

# **The African Union's Policy Capacity in the Governance of African Irregular Migration: An Appraisal of Meanings and Actions**

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Regional governance has become a significant policy challenge for the African States and Africa's region, from managing defence, peace, poverty, economic integration, climate change, development issues to continental security. Irregular migration is one of the policy issues which acquired much significance in the early 2000s within the regional political agenda. In July 2001, the Organisation of African Union Council of Ministers (OAUCM) voiced the African states' desideratum to develop a migration policy framework to face migration challenges upon the Continent. From that need, the 2006 Migration Policy Framework for Migration in Africa emerged. Ten years later, a policy evaluation concluded in the necessity for an update that commanded a revised strategic document named the 2018 MPFA and Plan of Action (2018-2030). This paper questions the pre-emptive dimension of the African Union's Migration Policy Framework for Africa (MPFA) to understand the weak 'institutional capacity' of the regional governance of irregular migration in Africa. In contrast to policy papers that focus on coordination, coherence, 'intergovernmentalism', or multilevel governance to address migration's regional governance, this paper shores up governance as a symbolic political activity. It is the governmental capacity to *control, prevent, discipline, order the conduct, and anticipate* the individual's decision to engage in irregular migration. Governance otherwise operates as a relational activity between political institutions and society that generate much political communication on norms and practices. The AU and African States' failure in doing this not only justify the inefficiency of regional governance of irregular migration but also brings about economic sovereignty as a core resource of its policy process.

**Keywords: African Union, Governmentality, Governance, Irregular Migration, Pre-emptive politics, Discursive Politics, Interpretive Method, Policy Instruments.**

The African Union (AU) is the political model through which the African States aspire to their “unity” since 1963<sup>1</sup>. Parent of the Organization of the African Unity (OAU), the regional organisation came into being in 2002, in Durban in South Africa, aiming to fulfil the African States’ ambition to foster a common continental position within international bodies (Lamikanra 2018). It draws from the European Union’s regional governance model<sup>2</sup> while ruling through a Constitutive Act and a dozen organs and institutions that advance the Organisation’s goals while attempting to secure its regional integration project<sup>3</sup>. So, governing African migrations constitutes a fundamental policy challenge for the African Union<sup>4</sup>. An OAU’s Convention on Specific Aspects of Refugee Problems in Africa has existed since 1969 as evidence of this, with sub-regional policies on the free movement of persons and goods across African sub-regions<sup>5</sup> with migration policy frameworks on States’ actions, among which the 2018 Migration Policy Framework for Africa (MPFA). MPFA is a revised strategic document that *‘builds on the achievements and challenges of the previous MPFA to guide member States and RECs in the management of migration reflecting the current migration dynamic in Africa’* (MPFA 2018, 10). It aims to *‘provide a comprehensive policy to AU member States and Regional Economic Communities (RECs) in nine thematic areas’*<sup>6</sup> among which irregular migration. The intensifying production and formulation of migration policies at the continental level have not guaranteed “ordered migration” as African citizens still enrol in irregular journeys while supplying issues in human rights violations, sex trafficking, smuggling, and transnational crimes. Of course, AU’s policies have not popped up such connections until 2018, but the MPFA is less ambiguous about that. The 2018 MPFA emphasises governance by invoking Migration Governance Indicators (MGI)<sup>7</sup>, transnational cooperation to combat irregular migration<sup>8</sup>, circulation of information and data on irregular migrants, prosecution, and others. We question such change by investigating the AU 2006 and 2018 migration policy frameworks’ contents while accounting for the pre-emptive dimension of these policy frameworks through the concept of governance.

## Governance in African policy research debates

Governance surrounds the policy research debates by highlighting concepts such as institutional capacity, transnationalism, administration, pluralism, government, and many others within the academic fields of international relations, policy analysis, and administration (Hajer & Wagenaar

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<sup>1</sup>The idea has consisted to set policies that guide African political ambition by setting a regional organization capable of fighting against colonialism and construct an integrated community since 1963.

<sup>2</sup>David Moffette (2018) defines it as “a political entity founded on the complementary projects of creating an internal borderless space of circulation and of strengthening external borders”.

<sup>3</sup>For details, see the African Union’s Constitutive Act that was adopted in 2000 by members states of the Organisation.

<sup>4</sup>A more complete list on the AU’s aims is available in the Constitutive Act ([https://au.int/sites/default/files/pages/34873-file-constitutiveact\\_en.pdf](https://au.int/sites/default/files/pages/34873-file-constitutiveact_en.pdf)) and [Protocol on Amendments to the Constitutive Act of the African Union](#), accessed on February 20, 2020.

<sup>5</sup>See the Treaty and the protocol to establish the African Economic Community relating to free movement of persons, right of residence and right of establishment adopted in 2018 and accessed online through the link [https://au.int/sites/default/files/treaties/36403-treaty-protocol\\_on\\_free\\_movement\\_of\\_persons\\_in\\_africa\\_e.pdf](https://au.int/sites/default/files/treaties/36403-treaty-protocol_on_free_movement_of_persons_in_africa_e.pdf), consulted on February 20, 2021.

<sup>6</sup>AU’s Commissioner on Social Affairs, MPFA Executive Summary, P. 8

<sup>7</sup>MGI is a policy tool which was developed by the International Organisation for Migration (IOM) in 2015 and which country globally use as a policy levers to develop their migration governance. More details can be found online: <https://gmdac.iom.int/migration-governance-indicators>, consulted on March 8, 2021.

<sup>8</sup>See the preamble of the 2018 AU MPF.

2003, 1). Shifts from ‘government’ to ‘governance’ in policy-science communities (Rosenau 1995; Hajer & Wagenaar 2003) address various correlations between political institutions and society. They point out new sites of politics and policy instruments by forcing to rethink the policymaking and implementation process. Scientific arguments emphasize networks' idea (Hajer & Wagenaar 2003), ‘order’ among states and the many other problems to which an expanding global interdependence gives rise (Rosenau 1992, x). Nevertheless, these arguments, unfortunately, neglect to politically and mentally connect governance mechanisms to society, or when mentioned, they are not specified. Analyses fall within a moral judgement that view or define international cooperation as a type of political transaction that lacks moral values (see, for instance, Yanou 2019). The question of means and capacity to cooperate in addressing complex policy issues such as irregular migration does not anticipate the policymaking process. By featuring irregular migration as a transnational public issue, the chapter underpins such missing point of the literature in migration policy studies by confronting the persistent African irregular migration, States’ actions and the AU’s experience in planning irregular migration governance through MPFA formulation and production. Bearing on the idea that there is no effective “governance without government” (Rosenau 1992), we argue that a governmental dimension in migration governance ensures *discipline* and *order* made visible in individuals and states’ compliance. It is the only way through migration policies matches politics (Hollifield 2018)<sup>9</sup>. If one means nothing out the other, governance mixed up with government create order, coherence and continuity between organisations, states and individuals. Governance and government both considered, produces authorities, boundaries, and systems of rule guaranteed by political institutions and organisations. Also, systems of rules should extend to all levels of human activities (Rosenau 1995, 13). Governance thus encompasses governments' activities and considers the various channels through which command flow in the form of goals framed, directives issued, and policies pursued (Rosenau 1995, 14). As a relational phenomenon, it generates modification of behaviours and or orientations of actors and results in control (Rosenau 1995). AU should frame its governance of irregular migration by targeting both control and command of the society, though it draws from a complex normative system. Such understanding of governance is hugely crucial in an African context where there is a daily expansion of human violation of borders and higher frequencies of irregular migration. The paper pertains to such a view from a critical policy studies perspective. The critical perspective puts forward the 2018 MPFA as a pertinent policy instrument to pre-emptive politics in AU’s regional governance of irregular migration.

### **Migration Policy as a Communicative Practice**

Migration policy as a “communicative practice” draws from the ‘linguistic’ and ‘argumentative turn’ of public policies (see Fischer & Forester 1993; Fischer & Gottweis 2012), which posits “a shift away from the dominant empirical, analytic approach to problem-solving to one including the study of language and argumentation as essential dimensions of theory and analysis in policymaking and planning” (Fischer & Gottweis 2012, 1). However, that dimension is not empirically new in migration studies literature. Discursive approaches to migration governance surround political science’s literature. They are a way to explain and understand “how actors

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<sup>9</sup> We refer after Hollifield (2018) to the procedural or distributional dimension (who gets what, when, and how), the legal or statist dimension (which involves issues of sovereignty and legitimacy), and the ethical or normative dimension (which deals with politics).

construct and modify public policy; the means through which they perceive the world, and consequently functions as a way to transform it; what actors use to interact with one another, whether in struggle or search of the common ground” (Durnová & Zittoun 2013, 6). From there, flow concepts such as ‘securitisation’, ‘frontierisation’, ‘governmentality’, ‘pre-emptive’ and ‘tactic’ policies to fix the complex relationships between migration and control (Hollifield 2017, 2018; William 2003; Vaughan-Williams 2015; Moffette 2018; Massey & Colucello 2015; Betts 2012). While other authors treasure the ‘realpolitik’ (Schmitt 1971) dimension of policies, James Hollifield (2018) points up the ‘political aspect’ of migration’s control. According to him, the politics of controlling migration encompasses the art of government consisting of sets of techniques for political control (Hollifield 2018, Aristotle). It involves “control, influence, power and authority” (Hollifield, 2018). Discursive approaches foreground ‘governmentality’ as a lens through which to figure out the governance of irregular migration, but they remained silent about the correlation between repeated migration crises and ‘institutional capacity’ of systems of irregular migration governance as an ability to transcend the sovereign use of objective policy instruments such as borders, walls, police, etc. Besides, policy studies in Africa speak very little about migration’s governance. Unlike the PhD thesis of Yanou Tchingankong (2012), which highlighted controversies emerging from international public action against African irregular migration (Yanou Tchingankong 2012), the articles in this domain focus on policy trends dating as far back the 1970-80s in African countries and its sub-regions (See Brennan 1984). Irregular migration invariably occurs as an old trend of African mobilities. Irregular migration delineates a transnational issue (Betts 2012; Massey & Colucello 2015; Beber & Scacco 2018; Moffette 2018). It finds its roots in the wage differentials, the availability of jobs and active recruitment of low-paid ‘illegal labour’ by private employers, the jobs markets and labour (Brennan 1984, 409), and the dream to join Europe (Beber & Scacco 2018, 2; Uchegara 2016). The categorisation in terms of micro, macro and meso levels describes the individual’s ability and capacity to move or stay and the transnational structures of States and communities (Kanko & Teller 2016), which possess the significant poles of attraction. Libya, Nigeria, Ivory-Coast, and the South-Africa Republic (Brennan 1984; Beber & Scacco 2018) repeatedly turn up as trouble-zones. Human trafficking, forced labour, exploitation of workers, and smuggling convey the issues that come along with irregular migration as a social problem (Alunke-Daniels 2015; Monzini 2015).

Meanwhile, recent developments show evidence of an increased number of policy briefs speaking of migration policy frameworks and regimes in Africa (Tadesse Abebe 2017) which account for the theoretical transformation of AU’s approach to migration governance (Le Coz & Petropolli 2020). They emphasize the policies and regimes supporting African governance of irregular migration by stressing the role of AU, regional communities, AU-EU cooperation (Tadesse 2017, 5; Yanou 2019; Le Coz and Petropolli 2020). They highpointing to the transformation of national policies and emerging new models of collaboration that befall both horizontal (across ministries) and vertical (across administrative levels) governance (Le Coz and Petropolli 2020). They have, however, remained silent on the specific trends of the ‘political aspect’ of irregular migration policies.

Concerning the question of regional governance in the migration studies literature, scholars depict the liberal dimension of its regime in Europe while addressing the social and economic opportunities that migration offers to families, citizens, and individuals (Comte 2012). It also works as a tool for the global management of migration which aims to counter and prevent irregular

activities and issues stemming from poor and critical areas of hampered emigration (Comte 2012). In contrast, the addressed concerns relating to peace and stability are a counter policy to migratory pressure from Africa (Comte 2012; Yanou 2012). The regionalism of migration governance portrays a “multi-layered” approach that puts forward a ‘partnership turn’ between sending and destination countries in migration governance (Lavenex & Panizzon 2013; Lavenex and al. 2015). “Multilevel” discourses explore the various issues that couple with multilevel governance in the context of integration policies (Scholte 2016; CPRM 2018). ‘Partnership turn’ acquiesces an increased and visible “EU-African common agenda of dealing with migration” (Lavenex & Panizzon 2013; Zanker 2019; Yanou 2019). However, the idea is to depict the hidden sides of what occurs as the “new venues of win-win-win solutions” (Lavenex & Panizzon 2013, 2). It paints the diverging approaches of African and European migration governance through which they also raise the gap between discourses and practices (Zanker 2019). Broader approaches lift dynamics and respond to the question “why, how and with what effects states cooperate in diverse forms of regional grouping on aspects of international migration, displacement and mobility” (Geddes et al. 2019). Multiple actors' influence is substantiated in those studies, so irregular migration as a social problem *per se* enhancing human rights issues.

Notwithstanding, the question does not correlate to irregular migration practices. Governance, as defined here, is less concerned with the distinctive moral stemming from global power relationships (Yanou 2019). Instead, it is an ‘institutional capacity’ to control and prevent irregular migration and practices resulting from it. The perpetuation of irregular migration *per se* is the direct consequence of weak regional policies. While operating at a multilevel of social relations (from African Union’s institutions to the threshold of African states borders), AU’s migration policies should be capable of producing compliance to an ethic of ‘ordered migration’ or ‘international movement’.

Foucault’s concept of ‘governmentality’ nourishes our theoretical argument. It fixes the relationship between migration and politics from Laswell’s perspective, “*who gets what when and how and with which effects*” (Laswell 1936). Springing from Laswell’s and Foucault’s perspectives, a critical approach to irregular migration’s regional governance study seems thought-provoking enough to trigger the theoretical direction of our analysis. Understand how far the AU’s MPFA content regarding the question of irregular migration is ‘mastered, plotted, disseminated or excluded’ (Durnová & Zittoun 2013, 88) may help better highlight the regional governance’s ‘institutional capacity’ in facing irregular migration issues. Nevertheless, connecting to Laswell’s question about politics, weaknesses could better be featured due to inadequate economic means or resources. The direct consequence will be to stop viewing, in an exclusive direction, global power relationship challenging the global governance of irregular migration in terms of national interests or moral values and thus question economic sovereignty as a critical resource of global governance.

Practically, the chapter looks at the role played by the institutional meaning of the African Union migration policy frameworks in controlling and ‘pre-empting’ irregular migration in Africa. It aims to examine the limits of the symbolic dimension of the AU’s politics of controlling irregular migration through the content analysis of policy documents and how they relate to African states and individual behaviours. It implies adopting a method that focuses on “*meaning in action*” (Wagenaar 2014). Governance includes “multiple actions of states and their partners” (Le Gales 2010), the “adopted measures and States’ practices” (Betts 2012; Moffette 2018) while giving significant consideration to policy and actors’ discourses as ‘whole actions’ (Musselin 2010).

Approaching it *in action* herein necessarily strengthens an epistemology of policy acts as a communicative practice. We interpret regional governance through the question, ‘which symbolic direction does the African Union impute to regional governance of irregular migration?’ How does such direction frame African States’ actions and individual behaviours?

The symbolic direction evoked in the 2018 MPFA linked to States’ activities against irregular migration in Africa is the key to explaining how capable the African Union is in eliminating individual projects to engage in irregular journeys.

### **Interpretive Methodology or A study of *Governance’s Meaning in Action***

For this study, we implemented an interpretive methodology based on the content analysis of the AU’s 2006 and 2018 Migration Policy Frameworks (MPFs), interviews and open discussions, and AU’s discourse on the migration crisis that happened in Libya in 2017 and 2018. Documentary research on the AU’s, IOM and national governments websites<sup>10</sup> toughens such a strategy. The content analysis of AU’s MPFs sought to identify the contextual meaning of irregular migration governance. Its implementation as a research method aimed to impel the sentences and words that the Organisation associates with irregular migration governance.

The obvious limitation is that we did not apply a systematic content analysis of policy texts and proceeded manually. Meanwhile, we applied a word-based technique using MAXQDA software, which would systematically compare the two documents. The ‘word cloud’ and ‘lexical search’ tools helped to analyse words frequencies and identify the most potent words (most vital) by ignoring words that we judged irrelevant in understanding governmentality and pre-emption in this chapter.

Semi-structured interviews and open discussions have involved African stakeholders working at the IOM’s Division Office in Cameroon, Cameroon Ministry of External relations (MINREX) and other national governmental structures, NGO representatives and returned irregular migrants. We interviewed all the respondents between December 2018 and April 2019 in Yaoundé, Cameroon. The interviews guides were constructed based on our research question, “Why does the migration crisis persist despite the improved body of regional policies on irregular migration in Africa”. We identify stakeholders through their roles within the migration governance process at the national level (Cameroon), while NGO representatives and returned migrants were selected using a snowball method. We had eighteen (18) interviewees for this study, six (6) from the Cameroonian government, including the MINREX, three (3) from IOM, three (3) from NGOs, and six (6) returned migrants, consists of seventeen (17) Cameroonians and one (1) Nigerian (Niger). Interviewees from NGOs introduced us to returned irregular migrants with whom we had open discussions regarding how much they are aware of the AU’s policy discourse and how this affects their decision to migrate irregularly or not. These interviews and open discussions provided together with media reports on the Libyan 2017 migration crisis, contributed to the understanding of the political process of Cameroonian irregular migrants’ repatriation from Libya to Cameroon in 2018 and 2019. Interviews had two primary objectives: the first aimed at questioning the process

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<sup>10</sup> Regarding this, we mainly explored two websites: that of the Cameroon ministry of external relations and ministry of Youth.

of governance in a Libyan context of African citizens' human rights abuse and the repatriation of Cameroonian irregular migrants in Libya. The second sought to determine if actors within countries (stakeholders, NGOs and returned migrants) were aware of the AU. COMMIT program fixed political communication as a critical AU's tool in fighting against irregular migration in 2008.

Documentary research filled up the above information sources by pinpointing the regulatory and normative framework that orientates the AU's migration policy. It has included international treaties and conventions ratified by AU member States and acknowledged in the African Union's governance strategy, the AU policy documents on human and sex trafficking, smuggling and transnational crimes, as well as documents supporting diplomatic arrangements between AU and global organisations such as the EU and IOM.

The interpretive methodology offered the possibility to highlight forms of power that the MPFs and actors' discourses contained and permitted by espousing Foucault's argument that discourse is that *for* and *through* which we struggle, the power we seek to make ours (Foucault 1971). It tackles the use of AU's policy content against the social problem of irregular migration. Through semi-structured interviews and open discussions, it checks if AU's MPFA contents towards the prevention of irregular migration are "mastered, plotted, disseminated or excluded" by stakeholders, members of NGOs (civil societies) and returned migrants.

The interpretive methodology nurtures a hybrid semantic study of the AU's regional governance of irregular migration through two concepts. The concept of "governmentality" (Foucault 1975, 2004), which we borrowed from the critical policy studies and that of "pre-emptive politics", which we link to the "the political aspect" of migration governance (Hollifield 2017).

Governmentality seemed to satisfy the theoretical purpose of linking both 'government' and 'governance' activities as two sides of the same coin in the process of pre-empting the AU regional policy of irregular migration. With the concept of "pre-emptive politics", governmentality sought to tackle the Organisation's capacity to control body and minds through norms production and political communication while linking AU's policy discourse to society. This research strategy globally aimed to understand policy discourse to actors' roles in particular issues and explain both individual and African States' behaviours as the consequence of AU's governance.

### **The African Union's Governance of Irregular Migration as a Multilevel Social Relation**

The Multilevel social relation refers to a transnational social world in which actors interact according to how they define norms and rules guiding their policy action against irregular migration. The 'societalisation' (Alexander 2018) of the question brings in multiple policy discourses, positing the public sphere and political discourse as the effective governance territories to display *discipline*, *order*, control of *bodies* and *minds* through pre-emptive policy actions<sup>11</sup>. This section examines the AU's 2006 and 2018 MPFA contents to highlight the AU's contextual meaning of irregular migration governance. It outlines the AU say about irregular migration and its implications for regional governance in a global social environment.

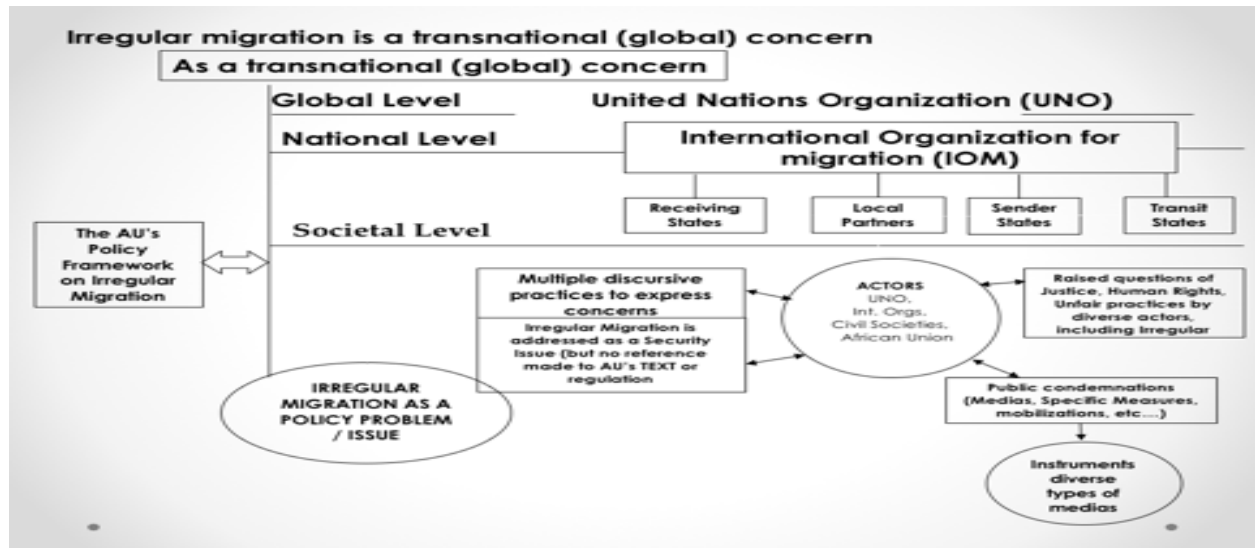
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<sup>11</sup> This can only happen through effective political communication on the dangers and risks on irregular migration as referred by the AU's 2018 MPFA and plan of action for (2018-2030).

### *The social context of AU regional governance of irregular migration*

AU's regional governance of irregular migration showcases multiple actors that interfere in the AU's irregular migration governance (figure 1 below).

**Figure 1:** Actors involved in the transnational governance of irregular migration in Africa.



**Source:** Author's compilation of data.

Figure 1 above features the AU's stage of regional governance of irregular migration. It is embedded in a multilevel social relation, where irregular migration transpires as a transnational (global) concern. At the global level, United Nations interferes through IOM and international treaties. IOM, the International Organisation for Migration, fulfils roles within receiving, sender and transit States, working with local partners. Multiple discursive practices assault the societal level in which social actors, including irregular migrants, invoke justice, human rights. Public condemnations circulate through various types of media, requesting the adoption of specific measures and institutional actions. While social actors address irregular migration issues, no quotation and 2018 MPFA and the action plan for (2018-2030) are made. The stage unveils the United Nations Organisation (UNO) and others such as IOM, civil societies, African Union, whereas the documentary research and content analysis of the AU website brought about member States and RECs as key actors of the regional governance.

*“Member States and RECs are urged to implement the various recommendations made in the MPFA, in accordance with their respective migration realities and development objective”; “RECs have a role in ensuring the harmonisation of laws and policies across the region and spur regional dialogue and cooperation on migration”; “Member States/RECs are encouraged to enact national/regional laws and formulate policies based on international/continental/regional protocols/principles for the management of migration and ensure the institutional capacities and coordination mechanisms at national/ regional levels for the management of migration”; “inter-State, inter and intra-regional cooperation is crucial for the management of migration”. (MPFA*



2018, 84).

In such a context of plurality and transnationality, the AU relies on various norms, conventions, and treaties to frame its irregular migration governance system. Among these it is possible to discern the OAU's Convention on the Specific rights of the Refugee; States' national legislation and international law; international treaties and conventions related to the policy issue; partnerships policy instruments agreed with global actors such as the European Union (EU) and the GIZ; the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala treaty); the Protocol to the Treaty establishing the decision to free movement of Persons, Right of Residence, and Right of Establishment adopted on 29 January 2019; the Ouagadougou Plan of Action to Combat Trafficking in Human Beings, Especially Women and Children approved by the Ministerial Conference on Migration and Development set up in Tripoli in November 2006; the AU Commission Initiative against Trafficking (AU. COMMIT) campaign which the Department of social affairs of the AU's Commission launched as part of one of the significant activities for the migration and development program (2009-2012) in the company of the regional community's ECOWAS, IGAD, SADC; and the AUCs 2015 Joint Labour Migration Programme (JLMP). Meanwhile, there is a plethora of UNO<sup>12</sup>, REC<sup>13</sup>, and European Union (EU)<sup>14</sup> frames intruding on such a body of norms. The normative framework can thus be robust only if there is effective political communication. Political communication resides in the regional actors' choice of policy words and discourse in search of control, which can be translated into the public sphere, either by States or social actors. Meanwhile, 'institutional capacity' only finds its strength in states sovereignty, which contends resources as the fundamental bases for action and capacity (Morgenthau 1948, 1951).

### ***The Complex Meaning of Irregular Migration in the Context of AU's Regional Governance***

According to IOM, irregular migration is nothing else than *"a movement that takes place outside the regulatory norms of the sending, transit and receiving country"* (IOM 2011). *"Both the movement of people in an undocumented fashion, irregular migration flows, and migrants whose status may, at any point, be undocumented or irregular migrants' stocks"* (IOM 2020; Vespe,

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<sup>12</sup>Broadly taken, such normative influence includes the influence -The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children – UNDOC Global Report on Trafficking in Persons (2012); the 201 65<sup>th</sup> session UNHCR Report of the Special Rapporteur on trafficking in persons, especially women and children; US State Department TIP Reports (including 2013 TIP Report), the United Nations Conventions Against Transnational Organised Crime and its Protocols: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; Protocol Against the Smuggling of Migrants by Land, Sea and Air (2000).

<sup>13</sup>Regional Documents- The Libreville Common Platform of Action of the Sub-regional Consultation of the Development of Strategies to Fight Child Trafficking or Exploitative Labour Purposes, the ECOWAS Declaration on the Fight Against Trafficking, the ECOWAS and ECCAS joint Plan of Action Against Trafficking in Persons especially Women and Children, the Maputo Consensus and Plan of Action to prevent and respond to Trafficking, Southern African Development Community (SADC) 10 Year Strategic Plan on Combating Trafficking in Persons, Especially Women and Children (2009-2019).

<sup>14</sup>EU Policies - The European Union Strategy towards the Eradication of Trafficking in Human Beings 2012-2016 (Brussels, 19.6.2012.COM) 286 final), the EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims (011/36/EU), Directive on Common Standards and Procedures in the Member States for Returning illegally Staying Third-Country Nationals (2008/ 115/EC), Action-Oriented Paper on Strengthening the EU External Dimension on Action Against Trafficking in Human Beings (Council on the EU, 2009, 11450/5/09), the EU Plan on Best Practices, Standards and Procedures for Combating and Preventing Trafficking in Human Beings (2005/C311/01).

Natale & Pappalardo, 2017) allude irregular migration. So, while IOM harks the statute of migrant, the AU pinpoints an “upsurge in irregular migration flows, including human trafficking and migrant smuggling”<sup>15</sup> and brings in nuance by focusing on security and development issues.

Regarding the security issue, the AU meaning embraces the scientific literature on irregular migration’s governance where irregular migration operates as a complex issue (Betts 2012; Massey & Colucello 2015; Moffette 2018). The latter entails “borders in crisis” (Jones 2017), and thus produces “frontierisation” and “securitisation”, which mix up moral values and political practices (Vaughan-Williams 2015). “Realpolitik” as a technology of government (Schmitt 1932, Williams 2003, Moffette 2018) upholds the process of governance and act as part of the governmental discourse.

The 2018 MPFA posits irregular migration as a socio-economic phenomenon happening in an open and globalised. In contrast to IOM global policies on migration, AU has extended the meaning of irregular migration to incorporate the prevention of illegal and inhuman practices.

*“Due to a number of factors, including increased barriers to regular migration and the need for international protection, irregular migration is increasing. Irregular migration is closely linked to migrant smuggling and other forms of international organised crime, including human trafficking, and can adversely affect national and international stability and security”* (MPFA 2018, 11).

In the 2006 MPFA, human rights, migration and development sustain the political commitment to protect the individual right to move through international legal instruments<sup>16</sup>. There is resilient and due regard to the promotion of African Union’s norms<sup>17</sup>, in contrast to the 2018 MPFA unfastening greater flexibility to a global world and urging a complex face of irregular migration in Africa. The 2018 MPFA thus treasures a complex meaning of irregular migration laying the groundwork for pre-emptive politics.

### **Governmentality and Pre-emption in AU’s 2018 MPFA and Plan of action for (2018-2030)**

Having emerged as an acknowledgement of changes in African migration trends over the past ten years<sup>18</sup>, the 2018 MPFA deliberately points up “migration governance” and “irregular migration” as vital pillars of regional policies<sup>19</sup>. “Better migration” is an overarching objective that should “facilitate safe, orderly, and dignified migration”<sup>20</sup>. Accordingly, it is a policy guide that secures “the socio-economic well-being of migrants and society” while addressing the insecurity of

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<sup>15</sup> H.E. Mrs Amira Elfadil, AU’s Commissioner of Social Affairs, 2018 MPF Preface, p. 8.

<sup>16</sup> See: the Universal Declaration of Human Rights (1948), the UN Convention on the Elimination of all Forms of Discrimination against Women (1979); the Beijing Declaration and Platform of Action (1995); the UN Convention on the Rights of the Child (1989); the UN Convention on the Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000), the ILO on worst forms of Child Labour (1999) and a World Fit for Children-UN General Assembly Special Session on Children (2002).

<sup>17</sup> See the the multiple references to the Constitutive Act of the African Union, the African Charter on Human and People’s Rights (1981) and its Protocol (2002), the African Charter and Welfare of the Child (1990), the African Common Position on Children (2001), the African Common Position on Migration and Development (2006)

<sup>18</sup> See the 2018 MPFA, Executive Summary, p. 10.

<sup>19</sup> It goes along with six other ones which can be found in 2018 MPFA, p. 10.

<sup>20</sup> Ibid.

migrants' rights as the basis of migration crises. "Compliance with international standards and laws" is recommended, and evidence-based policies and a 'whole government approach' operates as instruments of the expected "better governance". In line with "government and governance", the 2018 MPFA draws on AU priorities, national policies, the Agenda 2063, the Sustainable Development goals (SDGs) and international migration management policies and standards to provide:

*"Member States and RECs with comprehensive policy guidelines and principles to assist them in the formulation and implementation of their own national and regional migration policies in accordance with their priorities and resources".*

The document dwells on the relationship between irregular migration and security issues. It also calls upon regional governance based on Migration Governance Indicators (MGI)<sup>21</sup> and transnational cooperation<sup>22</sup>. 'Government' and 'governance' of irregular migration perform therein by drawing on states' actions and regional coordination. The new borders and limits government creates<sup>23</sup> structure the basis of relational activities of control at a multilevel social relation.

The principle of 'border governance', which endorses the idea of transnationality, puts forward "a system of norms, institutions and the collaboration of states, society and non-state actors around border management" (2018 MPFA,11). By alluding to "smuggling and other forms of international organised crime, including human trafficking" when talking about irregular migration (MPFA, 27), the 2018 MPFA puts up irregular migration as a potential factor of "national and international stability", then offering opportunistic windows for pre-emptive policy action.

The multilevel social relation embedded in regional governance operates therein in terms of the intensification of "cooperation in security, immigration and development" (MPFA 2018, 12). Such a point is supported by the AU's request to member States "align their national legislation and counter-trafficking strategies with international conventions and protocols" (MPFA 2018, 12). It even buttresses recommendations towards reverse political communications at different levels of States and the public which, are an essential tool for pre-emptive action as mentioned below:

*"prevention through awareness-raising among the public as well as state actors, providing assistance and protection to trafficked persons, improving prosecution and investigation, and increasing international cooperation and partnership" (MPFA 2018, 12).*

Putting up irregular migration as a vital pillar of border governance, AU superscribes the control of illegal activities, human and national security, and prevention through "effective and efficient joint arrangements" (2018 MPFA, 27). It addresses "Cooperative Border Management" (CBM) as strategies to "eliminate illegal border crossings, human trafficking and smuggling", along with the

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<sup>21</sup> MGI is a policy tool which was developed by the International Organisation for Migration (IOM) in 2015 and which country globally use as a policy levers to develop their migration governance. More details can be found online: <https://gmdac.iom.int/migration-governance-indicators>, consulted on March 8, 2021.

<sup>22</sup> See the preamble of the 2018 AU MPF.

<sup>23</sup> In this text, we exclude the perspective which would also encompass the instruments of regional economic communities (RECs).

provision of international standard travel documents for well-structured registration and issuance systems that facilitate regular migration” (MPFA 2018, 45). It sensitises States by requesting them to ratify the Niamey Convention on Cross Border Cooperation<sup>24</sup>, to intensify cooperation between national authorities engaged in border governance so that they can address security threats effectively, enhance the AU’s role in mobilising financial and technical resources, harmonise policies and programmes of action and coordinate activities of member states (MPFA 2018, 47). In line with the pre-emptive dimension of irregular migration policy understood as the necessity to control and anticipate, there is an AU acknowledgement of the indispensability to “strengthen the legal framework” (MPFA 2018, 48) as AU urges States to:

*“ Ratify the Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime, 2000 and incorporate its provisions into domestic law”; “(...) adopt appropriate sanctions for the offence of the smuggling of migrants, commensurate with the nature and gravity of the offence”; “develop migrant smuggling policies in consultation with relevant stakeholders, including international organisations, as well as civil society actors”; “enhance Investigation and prosecution of migrant Smugglers” (MPFA 2018, 49); “to enact national/regional laws and formulate policies based on international/continental/regional protocols/principles for the management of migration and ensure the institutional capacities and coordination mechanisms at national/ regional levels for the management of migration”.*

It also recommends RECs ensure *“the harmonisation of laws and policies across the region and spur regional dialogue and cooperation on migration”* (MPFA 2018, 83).

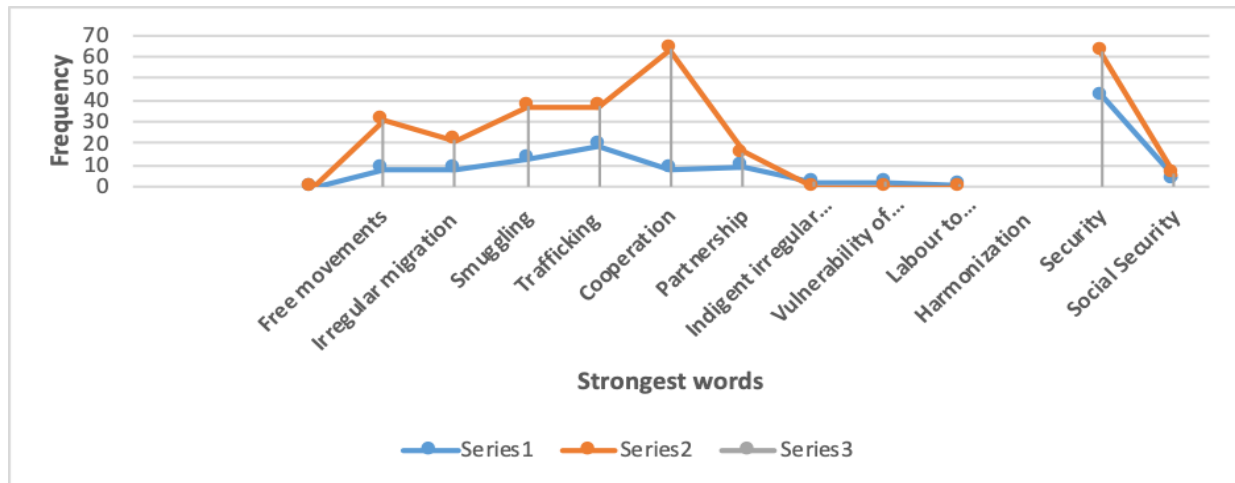
The 2018 MPFA has brought in a contextualised regional strategy against irregular migration by densifying the meaning of irregular migration as a social problem and planning a response involving more substantial concerns for border and security issues, transnational cooperation and comprehensive governance. Graphic 1 below highlights some meaningful words such as free movements, irregular migration, security, smuggling, trafficking, cooperation, indigent irregular migrant, partnership, vulnerability, security.

### **Graphic 1: 2006 and 2018 AU’s MPFA compared through a systematic word-count**

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<sup>24</sup> It was adopted in Malabo, Equatorial Guinea on June 27<sup>th</sup>, 2014 as the need to promote cross-border cooperation at the local, sub-regional and regional levels.

frequency approach.



While Serie 3 (grey colour) shows the gap in terms of symbolic intensity of the identified words in the policy documents, Serie 1 (colour blue) specifies their occurrence in the 2006 MPFA, and Serie 2 (colour orange) communicates it about the 2018 MPFA.

Source: Content analysis of 2006 and 2018 AU's MPFA.

Graphic 1 above consolidates the argument that the 2018 MPFA has symbolically improved the regional policy of irregular migration in line with anticipation and pre-emption. It has done so as far as words with strong meaning such as irregular migration, smuggling, trafficking, cooperation, and social security of the migrant gained significance. Their expanded reference in 2018 MPFA compared to 2006 MPFA reveals an emphasis on the social and relational dimension of regional governance of irregular migration. Although the absence of measures and words related to “discipline, order, and punishment” does not secure its pre-emptive policy dimension against irregular migration, the prevailing reiteration and use of “better migration”, “ordered migration”, “prevention” discloses a direction towards that. Yet, the meanings inputs brought into the 2018 MPFA are hindered by weakening states’ practices.

The Cameroonian response to the 2017/2019 migration crisis in Libya, which involved many African citizens and Cameroonians especially, acquaints that. Global economic power relationships impinge upon irregular migration governance's regional process<sup>25</sup> and grips member States’ actions. ‘Almost everything rests in the hands of the United Nations for High Commission for Refugees and IOM’<sup>26</sup>, said one stakeholder of the Cameroon ministry of external relations

<sup>25</sup> See for instance the Migration Governance Indicators (MGI) of “Border control and enforcement ; admission and eligibility criteria ; return and reintegration policies ; measures to combat human trafficking and smuggling ; partnerships, through regional and global cooperation ; labour migration management ; bilateral agreements ; legal framework, core elements of the AU’s MPFA 2018 and its plan of action (2018-2030) ( available on the AU’s website <https://migrationdataportal.org/overviews/mgi#2>, consulted on June 22, 2019) that are very contradictory to the AU's principle of free visa and free movement within the Continent.

<sup>26</sup> Interview conducted in May 2019 with diplomats at the Ministry of External Relations

(MINREX). *‘We only take part in professional meetings and accompany the IOM in their implementation policy process of returned migrants as being in charge of some of them’*, advanced another one. “We do not have any particular relation or communication with the AU regarding such aspect, nor are we aware of the AU. COMMIT program; IOM and European Union manage everything”, declared the others. *‘Yes, of course! We have heard about the AU. COMMIT program. It has probably functioned earlier, but we have our communication program, said two communication program officers of the IOM Office in Cameroon. Besides, the IOM office’s representative in Cameroon revealed that ‘the Cameroonian government does nothing, we do everything through European Union and other partners’ funding. ‘Most of the times, we inform the local government about the cases’, said the IOM’s officer.*

Economic resources operate in the regional governance of irregular migration as an effective mean of undermining policy action and political authority over norms and rules<sup>27</sup>. Consequently, the meanings inputs brought into the AU’s 2018 MPFA policies have remained fruitless regarding control over actions and behaviours. Such a situation generates anarchical reports to the public problem and controversies in policy discourses. In the meantime, the political sensitisation or communication to which the AU’s policies call upon<sup>28</sup> is not available, an observation that the United Nations Program for Development (UNDP) also made in one of its 2019 reports as it follows<sup>29</sup>.

*‘Despite dangers, majority of irregular migrants from Africa to Europe would still travel. Irregular migrants who made the fraught journey from Africa to Europe would do so again, despite knowing the trip’s dangers. Some 93 per cent of almost 2,000 irregular migrants surveyed experienced danger on their journey, but only two per cent said that greater awareness of the risks would have caused them to stay home’*<sup>30</sup>.

Transnational partners of states are actors who engage the most in political communication for social sensitisation on irregular migration dangers. The MPFA works the most in administrative corridors. The policy guideline according to which “*Migrant smuggling can be prevented by expanding legal migration pathways and raising awareness on its danger*” (MPFA 2018, 12) is almost pointless in national legislation. In Cameroon, for instance, there is nothing mentioned about irregular migration in 2005 and 2011 laws on migration. The more significant concern is about refugees and asylum seekers.

*“Yes! We are aware of AU’s policies about irregular migration and various programs of communication. However, we do not have the means for their implementation. We attend meetings set by our international partners, although we often take part in the most inactive way. Policies are funded by the European Union, which has the IOM as a partner for action”*, told a Cameroonian diplomat.

The ministry of Youth affairs in Cameroon is a formal IOM’s partner with which *‘there are many collaborative activities’*<sup>31</sup>, through the implementation of the PARI-JEDI national program

<sup>27</sup> Eighty percent (80%) of the Organisation’s budget is assured by foreign powers.

<sup>28</sup> See the mention on the necessity to prevent “recourse to irregular migration” in 2018 MPFA.

<sup>29</sup> <https://www.undp.org/content/undp/en/home/news-centre/news/2019/despite-dangers--majority-of-irregular-migrants-from-africa-to-e.html>, consulted on April 12, 2020.

<sup>30</sup> <https://www.undp.org/content/undp/en/home/news-centre/news/2019/despite-dangers--majority-of-irregular-migrants-from-africa-to-e.html>, consulted on April 12, 2020.

<sup>31</sup> From Interview with the IOM office representative in Yaoundé, in May 2019.

accordingly<sup>32</sup>. Nevertheless, *‘only Cameroonian diplomats and their civil society partners assist in meetings’*<sup>33</sup>, said Cameroon's IOM representative.

Such anarchy in terms of the coordination and regulation of the political communication on irregular migration issues substantiate the endless large numbers of African victims and individual carriers in illegal migration projects. Institutional capacity applies only if, States, significant actors of pre-emptive governance, set up psychological, human and moral limits (Edelman 1985, 7) to undermine social behaviours and conducts. The AU's policy recommendations probably sound good in calling upon States on the necessity of measures and policies. Nevertheless, disregard for AU's communication programs such as the AU. COMMIT does not show States prioritization of such policies. Absence of strategies about how to financially source the implementation of irregular migration policies impinges upon the political commitment to effective regional governance of irregular migration. In contrast to that, the extensive implication of global actors in both political communication and policy process assert their interest in doing what they do and demonstrate the dynamics of underlying power policies of irregular migration. There is an economic dimension of sovereignty, which manifests in terms of funding and sponsoring of policies<sup>34</sup>.

The various public campaigns that IOM organize with the financial help of global partners in which NGOs contribute<sup>35</sup> put IOM at the forefront of policy action. However, IOM considers that *‘AU should more practically deal with the question beyond the mere production of rules and policies’*<sup>36</sup>. Controversies and contradictions in the 2017 / 2019 Libyan migration crisis's regional governance shore up difficulties towards regional cooperation<sup>37</sup>. The failure to reach out a political consensus among actors hinders the regional institutional capacity against irregular migration. According to their political agendas, African states react to irregular migration, whereas international sponsorship of governance activities weakens their control on norms and social mentality against such phenomenon. Regional governance is charged with an economic dynamic of power and authority over the African States and the Region and not over African irregular migrations.

## Conclusion

To the question Why does African irregular migration persist despite improved regional policy frameworks? We conclude that economic sovereignty matter in the regional governance of irregular migration. Irregular migration is a transnational policy issue that involves a multilevel social relation that manifests in the roles played by multiple actors, from the global to the societal levels. In line with its regional governance, the 2018 MPFA and its Plan of Action for (2018-2030) have brought in meanings' inputs which also transformed the transnational normative environment.

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<sup>32</sup> The PARI-JEDI is the National Support Program for the Return of Youths from the Diaspora in Cameroon.

<sup>33</sup> Interview with stakeholders of MINREX, in Cameroon.

<sup>34</sup> The European Union raises important funds through the specific program called “Fonds Fiduciaire d’Urgence de l’Union Européenne pour l’Afrique (FFUE)” and develops an important partnership with the IOM for the protection and reintegration of migrants. This program has been developed to frame coherent policies for the protection and assistance of migrants.

<sup>35</sup> For instance, it is IOM organized the return of Cameroonians who were among the victims in Libya in 2017. Facing the situation, as early as June 2017, only IOM has effectively assisted 2990 returned migrants over 3108 (with 82% of men and 18% of women) through the Africa joint initiative with the EU.

<sup>36</sup> Though innovative in the new MPFA.

<sup>37</sup> See for instance the decision of the Rwanda government to manage only Rwandan cases.

However, its pre-emptive dimension is still pointless in States' actions and national legislations.

The concepts of 'governmentality' and 'pre-emptive policy action' applied to the AU's regional policy framework on irregular migration allowed us to bring in political communication and actors' awareness as a lens to understand regional irregular migration governance. Applying this lens helps to illuminate two trends of the regional governance of irregular migration in Africa. On one side stands the multilevel social relation in which the governance of irregular migration embarks governmental actors capable of *control, discipline, order* States, bodies, minds, and social behaviours *per se*. Understanding how a multilevel social relation frames regional governance serves to clarify the relationship between regional policy outputs and the outcomes associated with African States' actions. How the Cameroonian government relates to the AU's regional policy contents against irregular migration, and how this transforms its legislation or activities against the social problem. How governments and global actors coordinate to satisfy AU's policies. The relationship between framed policies and policy action is vital to explain the causes of policy failures or the perpetuation of public problems such as irregular migration. It displays the role of norms over the governance process and that of their conditions and control.

On the other side, economic sovereignty commands the multilevel social relation of the regional process of governance. It refreshes foreign policy's neorealist nature based on 'compatibility of objectives' and 'resource capacity'. If it is assumable that international migration issues stimulate and intensify international cooperation and global governance, the nature and conditions for the latter bring back power politics in new economic forms. Sovereignty in the regional governance of irregular migration has nothing to do with a mere political 'institutional capacity'. Instead, the institutional capacity, which bears on the control of norms and then action, resides on economic resources. European Union (EU) raises important funds for the governance of irregular migration in Africa through specific programs such as the 'Fonds fiduciaire d'urgence de l'Union européenne pour Afrique (FFUE). As a result of this, it also controls irregular migration policies in that part of the region.

Researching the AU's governance of irregular migration helped us realise how meagre are migration policy studies in Africa, particularly when addressing the crucial question of irregular migration governance policies. If the availability of updated data and dysconnectivity already challenge migration research on and in Africa, the most surprising is the lack of governmental concern about irregular migration issues. Policy scholars who invest in the field to understand migration policies may then encounter many difficulties. Our position between university and a higher education professional school that trains diplomats helped us overcome such difficulty and grasp essential information.

Regarding networking and international mobility, migration studies are one of the terrains that promote interdisciplinarity and then engender various collaborations between social scientists and different backgrounds. However, among the fields through which African political scientists take advantage of the global dimension of knowledge, international networking and scientific cooperation stand migration studies, just as political scientists working on peace and security.



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