

This inconsistency between the international organizations on one hand and the migrants, refugees and asylum seekers on the other hand proves that the region of Medenine is really facing a big crisis whether it is related to a shortage of the services provided that don't respond to the expectations of arrivals because of the incapacity of international organizations to deal with their huge number or related to the discontent of migrants, expressed loudly so they get reintegrated faster in a European country.

A number of the international organizations' representatives expressed their concern regarding the migrant's attitudes and behaviors which are violating local customs and can expose the arrivals to dangers. According to testimonies, these behaviors include robbery, fraud, alcohol abuse, cohabitation without legal marriage, indecent clothing, begging and exposing

children to dangers (especially Syrian migrants)... In this respect, the representative of the UNHCR in Zarzis told us, *quote*: “For example, we provide different services for Syrian asylum seekers and we try to help them but they never settle down and they keep moving from one governorate to another. They don’t want to work; they prefer begging using their defenseless children and that prevents us from taking care of their children and helping them to continue their education... some of them pretend to be dentists and the problem is that people believe them... many of them got arrested”.

In this respect, the representative of the Arab Institute also said, *quote*: “the Arab Institutes receives a big number of cases transferred from the UNHCR and the Red Crescent. They have many problems and the most prominent are; uncivil unions, polygamy, robbery, crimes etc... we try to offer legal help and assistance by facilitating marriage procedures or contacting their consulates to get access to their legal documents. Sometimes we succeed and sometimes we fail because of the lack of legal documents or the absence of diplomatic representations of some countries, Ethiopia for example, which annuls the marriage... All these problems are the outcome of mixed migration to the region of Medenine”.

According to M. Habib Chawat the governor of Medenine and to the representatives of different international organizations, the unstable situation of many sub Saharan countries and the disturbed situation in Libya will lead to an increase of the migrant flow to Medenine, and the region won’t be able to accommodate any more migrants because of its limited

resources, the gaps in international organizations' interventions and the limited capacity of the refugee housings. This situation is causing a crisis in the region of Medenine and is also aggravating the already difficult situation of the migrants which is leading to inconsistent reactions varying between refusing to accommodate any more migrants as expressed by the governor who is aware of the European intention to transform his region to a huge refugee camp, and accepting to receive arrivals as expressed by the international organizations' representatives who are considering the problem from a purely humanitarian point of view.

The governor of Medenine told us that the region received huge numbers of arrivals just after the revolution. They were provided with the necessary help and assistance in cooperation with local officials and humanitarian organizations and local citizens without even asking for detailed explanations as to why did these people secretly cross the borders: who are they? What are they planning to do? Do they have any criminal records or any political or religious orientations? Despite the serious concerns, the region kept offering help to these migrants until the year 2019, but now that the European intentions are unveiled, it becomes necessary to stop this phenomenon that is threatening the security of the region and the sovereignty of the state⁷².

⁷² The FTDES, the Tunisian Forum for Economic and Social Rights calls upon the upcoming Government to cancel all bilateral conventions signed with the Italian authorities regarding forced deportation of the migrants – article published in September 30, 2019 – link [https://www.akherkhabaronline.com/ar/\(visited 02/10/2019\)](https://www.akherkhabaronline.com/ar/(visited 02/10/2019))

In spite of the humanitarian interventions, the region cannot be considered as safe since the Tunisian legal framework doesn't provide the necessary protection for migrants, refugees and asylum seekers⁷³, and the national and international organizations cannot provide all the necessary services this vulnerable category need. International intentions are the main source of concern according to the governor, and they have been proved lately by the European countries' tendency to impose extortion policies and provide conditional forms of help to Tunisia with the objective to transform it to a big reception and accommodation platform for migrants. The Tunisian Forum for Economic and Social Rights warned about the dangers of such orientations especially in the absence of clear policies and legal framework to protect human rights and specifically the rights of migrants.

III. THE RELATION OF MIGRANTS WITH THE LOCAL COMMUNITY AND THE NATURE OF THEIR EXPECTATIONS:

1. The relation of migrants with the local community and environment:

Our interviews showed that migrants have good relations with the supervising team of the humanitarian organizations' housings thanks to good treatment and the professional management, despite the problems that occur every now and then. In this respect, the representative of the organization told us, *quote*: "there's a mix of nationalities in the housing and every nationality is different. Sudanese are not like Chadians

⁷³ FTDES - Tunisian harbors are not safe for migrants, the European union should assume its responsibility – Article published in September 30, 2019 – link <https://www.ftdes.net/ar/>(visited 02/10/2019)

who are not different from Eritreans and so on... but the problems that are occurring are totally normal; he told me and I told him, he took from me and I took from him... they are mainly of a verbal violence nature or about robbery and are essentially due to the very big number of residents. Sometimes these problems reach the court but mostly they are solved amicably". Data showed that the migrants are separated according to nationalities to avoid problems. A translator is chosen from every group to facilitate communication and he's rewarded with a daily grant. Our tour lasted for two hours during which we didn't see any problems and we noticed comfort and satisfaction when we talked with the residents.

According to the researcher Hassan Boubarkry, the presence of migrants in Tunisia raises a lot of questions about "the possibilities of their integration⁷⁴" but the field research proved that migrants have good relations with the local inhabitants of Medenine, and that the international organizations are playing a major role in raising awareness among the local community to guarantee the rights and freedoms of the migrants and to facilitate their integration. In this respect, a representative of the IOM told us, *quote*: "There are no major problems. When an asylum seeker first arrives we speak to him about the characteristics of the Tunisian society and we tell him that it is Muslim and conservative and doesn't accept the violations of its customs. We tell him that citizens accept the presence of foreigners but that the migrant should avoid wearing indecent

⁷⁴Boubakri Hassan, 2013, « *Migration in Tunisia after the revolution of 2011* » Mediterranean Confluences, l'Harmattan, N87, pp 31-46, P32.

clothes or a cross for example to avert violence or any other problems”. Many interviewed migrants confirmed that the citizens of Medenine are supportive and are aware of the horrible experience and the tragic dangers faced by the migrants in Libya, that’s why they try to help them morally and materially and they hire them to work in construction sites and agricultural fields or as housekeepers”. The governor of Medenine confirmed that “our people don’t bother the migrants. They are free to go wherever they want and we often help them to get jobs despite the fact that we don’t know much about them”.

Most of the interviewed migrants told us that they weren’t subject to any type of harassment. A Nigerian refugee said: “Contrarily to what we here from migrants in other parts of Tunisia, the citizens of this region are respectful and supportive. We are rarely exposed to exploitation or violence or racial segregation. Our problem is not to be comfortable in an environment, it’s bigger than that. Our problem is the legalization of our complicated situation and our hard financial and psychological situation. We want to have a refugee card that facilitates our life and to be reintegrated in a European country”.

Hence, it is clear that the local environment is rather helping the migrants, refugees and asylum seekers in the integration process and playing an important role in alleviating the impact of the horrors they experienced both in their countries and during their journey across the Libyan territory. The following, is a testimony about the good relations of the migrants with the

local community: “Tunisian population is respectful. We were in hell in Libya, they robbed us and exploited us and beat us. Death followed us wherever we go, but here we feel safe. People are really kind”. (A Sudanese migrant, has been living in Tunisia for a month)

2. Expectations:

The expectations of migrants are different according to the desired destination and services. Based on the interviews, we can summarize the migrants’ expectations as follows:

- Resettlement in a country that accommodates their needs for migrants who don’t want to stay in Tunisia)
- Regulating their situation by having a refugee card for those who want to settle in Tunisia
- Improving the provided services (residence, transport, health care, readjusting the value of food receipts, work...)
- Facilitating their integration in economic life and their access to employment opportunities
 - Repealing financial penalties related to their irregular situation to avoid being forced to commit illegal behaviors (robbery, begging, suicide, irregular immigration...)
 - Raising awareness among citizens about their vulnerable and fragile situation

IV. THE NEED FOR A NATIONAL MIGRATION STRATEGY: IT IS TIME TO IMPLEMENT A STRATEGY BASED ON A HUMANITARIAN APPROACH

The recent events that occurred in the region of Medenine proved the failure of the unclear migration policy adopted by the Tunisian state in responding to the legitimate claims of the

migrants. All the interviewed people confirmed that it is time to implement a national migration policy based on a humanitarian approach that complies with the international human rights requirements⁷⁵ with cooperation with all concerned stakeholders. The governor of Medenine, as the most familiar official with facts and realities, should not only stop accepting more refugees but rather declare his position to the government and ask for urgent and concrete measures to solve the crisis and call upon the government to assume its responsibilities since migration and asylum is a national concern and doesn't only imply the governorate of Medenine. The representatives of humanitarian organizations stressed on the necessity to treat the arrivals well, based on a humanitarian approach, and highlighted that they never should be expelled as set out in chapter 33 of the first part of Geneva Convention⁷⁶. They suggest using this phenomenon in favor of the region of Medenine by pressuring the international organization to develop the capacities of the local structures in order to improve the services provided for migrants and for citizens as well.

Instead of fearing the migrants' orientations for security concerns, it is better to admit that they represent a solution to the shortage of work force in the region. In addition, it is

⁷⁵ Mahdi Aliwa, John Noel Ferry, Helmond Refield "The new Moroccan migration policy " Rabat Konrad-Adenauer-Stiftung

⁷⁶ Article 33 of the 1st part of Geneva convention of the year 1951 "No Contracting State shall expel or return (" refouler ") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."

important to find social and economic solutions in order to promote the capacities of the region and to support its role in helping vulnerable categories. One of these solutions is to establish a security and health care unit on the border crossing point in order to register the arrivals and to make sure that they won't harm the citizens in any possible way.

The representative of the IOM said, *quote*: "Medenine is a border area, and we should be smart and wise when dealing with the phenomenon of migration and with the increasing flows of arrivals. That could be managed for example, by developing an electronic application used by the border police to register arrivals and collect all information moment to moment". This will help in developing a data base that could help the region to update information related to the phenomenon of migration through exact statistics and indicators, which will help it later to call upon the government to assume its responsibilities in governing the flows and to claim the establishment of a committee in every governorate composed of different structures and ministries. The committee should meet at least once a month to monitor the situation and plan actions and should contribute to the assistance of migrants by appointing agents from different specialties to work in the housings and by drafting evaluation reports in order to improve the services provided for the arrivals without shifting all the responsibility on the governor of the area. Thus, migration should rather be a national concern and a collective responsibility in order for decisions and interventions to be more efficient.

One of the interviewed representatives of an international organization said, *quote*: “The governor is refusing to accommodate arrivals for security concerns and is talking about a crisis, but we think that we can manage the high flow of arrivals with the available capacities. There’s nothing dangerous such as major epidemics or plague, everything is under control and we can solve their problems the way we do with every Tunisian citizen”.

Tunisia has two options; either to accept accommodating migrants and refugees and work on approving the refugees law to protect their rights (despite that this law isn’t in favor of Tunisia, the country with a low economic level that won’t be able to deal with an extra burden), or to declare officially that it doesn’t approve to open its borders especially that the European intentions are very clear, and thus, the state should cancel all bilateral conventions signed with European countries with relation to mass deportation of migrants.

The state should deal with the increasing flows of migrants and respect the human rights in accordance with international conventions, by establishing a new inclusive policy of migration and asylum, based on a humanitarian approach respectful of migrants’ rights, our countries’ international obligations and national sovereignty. All the structures of the state, ministries and civil society organizations should cooperate to manage this phenomenon in order to avoid any strategic or human disasters through good governance and pursuing procedures to approve the asylum law to regulate the situation of irregular migrants and asylum seekers. They also have to improve the mechanisms

of obtaining the right to asylum and to establish a monitoring unit on border crossing points and an assistance unit directed by regional and international cells to deal with phenomenon efficiently.

CONCLUSION

According to the interviews we carried out with representatives of humanitarian organizations, the governor of Medenine and a sample of the migrants, refugees and asylum seekers during our field visit to the region in September 2019 to examine the situation, and based on the researches and reports drafted by the Tunisian Forum for Economic and Social Rights, we conclude that the disturbed situation in Libya caused an important wave of migration towards Tunisia, and that the Southern border of the countries opened its doors to accommodate arrivals from different nationalities to protect them from danger and to help them to find solutions to their tragic situations. The region of Medenine hosted the majority of migrants and provided them with the necessary help and assistance in cooperation with humanitarian organizations⁷⁷. Although the Tunisian government has decided since the revolution to establish a national protection framework that respects human rights and conforms to the 1951 Geneva Convention on Refugees, this legal framework has not yet been approved, thus making the state's policy towards migration in general and towards the region of Medenine that is facing enormous waves of migrants coming from across the border really unclear. Despite the diversity of the services provided for

⁷⁷ The number of refugees and migrants varies from one country of origin to another which engenders difficulties in assisting them according to the oiM and to the NOFP - ONFP, OIM, 2016, « Evaluation of the socioeconomic and sanitary vulnerability of migrants: for an effective access to health care services in Tunisia», 140p, p20.

migrants and their good relationship with the local environment there are still many gaps and deficiencies, which requires a clear national strategy to clarify the legal and human rights framework and organize humanitarian intervention through cooperative management or declare officially its inability to take responsibility of migrants and asylum seekers and repeal all international treaties that are imposing on Tunisia to assume their responsibility.

Following an in-depth field research and many interviews with various parties on the situation of arrivals based on an inclusive approach, all perspectives were taken into account and all the suggestions of the various social actors were considered to develop the following recommendations.

- Stop following the current policy based on rescuing and deporting and adopting a policy that protects the rights of migrants in accordance with international treaties
- The humanitarian organizations should call on the government to assume its responsibility towards the vulnerable category of migrants by hiring specialists in their housings (sociologists, psychiatrists, child protection representative, police officers, security officers, translator...) so they can provide adequate assistance for arrivals.
- Improving the situation of the migrants by guaranteeing their basic rights especially their right to work, physical and psychological health care and education (provident food for arrivals consistently, increasing the value of

food receipts, adding transportation costs, providing transport means for children to go to school)

- Promoting discussions and dialogue between the civil society organizations in Medenine and the government about the crisis in Medenine related to migration and asylum in order to prioritize the issue of migration in public debates.
- Calling on the humanitarian organizations to assume real and bigger responsibility regarding legal, financial and diplomatic capacities in order to support migrants and refugees in Medenine and to monitor the protection and support mechanisms established in favor of asylum seekers.
- Further developing the capacities of structures, institutions and professionals in the field of the rights of migrants and refugees in order to ensure the application of legal norms and to ensure respect for the rights of foreigners (improving access to services, recognition of asylum document...)
- Developing means and techniques for communicating information to migrants: explanatory documents in several languages available in public administrations, security offices, and a website for migrants and refugees, free green line for guidance and orientation.
- Promoting the role of media in raising awareness about the problems faced by migrants in Medenine and in Tunisia in general (exploitation, inadequate rescuing interventions, legal problems and administrative

obstacles, trafficking, detention of foreign minors, financial penalties ...), urging the migrants to speak up for their rights and using modern communication network such as social networks and others to raise awareness about the issue of migrants through awareness sketches and short movies to illuminate public opinion.

- The human rights approach remains a matter of principle, although the governor of Medenine, as a government official, has the right to accept or refuse to receive migrants, refugees and asylum seekers, but protecting the rights of foreigners on Tunisian soil is of utmost necessity. That is why it is necessary to urge the government to approve the asylum law and to adopt an effective legislation and activate the national strategy for migration to face the crisis of the region of Medenine, and of Tunisia in general.
- Today we are confronted with a moral challenge above all, we must fight the concern and fear of migrants culturally, and claim the international and national leaders to restore humanity in all ways, by establishing laws that respect the universal human rights (the United Nations should update its strategies, and provide logistical and material support to countries unconditionally, stop the wars to reduce international crises and the phenomenon of asylum...).

REFERENCES

- Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime 15 November 2000
- Chaalaa Elmajai, Medenine, Zarzis – AlChourouk in the housings of irregular migrants, bad living conditions, international institutions should assume responsibility. Article published in AlChourouk journal in 30/05/2019 – visited in 30/09/2019 link <http://alchourouk.com/article>
- Mahdi Aliwa, John Noel Ferry, Helmond Refield “The new Moroccan migration policy “ Rabat Konrad-Adenauer-Stiftung
- The FTDES, the Tunisian Forum for Economic and Social Rights calls upon the upcoming Government to cancel all bilateral conventions signed with the Italian authorities regarding forced deportation of the migrants – article published in September 30, 2019 – link <https://www.akherkhabaronline.com/ar/> (visited 02/10/2019)
- FTDES - Tunisian harbors are not safe for migrants, the European union should assume its responsibility – Article published in September 30, 2019 – link <https://www.ftdes.net/ar/>(visited 02/10/2019)
- Tunisian Forum for Economic and Social Rights, Tunis, a report on the situation of migrants in the Red Crescent center in Medenine

- D. Naima Fekih, fighting the smuggling of migrants and the right to stay in the country of origin: the protocol against the smuggling of migrants between reality and expectation, migration booklet n1, FTDES May 2019 pp 154 – 165, pp 159 – 160
- Bensaad Ali, 2009, « The Maghreb faces the challenge of sub-Saharan migration. Immigration on migration», Kharthala edition
- Boubakri, Hassan, 2015, « Migration and asylum in Tunisia since 2011 : towards new migratory figures ? », REMI : international migration reviews, 31, (3\$4), pp. 17-39
- Boubakri Hassan, 2013, « Migration in Tunisia after the revolution of 2011 » Mediterranean Confluences, l’Harmattan, N87, pp 31-46
- ONFP, OIM, 2016, « Evaluation of the socioeconomic and sanitary vulnerability of migrants: for an effective access to health care services in Tunisia», 140p
- UNHCR, 2004, United Nations Refugee Agency, States Parties to the 1951 Convention relating to the Status of Refugees and/or its 1968 Protocol (as at 31 December 2004), Annex to the 2004 Global Report
- UNHCR Government Tunisia, Refugees and asylum-seekers in Tunisia, 31 August 2019, link : <https://data2.unhcr.org/en/country/tun>.

Violence against sub-Saharan migrant women in Tunisia

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Introduction

Currently, more than 258 million people live abroad all over the world⁷⁸. Nearly half of the migrants are women who are increasingly involved in independent international migration.

For almost three decades, a large number of sub-Saharan migrant women fleeing conflict zones, war-related violence, gender-based violence, extreme poverty in their countries have settled in Tunisia to seek employment to search for a better life or to transit to Europe. Because of the failure of attempts to reach European soil, Tunisia has become a country where we see developing an important illegal immigration sector.

These migrant women faced countless violations of their basic rights before leaving their countries of origin. Thus, their journeys to arrive in Tunisia are various and it's not without dangers for some.

Once in Tunisia, they face unexpected sources of insecurity and additional violence because of their vulnerable economic, social and legal situation (undocumented, extended stay). On the

⁷⁸ United Nations Department of Economic and Social Affairs – Population Division, December 2017, No. 2017/5.

other hand they face insecurity and violence because of their sexual identity as migrant women.

In fact, regular campaigns of identity checks, humiliating and degrading treatment, arrests, and pushback at the borders that give rise to many violations of the rights of migrants are added to the violence from human traffickers, employers and even fellow citizens or ordinary citizens. The situation is getting worse because of the lack of means of protection of women migrants.

The UN, in the declaration on the elimination of violence against women, defines violence against women as "any act of violence directed against the female sex, and causing or may cause to women physical, sexual or psychological harm or suffering, including the threat of such acts, coercion or arbitrary deprivation of liberty, whether in public or private life".⁷⁹

The phenomenon of violence against sub-Saharan migrant women in Tunisia and its impact on physical, psychological and mental health is often neglected or misunderstood by the public which only aggravate the question of vulnerability of these migrants by reinforcing the stigma attached to them. In fact, the increase in irregular female migration has resulted in a default association between migration and pronounced vulnerability.

In this study, we will try, through a qualitative exploratory study conducted in September- October 2019, to demystify some

⁷⁹United Nations Division for the Advancement of Women, 2003, Report of the Consultative Meeting on "Migration and Mobility, and How these Movements Affect Women", Malmo, Sweden, 2-4 December 2003.

recurring stories related to migration and gender issues. In particular, all issues related to gender-based violence against migrant women and girls by several actors as well as existing care services that are little discussed or currently poorly documented in Tunisia. The purpose of this paper is therefore to draw attention to the problem of violence against migrant women and girls and to take stock of the situation of gender-based violence in Tunisia by highlighting information concerning this issue. We will also highlight a key message that should be conveyed and reflected on, namely based on the fundamental rights of migrant women, regardless of their legal situation, to benefit from human treatment and to have access to health care and satisfaction of other specific needs. To achieve the purposes of this study, we will answer the following questions:

1. What forms of violence are suffered by sub-Saharan migrant women living in Tunisia?
3. What are the barriers to health care faced by migrant women and what solutions are available?
4. What role is civil society currently playing and is it able to play a significant role in supporting the enhancement of the security of migrants?

Methodological approach and selection of respondents

Contact with the respondents: With the help of the Association of African Students and Trainees in Tunisia (AESAT) and the Cultural Club Association Ali Belhouane (CCAB).

Investigative technique: Semi-directive interviews and focus-group.

Profiles of respondents

- Twenty-six migrant women from sub-Saharan Africa aged between 18 and 45 years old: single women migrants, separated from their spouses who remained in the country of origin, single mothers, single-parent families (women with children), divorced women.

- Six sub-Saharan women migrant aged between 15 and 17 years old.

We can classify the migrant women surveyed under several categories, including: female workers, female students, women who have left their country in the context of family reunion, irregular migrant women, women who have been trafficked. The boundaries between these various categories are obviously fluctuating and some women may belong to more than one category at a time. For example, a student may find herself in an irregular situation. Similarly, migrant women in a regular situation may become irregular migrants due to the expiry of their residence permit.

- A group of 6 people working in the public health sector.

- A group of actors representing civil society associations and organizations that have contact with Sub-Saharan migrants including Médecins du Monde (MdM), Maison des Droits des Migrants (MDM), CARITAS, Terre d'Asile, Tunisian Red Crescent (CRT), National Office of the Family and Population (ONFP).

Nationalities of respondents

Ivory-Cost, Mali, Senegal, Central African Republic, Cameroon and Niger.

Objectives of the study

- Determine the drivers of sub-Saharan female migration in Tunisia;
- Explore and draw attention to the forms of violence suffered by sub-Saharan migrant women in Tunisia;
- Better identify the barriers to access to health care;
- Understand the role and intervention of civil society actors: possibilities, limits and future projects;
- Better understand the attitude of civil society organizations towards the violations suffered by sub-Saharan migrant women in Tunisia and their practices to support them.

Encountered difficulties

- The apparent absence of thorough investigations into all cases of ill-treatment, prosecution or violence against regular and irregular Sub-Saharan migrants in Tunisia;
- The difficulty of identifying migrant women who are victims of violence for investigation. We had to go through their fellow citizens who have a legal status to facilitate meetings with surveyed migrant women.

1. REASONS FOR EMIGRATION AND LIVING CONDITIONS OF MIGRANT WOMEN IN TUNISIA

1.1 Reasons for emigration

Four typical profiles are drawn in our sample:

1. People seeking security and preservation of their physical integrity because of conditions of high insecurity in their countries of origin;
2. Women migration on the grounds of higher education (this reason is often transformed into an economic motive);
3. Migration for economic reasons (intention to settle in Tunisia): work or search for a job;
4. Transit to Europe (intention to leave for the migration project but currently unable to continue their journey for lack of money or because they were victims of trafficking).

1.2 Conditions of residence and integration

Residence status: Apart from students and some domestic workers who have a legal status, the majority of surveyed migrant women are in an irregular situation without having residence visas. This status strongly impacts the lives of these migrants. They live in a situation of severe trauma.

Accommodation: Some migrant respondents reported that they were initially hosted by friends in the host country who often provide help and assistance (money, accommodation, and counseling) to newcomers. We note here the presence of a form of solidarity that reflects a very strong social and cultural community relationship. This solidarity impacts the resilience of migrant women victims of violence in the face of hardship.

The social bonds of most of the migrant women encountered are woven within their communities. Relations with the Tunisian population are quite confrontational.

Work: Most of the migrants we met do domestic work or are unemployed (mainly migrant victims of trafficking who have fled their abusers), others are in a situation of hidden unemployment. For the rest, the work is in most cases degrading, lived as such, is done in difficult conditions and almost all poorly paid.

According to the results of our survey, sub-Saharan migrant women perform the following tasks: domestic helpers, babysitters, hairdressers, waitresses, workers in restaurants and cafes, workers in massage centers, etc.

Sub-Saharan migrant women represent a labor force at very low prices, not enjoying a contractual relationship and, above all, not benefiting from social security coverage. This is a cornerstone of the precariousness of the vast majority of migrants of sub-Saharan origin in Tunisia.

Migrant women experience advanced forms of socio-professional exploitation. Their social situations disqualify them in relation to access to the labor market.

1.3 Ignorance of rights

The irregularity and the lack of knowledge of their fundamental rights⁸⁰ lead to inability to mobilize the support opportunities

⁸⁰ ARAISSIA Hajer, 2019, « Les réfugiées syriennes en Tunisie : Difficultés d'accès aux droits économiques et sociaux », In « *Les cahiers du FTDES* », *Cahier N°1 Migration*. pp102-117, p112.

that exist around them and to overcome the difficulties they have experienced. This issue impacts their living environment and creates a psycho-sociological situation which is painfully experienced. There is a strong causal relationship of precariousness that exists between professional situation and social condition, accentuated by the couple fear-misunderstanding.

2. FORMS OF VIOLENCE SUFFERED BY THE MIGRANT WOMEN SURVEYED

Migrant women surveyed face and endure multiple forms of daily violence from public authorities, employers, ordinary citizens or even from their fellow citizens. These acts of violence are at the origin of malaise and acute depressive states among migrant women. The intensity of this malaise is correlated with the judicial situation and with the socio-economic situation.

"I have faced a variety of threats to my health such as physical injury, malnutrition, lack of shelter and psychological problems related to discrimination and racism". Hayati, 22 years old, Ivory-Coast.

2.1 Violence by the public authorities

The violence exerted by the public authorities is manifest, according to the surveyed migrant women, in:

- Inhuman and degrading treatment during arrests;
- Brutal arrests and refoulement;

- Accumulation of penalties which forces them to work in inhuman conditions to be able to pay the fines due to the overstaying.

In this context an Ivorian migrant confesses the following: "*We do not find any problem to enter Tunisia legally but we fall very quickly into the irregularity because of difficulties in obtaining residence documents. This situation exposes us to the accumulation of fines and brutal arrests by the police*". Fatimatou, 24 years old, former student, Ivory Coast.

- Impossibility of recourse to justice in a different case with whoever is or in case of aggression and violence suffered by migrant women;
- Adoption of a purely security approach during arrests;
- Poor reception and the obligation to pass the HIV test (public health services);
- Discrimination while complaining to police stations (always considered as carrying the HIV/ AIDS virus).

2.2 Violence exerted by employers

The migrant women surveyed reported several types of violations perpetrated by their employers. These are mainly migrant women who were victims of trafficking. Among these violations we quote:

- Moral (badly treated) and physical violence (beaten, assaulted);
- Inadequate food and sleep deprivation;

- Deprivation of their papers which leads to the difficulty or even the impossibility of leaving the work environment and the Tunisian territory.
- Harassment, sexual abuse and threats of sexual assault;
- Domestic servitude (they are enslaved by their employers who force them to work day and night without a sufficient rest period);
- Very limited access to health care;
- Absence of social support;
- Absence of a contract which defines the tasks and conditions of work and they have no opportunity to leave oppressive working conditions;
- Poorly paid, unable to manage their money (they can't transfer their money to the remaining family members in the country of origin);
- Remuneration lower than that of men;
- No payment of salary, postponement of payment, transfer to an account to which they do not have access (in case of trafficking);
- Emotional abuse: migrant women leave their children and their families to care for other women's children;
- Without mobility, they often do not know where the consular services of their countries or the competent services are to complain ...;

Respondents reported that there was no possibility of leaving the oppressive working conditions for fear of once again falling into the hands of traffickers especially since they are undocumented and know nothing about the country.

"Several Ivorian girls, Malian, Congolese, etc. come with false contracts, they are recovered at the airport, deprived of their papers, of freedom, they discover that they have debts to repay and discover another reality, it is the whole process of trafficking here: with physically and morally abused people, working too much, who, when they are sick, do not receive health care ". Imen N., IOM.

"It is very difficult for migrant women to escape a violent relationship or to seek help from the relevant authorities in the country of destination. Employers can easily employ young women in this situation with the threat of depriving them of the right to stay in the country to prevent them from leaving. These migrant women, who are dependent on their employers, are particularly vulnerable to physical and psychological violence, but are often reluctant to file complaints officially because of language barriers, family pressure, isolation or cultural traditions, as well as discrimination in police centers in case of complaints ". Kadida, 39 years old, Ivory-Cost, activist for the rights of migrants, victims of violence.

2.3 Violence exerted by of ordinary citizens

- Humiliations, vexations, insults, physical attacks in the street, price increase (traders), refusal of rent, regular control of rented houses, etc....;
- Discriminatory behavior "unbearable and stifling treatment based on the color of the skin".

"I personally do not go out, I'm always at home, I'm afraid of going out and I have not yet contacted Tunisians. My contact with Tunisian society is very limited. Racist behavior towards us deeply touched me. The way Tunisians treat us and watch us prevents me from seeing them. We are called "Africans"! It looks like they are not Africans! ». Amina, 28, works in a restaurant, Mali.

2.4 Violence exerted by fellow citizens

Trafficking in human beings is usually done through the mediation of their fellow migrants or their fellow citizens. Some interviewees admitted that they were even forced to emigrate before leaving their country of origin. This type of trafficking is aimed at exploiting women sexually or domestically.

It is important to note that the trafficking circuit operates from a triangulation between three key actors. The first is an intermediary trafficker who is installed in the country of origin. It assures the role of the on-site recruiter of potential female victims, eligible candidates for migration. He chooses those that are easier to fall into trafficking networks.

The second actor of this triad is the trafficker who lives in the country of destination. He is a connoisseur of the field knowing how to match the local demand to the profile of the migrant candidates. Moreover the traffickers prefer poor and illiterate migrant candidates vulnerable to undergo the pressure ... In discussion with a victim, they refine an offer by arguing that it will be well paid and therefore well settled. With a poor and

illiterate candidate, the financial argument has a huge impact on the motivation to travel.

"I came to Tunisia through an Ivorian gentleman who is here. He reassured me that things are good in Tunisia and that... because everyone wants to access Europe. This gentleman told me that here in Tunisia I could quickly go to Europe ... Nobody told me about the risk of falling into the hands of traffickers ..."

Mireille, 36 years old, Ivory-Cost.

The third actor of this developed traffic is the employer. It is a local and initial applicant of the service. He has total power over a victim who, without her passport confiscated, has no connections in the new country, does not master the local language and knows nothing about national social and legal rules, is immediately bogged down in a process submission and exploitation.

The low level of professional qualification which increases the inaccessibility to labor market, the irregular situation of residence, the low incomes and the difficulties of access to health care reinforce the structural precariousness of victims of trafficking and perpetuate their potential vulnerability to various forms of exploitation and violence.

The victim is sucked into a domestication and enslavement circuit that will only be cut when she dares to leave or flee. After the escape, the victims of trafficking realize that they were subjected to violence by their own compatriots and suddenly discovering the fall of their migration project. In most cases, they do not file a complaint. It makes their situation even more fragile. Scam, exploitation and flagrant lack of knowing

what to do, create a strong sense of frustration and even cases of traumas.

It should be noted that the trafficking of human beings as a lucrative activity is apparently in an exponential movement. It benefits from a combination of local demand and migratory flow of a socio-professional layer of those from rather modest socio-economic origin and a very low level of education.

3. VIOLENCE BASED ON GENDER

Migration affects both men and women, but it does not have the same impact on both sexes. The situation of migrant women differs from that of migrant men in official migration circuits and sectors of activity: the universal prevalence of gender-based violence, the forms of abuse they experience and the consequences of such abuse. Sometimes, they do not even have access to informal work and often have to do sex work. The obstacles and dangers of migration are often different for women who face additional sources of insecurity because of the inequalities they face as women in their economic, social and political situation.

The following testimonies confirm what has been stated above: *"Violence, including sexual violence, mainly targets defenseless migrants who can't be defended precisely because they do not exist for anyone."* Tasnim F., 29, activist for rights of migrants in vulnerable situations.

"For migrant women who are victims of violence, insecurity is often reinforced by a lack of protection by the competent

authorities at national level. This lack of protection may be aggravated by the woman's situation with regards to the law (for example, women who are not in possession of a residence permit are reluctant to contact the police or the judicial services). Sexist and racist discrimination and other abuses against migrant women are not taken seriously or even recognized". F.A., Woman, working in a police station in Ariana governorate.

Testimonies on sexist discrimination suffered by migrant women

Several respondents have been victims of gender-based violence internally by their fellow citizens, mainly in the case of forced migration, where they are constantly exposed to the risk of physical and sexual assault during their journey and in the country of destination. Their rights are frequently violated, most often with impunity. *"I was forced to suffer sexual abuse as a price for traveling to Europe ... it was a horrible experience that I will never forget". Aissata B., 32, Ivory Cost.*

"As a result of sexual violence, migrant women are doubly discredited by their fellow citizens and by themselves. Several women migrants were victims of violence for a very long time before their situation was discovered. Following the repeated sexual assault, they have suffered several illegal abortions which have a negative impact on their state of health ". Dr. L. GARBOUJ, MdM.

"Some sub-Saharan women told me that they were forced to submit to an HIV test. These practices can cause the loss of their jobs or deportation in the event of positive results. Some

migrant women resort to clandestine abortion under duress or inability to access reproductive health services because obstetric care is unaffordable, which leads them to serious health risks." Midwife at the Basic Health Center - Ariana (she has direct contact with sub-Saharan migrant women).

"Sub-Saharan migrant women are seen as carriers of disease and a burden on public health systems. It is for these reasons that they are not welcome to the Tunisian public health services. They opt for NGOs to ask for help. The need for the inclusion of migrants in health systems in Tunisia is an issue that should not wait even longer." A. M., CARITAS.

Because of many reasons such as gender identity, being black sub-Saharan women migrants implies the invisibility and the violence that migrant women suffer. These victims live in an intersection of racism, sexism and discrimination that are not experienced by male migrants in the same way.

4. EXPECTATIONS OF THE MIGRANT WOMEN SURVEYED

In response to our question "What are your expectations"? Their responses were different and they vary according to their migration plans. Expectations are summarized as follows and essentially cover:

- Access to labor market and economic reintegration;
- Regularization of the residence situation including for unaccompanied minors and children born in Tunisia: *"We want to work, to have a future and to be considered as subjects of rights"*. Kady F., 35, Central African Republic.
- Granting visas to go to Europe;

- Easing or abolition of residence penalties (for those who want to return voluntarily to their country of origin);
- Effective access to health care.

Economic and social integration is the first concern of all women migrants because bed integration into the labor market can cause additional stress⁸¹. They also want to have access to health care, training and schooling for their children, etc...

5. RESULTS OF INTERVIEWS WITH HEALTH STAFF

5.1 Objectives of the interviews

- Take stock of the access of sub-Saharan migrants to public health care services;
- Identify the barriers faced by migrants seeking health care;
- Identify solutions for effective access to health care.

According to health workers surveyed, in Tunisia, access to health services for migrants is marked by multiple challenges they face.

The majority of health professionals surveyed confirmed that sub-Saharan migrants living in Tunisia are highly vulnerable to health issues because the conditions in which they live and work expose them to diseases, accidents, violence and abuse. Several barriers to access to health care services contribute to the deterioration of health status of migrants. This vulnerability

⁸¹SANSONETTI Silvia, 2016 "Female refugees and asylum seekers: the issue of integration", Policy Department for Citizen's Rights and Constitutional Affairs, 2016. 56 p, p35.

experienced by migrants is directly related to socioeconomic and legal determinants.

Difficulties of access to health care that may have an impact on their health status, essentially in the case of giving up care because of financial difficulties, fear of repercussions in the case of statements made by certain health professionals, even in the case of serious illnesses. Migrants with low skills who are in an irregular situation and who are unemployed often give up access to health care in both public and private sectors.

"The feeling of being in an illegal situation, of being criminalized, and the resulting insecurity make the migrant afraid of having to justify the regularity of his stay and thus of having to give up the need for care". Dr. Leila GARBOUJ, MdM.

5.2 Barriers to access to health care

The health professionals surveyed listed the following barriers that hinder access to health care by migrants:

- For the health system, it's about a funding problem, the lack of inclusive health policies and the absence of specific and rigorous legislation for the medical care of irregular migrants;
- For health service providers, there is an ignorance of the regulatory texts allowing migrants to access health care in public services;
- For regular migrants, it is the lack of knowledge of their rights, about accessible healthcare services and the functioning of the health system that prevent them from benefiting from this fundamental right.

- For irregular migrants may fear approaching service providers to access assistance or report abuse due to the possibility of arrest or deportation⁸².

Thus, linguistic, cultural barriers and communication difficulties, poor reception and discriminatory practices on the part of health staff, violence exerted by Tunisian patients when they attend public health services deprive them from health care access. This can be also due to laws that restrict access based on immigration status, where services are unaffordable and migrants are not eligible for state subsidies provided to citizens, or where policies in place require fulfilling impossible prerequisite criteria for services, such as providing a national ID card or other form of identification which migrants may have trouble obtaining⁸³.

In fact, it is only students and workers with an employment contract who are covered by social security and can access to Tunisian public health services.

Legal, cultural, linguistic and communication barriers added to precariousness of living conditions and working conditions, lack of access to health and violence experienced during the migratory journey expose migrant women to greater risk of having a critical situation of physical and mental health.

Faced with the barriers mentioned above, migrant women in an irregular situation resort to NGOs to ask for their support. Among these NGOs we mention the Tunisian Red Crescent,

⁸²The International Federation of Red Cross and Red Crescent Societies (IFRC), "How barriers to basic services turn migration into a humanitarian crisis". Migration Policy report. Geneva, 2016. 32 p., p4.

⁸³ Op.cit., p5.

Médecins du Monde, Caritas, High Commissioner of Refugees (HCR), International Organization of Migration (IOM). However, even with the support of NGOs, migrant women with children are in great need of maternal and child health care and cannot consult the private sector which is considered very expensive for them.

"Personally, I believe that while migrant and mobile populations enjoy physical, mental and social well-being, they can make a substantial contribution to the economic and social development of their communities of origin and their host societies». Alexia, 33 years old, she was a former student, left university and works in a Tea Room, Niger.

5.3 Health services available and accessible for migrants

- The care structures of the first three lines includes: Basic Health Centers, Regional Hospitals and University Hospitals;
- The National public health programs includes: national program for reproductive health and family planning; national immunization program; school and university medicine; National Tuberculosis Control Program; national HIV / AIDS program.

Although these national programs do not exclude migrants, they differentiate them from Tunisian patients and they are still unknown by some migrants.

6. ROLE OF TUNISIAN AND INTERNATIONAL CIVIL SOCIETY ORGANIZATIONS IN GUARANTEEING THE RIGHTS OF MIGRANTS

Several Tunisian and other international NGOs operating in Tunisia have provided support to migrants in various fields. They have played and still play a central role in ensuring a decent welcome to migrants⁸⁴. Through coordination with other actors, they help migrants, refugees and asylum seekers to acquire basic needs such as food, health care, education, shelter, work and voluntary return to countries of origin.

"Violence against migrant women is a very strong phenomenon in Tunisia. There are few support mechanisms. Until the state ensures the protection of citizens, civil society is working on the ground". Sonia. Kh., Activist for the rights of migrants.

Among the services offered to migrant women, representatives of Tunisian and international NGOs surveyed cited the following:

- Humanitarian, socio-medical and financial assistance to migrants in adverse situations;
- Participation with other NGOs in advocating for the elimination of barriers to access to health care, improving benefits and making access inclusive;
- Awareness of issues related to the daily lives of migrants;
- Support for daily care needs and in times of crisis;

⁸⁴ BEN SEDRINE Said, 2018, « Défis à relever pour un accueil décent de la migration subsaharienne et Tunisie », Fondation FRIEDRICH EBERT en Tunisie. 90 pages, p8.

- Promotion of a favorable protection environment for refugees, asylum seekers and migrants;
- Assistance in case of voluntary return (payment of penalties, granting of plane tickets, etc.);
- Listening, advice, support and orientation;
- Support for victims of trafficking (psychological support, medical care, return assistance, orientation, etc ...)
- Accommodation;
- Restoring relations between migrant women and their families;
- Awareness and monitoring in the fight against human trafficking.

6.1 NGO's efforts are still insufficient without state intervention

Representatives of the NGOs surveyed also testified to their inability to guarantee all economic and social rights to all irregular migrants without state intervention. Knowing that some regular migrants also find enormous problems that prevent them from enjoying their fundamental rights.

"The irregular status of the migrants blocks them, it prevents them the access to a multitude of fundamental rights. We cannot, as NGOs, guarantee all rights to all migrants. Well, to the limit in terms of health, thank God, what civil society is doing is not bad, since migrants can have access to health care even in a situation of irregularity. But, I don't know, if a migrant is being abused on the street and is a victim of racism or having been sexually assaulted, and there are many cases of victims of sexual assault, they are sometimes seen in public gardens, they

can't complain because they are in an illegal situation and may be arrested because of the cumulative amounts of penalties that are of the order of 20d per week and after,... it blocks their access to their fundamental rights". Representative of Terre d'Asile.

CONCLUSION AND RECOMMENDATIONS

Tunisia has become a destination for migrants from sub-Saharan Africa and a gateway to Europe. This holds our country responsible for the establishment of a migration policy based on the Human Rights approach and not on a purely security approach because Human Rights are also those of migrants who are human beings first.

In fact, irregular migration in Tunisia is a very important sector of transnational organized crime, forced labor and human trafficking. This is confirmed by the multiple violations against sub-Saharan migrant women in our country. This reality can in no way help to promote the image of the winner of the Nobel Peace Prize, Tunisia, as a pioneering experience in the field of democratic transition and coexistence with difference.

On the other hand, it also obliges Tunisia to respect the provisions of the 2014 Constitution, particularly in its articles 38 and 46, as well as the international and regional conventions, previously ratified by Tunisia, calling for the respect of migrants' rights, namely the prevention of violations of the rights of migrant women and unaccompanied minors.

Tunisia has set up a national instance for the prevention and fight against trafficking in human beings. The Assembly of the Representatives of the People has adopted, by the majority of its members, an organic law on the elimination of violence based on gender and another law on racial discrimination, but they are still insufficient since gender-based violence against

migrant women is persisting with alarming figures on this phenomenon.

The restrictive policy coupled with the criminalization of irregular migration has accentuated violence against migrant women. For this, irregular migration must be decriminalized, because describing individuals as "illegal" contributes to increasing the negative discourse of migration and reinforces negative stereotypes against migrants. Moreover, such language legitimizes the rhetoric about the criminalization of migration which in turn contributes to isolation, marginalization, discrimination and daily abuse of migrants.

Several Tunisian and international NGOs have made the rights of migrants their field of action. Some of them try to lobby for the fight against human rights violations by focusing on migrant women in particular. They operate with foreign networks defending their rights. Despite this, the problem persists because of an anchor in the perception of the migratory problem between the civil society which privileges the humanitarian dimension, in particular the respect of the fundamental rights of the migrants and of the State which seeks to find a balance between political and diplomatic constraints and legal ones.

The prevention of violence and violations against migrant women and girls and the treatment of victims must be part of a multi-sectoral approach that involves several governmental and non-governmental actors who must work in a concerted and coordinated manner.

RECOMMENDATIONS

- Put in place a regulation of migration that guarantees respect for the fundamental rights of migrants;
- Strengthen the capacity of health professionals in the field of migrants' rights to improve services to migrants and combat discrimination and stigma against them by raising awareness and providing trainings on the following topics: reception of migrants, rights of migrants, universality of access to health care, rights of people with HIV and the principle of confidentiality, human rights of migrants, etc...;
- Strengthen the capacity of police professionals in the field of migrants' rights and the need to take seriously and fairly the complaints lodged by migrant women;
- Establishment of a communication strategy aimed at sensibilisation of citizens, authorities, health professionals, police professionals on the rights of migrants in order to improve the perception of sub-Saharan migration;
- Facilitate access to housing, transport, education, training, work and to the social and cultural integration of migrants;
- Facilitate access of vulnerable migrants to curative care of STD / HIV
- Establish conventions and bilateral agreements with migrants' countries of origin to guarantee the rights of migrants;
- Improve the conditions of detention of migrants in a situation of irregularity because migrants, including asylum seekers in detention, often suffer from health problems caused or aggravated by unsanitary conditions, length of detention and lack of regular and adequate medical assistance;

- Reform all legislation that criminalizes irregular migration, abolish the law on late arrival of penalties and facilitate the regularization of migrants in an irregular situation;
- Gather the necessary funds to take care of the needs of migrants, especially the most vulnerable (women, children, unaccompanied minors, sick, disabled, orphans, elderly, etc.);
- Tunisia international organizations and partner government parties are called upon to support Tunisia, which has become a country of immigration, in responding to migrants' emergency and vulnerability situations so that any migrant, regardless of its status, may have access, without constraint, to care services on the same footing as nationals.
- Provide special funds to be reserved for health operators (public and private) to cover the health costs provided to migrants and refugees.
- Provide medical coverage to all students regardless of their nationalities and bilateral agreements with their countries;
- Guarantee free medical examinations;
- Support the implementation of the law expressly condemning racism and discrimination, drafted in 2018, which provides for complaints and redress mechanisms for migrant women, victims of discrimination and psychological violence;
- Integrate migration into sectoral strategies of ministries with a human rights-based approach;
- Support the practical implementation of the National Migration Strategy developed in 2012 and updated in August 2017;

- Strengthen governance and networking between the various institutional and associative actors to respond to crisis and emergency situations, and to the needs of the most vulnerable categories of migrants and refugees;
- Create social services to welcome migrants who will be different from detention centers which are now unhealthy and not respectful human dignity;
- Develop communication and outreach mechanisms to provide information on the situation of migrants;
- Develop actions to change citizens' attitudes towards migrants.

BIBLIOGRAPHY

1. Actes de la Troisième Ecole d'Été sur la Migration : Migration et Santé en Tunisie, TUNIS, 11 – 16 SEPTEMBRE 2017.
2. ARAISSIA Hajer, 2019, « Les réfugiées syriennes en Tunisie : Difficultés d'accès aux droits économiques et sociaux », In « *Les cahiers du FTDES* », *Cahier N°1 Migration*. pp102-117.
3. BEN SEDRINE Said, 2018, Défis à relever pour un accueil décent de la migration subsaharienne et Tunisie, Fondation FRIEDRICH EBERT en Tunisie.
4. Déclaration sur l'élimination de la violence contre les femmes, Résolution 48/104 de l'Assemblée générale de l'ONU.
5. Division des Nations Unies pour la Promotion des Femmes, 2003, Rapport de la réunion consultative sur le thème « Migration et la mobilité, et comment ces mouvements affectent les femmes », Malmö, Suède, 2-4 décembre 2003.
6. GARBOUJ Leila (2016) : Accès aux services sociaux et de santé des migrants en Tunisie: Deuxième Ecole d'Été sur la Migration en Tunisie OIM – INTES 2016.
7. HANAFI Sarra, (2014), « Améliorer la gouvernance de la migration de main d'oeuvre et la protection des droits des travailleurs migrants » Projet OIT/IRAM.
8. <https://governingbodies.iom.int/fr/system/files/fr/council/106/C-106-40-Cadre-de-gouvernance-des-migrations.pdf>).
9. Journal of Women's Studies, 8, 1: pp. 67-102; Pearson, E. (2002), Human Traffic, Human Rights: Redefining Victim & Protection. Londres: Anti-Slavery International.

10. LAZARIDIS, G. (2001), «Trafficking and Prostitution: The Growing Exploitation of Migrant Women in Greece», European
11. Loi n°92-71 du 27 juillet 1992, modifiée en 2007. «Nul ne peut faire l'objet de mesures discriminatoires à l'occasion de la prévention ou du traitement d'une maladie transmissible» ART.1^{er}
12. Médecins du Monde (2016), « Plaidoyer pour l'accès des migrants au droit à la santé en Tunisie », disponible sur : <https://doktersvandewereld-wieni.netdna-ssl.com/sites>.
13. Médecins sans Frontières (2005), Violence et immigration: Rapport sur l'immigration d'origine subsaharienne en
14. SANSONETTI Silvia, 2016 "Female refugees and asylum seekers: the issue of integration", Policy Department for Citizen's Rights and Constitutional Affairs, 2016. 56 p.
15. Situation irrégulière au Maroc, Genève : MSF.
16. The International Federation of Red Cross and Red Crescent Societies (IFRC), "How barriers to basic services turn migration into a humanitarian crisis". Migration Policy report. Geneva, 2016. 32 p., p4.
17. United Nations Department of Economic and Social Affairs – Population Division, December 2017, No. 2017/5.
18. United Nations Division for the Advancement of Women, 2003, Report of the Consultative Meeting on "Migration and Mobility, and How these Movements Affect Women", Malmö, Sweden, 2-4 December 2003.

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