

FROM GHANA TO 'FORTRESS EUROPE': THE RIGHTS AND WRONGS OF CROSSING
THE MEDITERRANEAN

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Gana'dan Avrupa'ya: Akdeniz Geçişlerinde Doğrular ve Yanlışlar

Bu tez, düzensiz göç hareketleri ve insan hakları arasındaki ilişkiyi, göç evrelerine atıfta bulunarak açıklamaya çalışmaktadır. Gana üzerine yapılan birçok göç çalışması ülkenin ekonomik gelişmişlik düzeyine yoğunlaşarak yarı-kalifiye ve kalifiye göçmenler üzerinedir (Kleist 2011, 5; 8-11). Bu tez, Sahra çölünü ve sonrasında Akdeniz'i geçen kalifiye olmayan düzensiz göçmenlerin tecrübelerine dayanarak hazırlanmıştır.

Bu tezde yapılan analizler, insanların ekonomik, sosyal ve kültürel haklarıyla beraber vatandaşlık ve siyasi haklarının çiğnenmesinin hangi şekillerde göçe sebep olduğu üzerinde yoğunlaşmaktadır. İlaveten, bu tez, düzensiz göçmenlerin Kuzey Afrika ve Avrupa ülkelerine göç ederken son duraklarına kadar olan seyahatlerinde seyahat haklarının ne şekillerde çiğnendiğini de ortaya koymaktadır.

Seçilen göçmenler üzerinde yapılan mülakatlara dayanarak bu tez Gana'dan Avrupa'ya olan göçün yasal, sosyal ve siyasi çerçevesini çizmektedir. Bu yapılırken, bu tezde Gana'ya geri dönen göçmenler, Libya gibi transit ülkelerde yerleşen göçmenler ve İtalya gibi ülkelere yerleşen düzensiz göçmenler ve onların göç sırasında karşılaştıkları zorlukları içeren gerçek hikayelerinin nicel analizi de yapılmıştır.

Anahtar kelimeler:

Gana, Kale Avrupa, düzensiz göç, doğrular ve yanlışlar, Akdeniz geçişi

ABSTRACT

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From Ghana To ‘Fortress Europe’: The Rights And Wrongs of Crossing The Mediterranean

This thesis examines the interplay between irregular migration and human rights, with specific reference to different phases of the migration cycle. Most academic migration studies on Ghana are based on the semi-skilled and high-skilled regular migrants; which focuses on economic development of the country (Kleist 2011, 5; 8-11). This thesis therefore brings to light the significance of the experiences of that category of semi-skilled and unskilled irregular migrants who take to the Sahara Desert and crossing of the Mediterranean Sea.

The analyses encompasses how violations of Economic, Social and Cultural Rights (ESCR) of people push them to migrate, the violations of both Civil and Political Rights (CPR) and ESCR that accompany the unregulated movement of irregular migrants. It further considers how the rights of irregular migrants to freedom of movement is abused in their journey en route to countries of transit in North Africa and countries of destinations in Europe.

After providing the legal, social and political framework of migration from Ghana to the EU, based on elite interviews, the paper presents original qualitative analyses of interviews of irregular migrants experiencing different situations, namely returned migrants (returnees) to Ghana; irregular migrants settled in transit countries like Libya, and irregular migrants settled in countries of destinations like Italy.

Key words:

Ghana, ‘Fortress Europe’, Irregular migration, Rights and Wrongs, and Crossing the Mediterranean.

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List of Abbreviations and Acronyms

ACP	African, Caribbean and Pacific Group of States
AI	Amnesty International
AU	African Union
CAT	Convention against Torture, Inhuman, Degrading Treatment and Punishment
CEDAW	Convention on Elimination of All Forms of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CFSP	Common Foreign and Security Policy
CoE	Council of Europe
CRC	Convention on Rights of the Child
EC	European Commission
ECJ	European Court of Justice
ECOWAS	Economic Community of West African States
ECHR	European Court of Human Rights
ECSC	European Coal and Steel Community
EEA	European Economic Area
EEC	European Economic Community
EP	European Parliament
EU	European Union
EURATOM	European Atomic Energy Community
GFMD	Global Forum for Migration and Development
GMG	Global Migration Group
JHA	Justice and Home Affairs
IBR	International Bill of Rights
ICCPR	International Convention for Civil and Political Rights
ICESCR	International Convention for Economic, Social and Cultural Rights

ICMPD	International Centre for Migration and Development
ICMW	International Convention on the Protection of the Rights of all Migrants Workers and Members of their Families
ICHRP	International Council of Human Rights Policy
ILO	International Labour Organization
INGO	International Non-Governmental Organization
IOM	International Organization for Migration
NGO	Non-governmental organization
NATO	North Atlantic Treaty Organization
OAU	Organization of African Unity
OECD	Organization for Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
OMC	Open Method of Coordination
SEA	Single European Act
SIS	Schengen Information System
TCNs	Third Country Nationals
UN	United Nations
UNCTOC	United Nations Convention Against Transnational Organized Crime
UDHR	Universal Declaration of Human Rights
UNHCR	United Nations High Commission for Refugees
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
VCCR	Vienna Convention on Consular Relations

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1. INTRODUCTION

1.1. Research Problem

When it comes to borders, many scholars have portrayed European borders as a ‘fortress’. There are other terms being used namely: ‘Berlin Wall’ and ‘El-Dorado’ (Pinos 2011, 1). The term ‘fortress’ is being used in metaphorical sense (Hansen 2010, 89; Pinos 2011, 1) to connote the restrictive immigration and border management policies of the European Union (EU). ‘Fortress’ evokes the rebirth of ‘the enclosed medieval (European) political space’ (Pinos 2011, 3; Kushnick 1998, 184). According to Murad (2006, 6) the term ‘Fortress Europe’ means ‘removing inner borders but tighten up outside borders’. This was particularly the case when EU citizens were granted mobility rights to move freely across Europe but the case of Third Country Nationals (TCNs) was not taken into consideration; instead restrictive border-entry measures promulgated to ban them from entry (Bigo 2009, 580). Andrian Favell also shares this view:

There seems to be a huge effort in redirecting the internal European integration project to external border construction and policy – particularly to the South. In this sense, immigration does appear to be helping in the (negative) construction of Europe – as the ‘fortress’ hoped for by alarmed national populations (2009, 176).

Therefore, the ‘Fortress Europe’ metaphor connotes some meaning of racism. It depicts an iron curtain (i.e. restrictive immigration policies) built between European citizens and non-European citizens (Boswell 2006, 8).

The International Centre for Migration Policy Development (ICMPD 2004) reports that of all the irregular migrants transiting through Aghadez, 50%, 30%, 15% and 5% are from Nigeria, Ghana, Niger and other West African countries respectively. From this data, one can easily understand the relevance of migration for Ghana, which accounts for the 30% of the total. This problem was the major concern of the former director of Ghana Immigration Service (GIS) – Dr. Elizabeth Adjei:

We have the category of unskilled people; that is the most difficult category who also wants to leave this country to go to other places in search of greener pastures. The way they do it, going across the desert, means the loss of lives and ... you know ... uncertainties (Kleist 2011, 20).

The Guardian in May 2011 reported that a vessel captained by a Ghanaian carrying 72 irregular migrants from Sub-Saharan Africa who were fleeing turmoil in Libya, kept afloat on the Mediterranean Sea for two weeks as a result of fuel shortage. While stranded they were seen by NATO helicopters and French ships that ignored their call for help (Shenker 2011). In the end only nine people survived; the rest died due to lack of food and water (Lorenzo/IFHR/Video/2011). This is one of the numerous stories we hear from time to time of the dangers of irregular migration, while many others go unreported. More serious still are the untold stories of hardships, hazards, harassments, exploitations and deaths that occur on the Sahara desert. Thus, this thesis analyzes migration from Ghana to the EU (see 1.2); and addresses issues of human rights of irregular migrants in the context of EU migration policies, giving voices to the perspective of some migrants.

1.2. Aim of the Thesis

The general aim of this thesis is to explore the interplay between irregular migration and human rights, with specific reference to different phases of the migration cycle. The analyses encompasses how violations of Economic, Social and Cultural Rights (ESCR) of people push them to migrate, the violations of both Civil and Political Rights (CPR) and ESCR that accompany the unregulated movement of irregular migrants. It further examines how the rights of irregular migrants to freedom of movement are abused in their journey en route to countries of transit in North Africa and countries of destinations in Europe. This is done by analyzing the situation using a theoretical framework (see Chapter 2) and original qualitative research interviews (see chapter 4). In particular, interviews I conducted in Ghana and in Italy with irregular migrants from Ghana travelling across the Sahara desert to North Africa (Libya) en route to Europe (see Appendix A).

The primary target of all migrants according to my research interviews in Ghana is to cross the Mediterranean to reach the island of Lampedusa¹. The first step begins from migrants' community of origin. Thus, the term crossing the Mediterranean encapsulates all the migratory stages in the lives of irregular migrants: before migration, the journey en route to transit countries, living in transit countries, at borders, the actual crossing of the Mediterranean Sea, arrival and living in destination countries and finally upon return to their country of origin. However, in order to examine the movement of irregular migrants from Ghana to 'Fortress Europe', it is necessary to define the key terms used in this thesis namely: migrant, irregular migration and irregular migrant.

1.2.1. Definitions of Key Terms

To begin with, according to a report by the International Council on Human Rights Policy (ICHRP), there is no any singular internationally agreed definition for the word 'migrant' (2010, 15); nevertheless, there are various international definitions. A migrant is 'any person who lives temporarily or permanently in a country where he or she was not born, and has acquired significant social ties to that country' (UNESCO 2005); and also 'a person who moves from one place to another to live, and usually to work, either temporarily or permanently (AI 2006, 5). But for the sake of this thesis, migrants are defined as: 'Persons who are outside the territory of the state of which they are nationals or citizens, and are in the territory of another state' (UN Commission 2006).

Irregular migration is defined as 'migration that takes place outside the norms and procedures established by states to manage the orderly flow of migrants into, through, and out of their territories' (IOM official web-page). Therefore, it is inferred from the above-mentioned definition that, an irregular migrant is someone who is at

¹This is the largest of the three Italian Islands (the other two are Linosa and Lampedusa) found in the Mediterranean Sea. The island is part of the Sicily region; and is about 120 kilometres away from Tunisia and Libya.

odds with the laid down norms and procedures of regular migration. This also includes those who have entered a country regularly or legally and have stayed beyond the expiration of their visas, as expatiated by ICHRP:

An irregular migrant (or undocumented) is a person who lacks legal status in a transit or host country. It refers to people who entered the territory of the state without authorization, as well as to those who entered the country legally and subsequently lost their permission to remain (2010, 15).

It also includes people who have entered into another country by using fraudulent documents (Grant 2005a, 9). According to the Italian Police data, this category of irregular migrants who stay after the expiration of their visas (the so-called overstayers) constitute more than two-thirds of all irregular migrants entering Italy: '15% of the illegal migrants in Italy enter the territory cross borders with false documents or else concealed inside means of transportation; 10% are made up of illegal aliens landed on Italian shores, 75% are overstayers' (Delicato 2004, 4). This thesis adopts the usage of the term irregular migrant/migration instead of illegal migrant/migration, since no human being by the nature of his existence and movement is illegal (Cholewinski 2006, 4). Furthermore, the usage of that word illegal connotes some stigma and criminality to migrants and thereby becomes counterproductive in the management of migration (Hammarberg 2009, 383; Guild 2010, 8-10). The fact that irregular migrants lack the legal procedural documentation of entry into Europe does not warrant the usage of the term illegal immigrants (Guild and Carrera cited in Peo Hanson 2010, 99). Didier Bigo in his article on 'Immigration Controls and Free Movement in Europe' discussed the use of the word, immigrant (2009, 585). According to him, the word has been 'ethnicized' and 'racialized' and denotes TCNs. Even the use of the term TCNs according to some human rights activists is demeaning. According to Bigo (2009, 585), the term refers to non-Community immigrants; usually people originating from poorer countries of the South like Ghana, Nigeria, Egypt, Tunisia, etc; and not richer countries of the North like the USA or Australia.

Consequently, a resolution passed by the EU parliament (EP) in 2009 banned EU institutions and Member States from using the term illegal immigrants; and instead the terms: irregular/undocumented workers/migrant should be used (EP Resolution of 14th January 2009). In addition, the Council of Europe (CoE) in its Parliamentary Assembly, Resolution 1509 (2006) also states that it prefers to use the term ‘irregular migrants’ or ‘migrant without borders’ (CoE 2006). In addition, the UN General Assembly (1975) endorsed the usage of the terms ‘undocumented’ or ‘irregular’ to refer to people who have entered countries and are working without proper documentations. However, the term undocumented according to Khalid Koser (2005:5) is ambiguous and vague which is ‘sometimes used to denote migrants who have not been documented (or recorded), and sometimes to describe migrants without documents (passports, etc.)’. The ILO has elucidated this view as:

People who enter or work in countries without legal authorizations have been labeled illegal, clandestine, undocumented or irregular. ‘Illegal migrants’... has a normative connotation and conveys the idea of criminality. Thus the 1994 International Conference on Population and Development recommended the term ‘undocumented’; but this is incomplete, since it does not cover migrants who enter the host country legally with tourist documents but later violates their conditions of entry by taking a job. Furthermore, migrants moved by traffickers may have false documents; this prompted an International Symposium on Migration in Bangkok in April 1999 to recommend the term ‘irregular’. Irregularities in migration can arise at various points – departure, transit, entry and return – they may be committed against or by the migrant (ILO 2004, 11).

In spite of all the difficulties in the choice and usage of an appropriate term, the term ‘irregular’ is more preferable to other terms namely: illegal, undocumented and clandestine. However, the EU, which is a significant regional and international actor in the governance of migration, is persistently using the term ‘illegal’ (Cholewinski 2004, 9). This is because the EU sees illegalization of migrants as sufficient reason for making restrictive immigration policies.

1.3. Research Questions and Research Design

The experiential life of people is the area qualitative methods are designed to study (Pokinghorne 2005, 138).

This research is about giving a voice to the needs of irregular migrants through their experiential lives, by applying qualitative method of analyses. Qualitative method of analyses ‘deals with human lived experience’ (Schwandt 2001, 84). Therefore, the research questions guiding this thesis are:

1. What are the human rights aspects related to irregular migration?
2. What are the causes of irregular migration of the youth from Ghana?
3. How to address human rights through policy-making.

First of all, this thesis will look at migration policies and policymaking concerning human rights of migrants in the UN, EU and Ghana; and then finally, I will analyze original qualitative interviews of policymakers, practitioners, Ghanaian irregular migrants in Italy, returned irregular migrants and prospective migrants in Ghana.

The qualitative method of investigations according to Schwandt is ‘the life-world as it is lived, felt, undergone, made sense of, and accomplished by human beings’ (2001:84). The aim of a qualitative research is ‘to understand the complex world of human experience and behavior from the point-of-view of those involved in the situation of interest’ (Krauss 2005, 764). I opted for qualitative method due to the absence of accurate, reliable and verifiable statistics; as Kjaerum (2011, 1) acknowledges, ‘we do not have exact numbers’ relative to migration. In the case of Ghana, the absence of migration policy and the unregulated nature of migration make statistics on irregular migration unreliable. In addition, the choice for this method stems from the fact that, the value of qualitative research ‘lies in its unique capacity, through in-depth interviewing and observation, to learn and understand the underlying values of individuals and groups’ (Pierce 2008, 45). These individuals or groups such as irregular migrants who are usually in the minority or the vulnerable are not captured by survey samples or are reluctant to avail themselves.

Secondly, this choice was made also to give ‘thick’ meaning due to its characteristics of constructive and interpretive. The distinction between ‘thick analyses’ and ‘thin analyses’ as regard to qualitative and quantitative respectively is of paramount importance. ‘Thick analyses’ or what Geertz (1973) refers to as ‘thick description’ is ‘an interpretive work that focus on the meaning of human behavior to the actors involved’ (Brady and Collier 2003). This feeds into my intention to explore the meanings of ‘how’ and ‘why’ in regard to experiences of migrants within the framework of human rights. Since my interest is not about ‘how much’ and ‘how often’ in relation to irregular migrants, but instead their experiences, ‘purposive selection’ was the ideal choice (Merriam 2002, 12). Therefore, I have opted for a sample of interviews. Patton (1990, 169) strengthened this point by saying that ‘one should select *information-rich cases* for study in depth’. Information-rich cases according to him ‘are those from which one can learn a great deal about issues of central importance to the purpose of the research’.

In addition, I engaged in a case study to analyze a particular group of migrants. Case study ‘is the essential building block of empiric research’ (Pierce 2008, 53); and ‘it investigates a contemporary phenomenon within its real-life context’ (Yin 1995, 23). In addition, despite the criticism of case studies of its ‘generalisability’, a case study will provide the inductive lenses with which ‘to see the world through the subject’s eye’ (Pierce 2008, 45). In view of these, a case study was carried out in Ghana, in one of the popularly known community of Nima (see 1.6.2) for trans-Saharan/trans-Mediterranean migrations of the youth. Therefore, this qualitative study, analyses fourteen original structured and semi-structured interviews which I personally carried out with:

- Prospective irregular migrants (2);
- Returned migrants (from North African and the EU) in Ghana (6);
- Regularized/irregular migrants living in Italy (4);
- Elite interview of the head of Migration Unit at the Interior Ministry (1);
- Purposive/professional conversation with the chief of Mission of IOM in Libya (Mr. Lawrence Hart) (1).

1.4. Method of Data Collection

My qualitative investigative fieldwork was carried out in two different geographic locations namely Italy and Ghana. It started on the 21st of September in Turin, Italy; one of the immigrants' areas hubs, when I was on a two week summer course on coincidentally migration. And it continued in Ghana and lasted for six weeks. I conducted elite and non-elite interviews. This accorded me a great opportunity to have my original empirical investigations from a major receiving country of irregular migrants and a major irregular migrants sending country.

First of all, as a student at the European Training Foundation (ETF) in Turin, I had the opportunity to interview Mr. Lawrence Hart. This was very significant for my thesis. Firstly, he was the Chief of Mission of IOM in Libya. Secondly, it provided me with some quantitative data to understand the context of the phenomena. He estimated that there are over 20,000 Ghanaian irregular migrants in Libya. Thirdly, Libya is a major transit hub for irregular migrants who intend to cross the Mediterranean to Italy and Malta in the EU; and finally, Libya is also a host to many irregular migrants who do not intend to cross the Mediterranean. Furthermore, I did face-to-face interviews with three Ghanaian irregular migrants in Bergamo, Italy whose stay has now been regularized, and one in Milan, Italy who crossed over during the Arab Spring and is now living in the Centre for Identification and Expulsion (CIE). While in Ghana, I conducted original qualitative interviews of six returned migrants, two prospective migrants. Most of the interviews lasted for an hour and interviewees were men between the ages of 16-33. Some were interviewed twice. I also conducted an elite interview with Mr Reuben Okine – the assistant director in charge of the Migration Unit at the Ministry of Interior.

My former work experience as a project officer in the community of Nima working on Behavioural Change Communication (BCC) project on Water Access Sanitation and Hygiene for Urban Poor (WASH-UP), financed by USAID and implemented by CHF International (an INGO) gave me access and the ability to conduct my interviews with ease. I know most of the interviewees and I can speak different local

languages namely Hausa, Twi and Ga. Thus, my language skills and cultural background with my communication and facilitation skills helped to create *rapport* between my interviewees and me as well as communicate effectively. This is because according to Shramm's model of communication, communication between people of different cultures requires one to have **fields of experience**, intersecting languages, cultures, institutions and life experiences (Shramm 1961, 5-6).

In addition, I also carried out a Focused Group Discussion (FGD) of four male returned-migrants in Ghana. FGD was chosen as another complementary method due to the nature of communication amongst returned-migrants in Nima. They usually sit idle in groups in the community in what they called 'bases'² throughout the day playing games and recounting their stories of trans-Saharan/Mediterranean migrations. This FGD lasted for an hour; and it gave me the opportunity to have different views on one subject matter. I was also able to collect three videos:

1. About the agony and challenges irregular migrants face on the Sahara desert;
2. Showing dozens of dead bodies of irregular migrants on the Sahara desert;
3. About irregular migrants crossing the Mediterranean whiles being intercepted by securities.

In conclusion, my thesis is based on original qualitative investigations as I collected interviews, primary documents including videos as well as speeches of UN Commissions and Agencies. In addition, conventions concerning human rights were considered. In particular those of EU institutions in the form of treaties, communications, and speeches of officials. Secondary literatures on migration and human rights were also reviewed.

² A 'base' is a term locally used in Nima to connote a kind of sitting place of relaxation by the youth who are mostly unskilled, jobless, returned migrants and prospective migrants.

1.5. Relevance of the Thesis

This thesis brings to light the significance of the experiential lives of that category of migrants, who take to the desert and cross the sea using irregular migrants from Nima, Ghana as a case study. Secondly, according to Stephanie Grant³, there are little works done so far that look at migrants' communities of origin from their own perspectives (Stefanie Grant, Pers. Comm.). In view of that, this thesis contributes to existing literature by voicing out the experiential lives of irregular migrants, through analyses of original qualitative interviews from Nima before migration, as well as their transit and destination countries and upon return. Eventually, the lack of human right-based approach to migration policies has some concerning consequences; the most relevant being the lack of protection provided to irregular migrants abroad, which exacerbates their vulnerabilities. In view of that, this thesis provides a new way of thinking and analyzing the human rights-based approach to migration policymaking and migration governance in Ghana, at regional and international levels.

1.6. Ghana: Country in Focus

Ghana was the first country to gain independence from the British in 1957 and attained a republican status in 1960. Located in the Western part of Africa, it is bordered by the Gulf of Guinea to the South, and three francophone countries – Ivory Coast to the West, Burkina Faso to the North and Togo to the East as shown in **Map 1**. Ghana has a land size of 238, 540 Square Kilometers with a population of 24,658,823 (Ghana Statistical Service 2010) with a growth rate of 1.787%, birth rate of 26.99/1,000 and death rate of 8.57/1,000 (CIA World Fact Book 2012).

³ Stefanie Grant is a lawyer in London and a partner in Harrison Grant. She headed the research division of the office of the UN High Commissioner for Human Rights in Geneva, and was also Amnesty International Director of Research; and currently a visiting research fellow at University of Sussex, UK.

MAP 1



There are ten administrative regions, which are comprised of 170 districts and 230 constituencies. Ghana like any other sub-Saharan African country had experienced intermittent political instabilities, which had debilitated the economic well being of the people immediately after the 1966 overthrow of Ghana's first president – Kwame Nkrumah – until 1992 when constitutional democracy was re-introduced.

In 2011, the CIA World Fact book rated Ghana's Gross Domestic Product (GDP) real growth at 13.50% (the third highest in the world after Qatar and Mongolia) and GDP per capita at \$3,100. This was mainly due to recent oil production consequent to the oil find in 2007, which is reported to contain 3 billion barrels of light crude oil reserve; coupled with sound macroeconomic policy management. However, Ghana's economy still remains largely informal and agrarian. More than half of the population are rural and are engaged in agriculture, which still remains the backbone of the country; with cocoa accounting for the largest foreign exchange earner since independence.

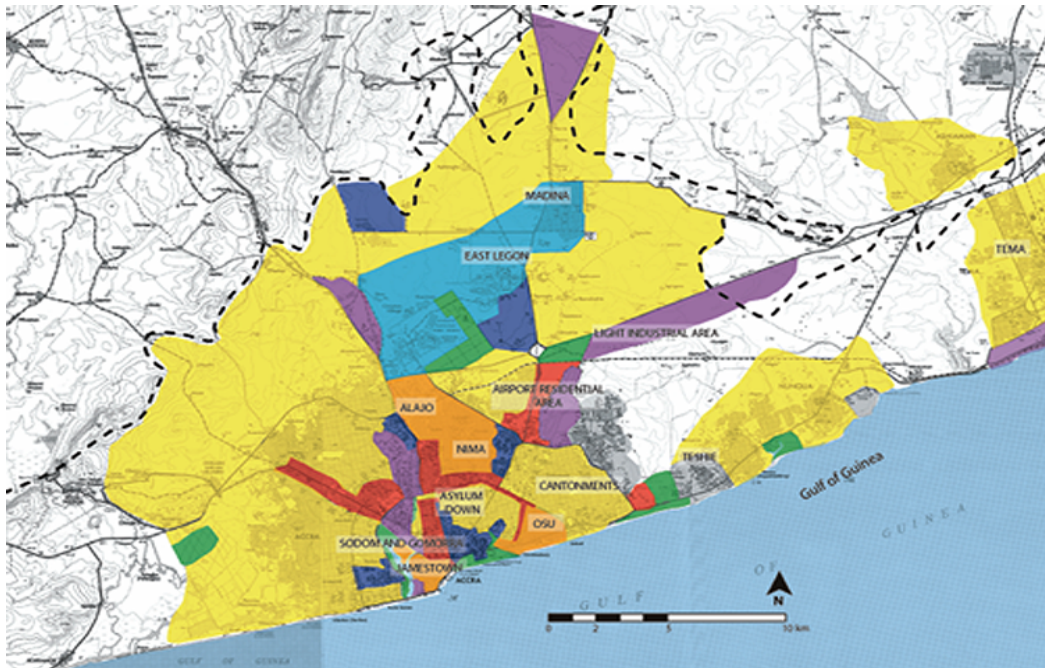
1.6.1. Historical Trend of Ghana's Emigration

Ghana, once a centre of attraction for migrants prior to and after independence in 1957, became one of the major migrant sending countries in the 70's, 80's and 90's; to largely neighboring sub-Saharan African countries like Nigeria and Cote d'Ivoire (Ricchio 2008, 218). This major transformation in migration was due to political instability and economic downturns (Asiedu 2003, 2; Peil 1995 and Rimmer 1993 cited in Anarfi et al. 2003, 19). A few decades ago, there were relatively few Ghanaians living in the EU; and their profiles were highly skilled mainly students, researchers, diplomats, businessmen (Asiedu 2003, 2; UNODC 2011, 19). However, the trend changed over the decade to include the unskilled that are largely irregular emigrants. Trans-Saharan migration to Libya is a recent event, dating to the early 90's, and it was mainly due to the economic prosperity subsequent to the oil find in Libya. And since then, the trend has not changed much; despite the attainment of political stability, democratic governance, rule of law and progressive economic reforms from the late 90's towards and after the millennium (Also see 1.1).

1.6.2. Case Study of Nima

Nima is the name of one of the high densely populated shanty towns found in the heart of Accra – the capital city of Ghana; as can be seen in **Map 2** in the next page. Its geographical coordinates are 5° 35' 0" North, 0° 12' 0" West. For the sake of this study, the name Nima used here represents both the twin-communities of Nima and Mamobi; since the two communities are adjoining communities of the same features and are both located in one of the 230 constituencies called East Ayawaso in the Greater Accra region of Ghana.

Map 2



Nima is one of the major Zongo communities in Ghana. The names Nima and Zongo are synonymous and are usually used interchangeably. Zongo according to Mariama Awumbila (2008, 12) is:

A word which originates from the Sahel region of the north and it means ‘caravan’ and was once used to describe the areas where trans-Saharan traders would rest their ware-loaded camels as they stopped on the fringes of towns and settlements in the south to barter cattle and cloth for salt and Ashanti gold. In Ghana, it is used broadly to refer to a stranger community specifically created and inhabited by northern migrants. The Zongo is characterized by overcrowding, inadequate sanitation and dilapidated buildings.

Eventually, Nima has become a heterogeneous community not only inhabited by migrants from Northern Ghana but also migrants from other West African countries like Nigeria, Burkina Faso, Ivory Coast, Mali, Niger, Togo, Benin; most of whom entered Ghana during the Gold Coast as economic migrants (Adepoju 2007, 14). Therefore, the word Nima does not refer to a single ethnic group. It describes an ethnogenic community living in the same poor area.

1.7. Limitations

Firstly, the research focuses on some aspects of migrations of a small number of individuals. Nevertheless, it provides a good sample and it poses the problem of migration from Ghana from an **inside** perspective. Secondly, the civil war that emerged in Libya and other political instabilities in the countries of North Africa in the wake of the Arab Spring seems to be a great challenge to the research; since North Africa, and especially Libya, is a major transit and to some extent a destination hub for irregular migrants. However, it did not hinder the research but instead gave another dimension to the experiences of irregular migrants during and after the civil war in Libya. Finally, I had to do with lack of financial support for my research. I lacked recording tapes and photo camera for the investigations. I only used pen and paper, and sometimes it was an informal conversation with individuals or focused groups.

1.8. Chapter Structure

This thesis is structured into five chapters. Chapter one introduces the thesis, which sets the stage for the study. It comprises the research problem, the aim of the study, research design and method of data collections, relevance of the chapter of the study, Ghana in focus, and the study area as well. Chapter two contextualizes the theoretical framework used in the study. This looks at theorization of the rights and wrongs of crossing the Mediterranean; analyzing legal and constitutional framework at international (UN), regional (EU) and national (Ghana) levels. Then chapter three discusses EU migration policy making and migration policies, to ascertain how those policies infringe upon the right to freedom of movement of irregular migrants entering Europe. Chapter four explores the challenging question of the freedom of movement of irregular migrants using the experiential lives of irregular migrants from Ghana to the EU. This mainly focuses on Nima as a case study. And then the last chapter concludes the thesis by addressing the research questions and making policy recommendations.

2. HUMAN RIGHTS AND MIGRATION

2.1. Theorizing Rights and Wrongs of Crossing the Mediterranean

Human rights are not a matter of charity, nor are they a reward for obeying immigration rules. Human rights are the inalienable entitlement of every person, including the world's 214 million international migrants as well as their family members (Ban Ki-Moon 18th December 2011).

The two terms: 'rights' and 'wrongs' used in the title of this dissertation denote the human rights implications of crossing the Mediterranean for irregular migrants. In theorizing international migration, there seems to be a paradigmatic shift from the economics-driven theories to the human rights framework. This is against the backdrop that researchers since 1994 have established the connection between migration and violations of human rights such as poverty and institutional malfunctioning (Grant 2005a, 4). There is a multifaceted and complex nexus between migration and human rights (Taran 1994, 1-8; 2000a, 85; 2000b, 1; Grant 2005a, 4; Zard 2005, 1). Human rights violations are usually the drivers of movement from countries of origin; they also form the features of inhuman treatment migrants face in transit countries, their integration in countries of destination; and finally, human rights also features in the issues of return migrants (Taran 1994, 1; Zard 2005, 1).

More significantly, the right to movement is an inalienable right of every individual. The Universal Declaration of Human Rights (UDHR 1948) stipulates that every person has the right to freedom of movement. Migration has been and it is still inextricably linked to the nature of human being; it is an intrinsic part of human nature. Thakur (2003, 2) argues that, if migration and human nature were not inextricably connected, all of us would have been settled in Africa, according to the best archaeological findings about the origin of human beings. Migrants are human beings; and the UDHR seeks to protect all human beings regardless of race, color, sex, language, religion, ethnicity or nationality. The UDHR therefore provides a primary cardinal source for all 'legal entitlements for individuals and legal duties for

states' (Grant 2005a, 15). Thus, migrants have the rights to be protected. According to the United Nations (UN) Secretary General – Ban Ki-Moon:

The irregular situation of many international migrants should not deprive them either of their humanity or their rights. Together, let us reaffirm the fundamental principle of the Universal Declaration of Human Rights: 'all human beings are born free and equal in dignity and rights (2010a).

This thesis therefore adopts human rights as a conceptual framework of analyses. This is because the focus of most literature is on the traditional economics-driven factors of migration like the traditional 'push-pull' theory and gravity models (De Haas 2011, 7). Mariam Awumbila et al. (2008, 12-16) also share this view in the specific case of Ghana; and Navanethem Pillay – UN Human Rights Commissioner (see Chapter 5, 87-88). Hein de Haas went further to point out that those theories 'are often not grounded in migration theory, they tend to ignore or fail to properly specify several theoretically important migration determinants in receiving and particularly sending countries'. Furthermore, Monette Zard also provided some support to the use of human rights as an appropriate framework for migration research that it 'provide a unique framework agreed by states through which they can mediate the conflicting interests of sending and receiving countries, communities and individuals involved in the migration process' (2005, 3).

Thus, this thesis explores how the violations of the economic, social and cultural rights of the people in Nima push them to migrate; and to explore politically and intellectually the challenging question of the freedom of movement of irregular migrants, using the movement of irregular migrants from Nima (Ghana) to Europe as a case study. Looking at the complex and the multidisciplinary nature of migration and the complexities of EU migration policies, this thesis explores different literatures in order to address a specific research position. When it comes to the rights and the security aspects of migration, human rights framework and the securitization theory of the Copenhagen School provided the critical lenses of examination (see 3.5). In addition, the analyses of EU migration policies (see 3), EU integration theory of intergovernmentalism developed by Moravcsik (see 3.3); and the theory of intensive transgovernmentalism by Wallace (Also see 3.4) is discussed.

2.2. Legal and Institutional Framework

This section deals with firstly, the principle of non-discrimination inherent in international treaties; secondly, with the paradox of migration, human rights of migrants and state sovereignty; thirdly, with the international conventions concerning the rights of migrants; fourthly, the 1990 International Convention on human rights in context; the fifth section deals with EU charter on fundamental rights; and finally, Ghana's human rights legislations and institutions concerning migrants' rights.

It is worthwhile to point out that 'there is no discrete body of international migration law' (AI 2006, 16). Nonetheless, there is a nascent 'international migration regime' comprising international standards, mechanisms and institutions (AI 2006, 18). Institutions that are responsible for the protection of migrants' rights are:

- The office of the High Commissioner for Human Rights (OHCHR);
- The UN human rights treaty bodies, in particular the Committee on Migrant Workers;
- The special procedures of the UN human rights institutions, in particular the Special Rapporteur on the Human Rights of Migrants;
- The UNHCR, where the Refugee Convention applies, and which has responsibility for promoting the Statelessness Conventions, and;
- The International Labour Organization (ILO) where relevant ILO Conventions apply (AI 2006, 18).

2.2.1. The Principle of Non-discrimination

According to a report by Global Migration Group (GMG 2008, 13-14), on 'International Migration and Human Rights', international human rights legislation ought to consist of a legal framework for the protection of all migrants irrespective of their race, color, sex, language, religion, political views or opinions. The report went on to state that, the principle of non-discrimination is the pivot around which all human rights treaties revolve; which posits equal rights and protection to both nationals and non-nationals alike. The principle of non-discrimination is so strong

and compelling that, unlike customary international laws, which can be altered by the consent of member states through international treaties, peremptory laws cannot be violated by any state. According to the Vienna Convention on the Law of treaties:

A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of states as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character (Janis 1987).

This means that any treaty that contradicts this peremptory norm (*i.e. jus cogens or ius cogens*) is considered as null and void under the Vienna Convention on Law of Treaties. In addition, human rights are indivisible – that is CPR cannot be separated from ESCR (Taran 2000b, 4). For example, we cannot separate the right to freedom of movement and the right to life from the right to education, health, housing and employment. The two are not mutually exclusive; they are all considered as one.

2.2.2. Paradoxes of Migrants’ Human Rights and State Security

While Thakur (2003, 2) argues that international human rights law affirms that every person has the right to move and stay in any country, Zard (2005, 1) and Martin (2005, 7) counter argue that while international human rights law grants people the right to move abroad and return from abroad, it does not however give the rights to individuals to move from one sovereign nation to another. It is a fact that states have the right to control their sovereign territorial integrity; determining who is permitted to enter and exit, but we should not lose sight of the fact that those same states are bonded by international human right laws governed by a supranational body to which all states belong. Two things can be distinguished here; the first is that states exercising their powers of admission and expulsion and the second are the treatment of migrants already living in the territory of the EU (Bosniak 1991, 753). States usually criminalized migrants by tagging them as illegal immigrants to justify their restrictive immigration policies and acts, such as expulsion and detention of entry into ‘fortress Europe’. Again, migrants already residing in EU territories are usually

tagged as ‘transgressors’ in that they entered without legal documentation (Hammarberg 2011, 2). However, the entry and stay of migrants in the sovereign jurisdiction of the EU countries will not compromise with state security as Article 79 of the 1990 International Convention on Migrant Workers (ICMW) states:

Nothing in this Declaration shall affect the right of each State Party to establish the criteria governing admission of migrant workers and members of their families. Concerning other matters related to their legal situation and treatment as migrant workers and members of their families, States Parties shall be subject to the limitation set forth in the present Convention.

Human rights and state security are two intersecting and conflicting features of international migration today. On one hand, States have the sovereign right under international law to secure their territories as who enters, who stays and for how long; and who exits under international law; however states are also obliged to protect the human rights of ‘everyone’ under their jurisdiction as enshrined in the UDHR (Hammarberg 2009, 96; Koser 2005, 10; Fitzpatrick and Brotman 2002, 3; Martin 2005, 6-7).

In a nutshell, how do we reconcile this conflicting issue and where do we draw the line of demarcation? According to a statement issued by the GMG (2010, 1), these two conflicting and intersecting issues can be reconciled:

Too often, States have addressed irregular migration solely through the lens of sovereignty, border security or law enforcement. Sometimes driven by hostile domestic constituencies. Although States have legitimate interests in securing their borders and exercising immigration controls, such concerns cannot, and indeed, as a matter of international law do not, trump the obligations of the State to respect the internationally guaranteed rights of all persons, to protect those rights against abuses, and to fulfill the rights necessary for them to enjoy a life of dignity and security.

The above mentioned statement was also supported by the UN Secretary General; in a statement issued on the International Day of Migrants:

States have the sovereign prerogative to manage their borders. But they also have the duty to abide by their international legal obligations. Under international human rights law, all persons, without discrimination and regardless of nationality or legal status, are entitled to enjoy fundamental human rights (Ban 2011).

Finally, International Relations theorists have divergent views over this subject. While realist and neo-realist theorists consider the security of the state as central and paramount; liberal and neo-liberal theorists consider the functions of governmental and non-governmental organizations as the key actors in international security issues (Edwards and Carla 2009, 8-9). Moreover, the authors went on to assert that constructivism departs from the two traditional theories to lay emphasis on sharing of ideas. However, feminist theorists claim that in so far as women and other marginalized groups are not part of policy making process, the traditional security theories are flawed. Theoretically, many security theories have shaped the reconceptualization of international security since the signing of the Westphalia Treaty of 1648; after the treaty of Westphalia, states became sovereign; the protection of state and its territories were the paramount feature of state security. However, the events that led to the Second World War and the creation of the UN in 1945 gave way to new global security issues (Edwards and Carla 2009, 9). Also, after the fall of the Soviet Union, there has been 'multilateralisation' and institutionalization of human rights issues.

2.2.3. International Human Rights Conventions

The UDHR together with the International Convention on Civil and Political Rights (ICCPR 1966) and the International Convention on Economic, Social and Cultural Rights (ICESCR 1966) constitute what is termed as the International Bill of Rights (Taran 2000a, 4; 2000b, 4). The UDHR grants the fundamental basic human rights to which all individuals everywhere are entitled to enjoy without any form of discrimination. Indeed Article 2 of the UDHR instrument stipulates that:

Everyone is entitled to all rights and freedoms set forth in this declaration without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

While ICCPR establishes the inalienable rights of all individuals everywhere under any situation including irregular migrants; the ICESCR establishes the paradigm shift from the status quo; it affirms economic, social and cultural rights such as the right to

health care, the right to housing, the right to food, the right to education and the right to work under non hazardous and good conditions (GFMD 2010). Nevertheless, over the decades, it came to the fore that the International Bill of Right does not protect other vulnerable groups like migrant workers and their families, women and children and victims of racial discriminations.

Consequently, in 2003 a major milestone was achieved when the 1990 International Convention on Migrants Rights came into force on the 1st of July. Hitherto, the recognition of migrants under human rights laws was not clear; they were enjoying those rights because the UDHR is universal in nature and applicable to all (Grant 2005a, 18). However, a report by GFMD (2010) asserts that, today there are together with UDHR, ICCPR and ICESCR eight UN human right conventions in operation that seek to promote and protect the rights of migrants (see **Figure 3**). The others are the International Convention on the Elimination of All Forms of Racial Discrimination (CERD 1965), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT 1984), and Convention on the Right of the Child (CRC 1989), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW 1979), and finally, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW 1990). According to the above-mentioned conventions, all migrants regardless of their status have the right to:

- Life (ICCPR Article 6; ICMW Article 9);
- Freedom from torture and from cruel, inhuman or degrading treatment or punishment (ICCPR Article 7; ICMW Article 10);
- Freedom from slavery and servitude (ICCPR Article 8(1) and (2); ICMW Article 11(1));
- Freedom from imprisonment for inability to fulfill a contractual obligation (ICCPR Article 11; ICMW Article 20(1));
- Recognition as a person before the law (ICCPR Article 16; ICMW 24);

- Freedom of thought, conscience and religion (ICCPR Article 18; Migrant ICMW 12 (1));
- Right to movement (UDHR Article 13(2); ICCPR Articles 12(2) and 12(4); ICMW Article 8(1) and 8(2); CRC Article 10(2);
- Health (ICESCR Article 12; CERD Article 59(e)(iv); CEDAW Articles 12 and 14 (b); CRC Articles 24 and 25; ICMW 28);
- Education (ICESCR Articles 13 and 14; CRC Articles 28 and 29; ICERD Article 5(e)(v); ICMW Article 30);
- Adequate housing (ICESCR Article 11; CEDAW Article 14(2); CRC Articles 16(1) and 27(3); ICERD Article 5(e)(iii));
- Adequate food and water (ICESCR Article 11; CRC Article 24(2)(c); CEDAW Article 14(2));
- Work and rights at work (ICESCR Articles 6-8; ICERD Article 5(e)(i); CEDAW Articles 11 and 14; ICMW);
- Freedom from arbitrary detention (ICCPR Article 9; UDHR Articles 3 and 9; ICMW Article 16), and;
- Prohibition from collective expulsion (CAT Article 3, ICMW Article 22(1-2)).

2.2.4. The 1990 International Convention on Human Rights

Despite the fact that the International Labour Organization's (ILO) conventions on: Convention Concerning Migration for Employment (No. 97) and Convention Concerning Migrants in Abusive Conditions and Promotion of Equality of Opportunity and Treatment of Migrant Workers (No. 143) adopted in 1949 and 1975 respectively has long recognized the plight of migrant workers. The ICMW is to date the convention that obliges ratifying members to accord migrants the fundamental human rights due them. As Bosniak (1991, 740) highlights: 'The United Nations Convention for the Protection of the Rights of All Migrant Workers and their families is the most ambitious statement to date of international concern for the problematic conditions of undocumented migrants'. However, Grant (2005b, 3) and Bosniak (1991, 740) argue that, one of the key challenges is that, the rights of migrants are scattered among the many different international treaties, and that the one and only one treaty that explicitly refer to migrants and brings migrants' right together is the 1990 International Convention on the Protection of All Migrant Workers and Members of their Families.

In spite of the recognition of the human rights violations of migrants, this treaty has not been widely ratified. Thirteen years after it was passed, only 20 countries ratified it to become operational; with Guatemala becoming the 20th country to ratify on 13th of March 2003. And to date, only 44 countries have ratified and 15 countries have signed the treaty. And most of the countries that have accepted the treaty are the sending countries; only three European countries (Albania, Turkey and Bosnia & Herzegovina) have ratified it (Hammarberg 2011, 5). However, it is worthy to note that all these three aforementioned countries are not members of the EU but instead members of the CoE. Therefore, what it means is that no member of the EU-27 countries has either ratified or signed the treaty (Martin 2005, 14). This shows the reluctance to which the EU member countries, that are the main destination countries, attaches to the promotion and protection of migrants' rights. Ban Ki-Moon reiterated this point when he showed his disappointment to the CoE:

Here in Europe, ratification of the Convention on the Rights of Migrant Workers and their Families has been disappointing. Twenty years after it was adopted, none of Europe's largest and most wealthy powers have signed or ratified it. In some of the world's most advanced democracies ... among nations that take just pride in their long history of social progressiveness ... migrants are being denied basic human rights (Ban 2010b).

Some EU member states consider ratification of the convention as a magnetic force, which will attract more irregular migrants than regulating irregular migration (Martin 2005, 15). A critical look at **Figure 5** shows that, compared to other international conventions, the least ratified conventions are conventions adopted to see to the promotion and the protection migrants' rights.

Moreover, there are several challenges to a wider ratification of the ICMW especially by EU countries. Ryszard Cholewinski in his book entitled: 'Migrant Workers in International Human Rights Law', reviewed the obstacles to ratification of the ICMW, which coincides with ILO survey (Cholewinski 1997 cited in Taran 2000b, 7). These include firstly, lack of political will by governments to put human rights at the centre of migration policymaking; secondly, lack of awareness and information of the ICMW; and finally, the misconception that ratifying the treaty will give way for more irregular migrants flow. Nevertheless, the significance of the ICMW cannot be overemphasized.

In his paper entitled 'Status and Prospects for the UN Convention on Migrants' Rights'; Taran (2000a, 89-90) highlighted the significance of the 1990 International Convention on migrants' rights. Firstly, migrant worker should not be seen as a slave-like labourer or a cog in the wheel but that, they are human beings with rights. Secondly, the convention recognizes that migrant workers and members of their families' rights are not being protected at all levels of the migratory cycle. Thirdly, the convention for the first time provides an explicit definition of migrant workers and members of their families and outlines parameters through which this will be achieved. Fourthly, not only does the convention recognizes the fundamental human rights of irregular migrants, but also irregular migrants with additional rights

accorded to the members and families of regular migrant workers with equal treatment in areas of political and civil rights, economic, social and cultural rights. Furthermore, the convention aims at the promoting, preventing and eradication of the abuses all migrants go through and to curtail their irregular movement. Eventually, the convention seeks to establish a bar for protection of migrant workers and their families; to serve as an instrument through which countries that lack migration policy documents will establish one in accordance with the internationally accepted norms.

2.2.5. EU Charter of Fundamental Rights

As the EU accedes and adheres to international conventions of the UN, it is obliged to ratify and sign all the above-mentioned UN human rights conventions concerning migrants. Nevertheless, the EU has a charter, which was adopted in December 2000 but became binding after the coming into force of the Lisbon Treaty. This Charter did not create new statutes but it reasserts the traditional rights as explained in the preamble below:

This Charter reaffirms, with due regard for the powers and tasks of the Community and the Union and the principle of subsidiarity, the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the Treaty on European Union, the Community Treaties, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Social Charters adopted by the Community and by the Council of Europe and the case-law of the Court of Justice of the European Communities and of the European Court of Human Rights.

It is significant in the history of the EU that unlike the European Convention on Human Rights (ECHR), the EU Charter for Fundamental Rights underscores one of the basic features of international human rights law, which is indivisibility; that combines both political and civil rights with economic, social and cultural rights. Furthermore, this implies that it is more extensive and current with human rights issues in the EU. And it only binds the current EU - 27 members of the CoE.

The Charter consists of seven chapters namely Dignity, Freedoms, Equality, Solidarity, Citizens' Rights, Justice and General Provisions. A critical study of the charter shows that two key terms run through at the beginning of most of the articles – 'Everyone' and 'No one'. Articles 2(1): 'Everyone has the right to life,' 2(2): 'No one shall be condemned to the death penalty, or executed,' 3(1): 'Everyone has the right to respect for his or her physical and mental integrity,' 4(1): 'No one shall be held in slavery or servitude,' 4(2): 'No one shall be required to perform forced or compulsory labour,' 4(3): 'Trafficking in human beings is prohibited.' Then Article 6 states that, 'Everyone has the right to liberty and security of person.' Again, Articles 11 and 12 states that: 'Everyone has the right to freedom of expression' and 'Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, particular in political, trade union and civic matters' respectively. According to Articles 14(1), 'Everyone has the right to education and to have access to vocational and continuing training.' And articles 15(1) and 15(3) which refers explicitly to migrant workers state that: 'Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation' and 'Nationals of third countries who are authorized to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union' respectively.

In addition, Article 18 referring to migrants' right to asylum states that: 'The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty establishing the European Community.' Then again, Article 19(2) which refers to the principle of non-refoulement stipulates that: 'No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.' And Article 20 states that: 'Everyone is equal before the law.' Consequently, Articles 21(1) and 21(2) which refers to the principle of non-discrimination through which all the understudied charters and articles revolves states respectively that:

Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited; and, Within the scope of application of the Treaty establishing the European Community and of the Treaty on European Union, and without prejudice to the special provisions of those Treaties, any discrimination on grounds of nationality shall be prohibited.

Finally, Article 35 that talks about access to health care by everyone in the jurisdiction of the EU states that:

Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities. (European Parliament, 2010:8-22)

Thus, it can be inferred that the use of the terminologies: ‘Everyone’ and ‘No one’ throughout the Charter as discussed above, is premised on the fact that the right to be protected under the fundamental charter is not limited to citizens of the EU alone, but it includes non-nationals (both regular and irregular immigrants) under the jurisdiction of the EU; and this is also the case for the UDHR (Fitzpatrick and Brotman, 2002:3-4). Moreover, we will see in the next chapter how these principles and rights are disconnected in the experience of migrants from Ghana. However, first of all, there is the need to analyze Ghana’s migration policies.

2.2.6. Ghana's Human Rights Legislations and Institutions

According to Reuben Okine, the assistant director in charge of the Migration Unit at the Interior Ministry of Ghana, 'we do not have a policy document on migration as at now, but we do have legislations concerning migration passed by the legislature in line with international conventions' (15/11/2011). See also Awumbila (2008, 32) and Quartey (2009, 16). This major policy gap continues to affect Ghana's migration governance.

Ghana as a country in focus, the Economic Community of West African States (ECOWAS) Commission, the Africa Union (AU), Caribbean and Pacific Group of States (ACP), and the European Union (EU) all accede to International UN Conventions. ECOWAS – A West African regional body – of which Ghana is a member, adopted a document on a Common Approach on Migration at its 33rd Ordinary Session of Heads of States and Government in Ouagadougou in 2008. At this Session, the 1979 treaty on Free Movement of Persons and the Rights of Residence and Establishment and its supplementary protocols was revised (Brown, 2009). Article (2) of this particular treaty entitles citizens of member states to enter into member countries without any visa requirement for 90 days to reside and establish. In addition, the newly adopted framework on Common Approach on Migration in 2008 redefines the following specificities:

- Guaranteeing of freedom of movement of people;
- Bridging the gap between Migration and Development;
- Optimizing regularization of migration to third countries in Africa, Europe and North America;
- Bringing irregular migration and human trafficking under control;
- Protecting of migrants and asylum seekers, and;
- Integrating gender into mainstream migration policy-making.

All ECOWAS member-countries are enjoined to execute their action plans within the framework of the new ECOWAS Treaty; particularly Article 59 which states categorically that: ‘Citizens of the Community shall have the right of entry, residence and establishment and member States undertake to recognize these rights of community citizens in their territories in accordance with the provisions of the protocols relating thereto’. Furthermore, the new document enumerates some international and regional conventions, which all member states must adhere to:

- The 1990 International Convention on the Protection of the Rights of All Migrants Workers and members of their families;
- The 1951 Geneva Convention and its additional protocol of 1967 on the status of refugees;
- The UN General Assembly Resolution No.60/277 on International Migration and Development of April 2006;
- The political dialogue between the EU and ACP countries as set out in Articles 8 and 13 of the Cotonou Agreement of June 2000;
- The Rabat Action Plan and Declaration of July 2000;
- The Tripoli Declaration of November 2006;
- The ECOWAS General convention on Social Security, and;
- The 1969 OAU Convention on the status of refugees in Africa.

In addition to the above-mentioned regional and international conventions, **Figure 4** also shows a number of regional and International treaties that Ghana has ratified. Aside the regional and international treaties, which Ghana adheres to, the 1992 Constitution of Ghana, outlined certain laws and regulations on migration. These are as follows:

- The 1992 Constitution;
- The Ghana Immigration Act of 2000 (Act 573);
- Immigration Regulations 2001 (LI 1691);
- Dual Citizenship of 2000 (Act 591) and the Citizenship Regulations 2001(L.I. 1690);
- Refugee Law 1992 (PNDCL 30);

- Labour Regulations 2007 (LI 1833);
- Children's Act 1998 (Act 560);
- Human Trafficking Act 2005 (Act 694), and;
- Representation of Peoples Amendment Act 2007 (Act 669).

The constitution of Ghana guarantees citizens the right to movement within and outside Ghana. This is enshrined in Article 21(1)g: 'All persons shall have the right to freedom of movement which means the right to move freely in Ghana, the right to leave and to enter Ghana and immunity from expulsion from Ghana'. The Ghana Immigration Act of 2000 (Act 573), and the Immigration Regulations 2001 (L.I. 1691) are the major statute on immigration in Ghana. Its mandate is to provide services for entry, residence, employment and exit for aliens in Ghana; as well as the entry and exit of Ghanaians. Moreover, under the Citizenship Act of 2000 (Act 591) and the Citizenship Regulations of 2001 (LI 1690), Ghanaians in the Diasporas are eligible to hold dual citizenship to attract them back home. However, this only benefits regular migrants since they are documented. Furthermore, the government in 2000 the Representative of Peoples Amendment Law (ROPAL), which is to allow Ghanaians abroad to exercise their franchise in Ghana's general parliamentary and presidential elections. In the next section, **Figure 1** shows the functions of state institutions concerning migrants abroad.

2.2.7. Institutions Dealing with Migration

Figure 1

Agency	Ministry	Areas of Key Responsibility
Ghana Immigration Service	Ministry of Interior	<ul style="list-style-type: none"> • Advise the government of Ghana on issues related to immigration and emigration • Implement laws, policies and regulations pertaining to immigration to Ghana and emigration of Ghanaian nationals; • Process applications made by non-Ghanaians to obtain Ghanaian citizenship and process applications made by Ghanaian nationals related to reunification of Ghanaian citizenship and dual citizenship; • Data collection through immigration and emigration entry and exit forms. The process of this data is done in cooperation with the Ghana Statistical Service, etc.
N/A	Ministry of Foreign Affairs and Regional Integration	<ul style="list-style-type: none"> • Promote and protect the interest of Ghanaian citizens abroad; • Collect and analyze data pertaining to Ghanaian emigrants (Migration Bureau); • Process the issuance of Ghanaian passport and entry visas to foreigners intending to visit Ghana; etc.
N/A	Ministry of Tourism	<ul style="list-style-type: none"> • Link up with Ghanaian emigrant to promote tourism and investments in Ghana; • Encourage Ghanaian emigrants to return and invest in Ghana; etc.
	Ministry of Trade and Industry	Provide incentives in order to promote investment in trade and industry and encourage emigrant communities to be involved in business investment related activities; etc.
	Ministry of Employment and Social Welfare	Coordinate and implement activities and policy formulations relating to labour migration; etc.
	Ministry of Health	Mobilize Ghanaian health professionals abroad to strengthen the national health system and alter outflow of skilled persons in the health sector into inflow of knowledge through knowledge transfer and return of Ghanaian health professionals.
Ghana Investment Promotions Centre	Special office of the President	Mobilize the Ghanaian emigrant community for investment and business creation in Ghana through cooperation with emigrant communities associations and other relevant institutions.
Source: ICMPD		

Aside the functions of the above-mentioned institutions, the Migration Unit also plays significant role.

The Migration Unit was established under the Ministry of Interior by an act of parliament in July 2008, with the support of the IOM, under the name Migration Bureau. The name eventually changed to Migration Unit. This unit according to Reuben Okine, is an inter-ministerial body consisting of all ministries and agencies of government whose activities or mandate are affected by migration (15/112011). The unit has three arms of organs; the Inter-Ministerial Committee, the Secretariat and the Thematic Working Groups. The main areas of focus of the unit are: Migration and Economic Development; Labour and Irregular Migration; and Migration Policy, Information and Research. The unit is a composition of representatives from the following state institutions:

- Ministry of Interior;
- Ministry of Foreign Affairs and Regional Integration;
- Ministry of Tourism;
- Ministry of Finance and Economic Planning;
- Ministry of Employment and Social Welfare;
- Ministry of Health;
- Ministry of Women and Children Affairs;
- Ministry of Trade and Industry;
- Ministry of Justice;
- Ghana Immigration Service;
- Bank of Ghana, and;
- National Development Planning Commission.

In spite of the role played by the Migration Unit, the Unit is faced with lots of challenges that hinder its efficient operations. There are lack of human resource and funding (Okine 15/11/2011). He also made the point that the composition of the Unit from different state institutions is a challenge to efficient and effective coordination. When these above-mentioned problems are solved, then the Migration Unit can operate efficiently.

3. MIGRATION POLICY MAKING AND MIGRATION POLICIES IN THE EU

3.1. Background Information

Migration and asylum have been one of the most recent and topical issues of the Union (EC 2011, 2; Hay and Menon 2010, 330; Ceccorulli 2009, 2; Helmes 2010, 3; Lavenex 2009, 1); as Antonio Vitorino (2001) – EU Commissioner for Justice and Home Affairs puts it: ‘Questions concerning immigration are at the top of the political agenda in Europe. We also see a real need for more Europe in this field’. Migration has become the least common denominator of policy making of all member states (Boswell and Geddes 2011, 5). This chapter analyzes the main treaties and programmes namely: Maastricht, Amsterdam, Lisbon; and the Tampere, Hague and Stockholm programmes governing the EU in the area of migration and asylum. It then discusses the new evolving migration and asylum governance mode in the form of Open Method of Coordination (OMC) and Intensive Transgovernmentalism. The chapter then concludes with first, discussion on how EU migration policies have turned Europe into a ‘fortress’ continent as a result of securitization of migration; and criminalization of irregular migrants.

3.2. Historical Trend of EU Migration

The long established migration trend from former countries of colonies of the UK, France and of Turks to Germany has been overshadowed by new movement into the countries traditionally known as countries of emigration like Spain, Italy, Greece and Portugal (Dearden 2011, 1; Boswell and Geddes 2011, 29). According to Asiegbu (2010, 2), when it comes to migration no nation or people in the world come close to Europeans. The Germans, the Irish and the British particularly moved out of their countries in pursuit of livelihood elsewhere. About 40 million Irish people live in the United States today (Asiegbu 2010, 2). West Germany and France which were then considered as prosperous northern European countries were major destinations for the poorer Southern European countries (like Italy, Spain, Greece and Portugal),

Turkey and North African countries of Tunisia, Algeria and Morocco (Dearden 2011, 3 and Boswell and Geddes 2011, 29).

Furthermore, not only were those countries of Southern Europe and the Mediterranean region emigration countries but transit hub as well, for migrants emigrating from other continents especially countries of Northern African and the Mediterranean region. France also attracted migrant labourers from Greece, Italy, Spain and Portugal, as well as nationals from former colonies in North and West Africa like Morocco, Algeria, Tunisian and Senegal. In the same way, Belgium also recruited foreign workers mainly from Turkey, Spain, Greece and Italy (Boswell and Geddes 2011, 29; Lavenex 2009, 2; Muus 2001, 33). Britain also recruited 'guest workers' from Commonwealth countries of the Caribbean, West Indies and Indian Subcontinent particularly Indian and Pakistan under the British Nationality Act of 1948 which granted them the legitimacy to move to the UK (Boswell and Geddes 2011, 29); as well as West African Anglophone countries like Ghana and Nigeria. The British Nationality Act of 1948 was an act of the United Kingdom's Parliament that established the status of both citizens of the United Kingdom and her colonies or Commonwealth members. It came into in 1949 until the British Nationality Act of 1981 came into force in 1983.

However, the event of 1973 – economic recession due to a fall in oil prices – brought about economic recessions in many Northwestern European countries, which led to mass unemployment of EU citizens. This created an impossibility of admission of low and unskilled foreign workers (Kicinger and Saczuk 2004, 10; Muus 2001, 41). This triggered the formulation of restrictive immigration policies aiming at 'zero immigration' (Boswell and Geddes 2011, 30). Nevertheless, this event did not fully cease international migrations; migration continued in the form of family re-unification and marriage from countries of former recruitments (Muus 2001, 33); and some have stayed permanently. Furthermore, the fall of the Soviet Union, the reunification of Germany, the Balkan wars and civil wars in Africa has increased the movements of asylum seekers and refugees as a result of political, religious and ethnic persecutions in Europe in the 90s towards the end of the millennium. Again,

the economic downturn facing Europe at the dawn of the millennium and the current Eurozone crisis had also affected the movement of migrants from sub-Saharan Africa.

3.2.1. Mobility and Migration: Borderless Europe and ‘Fortress Europe’

The line of differentiation between mobility and migration is a thin one but it can be drawn. As put differently by Muus (2001, 40), ‘A distinction has to be made between international migration of EU citizens and that of non-EU citizens’. While inclusive policies of mobility gave Europe the reputation borderless Europe; exclusive migration policies gave Europe the reputation ‘Fortress Europe’ (Regout 2010, 9). The issue of mobility in Europe centres upon the rights accorded to European citizens to move freely reside and work in member countries – the Benelux countries (Belgium, Netherlands and Luxembourg), Italy, Germany and France; whilst migration refers to the movement of people who are non-EU citizens or TCNs into EU territories (Boswell and Geddes 2011, 3). Migration was therefore not part of EU policy-making; it became a part after the operationalization of the Maastricht Treaty in 1993 (see 3.3.1). This was due to the fact that, EU policy framers were skeptical and therefore wanted to pre-empt the large movement of refugees and asylum seekers after the end of the cold war (Boswell and Geddes 2011, 7). This distinction is, therefore, characteristic of the defining principles of EU migration policy since the establishment of the European Coal and Steel Community (ECSC) in 1951.

3.3. Harmonization of Policies: From Intergovernmentalism to Intensive Transgovernmentalism

The EU is a unique organization. This is because it is based on treaties. These treaties are then translated into laws that must be adhered to by member countries (Boswell and Geddes 2011, 55). The Treaty of Rome (1957)⁴ that established the European Economic Community (EEC) did not take into consideration the movement of TCNs within the borders of the community (Bia 2004, 6; Lavenex 2009, 1; Bigo 2009, 579). The EEC, the ECSC and the European Atomic Energy Community (EURATOM) were built on the philosophy of the European integration theory of functionalism that sought to transfer power from sovereign states to non-state actors like supranational institutions. The key thinkers of this theory (Ernst Haas, Jean Monnet and Robert Schuman) believed that political integration will be attained only if economic integration is achieved; and when that is attained, the ‘spill over’ effects will be political integration (Ette and Faist 2007, 7-8).

Thus, the treaty was more economic-driven, with the aim of achieving a common market within the borders of Europe (Kicinger and Saczuk 2004, 10; Boswell and Geddes 2011, 7; Hay and Menon 2010, 332-333; Regout 2010, 2; Ozdemir 2011, 262). This was understandably due to the post-war reconstruction of Europe. The post-war reconstruction of Europe became very necessary due to the great devastation and loss Europe went through during the Second World War. It can also be said therefore that, the EU integration policy of the 1950’s and 1960’s, the 1970’s and 1980’s, and the beginning of the EU migration policy in the 1990’s; and the turn of the twenty first century are all geared towards addressing states of immediacy in the European States which was aimed at having a common approach to problems.

While mobility was constitutionalized at the supranational level, the same cannot be said about migration. It thus remains an issue of low politics at the intergovernmental level. Immigration and asylum first became an issue at the community level in 1997

⁴The Treaty of Rome was the treaty that founded the European Economic Community on the 25th of March 1957; and came into force on the 1st of January 1958.

after the signing of the Amsterdam Treaty (Caviedes 2004, 293). Geddes (2003b) has identified and categorized four periods of gradual immigration process. The first period began from 1957 to 1986 where immigration policies were state-centered until 1968⁵ when mobility rights was granted to EU citizens, corporations on issues regarding internal security in the 70s – the Trevi Group established in 1976 which was succeeded by the European Police (Europol) to coordinate policing; and the Schengen Agreement of 1985. Schengen is the name of the town in Luxembourg where the agreement was reached on 14th June 1985 among five of the 10 member states of the EEC – The Benelux countries, Germany and France. The choice of this town was symbolic in their quest to achieve a borderless area of persons, goods and services. The agreement was signed on a Riverboat – Princess Marie Astrid – in the middle of River Moselle, which flows through Luxembourg, France and Germany. The Schengen Agreement was among other things to abolish internal border checks, establish common external frontier, to create a common visa policy for TCNs, to establish a common Schengen Information System (SIS).

This intergovernmental Schengen governance served as a catalyst, which helped, defined the mode of cooperation in migration policies in the next period (Lavenex 2009, 4; Ette and Faist 2007, 4). The second period is from 1986 to 1993 and it was characterized by ‘informal’ intergovernmentalism where states were engaged in closer cooperation on security matters of mutual interests under the Single Act of Europe (SEA) ((Ette and Faist 2007, 4)). The Maastricht Treaty characterized the third period from 1993 to 1999; and the last period from the late 90s towards the turn of the millennium was marked by communitarianism under the Amsterdam Treaty.

⁵15 October 1968; there was a Council Directive – 68/360/EEC – that abolishes the restrictions on movement and residence within the Community for workers and their family members of member states.

3.3.1. The Maastricht Treaty

It is referred to as the Treaty of the European Union for it brought the EU into existence. It was adopted in 1992 and came into force in 1993. Under this treaty, the so-called three pillars of the EU were created – Justice and Home Affairs (JHA), Common Foreign and Security Policy (CFSP) were for the first time added to the already existing pillar – European Community. The first, second and third pillars correspond to (European Community, EURATOM, and ECSC); CFSP; and police and judicial co-operation in criminal matters respectively. Moreover, over the years, the treaty has been reduced to economic and monetary union because it initiated the European single currency; losing the sight of the fact that it was the treaty that for the first time, intergovernmentalised migration and asylum policies under unanimity decision making process in the Union.

However, the creation of the JHA had no legal basis and framework. This is because it was not backed by a binding regulation but rather it was a recommendation; as such it lacked the power of execution and ‘teeth to bite’. And as a result, most instruments adopted under this treaty were based on recommendations or resolutions, which had no binding effect (Kicinger and Saczuk 2004, 12). Member countries were reluctant in giving up their competencies on migration and asylum issues to the community; thereby requiring a unanimous decision to making resolutions (Kicinger and Saczuk 2004, 13). In addition, key EU institutional players like the European Commission (EC), the European Parliament (EP) and the European Court of Justice (ECJ) were marginalized as regard to decision and policymaking. And according to Pascouau (2011), the exclusion of the EP in decision and policymaking process on migration and asylum was a major shortfall; since he identifies the EP as the defender of fundamental human rights. He also went on further to assert that, the lack of jurisdiction for the ECJ was a major setback; since the court is an institution that gives interpretation to the laws enacted by the EP and it is also the place where people (especially migrants) can go and seek redress concerning abuses of their fundamental human rights.

3.3.2. The Amsterdam Treaty

This was adopted and implemented in 1999 to make reforms and update the Maastricht Treaty. This marked the dawn of cooperation towards a common immigration and asylum policy in that, members agreed to coordinate in their approach in confronting these issues. It also characterized the gradual transition from formal intergovernmentalism to communitarianism; by moving migration and asylum from the intergovernmental third pillar (JHA) to the Title IV of the community first pillar (Muus 2001, 43; Geddes 2003a, 6; Boswell and Geddes 2011, 9). Title IV of the Amsterdam Treaty's community first pillar comprise of Visas, asylum, immigration and other policies concerning free movement of people. It is however worthy of note that, Denmark opted out of the Title IV of the treaty; while United Kingdom and Ireland make decisions on their involvement based on the cases. This treaty made the EU to accede to the European Union Council for the Protection of fundamental Human Rights; and this resulted to the establishment of the EU Charter of Fundamental Rights in 1999. This Charter did not only give more rights to citizens but also expanded the rights of immigrants. It also replaced the unanimity decision-making mechanism under the Council with Qualified Majority Voting (QMV) ((Hansen 2007, 342)).

Articles 62-64 have outlined the modus operandi of the Union in the areas of internal and external border management and rules governing the movement of TCNs within the territory of the EU (Muus 2007, 43; Boswell and Geddes 2011, 9). Article 63 in particular was explicit on migration and asylum policies – conditions for entry and residence for TCNs as well as procedures of issuance of long-term visas; defining the rights of legal TCNs resident in the EU; taking action against illegal immigration; processes for granting or withdrawing refugee status; the basic minimum criteria for qualification as a refugee; and taking responsibility for assessing asylum claims.

Furthermore, another significant milestone that was achieved under this treaty was the incorporation of *Schengen acquis*⁶ into the *acquis communautaire*⁷ (Ette and Faist 2007, 5); which implies abolishment of border checks. Furthermore, another very significant step taken under this treaty was the adoption of standardized EU decision-making procedures and policy instruments in the areas of migration and asylum; such as decisions, directives, and binding instruments.⁸ Finally, the coming into force of the Amsterdam Treaty in 1999 moved a step further by communitarising both formal, informal policies and procedures.

However, Amsterdam Treaty was not without challenges. Despite the fact that the EU was granted the competency to decide on migration policy issues, meaning the use of QMV and not decision based on unanimity, this did not take into effect after the adoption of the Amsterdam treaty in 1999 until 2004; due to the fact that member states were not readily abreast with the new metamorphoses and as such they have to go through a transition of five years (Kicinger and Saczuk 2004, 13). Under this transitional period, EU governance was intergovernmental and decision-making was based on unanimity. During this period, the Commission shared the right of initiative with member states; while the council performed its role unilaterally without any jurisdiction for the EP to act. Coupled with that, the application of unanimous voting by member countries vested a kind of monopolistic power to veto or otherwise unlike under the QMV, where voting is based on the majority as the name implies. Uçarer (2001) has tabulated these above-mentioned discussions in **Figure 2**. According to Uçarer (2001, 10), post-Amsterdam was characterized by expanded functions and powers for the Commission; thus describing the Commission as a ‘sidekick no more’. In other words, the Commission was no more kicked aside but was made part of decision-making process.

⁶Schengen acquis is a body of laws adopted under the Schengen Agreement. The word ‘acquis’ is a French word meaning ‘that that has been agreed upon’.

⁷Acquis Communautaire, which sometimes refers to as EU acquis, is a French term. The word ‘communautaire’ is also a French word, which means ‘community’. Thus, the term ‘acquis communautaire’ simply means the set of legal acts, legislations and court decisions that make up the EU community.

⁸Directives are binding, very effective and they override national laws and must be implemented; Regulations differ with directives in the area of discretion. Regulations are prescriptive directives that give room for the choice of implementation.

3.3.3. The Lisbon Treaty

The Lisbon Treaty also known as the Reform Treaty was adopted in 2007 and ratified in 2009 marked the integration of policies regarding asylum and migration within the EU, where legal immigration policies will be promoted under the ‘ordinary legislative procedure’ known formally as ‘co-decision’. This implies that proposed measures on entry, residence and rights of legal migrants would no longer be agreed under the unanimity clause but under QMV (Article 63a.2). This means that the EC now initiates policies and submit them to the JHA council for the EP to take decision on (Boswell and Geddes 2011, 1). This used to be the sole power of the Council. Thus, Lisbon came to regularize and formalize all the anomalies highlighted under Maastricht and Amsterdam Treaties; with the goal of developing a common migration policy as enshrined under Article 17 of the Treaty (Lavenex 2009, 4). Articles 77-80 outline EU provisions on borders, asylum and migration. But for regulations regarding right to family reunification, admissions of students and researchers, there exist no holistic regulations regarding the admission of TCNs (Lavenex 2009, 4). Lavenex went further to assert that the most supranationalized policy on migration of TCNs is visa policy where there exists a centralized electronic Visa Information System (VIS) which has a list of admissible countries entitled to be granted visa to enter the EU. Furthermore, aside these aforementioned treaties, there are programmes – the Tampere, Hague and now the Stockholm that set the agenda for a multi-annual strategic work based on legal frameworks laid down by the EU treaties (Boswell and Geddes 2011, 55). These are discussed as follows:

3.3.4. The Tampere Programme

A meeting held in Tampere in Finland, in 1999 marked an important step in the development of a common migration and asylum policies in the EU (Boswell and Geddes 2011, 52; Geddes 2003a, 2). According to the Tampere European Council Conclusions, a comprehensive approach to addressing migration should be introduced:

The European Union needs a *comprehensive approach* to migration addressing *political, human rights and development* issues in countries and regions of origin and transit. This requires combating poverty, improving living conditions and job opportunities, preventing conflicts and consolidating democratic states and ensuring *respect for human rights*, in particular rights of minorities, women and children. To that end, the Union as well as Member States are invited to contribute, within their respective competence under the Treaties, to a greater *coherence of internal and external policies* of the Union. *Partnership* with third countries concerned will also be a key element for the success of such a policy, with a view to promoting *co-development*.

It aimed towards the creation of an area of freedom, security and justice in the EU. Between the period 1999 – 2004, Tampere sets the agenda with four key outlined issues; partnership with sending countries; the creation of a Common European Asylum System (CEAS); Fair treatment of TCNs and finally, the management of the flow of migration (European Council 1999). All these were done with the aim of fighting discrimination by granting equal rights to TCNs; combating irregular migration, human trafficking and smuggling. Article 18 of the Tampere conclusions has expatiated more on the issue of fair treatment of TCNs:

The EU must ensure fair treatment of TCNs who reside legally in on the territory of its member states. A more vigorous integration policy should aim at granting them rights and obligations comparable to those of EU citizens. It should also enhance non-discrimination in economic, social and cultural life and develop measures against racism and xenophobia.

More explicitly stated was in Section 3(21):

The legal status of TCNs should be approximated to that of member states' nationals. A person who has resided legally in a member states for a period of time to be determined and who holds long term residence permit, should be granted in that member state a set of uniform rights which are as near as possible to those enjoyed by EU citizens; e.g. the right to reside, receive education, and work as an employee or self-employed person, as well as the principle of non-discrimination vis-a-vis the citizens of the state of residence. The European Council endorses the objective that long term legally resident TCNs be offered the opportunity to obtain the nationality of the Member State in which they are resident.

The Tampere conclusion on partnership with migrants' countries of origin and transit was another milestone. This, the Conclusions referred to as the 'root cause approach' is to reduce poverty or eradicate poverty through sustainable development, capacity building and incorporation into the bigger global economy (Ceccorulli 2009, 17). This was reiterated by the conclusions:

Its [the Community's] external cooperation and *development programmes* and policies aimed at promoting human rights, bolstering democracy, combating poverty, preventing conflicts and improving the economic and social situation in general *tackle the main factors contributing to migratory pressures* in third countries and therefore exert an indirect effect on those pressures (EC 2002, 7).

The success of Tampere conclusions led to the accord reached in Cotonou (Benin) in 2000 between the EU and the ACP. Tampere was a major step forward in the EU migration integration process in that, it has first identified poverty as a key 'push factor' and second, it has also established a framework for migration management encompassing the respect of migrants' rights (Kicinger and Saczuk 2004, 15).

3.3.5. The Hague Programme

The Hague Programme came to build upon where Tampere left off; with the goal of concretizing the area of freedom, security and justice. It, among other things, outlined a balanced approach to migration flow and management; work towards the creation of asylum area; guarantee fundamental human rights and justice; combats organize crime, work towards coherent counterterrorism and granting protection to refugees. The Hague Programme was very significant because it added value on the achievements of Tampere. While Tampere outlined the fair treatment of TCNs, Hague ensured the full integration of TCNs in the EU by improving mutual understanding, intercultural and inter-religious communications (EC 2005, 185). And not only did it incorporate the partnering of migrants' countries of origin and transits into its agenda but also externalize its asylum and migration policies including the readmission, return of migrants, border management, gathering and sharing of information – visa information system with biometric identifiers (EC 2005, 185; Van Selm 2005). This also led the establishment of the European agency responsible for integrated border control and management called FRONTEX in 2006 (Collet 2010).

3.3.6. The Stockholm Programme

The Stockholm Programme succeeded the Hague programme for JHA adopted by EU leaders at the Council's meeting in December 2009. Contents of the Stockholm programme include the following:

- Strengthening and implementation of Global Approach to Migration with countries of origin and transit of TCNs;
- Development of a positive, dynamic and sustainable migration policy based on development-based approach for the benefit of all;
- Externalization of asylum and migration by offering protection to refugees beyond EU borders; and also incorporating migration management a part of foreign policy;
- A true 'burden sharing' of responsibility for offering reception to refugees and asylum seekers; integrating and redistributing them between member states;
- Establishment of a common asylum area by 2012;
- Providing a secure Europe where fundamental rights and freedoms of citizens are respected; and where diversity is also respected, and;
- A common EU immigration law to enhance family reunification.

As a result of the Stockholm programme of action, the Global Approach to Migration (GAM) was launched in 2005. This was created to externalize EU relations with migrants sending countries in managing and preventing irregular migration; and to promote migration for development (OHCHR 2011, 14). Furthermore, five years down the line, the Commission has developed a new model called Global Approach to Migration and Mobility (GAMM). The GAMM was introduced to build upon the GAM to meet new evolving global trends and challenges of migration such as the Arab Spring. The Commission therefore sought to strengthen its external migration policy by establishing **Mobility Partnerships** with non-EU countries to the mutual benefit of all (EC 2011, 2). The GAMM is hinged on four main pillars namely organization and facilitation of legal migration and mobility; prevention and reduction of irregular migration and trafficking in human beings; promotion of international protection and external dimension of asylum policy; and maximisation

of the development impact of migration and mobility (EC 2011, 6-20). According to the GAMM, migration policy should be **migrants-centered** by protecting and promoting migrants' human rights, which should cut across all the four pillars of the GAMM (EC 2011, 6).

3.4. New Modes of Policy Making in the EU

Over the decades, it has come to light that EU historical migration policies about the traditional 'community method' is not fully practicable. This is because member states are always unwilling to relinquish their competencies on asylum and migration matters to the EU supranational institutions (Reslow 2010, 12). In view of that, there has been a gradual paradigm shift from the **top-down** approach to the **bottom-up** approach concerning EU governance on asylum and migration. This led to the emergence of two main modes of policy making in the EU namely: Open Method of Coordination (also known as benchmarking) and intensive transgovernmentalism. These two modes are discussed below.

3.4.1. Open Method of Coordination (OMC)

The OMC was announced as a new governance mode for the EU at Lisbon Summit in March 2000. And in a Communication issued by the Commission in 2001, it proposed the formation of benchmarks or performance indicators by member states. Member states were to draw up their own policy guidelines and indicating how to attain them. And the implementation of these guidelines will be monitored by the Commission and will be peer-reviewed by member states (Boswell and Geddes 2011, 94; Reslow 2010, 12). This new mode of governance seeks to abolish the politicization of delicate issues, bureaucracies and horse-trading that exist in the EU governance (Hodson and Maher 2001, 739; De La Porte 2002, 39); and sharing of experiences and best practices as outlined by the Council at its meeting in Lisbon:

- Allowing the EU to set common guidelines along with specific timetables;
- Establishing a system of common quantitative and qualitative indicators that allows the member states to compare and benchmark their practices and policy performance;

- Allowing the member states to translate these guidelines into national and regional policies that set specific targets and implementation procedures, yet allow for diversity and flexibility in each individual case, and;
- Periodic monitoring and evaluation through a peer review process whose primary goal is educative.

According to De La Porte (2002, 39), with the differentiations in immigration histories and practices of EU member states, this method of coordination is very much appealing. According to the author, it does not seek to develop ‘one-size fit for all’ policies.

3.4.2. Intensive Transgovernmentalism

Intensive transgovernmentalism is another form of policymaking that has emerged which is based on ‘soft laws’ that is it has no legal basis to enforce which is non-binding but has pragmatic consequent effects (Reslow 2010, 12). According to Wallace (2000, 24), when it comes to policy-making in the area of asylum and migration, there exist an intensive and closer cooperation amongst policy makers that matter such as ministers responsible for asylum and immigration issues in member countries; unlike at the intergovernmental (state) level or at the supranational (institutional) level (Boswell and Geddes 2011, 54-55). The following are key characteristics of this mode:

- The EC mainly sets the general direction of policy;
- The EC controls the consolidating of cooperation;
- The Commission has limited role;
- EP and ECJ is almost excluded from the involvement;
- There exist Special mechanisms for cooperation management, and;
- The policy process is not open to national parliaments and public (Wallace 2000, 34).

3.5. 'Fortress Europe': Securitization of Migration

This section of the thesis examines how the practices or implementations of EU immigration policies as discussed above, result to securitization of migration as many scholars, researchers and practitioners of migration assert which has given the continent the reputation – 'Fortress'. This section adopts the concepts of securitization theory in its analyses to present how EU migration policy-makers and political actors or what according to the Copenhagen School is referred to as 'securitizing actors', have used the 'language of security' (speech act) in the process of controlling and managing migration and asylum. Since the securitization of migration approach as asserted by Christina Boswell (2007, 1), helps EU states to easily win the sympathy and support of its nationals and put the matter of the human rights based approach to migration and asylum control to the backburner.

At the end of the Cold War, there has been a reconceptualization of the concept of security to the realization of other forms of security such as economic security, social security, cultural security, environmental security, identity security, food security and health security, etc. Hence, security was no more the traditional military-style that pertained to the Cold War era. Three schools of thoughts emerged out of this discourse – the Paris School, the Critical Security Studies School and the Copenhagen School. The Copenhagen School's greatest contribution in this debate has been the concept of **securitization**; where the means or processes leading to the act are designated as threats. Here, EU States see issues such as migration as existential threat to sovereign security.

According to Buzan, Wæver and Wilde (1998, 24-26):

The process of security is what in language theory is called a speech act. It is not interesting as a sign referring to something more real; it is the utterance itself that is the act. By saying the words, something is done (like betting, giving a promise, naming a ship).

Thus, it can be inferred from the above that **speech act** is the operational term and the defining feature in the concept of securitization. A case in point of a speech act

was a speech made by Franco Frattini at a Ministerial Conference on the Challenges of the EU External Border Management, in Slovenia – March 2008:

As soon as the system starts to operate, third-country nationals will realize that the only way of getting to Europe is via legal channels. This will also have a very positive side effect, namely, reducing the number of people trying to cross the Mediterranean and the Atlantic in rickety boats, as they will be aware that their biometric identifiers will be immediately taken and thus they will have less chance of slipping through the net.

Another case was the statement made by the leader of British Conservative party – Michael Howard, in the heat up to the 2005 general elections:

We face a real terrorist threat in Britain today - a threat to our safety, to our way of life, and to our liberties. But we have absolutely no idea who is coming into or leaving our country. There are a quarter of a million failed asylum seekers living in our country today. No one knows who they are or where they are. To defeat the terrorist threat we need action not talk - action to secure our borders (Indymedia UK 31.03.2005).

From his speech, there is a clear link between immigration and terrorism – the human security of the British people and the security of the sovereign state. The above-mentioned examples emphasize the point that **securitization** is about the means by which certain issues or elements are seen and established as threats mainly by political and social actors (Belamir 2010, 284). In other words, it is the politicization of issues such as migration (Boswell 2007, 1).

Furthermore, according to Boswell member countries have always looked at migration as a security matter rather than a socio-economic one, hence their reluctance to relinquish competencies to the EU supranational institutions. These assertions can further be explained by the fact that, when member states gave up their competencies to the Maastricht Treaty, asylum and migration were placed under the pillar of security oriented issues of organized crimes like drugs (Koslowski 1998, 173). That is why Geddes (2003a, 4) pointed out the fact that, only interior ministers of member states graced the meetings about asylum and migration control policies in the 1980s. It is evident that no member of the EU-27 countries has ratified the ICMW since its operationalization in 2007, also evidence of the point that EU

countries look at the management of issues of migration from state security angle instead of human security or human rights angles (see 2.2.4). Therefore, the point can be made that while human insecurity or basically human rights violations are implicated in the reasons why people move from developing countries like Ghana; the traditional notion of state security (protection of sovereign territories) is implicated in the criminalization of migrants and securitization of migration (Huysmans and Squire 2009, 8).

The securitization of migration became evident in the aftermath of 9/11 terrorist's attack of the World Trade Centre in New York; and subsequently, the Madrid and London attacks; where migration has been linked to terrorism (Boswell 2006, 8-13; Boswell and Geddes 2011, 162-163). According to a former Italian minister of defence under Berlusconi government – Antonio Martino, 'illegal immigration is infiltrated by Al Qaeda', and it is often managed 'by terrorists in order to bring persons, weapons and drugs to Italy and Europe' (ANSA, 08/11/2004 cited in Cuttitta 2007). Moreover, immigrants bearing Muslim names or proclaiming Islam were considered as potential terrorists (Bigo 2009, 588; Boswell 2007, 1). A particular case in point was the declaration of state of emergency in March 2002 by the Italian president when a ship arrived with over 900 Kurds (Boswell 2007, 3; 2006, 7). Italy therefore saw the arrival of these refugees as a threat to its socio-cultural homogeneity and security. The designation of migration as a threat to the socio-cultural, national identity and state security has led to **illegalization** and **criminalization** of immigrants. The securitization of migration by some political elites in Europe has led to the rise of xenophobic and racist parties or movements who use that to justify their violent acts.

According to Cholewinski (2000, 368), Tampere formally introduced security-oriented measures to fight migration in the Union. And subsequently, Hague conclusions also made it one of its prioritized agenda to combat irregular migration by partnering countries of transit and origin of TCNs to return irregular migrants under the Commission's return directive (Senşes 2010: 3). The cooperation of members in securitization of migration led to the first, establishments of the EU border

management and control agency (known as FRONTEX); and second, Visa Information System (VIS) in 2007 where fingerprints and photographs are required of all migrants coming from the Black list⁹ (Ceccorulli 2009, 11); and militarization of the frontiers of Europe (land, sea and air) with helicopters, aircrafts and warships; building of ‘European walls’ in areas like Ceuta and Melilla – border towns between Spain and Morocco (Bigo 2009, 589; Lutterbeck 2006, 64-69). Since 2002, naval fleets of North Atlantic Treaty Organization (NATO) have been dispatched to the Mediterranean to fight irregular migration under what was called Operation Active Endeavour (Lutterbeck 2006, 68). Another case of ‘militarization of borders’ or securitization of migration by EU member countries was the launch of Operation Ulysses by the naval commands of France, the UK, Spain, Portugal and Italy to stop irregular migrations across the Mediterranean and the Atlantic Ocean – from Western Sahara to the Spanish Island of Canary (Fekete 2003, 2; Boswell 2006, 7).

3.5.1. Criminalization of Migrants

Irregular immigrants are not criminals. As a rule they should not be subjected to detention at all. Member states are obliged to explore the availability of alternatives to detention... (UNHRC, 2008).

The aforementioned statement was a critique made by a group of independent human rights experts of the United Nations Human Rights Commission (UNHRC) against the EU’s return directive. Irregular migrants are more often than not criminalized and considered as threats thereby labeling them as **illegal**. Furthermore, the use of words such as ‘fight’ and ‘combat’ ascribed to the control of irregular migrants are security-oriented (Boswell and Geddes 2011, 133).

In certain EU countries, irregular entry is considered as a criminal offence and therefore punishable. Experiences in Germany and Italy point to these facts. For instance in Germany and Italy, an irregular entry or residence is punishable for up to 12 months imprisonment and expulsion (Guild 2010, 11). Furthermore, under the

⁹Black list refers to the list of countries that ought to undergo tighter visa application procedures; while the white lists are lists of those countries that can enter the EU without visa for not more than 10 days.

EU's return directive, irregular migrants are supposed to be detained for up to 18 months before expelled. This is against the human nature and dignity of irregular migrants, which directly contradicts the UDHR; which stipulates that: 'All human beings are born free and equal in dignity and rights'. Underscoring the word 'All' implies every human being – including regular and irregular migrants. Another case of criminalization of migrants is sanction on people who assist irregular immigrants. This was very evident in the case of the French woman – Jennifer Chary – who was fined an amount of 30,000 Euros for assisting an irregular immigrant (Guild 2010, 16). Furthermore, on May 25, 2009, a Directive (2009/52) on sanctioning employers who employ irregular immigrants was adopted. Thus, according to the UN High Commissioner for Human Rights:

Policies against irregular migration that focus on border control, return, and at times criminalization, have not only been ineffective but in some cases have posed further threats to the rights of those involved. Government measures, such as the imposition of fines on private individuals renting their houses to irregular migrants; the imposition of a duty to report on health professionals; the criminalization of the provision of aid and assistance to irregular migrants, can have unintended negative implications on migrants' labour rights, and their access to housing, health, education and food. The collective interception and return of migrants at sea without due procedure may seriously harm their rights and well-being (Pillay 2009, 3).

Such practices by some EU governments contravene international law. Any migrant 'subject to deportation still has rights' (AI 2005, 30). For instance, interception of migrants at sea, arbitrary and collective deportations are against the Principle of non-Refoulement. Migrants' right to freedom from arbitrary deportations are enshrined in Article 3 of the CAT and Article 22(1-2) of ICMW (see 2.2.3). In addition, migrants' right to freedom from arbitrary detentions are against UDHR Articles 3 and 9, ICCPR Article 9 and ICMW Article 16 (Also see 2.2.3). Moreover, under the EU Charter for fundamental rights, Article 6, Article 20, Articles 21(1) and 21(2) accord migrants the right to equality before the law; and Article 35, access to health care (see 2.2.5). In a nutshell, as discussed above, EU migration policies have not only been ineffective but have also 'created market for irregular migration' in the form of human smuggling and human trafficking (EC 2004b).

4. THE LIFE CYCLE OF MIGRATION: FROM GHANA TO ‘FORTRESS EUROPE’

This chapter focuses on the routes and borders in the migratory process; the main journey of irregular migrants from Ghana en route to countries of transit; and the crossing of the Mediterranean Sea. By doing that, the experiential lives of irregular migrants at various stages of the migration cycle are discussed. The chapter first considers the migration intentions of irregular migrants; and then the main journey across routes and borders.

4.1. Understanding Push Factors of Irregular migrants from Ghana

Human rights violations can be both a cause and a consequence of migratory movements (AI 2006, 20).

According to Taran (2000b, 2-3), the emigration intentions of people cannot solely be explained within the realm of economics that is ‘the cost and benefit of relocating’; in fulfillment of people’s needs; but attention should also be given to factors such as lack of human security and human rights violations. To emphasize his point, he said: ‘Many people who migrate today do so in response to factors compelling them to move in order to survive and provide for the safety, dignity and well-being of themselves and their families’. Hence, the 1999 Tampere Conclusions identified poverty as a key push factor (See Chapter 2, 42). Amnesty International also shares this view as ‘extreme poverty may have prompted migrants to leave their country of origin in the hope of realizing their economic and social rights’ (AI 2006, 20). Thus, the shift-away from the usual **economics push-pull** framework of migration motivations will be considered by presenting range of push factors, which do not follow this conventional approach.

To begin with, on my visit to Italy in September 2011, one Ghanaian irregular immigrant who arrived at Lampedusa after crossing the Mediterranean Sea in July of 2011 from Libya in the wake of the uprising in Libya gave his reason for migrating, which shares Taran’s view of violations of economic and social rights, as:

‘I dropped out of school because my father could not afford [it] anymore... and I am the first child of my father’s children, who is a watchman¹⁰. There are therefore a lot of pressures on me’ (JM, 2011). From JM’s account, it can be inferred that he was not able to continue his education due to lack of accessibility; as well as the lack of family security. Thus, JM’s denial of right to free, affordable, accessible and quality of education which is a violation of Articles 25(1)a and 25(1)b of Ghana’s Constitution; Article 13 of ICESCR is a consequent cause of crossing the Mediterranean. Whiles in Ghana on my field research, I met JM’s father who as it is peculiar with all families or households in Nima who have their relations abroad; was very happy for his son’s ability to cross the Mediterranean and lamented his inability to provide JM with what he needed:

Whiles he [JM] was in Libya, I did communicated with him several times and asked him to come back home since Libya was unsafe. But Jamal told me: ‘Father...how could I come back home knowing very well the family condition – you are now a very old man still working as a ‘watchman’ taking care of my siblings. I myself dropped out of school because you could not afford to continue paying my school fees and I do not have any skill’. So, for me I think he should be there...probably he will come back one day to wipe our tears (IS, 2011).

He added that: ‘our children do not want to do the work we are doing today. And they do not have any skill. So how will they live their lives? I believe they have to travel to Libya’ (IS, 2011).

In a Focused Group Discussion (FGD) with returned migrants I conducted in Ghana, the lost of hope to develop their potentials, the standard and the cost of living in the country; the non-availability of basic sanitation facilities compel them to move:

If we lived in a country where there are no jobs for us to do; if we lived in country where we cannot afford a well-balanced three square meal a day; if we lived in a community where there are no sanitation facilities rather you only have to walk a distance to a so-called public place of convenience where the smell alone can kill you; the only way we can escape all these is to go abroad (YK, 2011).

¹⁰A word locally used in Ghana to denote security men.

In addition, it is also the desire to have a subsistence family with decent living that 'push' people to emigrate; as one discussant of the FGD said "How do I get job to do, get money to buy a house and get married if I do not travel abroad? We have made an alert to go back. We are just praying that the war should come to an end" (YW, 2011). However, the Arab spring and the Civil War in Libya have affected their plans.

YK added that:

When I was in Libya, I could afford to send some dollars every month for my fiancé, daughter and my father. But as a result of the war, I have lost everything and now I am back in Ghana sleeping with my father, my daughter and my siblings in the same room. What a shame...I cannot withstand this shame anymore. I am ever ready to return when the war ends (2011).

All these claims by the above respondents are indicative of the lack of job opportunities for the youth, which might be blamed on the state for not providing accessible education facilities in the community to unearth the potentials of the youth and make them employable. As results of this, majority of the youth have lost hope to develop their talents; rather they consider migration as the only panacea. In the workshop – The Hague Process on Refugees and Migrants – in 2007, it was noted that 'unexploited resourcefulness of the youth and a remarkable desperation...' as well as high unemployment rate were implicated as push factors. Aderanti Adepoju (2006) in his paper entitled: 'The challenge of labour migration flows between West Africa and the Maghreb', blamed governments in West African countries who are the largest employers for not doing enough 'to provide viable employment opportunities to meet the demands of the rapidly-growing labour force, thus generating large numbers of unemployed youth'.

However, these above-mentioned accounts by the respondents may be reduced to economic push factors; but it is worthy of note that the ICESCR and the UDHR guarantee the people of a country the rights to just, favourable conditions of work and adequate standard of living; as Article 25 of the UDHR explicitly states: 'Everyone has a right to a standard of living adequate for the health, and well being of himself and of his family'. As discussed above, the violations of the economic

rights of the people as being one of the factors that push them to emigrate has been explored. In the next paragraph, I will consider the violations of social and cultural rights of the people as push factors.

Another member in the FGD explains how the identity, the dignity and the cultural rights; as well as the citizenship rights of the people of Nima (Zongo) are violated.

If you were a native of Zongo (Nima), sometimes it makes you feel like you are a second-class citizen meanwhile we are all Ghanaians. When you go to look for job to do or other social services, as soon as you mention you are from Nima, there is some attitude of reluctance for your demand. That is the truth my brother...you know it more than we do.

A recent report in the media attributed to a comment made by Sam Pee Yalley – a leading political figure of the ruling government generated a lot of controversy among the youth of Nima community. Sam Pee Yalley in his remarks in an answer to the question of why the government is not relocating to a newly constructed presidential palace said that, the relocation is not taking place because the new presidential palace is close to Nima. In other words, the palace's proximity to Nima raises security concerns. He said: 'Sir [President], don't move there today or tomorrow because there could be traps' (Owusu, 2012). In a reaction to his statement at a news conference, a youth group in Nima called – SAPTA – demanded an apology from him and the government to the people of Nima and the Zongo communities in general. They went further to state that: 'the persistent disparaging remarks about residents of Nima have made it impossible for the youth of Nima to get descent employment yet we have always voted for the NDC [the political party of the ruling government]' (Owusu, 2012). Statements of these kinds are against the dignity and cultural identity of the people of Nima.

Consequently, most of the people in Nima are employed in the so-called '3D jobs' (dirty, difficult and dangerous). The majority of the people of Nima work as 'watchmen' and labourers with meager salaries, with which it is difficult to make ends meet. This is due to their low level of education or lack of formal education. The reason for the low level or lack of formal education is linked with the European

colonialists who were Christian missionaries. They built several mission schools concentrated in their areas of work, so schools are concentrated in the Coastal and Southern parts of Ghana. In view of that, the people of the Zongos and the Northern territories who are predominantly Muslims were reluctant in sending their children to these schools for fear of being converted to Christianity. So the violation of the identity and cultural rights of the Zongos or Northern Ghana dates back to pre-independence Ghana. Prior to the arrival of the European colonialists, there were rare movements of the people of the Northern part of Ghana to the South; due to the fact that, the Northern territories were flourishing trading posts of the trans-Saharan trade. All governments since post-independence Ghana have a special developmental agenda for Northern Ghana so as to bridge this gap. For example, the first president of Ghana Dr. Kwame Nkrumah designed a developmental agenda where primary and high school education were made free and compulsory.

Furthermore, the people of the Northern part of Ghana who are connected with the people of the Zongos today as a result of rural-urban migration, ethnicity, religion and culture were cut-off from developmental agenda of Gold Coast¹¹; and were made man-power reservoir for the southern part of the Gold Coast as labourers (Guggisberg 1920 cited in Anarfi at el. 2003, 14; Plange 1979, 4). This has created some kind of ethnocentric antagonisms between the peoples of Northern and Southern parts of Ghana in all spheres of life. And this has put some feeling of superiority complex in the minds of the people of the South over the people of the North or the Zongos. In view of these, the people lack some sense of belongingness, the capacity and ability to exert political influence.

In addition, it is a common misconception amongst most Ghanaians of the south that people of the Zongos are foreigners. This is a denial of their nationality rites since the constitution of Ghana in Articles 6(1) and 6(2) accord them nationality rights; and according to the UDHR, citizenship is acquired by birth (*jus solis*). All these are applicable to the people of the Zongos. Against this misconception, the 2000

¹¹The former name of the modern state of Ghana. The name was changed to Ghana upon attainment of independence in 1957.

elections presidential candidate of the then opposition New Patriotic Party (Former President John Agyekum Kuffour) chose Alhaji Aliu Mahama who is a Muslim and a native of Zongo as a vice president.

In effect, evidence from empirical interviews discussed so far disproves Hein de Haas' assertion that 'Migration within and from West Africa to Europe is generally a deliberate choice and an investment by reasonably prosperous households and families to enhance their livelihoods'. Instead, West African migrants are forced to migrate due to human rights violations (see 4.1). This was what one respondent had to say about poverty: 'Poverty is the worst form of diseases. It is more stigmatizing and deadly than HIV/AIDS' (YK, 2011). One migrant from Sierra Leone also had this to explain about poverty, which caused him to migrate:

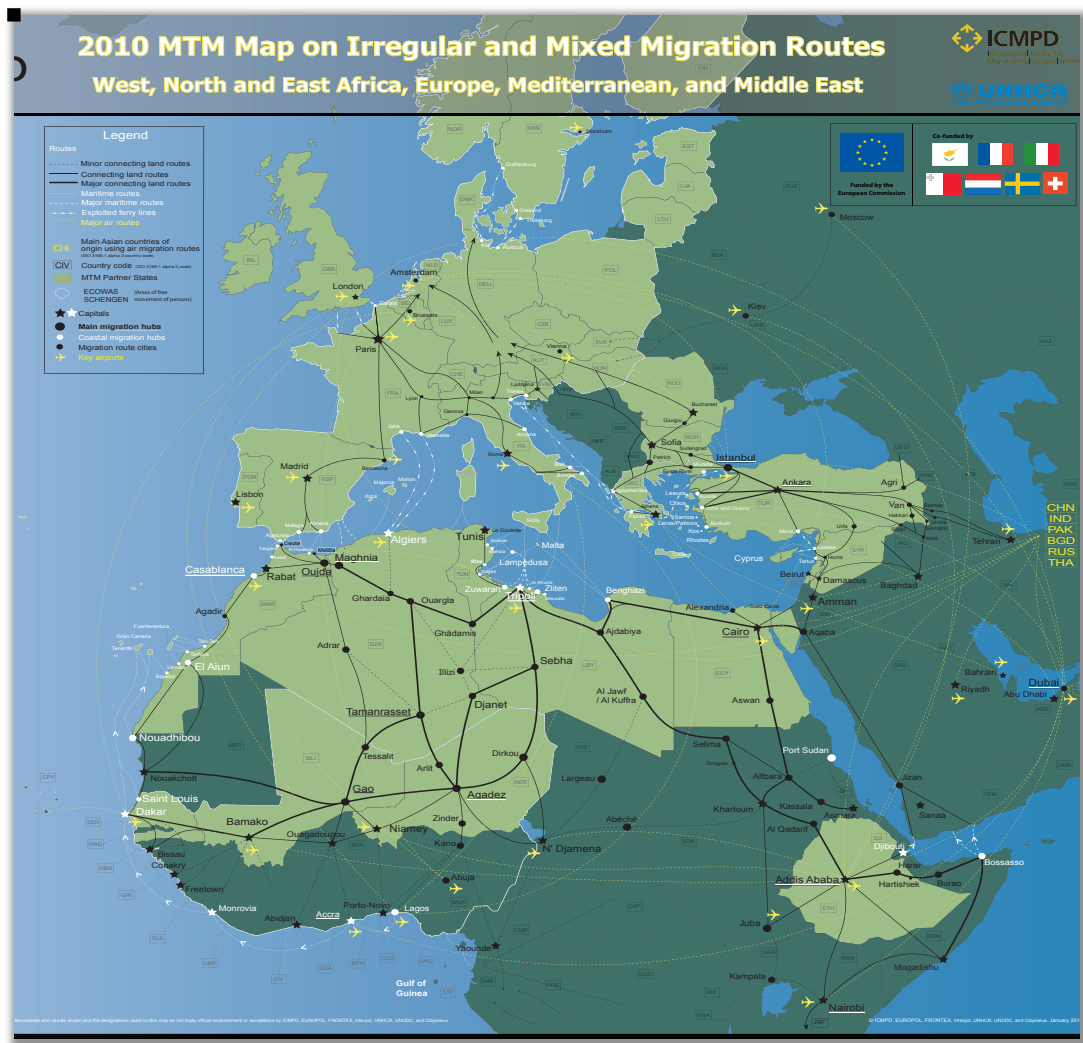
It's not just bullets and bombs that make you flee. There are other reasons that can make you go even further. If you're just fleeing bullets, you just have to leave for a while, until things have calmed down, then you can come back. If it's poverty that's chasing you, it's like you've got fire behind you, and you just keep going (Collyer 2004, 132).

In conclusion, it is inferred from the above that West African migrants with specific reference to migrants from Ghana do not deliberately migrate to improve upon their livelihood; instead migration has become a difficult choice as 'part of a survival strategy' (AI 2005, 10). Firstly, all the above-mentioned experiences by irregular migrants contravene both national and international human rights conventions of which Ghana is a party to (see 2.2.3). Finally, 'the right to work under satisfactory, safe and healthy conditions, and shall receive equal pay for equal work without distinction of any kind' as well as 'the assurance of rest and leisure,' are spelled out in Article 24 (1) and 24(2) in Ghana's constitution respectively. In the next section, we will look at the experiences of irregular migrants across routes and borders of the Sahara desert.

4.2. Trans-Saharan Routes and Border

There are a complex, intersecting web of irregular migrants' routes (see **Map 3**) across the borders of the countries of sub-Saharan, North Africa and Europe over land, sea and air (De Haas 2008, 17).

Map 3



Due to the lack of means of irregular migrants from Ghana and other Sub-Saharan African countries, land (trans-Saharan) is the preferred route. The journeys across the Sahara constitute about 90 percent of the whole cycle. It is made in several stages with transits and it sometimes takes a whole week or month (De Haas 2007, 18).

This trans-Saharan journey begins from the migrants' country of origin through historical bordering towns to coastal-Mediterranean towns of North Africa like Benghazi, Zliten, Tripoli and Zuwarah in Libya; Rabat, Asilah, and Oujda in Morocco; Tunis in Tunisia and Algiers in Algeria. The routes taken by irregular migrants are known historical routes that were used during the caravan trade or the trans-Saharan trade between countries and peoples North of the Sahara and South of the Sahara (UNODC 2011, 19; Asiegbu 2000, 16; Boahen 1966 cited in Anarfi, Kwankye et al. 2003, 5). Famous transit towns like Aghadez and Dirkou (Niger), Gao and Timbuktu (Mali) are products of this trade. Furthermore, North Africans and West Africans were linked by trading and socio-cultural activities, religion (education and pilgrimage) and empires before the arrival of European colonialists (De Haas 2008, 15; UNODC 2011, 19). The advent of colonialism introduced borders and thereby curtailed the free mobility of African peoples (De Haas 2000, 15). Moreover, the horrific stories of irregular migrants across the Sahara are not well known to the general public, and often unheard by practitioners and policy makers. This leads to the next topic of the following section, which presents the untold stories of irregular migrants travelling on the desert.

4.2.1. Western Sahara Route

Evidences from my interviews show those irregular migrants less use this route since most of them move to Libya. Three main routes are identified here as shown in the map (Also see **Map 3**):

1. Ghana – Agahdez – Arlit (Niger) – Tamanrasset – Ouarga (Algeria) – Oujda (Morocco)
2. Ghana – Mali (Gao) – Tamanrasset – Ouarga (Algeria) – Oujda (Morocco)
3. Ghana – Gao (Mali) – Nouakchot – Nouadhibou (Mauritania) – Western Sahara/Morocco

4.2.2. Central Sahara Route

This is by far the major route used by sub-Saharan African irregular migrants. About 80 percent of migrants pass through this route to Libya; while only 20 percent continue to Morocco and Algeria (De Haas 2006, 1). The reasons according to my interview are that; firstly, Libya's Pan-African policy of immigration in the 90's towards the Millennium. This is also supported by Hein De Haas (2007, 13). This was a policy that sought to look at African continent as one people with common heritage without borders. Secondly, the availability of jobs for immigrants; due to the small Libyan population of about 5,500,000 people combined with a booming oil economy; and finally, it is the shortest and the cheapest of all routes leading to Libya from Aghadez.

The central point of convergence by all migrants from Ghana and other West African countries is the old historical town of Aghadez located in Niger (De Haas 2008, 17). It is the hub where migrants meet with human smugglers. In most irregular migrations, there are transit migration and human smugglers who take advantage of the vulnerability of migrants. It is worthwhile to make the distinction between human trafficking and human smuggling: while the former involves coercion and exploitation by another person; the latter is voluntary with the aid of another person to enter another country through irregular means (Grant 2005, 20). According to Articles 3(a) of the UNCTOC's Protocol to Prevent, Suppress and Punish Trafficking in Persons (2000); and Protocol against the Smuggling of Migrants by Land, Sea and Air (2000), human trafficking is defined as: 'the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat, or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation'; while, human smuggling is: 'the procurement, in order to obtain, directly or indirectly a financial or other material benefit, of the illegal entry of a person into a state Party of which the person is not a national or permanent resident'.

My empirical research interviews of irregular migrants confirm Hein De Haas' assertion that the involvement of international organized crimes of human trafficking is rare in the migratory cycle (Haas 2008, 10); and Pastore, Monzini and Sciortino (2006, 109-111) also share the same view. Instead, irregular migrants hire the services of migrant smugglers in mainly Aghadez and in the coastal cities of North Africa to convey them to their destinations. Most of the smugglers engaged in this smuggling are a network of local Tuareg and Berber nomads; as well as irregular migrants from other parts of Africa who have got stuck on their way and have turned to act as 'gilds'¹² (FS, 2011). In my interaction with AL, a Tuareg from Aghadez who is a student at Zirve University in Turkey, I asked him why the people in Aghadez and on the desert are exploiting irregular migrants en route to Libya. He answers: 'the people do not have any occupation on the arid desert to survive on. So the only means of their survival is what they are doing'. Two main routes are identified from Aghadez (Also see **Map 3**).

1. Ghana – Aghadez – Dirkou (Niger) – Al-Gatroun - Sebha – Tripoli/Benghazi (Libya) and Tunis (Tunisia)
2. Ghana – Aghadez – Djannet (Algeria) – Ghatt - Sebha – Tripoli/Benghazi (Libya) and Tunis (Tunisia)

Usually from Djannet, migrants walk for minimum of one day to enter Ghatt. One respondent described the area and the walk:

We had to walk for two days to enter into Libya. Vehicles cannot move across the mountains; and so that was where the driver left us. And he only showed us the direction. We had to walk up and down of the mountains (AW, 2011).

This mountainous route is a border between Niger, Algeria and Libya. Migrants are aware of the treacherous conditions and nature of this route, but they said it prevents them from the likelihood of border checks and expulsions by Libyan immigration officers at the borders and the desert patrols. Having looked at the various routes leading to countries North of the Sahara desert, the next section will consider the characteristics of a typical journey across the Sahara from migrants' own voices.

¹²The word 'gild' is the term used by Ghanaian irregular migrants to refer to migrant smuggler.

4.3. Features of Typical Journey across Sahara Desert

According to most migrants from Ghana, the actual trans-Saharan journey itself begins from the historical town of Aghadez. Sometimes crossing the Sahara takes a month due to intermittent breaking down of the vehicles. And this has led to many migrants meeting their untimely death on the Sahara (FS/Video/2009a). The journey in itself is hazardous and inhumane. About 30 to 40 migrants are packed in old pick-ups, which are designed to carry about 15 people, travelling over a distance of over 200 kilometres from Aghadez (Niger) to Libya. As can be seen in **plate 1** below:

Plate 1



©Author/FS

AW pointed out his experience as:

We were packed in a dilapidated pick up car like tuna fish packed in a refrigerator; and on top of that, goods were packed on top of us. We could hardly breathe. But luckily for us, the journey from the village to Sebha was an hour (AW, 2011).

Sometimes, some of the drivers pretend that the vehicle is broken down and they leave the migrants in the middle of the desert and escape. AW narrated this inhuman treatment they experienced:

Our driver abandoned us on the desert town of Djannet. From there we walked for more than 24 hours into a nearby village in Libya; because vehicles cannot move across the mountains; and so that was where the driver left us. And he only showed us the direction. We had to walk up and down of the mountains. I like my colleagues became very tired and dehydrated to the point of death. We could not walk anymore as our legs became weak and our feet swollen (AW, 2011).

Food and water are usually scarce during the journey. As DL pointed out; there is no life and sympathy among migrants due to the nature of the desert:

You know how the desert is my brother. No trees...nothing. And due to the large distances of walk and the nature of the vehicle we board, you are not allowed to carry heavy load. So you can only carry a gallon of water and some 'gari'¹³ or sugar. That is all. You do not share your food with anyone. No sympathy on the desert. You only take a sip of the cork of the gallon at given times.

MS who now lives in Italy added an example of survival strategies adopted by migrants:

On our journey to enter Libya between Dirkou (a town in northern Niger) and Sebha (a town in Southern Libya), we run out of water and food and as a result four people drank each other's urine.....you drink mine and I drink yours. That was how those four people survived.

More evidence of the absence of water and the hardships irregular migrants encounter is shown in the video (FS/Video/2009b) showing a group of sub-Saharan migrants whose vehicle broke down in the middle of the Sahara desert between Niger and Libya and subsequently ran out of water and food. Eventually, they all cried out of thirst till they became dehydrated to the point of death, when one migrant died. These are not the only hardships encountered by irregular migrants in their journey. An account by one FGD member depicts other hardships:

There are usually stoppages by armed-robbers on the way harassing us. They searched each and everyone to take away any money on us. And when they came to notice that migrants now hide their monies by inserting it into their anus, they now insert their fingers into our anus (YW, 2011).

¹³ A type of food made from cassava commonly known and eaten especially in Ghana and Nigeria. It is cheap and therefore affordable by the poor. Due to that, it usually regarded as the food for poor people in Ghana.

Usually, some migrants carry items like gold on their way to Libya to sell. As the robbers on the desert became aware of this, they began to search migrants thoroughly. An interviewee claimed:

One Nigerian emigrant we were travelling with was having some grams of gold in his pocket. As soon as robbers stopped us and we were being searched, he quickly threw the gold in his mouth and swallowed it. When he was ordered to bring it out he refused and one of the robbers slashed his throat with [a] knife (FS, 2011).

FS went ahead to narrate his horrific experience with robbers:

I have never seen a person dying with my naked eyes; until my journey on the Sahara. This happened when a brother and a sister with whom we were travelling to Libya, were asked by armed robbers who intercepted us on the way that they should strip themselves naked and have sexual intercourse, but the boy refused. They insisted but still he refused. The girl being fearful stripped naked and convinced her brother to submit to their command so as to leave them to go. Suddenly when the girl started touching the brother, his penis got erected and one of the armed robbers used his knife to cut-off the manhood. The boy then fell down and suddenly died.

As regard to my question about what happens to someone who dies on the way, this is what F.S. had to say:

What we do is that we just cover the body with sand and if he has a passport, we place the passport on him. Knowing how the desert is, you cannot dig a grave to bury human being. So, on our way we came across several dead bodies of people from different West African countries lying dead on the desert as you can see from this video [FS/Video/2009].

AW also attests to the fact about how they buried their dead ones on their way:

Most people...Ghanaians, Nigerians, Liberians, men and women die of tiredness and hunger. When you become tired or you fall sick, no one will attend to you. Everyone for himself.... we go and leave you. And when you die, we just bury you like a fowl under the desert and if you have passport we place it on you (AW, 2011).

He added that: "I remember whiles walking around the border between Algeria and Libya; we came across many unidentified dead bodies of migrants. We could not but to walk over them." Those irregular migrants who get somewhat descent burials are those who die upon arrival at Lampedusa – the promise island (see 4.4.2). The entire above mentioned are experiences of irregular migrants that took place before entering into Libya. But this is not the end of the hardships as living in Libya has it

own inhuman treatments which violate the rights of irregular migrants as would be discussed in the next sub-chapter.

4.3.1. Human Rights Abuses in Transit Countries (Libya)

Most irregular emigrants move to North Africa particularly Libya with the aim of continuing to Europe by crossing the Mediterranean Sea. However, some live and work in Libya for a short period to get enough to back home whilst others continue these journeys (De Haas 2008, 20). Stories of human rights abuses are numerous in Libya. These are mainly related to exploitation of workers, arbitrary arrests, detentions and deportations. They engage in the so-called 3D jobs (Taran 2000a, 3); they face racism, discrimination and xenophobia at workplaces; they are paid wages below the minimum wage that nationals enjoy and they are also denied social security benefits; and they are also exploited by employers as well:

Since they know very well that we do not have documents or permit of stay, a Libyan man will hire your services sometimes a day, a week or a month. After your hard days work, when you ask him to pay you, he tells you he will not pay. If you do not go away he will call the police (YK, 2011).

Due to the nature of irregular migrants – that is they are not documented, most employers in Libya violate their rights to work and at work. Such a treatment is a denial of migrants’ rights at work.

In addition, the Libyan authorities as are the case in most EU states use detention more often as a sole means of immigration management. Migrants are frequently arrested arbitrarily, detained and expelled. Due to that, irregular migrants live in fear. One interviewee narrates about the condition of detention camp he was put in:

It was bad. We were over-crowded; one could not sleep on his back or on his stomach. You could only sleep on your right or left side. We were beaten up everyday. The toilets and urinals smelled very bad (DL, 2011).

AW also reiterated the condition of what the Libyan authorities called ‘deportation’ camp:

My brother! I will never wish my friend to experience this not even my enemy. It was hell. We remained in a deportation camp for six months together with people from Nigeria, Liberia and Niger. The food was horrible but we have no option. There was no separation between the toilets, urinals and where we sleep. We were over crowded to the extent that when you sleep on your right posture for example that was it, you could not move till the next day. You cannot change your position. Not to talk about the bad smell. Everyone got infected with skin rashes. And when you become ill, [there is] no medical treatment for you. Some died in the detention. They always beat us without any reason. Every night they asked us to come out of the camp and sit outside in the cold weather beating us. One boy from Ghana got his hand fractured as a result of beating by the prison officers; and on our way back in Ghana, he died (AW, 2011).

These accounts by the respondents of the inhuman conditions and treatments in detention centres are evidential of the photos taken by the NGO called Fortress Europe (Del Grande, 2009) shown below. **Plate 2** shows an outside view of the high-walled detention centre in Libya; **plates 3** and **4** show inside view of the detention centre. It lacks ventilation and is overcrowded with migrants who were intercepted on the desert on their way to Europe.

Plate 2



Plate 3



Plate 4



©Fortress Europe

Mostly, migrants on their way to Europe are intercepted on the desert by security officers (see **plate 5**); and are transported like criminals in unventilated trucks (see **plates 6 and 7**).

Plate 5



Plate 6



Plate 7



©Fortress Europe

These inhuman treatments contravene the rights to free movement of irregular migrants. Another vivid description of a similar detention camp in another country is provided by the director of the EU Agency for Fundamental Rights (FRA); Morten Kjaerum:

My own colleagues visited 3 detention centres at the Greek-Turkish land border in January of this year (2011). To give you a picture of one detention centre, imagine that you have an apartment of 110 square metres – a comfortable size for a small family. Then you invite 140 people over to stay there with you for several months. That is what we found in the centre in Soufli. People were lying on the beds and on the floor tightly packed one next to the other. My colleagues had to climb over the bodies to get in and move around. One person slept in a non-functioning shower. Three other people slept in a dark hole above the toilet (2011).

The inhuman treatments of migrants in Libya became worse during and after the Libyan uprising in the wake of the Libyan Civil War. Irregular immigrants were accused by forces loyal to the National Transitional Council (NTC)¹⁴ for fighting in support of the late Libyan Socialist leader – Muammar Qaddafi. As a result irregular immigrants were subjected to xenophobic and racist attacks which led some of them to vacate their homes into hiding in abandoned ships where there no access to

¹⁴ Also known as *al-mjilis al-watani al-intiqali* was established on 17th February 2011 by anti-Gaddafi forces. The NTC is now the interim government in Libya, after the killing of Muammar Gaddafi.

potable water, food, shelter and sanitation facilities; and some have lost all their hard-earned properties like money acquired for years (UNHCR/Video/2011a; UNHCR/Video/2011b). Women were also subjected to sexual assaults and rapes (Also see Aljazeera/Video/2011). Furthermore, Abdul Rahman Gomda of the Daily Guide newspaper reported on 11th of November 2011 that; 53 Ghanaian irregular immigrants were arrested and detained by the opposition forces that toppled and killed Late Muammar Qaddafi. On an account of how the situation was and the sudden death of a Ghanaian immigrant in Libya, This was FS account of this event:

He went out to buy some foodstuffs; and that was the end. We later heard that he was shot by a stray bullet from the NTC forces and was taken to the hospital. But as fearful as we were at that time we could not go out to find out which hospital he was to visit him. We were living in our room for two months in anxiety and in anticipation that Salam could appear one day but that did not happen. And as I am speaking with you now, it has been four months now since we came back to Ghana and no information about his whereabouts in Libya. So I can confirm to you that he is dead (FS, 2011).

Moreover, almost all irregular migrants I interviewed blamed the embassy of Ghana officials in Libya for not helping them in their circumstances of need. AW recalled how they made innumerable calls to the embassy when they were arrested arbitrarily and detained for six months before expelled:

We were the last group of nationals to be expelled. This was because the embassy officials were reluctant to come and process our travelling documents after making several calls to them. According to the security officers, left with them alone they would have deported us long time but had to seek the endorsement of the embassy first.

One imprisoned Ghanaian migrant in Libya, interviewed via phone by Daily Guide (a Ghanaian Newspaper), confirmed this experience. According to him: ‘We have tried time without number to get the Ghana Embassy come to our aid as other missions have done for their nationals to no avail’ (Gomda 2011). This is against the rights of irregular migrants as citizens of Ghana; and also against International Treaty Protecting Migrants’ Rights to Consular Access and Protection. FS also recounted his experiences at the Airport waiting to be airlifted back to Ghana: ‘We were picked to the Airport that we are going to be airlifted to Ghana, but we were left at the airport for close to two weeks without food, water, mattresses and cloth’.

Under the Vienna Convention on Consular Relations, the Consular has the responsibility to:

- Protect the interests of its nationals, both individuals and bodies corporate, within the ambit by international law;
- Help and assist its nationals, both individuals and corporate;
- Issue passport or travel documents to its nationals or any required documents to its nationals wanting to travel, and;
- Represent or arrange for its nationals legal council before tribunals in the receiving or destination country to defend their rights (VCCR, Article 5).

In conclusion, all the above discussion centered on the first phase of the journey; that is trans-Saharan which pointed out the vulnerabilities of irregular migrants, the exploitations they undergo in the hands of human smugglers, combined with inhuman treatments they encounter in the hands of authorities in Libya. The next section examines the main features of the second phase, which is trans-Mediterranean.

4.4. Trans-Mediterranean Routes and Borders

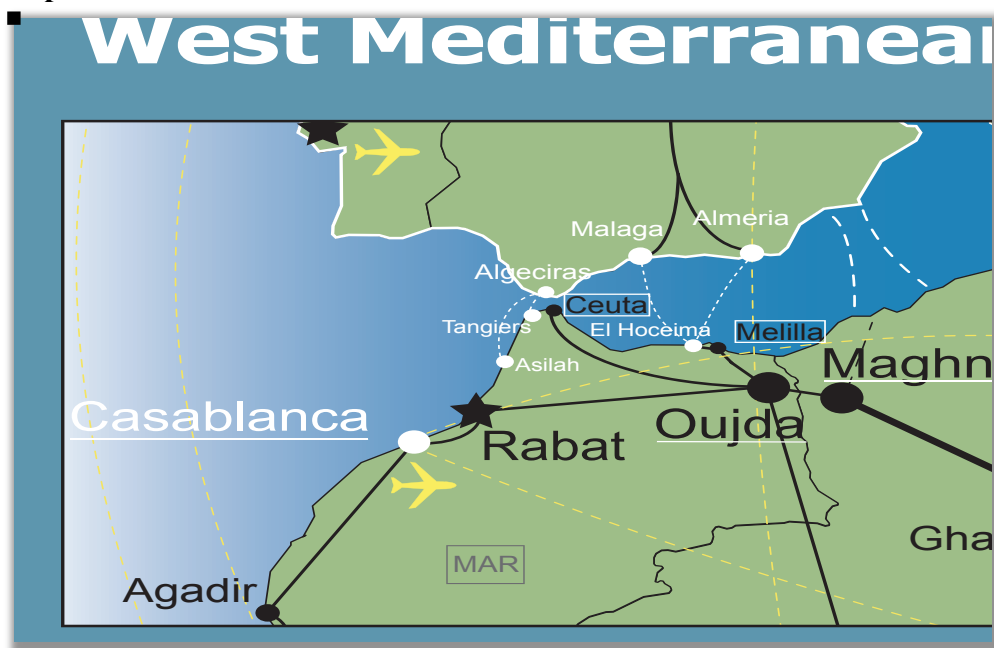
Irregular migrants travel across the narrowest point of proximity between the two continents (UNODC 2006, 21). Due to the increasing securitization of migration by the EU and its states, sea and overland routes are the preferred options for irregular migrants crossing these coastal towns of the North African Mediterranean countries by the use of rickety vessels or *peteras* (fishing boats). These boats according to my research which confirm Pastore et al. (2006, 111), ‘are mid-size vessels made in North Africa, often flagless, nameless, and carrying no professional sailor on board’. The risks of boat wrecks are very high since most of these boats are not seaworthy (Pastore et al. 2006, 111). Two main routes used by migrants are identified: the West (see **Map 4**) and Central Mediterranean routes (Also see **Map 5**).

4.4.1. Western Mediterranean Route¹⁵

Likewise the Western Saharan route, this route is less used by migrants from North African coastal cities of Morocco despite being the shortest route of all; because majority of the irregular migrants transit through Libya. It is only about 14km through the Strait of Gibraltar (Lutterbeck 2006, 62). The main departure country is Morocco and the main arrival country is Spain, mainly the Spanish enclaves of Ceuta and Melilla (Baldwin-Edwards 2006, 9-10) as shown in **Map 4**. Two main routes are identified here:

1. Morocco – Melilla (Spanish enclaves)
2. Morocco – Strait of Gibraltar – Ceuta (Spanish enclave)

Map 4



©ICMPD

¹⁵There is however another route, which cannot be described as trans-Mediterranean. It is only 100km from the coasts of Morocco and Western Sahara to the Island of Canary in the Atlantic Ocean (see Carling and Carretero, 2008).

4.4.2. Central Mediterranean Route

This is by far the most preferred route by migrants and it is the longer of the two routes. From Libyan coastal cities of Benghazi, Zuwarrah (about 100km west of Tripoli) and Zlitan (100km east of Tripoli), migrants sail mainly to Italian Islands of Lampedusa, Pantalleria, Linosa or Sicily and Malta (Baldwin-Edwards 2006, 10) as shown in **Map 5**. Despite being the longest, it is preferred because it is the continuous route of the majority of irregular migrants who use the central Sahara route.

- Libya/Tunisia – Italy (Lampedusa, Pantalleria or Sicily) and Malta

Map 5



©ICMPD

MS who now lives in Italy attempted crossing the Mediterranean from Libya to Lampedusa four times described how packed they were in the boat:

I tried for the fourth time and that was how I succeeded to be in Italy today. We were 103 in number. Ideally, the capacity of the boat was 25. Three people are always exempted from paying. The three were the captain (me), compass controller and self-acclaimed mechanic (MS, 2011).

DL who is a returned migrant from Greece described how vulnerable and unsafe crossing the Mediterranean was:

I attempted crossing the Mediterranean on two different occasions. I was the captain of the vessel on all two occasions. The first trip we were in the middle of the sea when we experience some turbulence. We kept drifting on the sea for two days and then return back. The second attempt we [were] about to leave the shore, when we were arrested by Libyan coast guards and detained (DL, 2011).

Furthermore, despite the fact that the journey is male-dominated, there are women migrants and they are more vulnerable to harassments. Some travel while pregnant while others carry children. MS shared his experience of how vulnerable women on the journey become:

This time round, there were 30 women on-board the boat; and three were from Ghana. One of the Ghanaian women travelling with the husband was pregnant. As soon as we got to the island of Lampedusa, the pregnant woman became so weak and was about to give birth. So, with the help of Italian coast guards, a helicopter came and took her to the hospital.

Moreover, two Ghanaian women as seen in **plate 8** below; one of whose husband drowned while crossing the Sea to Lampedusa from the coast of Tunisia has become a widow; and as a result her family and personal security is at risk. **Plate 9** also shows the only nine survivors of the ‘left-die-boat case’ (see 1.2 and Lorenzo/IFHR/Video/2011).

Plate 8



©Samer Muscati/Human Rights Watch

Plate 9



©The Guardian

Furthermore, there are many reported cases of death of migrants trying to cross the Sea to Europe (ICMPD 2004, 8). Most of these dead bodies are not found. Some also die on their way or on their arrival due to shortage of food and water (see 1.2 and Lorenzo/IFHR/Video/2011). This is not the end of the treacherous stories upon crossing the Mediterranean; those who have been able to cross also go through inhuman treatments. Vulnerable children and pregnant women as well others who are victimized and traumatized in the process of the journey; wanting urgent care and attention are not taken care of. And those who die upon arrival are buried on the island without identification since they are undocumented. The only identification given them is by numbering their graves (UNHCR/Video/2011c).

However, my research disproves claims by Pastore et al. that ‘payment to the ship owner is made only when the journey has taken place, after the confirmation of the arrival of the migrants. Passengers have the right to all their money back if they do not reach their destination’ (2006, 112). According to one of my interviewees living in Italy, regardless of whatever happens – boat wreck, interception by coast guards, shortage of fuel or bad weather conditions as they usually encounter, your money is never paid back. He said:

On the night prior to our journey, we were conveyed to an unknown location close to the sea awaiting our journey. To our dismay, the following morning, we were informed by the ‘gild’ that the weather is not good and that there is storm on the high sea; so we cannot embark on the journey. In that case, our money was not refunded. So I could not get my money back (MS, 2011).

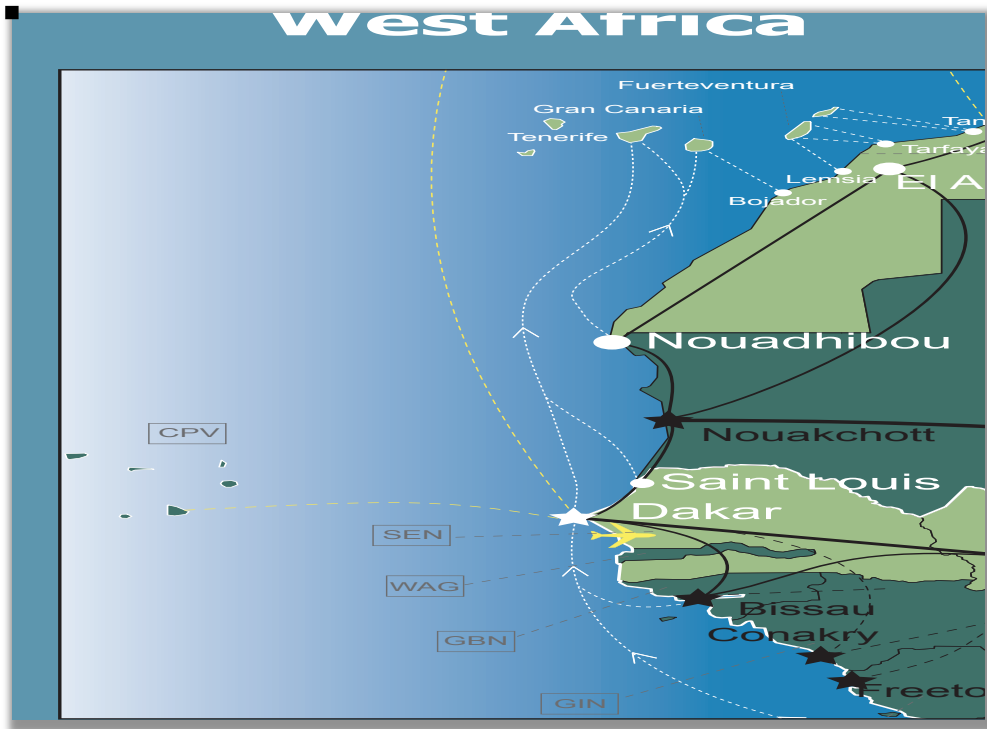
In conclusion, this sums up the exploitations irregular migrants encounter upon crossing the Mediterranean. In addition, some migrants are at times intercepted and refouled either by Libyan maritime patrol team (FS/Video/2009c), or a joint maritime patrol team of some EU member states with Libya, or FRONTEX. Meanwhile these actions of sending back irregular migrants to where they are coming from are against the Principle of non-Refoulement enshrined in Article 19(2) of the EU Charter for Fundamental Rights (see 2.2.5). In the next two sections, two routes – the West African and the East Mediterranean – that are neither of the above-discussed routes, which emerged as a result of exploitations, hardships and harassments migrants go through along those routes will be examined.

4.5. The West African Route

This route is neither trans-Saharan nor trans-Mediterranean. It is done over land and sea mainly across West African coasts. It is one of the long-distance routes; about 2000km from the coasts of West Africa to the Island of Canary. Two main routes can be identified as indicated in **Map 6**.

1. Ghana – Bamako (Mali) – Senegal/Gambia – Canary Islands (Spanish Island in the Atlantic Ocean);
2. Ghana – Gao (Mali) – Nouakchott – Nouadhibou (Mauritania) – Al-Aiun (Western Sahara) – Canary Islands.

Map 6



4.6. The East Mediterranean Route

This is another alternative route, which involves air, land, sea or river. This involves long-distance routes (Pastore et al. 2006, 111). The main transit hub here is the historical city of Istanbul – Turkey (Baldwin-Edwards 2006, 10); which is geographically located between Europe and Asia, as shown in **Map 7**. Istanbul had been historically and continues to be a crossroad for Africa, Middle East/Asia and Europe. This makes it a strategic bridge for migrants from Asia and Africa. Lately, this route has become another alternative for Sub-Sahara African migrants. Two main different routes are identified under the East Mediterranean route (Also see **Map 3**).

1. Ghana – Turkey – Greece (Air/Sea/River)
2. Ghana – Lebanon – Syria – Turkey – Greece (Air/Land/Sea/River)

Map 7



©ICMPD

The first route as mentioned above is normally via air from Ghana to Istanbul (Turkey) by the acquisition of Turkish visa through false documentation. This normally is the reserve of the rich who can afford. This route involves migrant traffickers and smugglers who are well organized and have networks and bases at each stage of the travel. Migrants are very much informed of prices of visas to the Europe. This option has become the most used by irregular migrants who can afford due to two main reasons: the easy acquisition of Turkish visas and cheap airfares. Whereas, the second route is usually poor favoured by poor irregular migrants. Before the crisis in Syria this route was another recent discovered route by irregular migrants from Ghana; but was preferred mainly by migrants from Asian countries like Pakistan, India Afghanistan and Bangladesh. In my interactions with one of my interviewees, the Turkey-Greece route is highly managed by migrants' smugglers; and there is a high monetary cost involved, since it is a long-distance route. One of my interviewees shared his experience of this route:

When I returned to Ghana, I got the services of ‘connection’ men and I paid \$650 from Lebanon to Syria and from Syria to Antalya (Turkey). From Antalya, I paid \$250 to Istanbul. Then I stayed in Istanbul for six months while working. I then got another ‘connection’ man who charged me \$1,250 to Greece (DL, 2011).

Knowing very well about the huge monetary cost involved in this travel, migrants who travelled to Libya and did not succeed in crossing the Mediterranean, stay back in Libya again to work, save the money; and in turn come back to Ghana to take this route.

In conclusion, as discussed earlier, migrants travelling across the Sahara desert and crossing the Mediterranean encounter lots of human rights violations. Unofficial actors like armed robbers, human smugglers and traffickers on the way; and official actors like security agencies in transit and destination countries violate both their CPR and ESCR. Migrants’ inalienable rights to freedom of movement are abused which contravene UDHR Article 13(2); ICCPR Article 12(2) and 12(4); ICMW Article 8(1) and 8(2); and CRC Article 10(2) ((see 2.2.3)).

5. CONCLUSION

Motivated by the aim to examine the interplay of human rights and migration; this research is hinged on three pillars namely ‘Fortress Europe’, irregular migration and human rights. In addition, three research questions (see 1.3) guided the thesis to the conclusion. These were:

1. What are the human rights aspects related to irregular migration?
2. What are the causes of irregular migration of the youth from Ghana?
3. How to address human rights through policy-making?

The first question addressed in the second chapter is related with the theorization of human rights as a framework of this research analyses. The chapter analyzed the paradigmatic shift from the conventional approach to migration determinants by presenting how human rights are connected at every stage of the migratory process. International, regional and national human rights conventions were analyzed. The research found that, people do not only migrate due to economic reasons such as lack of job opportunities, poor wages or salaries, better job opportunities elsewhere, as most migration literatures indicate; instead people also migrate due to the denial of their economic, social and cultural rights in the countries of origin. According to Monette Zard (2005, 2) ‘human rights are a legal framework developed by states themselves to ensure that all human beings, and in particular their own nationals are treated with a certain standard wherever they may find themselves’. In other words, human rights are akin to a social contract between the state and the citizens. Therefore, every citizen of a country has the right to just and favourable work to make a living; the right to social security, quality and affordable education, health and housing. Every government of a country owes it to ensure that the ethnic or cultural identity and the dignity of every citizen or people are respected and protected. In the absence of this social contract, the people lose hope in themselves and the state, thereby they become unable to develop their potential for individual, community and national development and they chose to emigrate.

Furthermore, irregular migrants experience several kinds of human rights violations on their way across the desert and in transit countries. Their right to freedom of movement is abused by, firstly, unofficial actors like armed robbers who intercept them and take away their belongings. They are also tortured and sometimes killed. In addition, women are also raped. Again, in transit countries like Libya migrants' rights to work and at work are abused. Migrants are usually engaged in the so-called 3D (see 4.3.1) jobs and are paid meager wages, which are below the minimum wages; and they work without social securities. They are at times arrested arbitrarily or intercepted on the desert by Libyan security forces, transported in unventilated trucks, detained in poor ventilated detention camps for an unspecified number of months. And then they are deported arbitrarily back to their countries of origin. They do not have access to legal services; and consular services from their consulates abroad. Moreover, due to the configuration of Europe as a fortress, those migrants who cross the Mediterranean fall prey to unscrupulous human smugglers who charge exorbitant fees; and transport them in overcrowded unseaworthy boats. These experiences put the lives of migrants in danger. They are at times intercepted on the sea by FRONTEX, joint operations by some EU member countries like Italy and Spain with North African countries like Libya, Morocco and Tunisia. Some migrants die in the process while those in need of medical attention, food or water are usually not taken care of. Therefore, this thesis brings to the fore the various kinds of human rights violations and physical dangers migrants encounter in the migratory cycle.

The second question about the causes of irregular migration of the youth from Ghana was answered in the fourth chapter by presenting analyses of the experiential lives of returned irregular migrants who have travelled across the Sahara desert to Europe. This demystified the causes of irregular migration of the youth from Nima; and poverty was cited as the overarching cause; as many other dimensions are connected to poverty. The research pointed out that there was disequilibrium between development and human rights. The lack of respect for the rights of the people of Nima to development was a major push factor. This had led to the lack of access to quality educational facilities, quality healthcare facilities, access to employment, good and affordable housing, hygiene and sanitation facilities, social amenities, etc.

The chapter then concluded with a definition of poverty, which is connected to human rights violations. Poverty is not merely lack of material needs or simply money in ones pocket, but instead poverty according to the UN Human Rights Commissioner is:

...a result of disempowerment and exclusion. Poverty is not only a lack of material goods and opportunities, such as employment, ownership of productive assets and savings; but lack of physical and social goods, such as health, physical integrity, freedom from fear and violence, social belongings, cultural identity, organization capacity, the ability to exert political influence, and the ability to live a life with respect and dignity.

The people of Nima are living in poverty not just because they are financially poor; but they lack respect for their cultural identity and as migrants from Northern part of Ghana and other West African countries. Their rights to live a life of respect and dignity are abused and they lack the ability to make any political influence. As a result of all these, the people lack hopes, which is according to Barack Obama ‘can rot a society from within’ (Obama, 2009).

The thesis then concluded with some policy recommendations, which address the third question. That is how to address human rights through policy making, combined with policy analyses of migration in EU and Ghana. The poor respect of human rights is a major set back not only in Ghana but also in the EU. In her statement to the 11th Session of the Human Rights Council, the UN Human Rights High Commissioner highlighted the need for human rights based approach to migration policy making:

When looking at the underlying causes of migration in countries of origin-the so-called push-factors; my office has highlighted the need to go beyond economics and its emphasis on *income* poverty. Rather, we must seek deeper understanding of, and remedies for, *human* poverty by keeping in sharp focus how a lack of health care, scarcity of food, obstacles to education, and inequality of opportunities, including gender discrimination, affect migration flows.

If the fact has been established that human rights are implicated at every stage of the migratory cycle, then the only way the problem can be addressed is adopting the ‘root-cause approach’ as suggested by the Tampere Conclusions (Also see 3.3.2).

This means tackling the primary causes of irregular migrations from Ghana, the exploitations by unofficial actors like armed-robbers, human smugglers and human traffickers; the human rights abuses in transit countries, upon crossing the Sea; in destination countries and upon return. According to Susan Martin (2005, 34), there are three pillars required in migration management namely 'state rights and responsibilities; migrant rights and responsibilities; and inter-State cooperation'. These three pillars encapsulate the triangular nature of irregular migration: countries of origin, transit and destination. However, the problems are the absence of migration policy document on Ghana (Also see 2.2.6); little knowledge and information about human rights of migrants; the absence of internationally mandated body to govern migration; and the limited ratification of the ICMW (see 2.2.4).

Thus, there is the need for a migration policy to govern migration in Ghana. Such a policy should not compromise with migrants' rights regardless of their status. That is it should put the rights of migrants at the centre of debates and policy-making and not only focus on migration and development nexus. The policy should also include programmes for returned migrants. Most often irregular migrants who are evacuated or deported back to Ghana are left to their own fate. Ghanaweb reported on 13th March 2012, that about a thousand of the irregular migrants who were evacuated recently from Libya in the wake of the civil war are going back again. According to the report, one of the migrants interviewed claimed they are going back to Libya because of the lack of job opportunities in the country. Returned programmes for migrants should firstly, aim at empowering irregular migrants psychologically by giving them guidance and counseling to reunite with their families and communities. This is because most returned migrants are traumatized, victimized and stigmatized.

As mentioned-above, such a programme should put in place a mechanism, which will provide returned migrants with skills or vocational education; and those who already have skills should be provided with job opportunities. Furthermore, as poverty has been cited as the overarching push-factor, policies on migration should also gear towards reducing or eradicating poverty at the community level. Fighting poverty should be seen as the people's rights to development. In other words, whiles

it is the responsibility of the state to fight poverty; the people also have the right to development. The government of Ghana should do more to provide equal and equitable developmental projects across the country; since ‘development is a process that can help to fulfill human rights’ (Fukuda-Parr 2011, 166). This therefore calls for close connections between development, migration and human rights in terms of migration management. Development as viewed by Sakiko Fukuda-Parr:

...is not only about economic growth but also about how the benefits of economic growth are distributed among people – income groups, ethnic groups, racial groups, women or men, young or old, regional populations, rural or urban populations, workers in different occupations, and so on (2011, 166).

All targets set in the Millennium Development Goals (MDGs) are strongly connected with ESCR, which are primarily aimed at reducing poverty in Ghana and other sub-Saharan African countries. As such, attainment of the MDGs is a sufficient cause for controlling irregular emigrations from Ghana.

According to Taran (2000b, 1), ‘acting effectively to uphold the basic rights and dignity of migrants begins with having an accurate grasp of the conditions, issues and actors that shape their concern’. Therefore, the absence of information due to little research, accurate statistics and reportage about violations of human rights across the desert and in transit countries affects policymaking. It affects policymaking by obscuring the knowledge and the data about the kinds of human rights violations, where and how it occurs, and who are the actors involved. For instance, there is a focus on refugees’ rights on international policy-making while less attention is given to migrants, causing ‘the dominance of refugees protection in the migration field’ (Grant 2005b, 3). Meanwhile, not all migrants from sub-Saharan Africa particularly Ghana are refugees. Therefore, there is the need for an increase in public awareness of migrants’ rights especially at communities of origin of irregular migrants, at national, regional and international levels. 18th December is International Migrants’ Day. This day should be observed with intensifications of campaigns and advocacy across the world. Furthermore, countries which have not yet ratified the ICMW should be called to do so; more especially the EU-27 member countries;

since they are the major receiving countries of irregular migrants; and governments of transit countries especially Libya should be called to ratify international conventions protecting the rights of migrants especially the ICMW and the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees.

Finally, as it is the case ‘the IOM has no formal protection mandate or any responsibility to supervise an international treaty to protect migrants’ (AI 2006, 16; Grant 2005, 3). IOM Chief of Mission in Libya – Lawrence Hart, also shared this view: ‘there is no such thing as protection of migrants but we have protection of refugees’ (Turin 29/09/2011). Therefore, their mandate and scope of work are limited. These debilitate the efficiency with which they work with. There is the need therefore to empower the IOM with an international convention like the UNHCR, which will mandate the IOM to protect migrants.

In conclusion, firstly, this research addressed the paradigmatic shift from the conventional approach by applying human rights as framework for migration research. Secondly, it showed how violations of human rights are linked with every stage of the migratory cycle. Thirdly, it demystified the causes of the irregular movement of the youth from Nima by citing poverty as the main cause. And finally, the research made recommendations that human rights of all migrants should be respected and protected at national, regional and international levels by making human rights an integral part of migration and development policymaking; as well as empowering the IOM to have legal mandate to protect the rights of migrants.

APPENDICES

APPENDIX A: INTERVIEWS CONDUCTED

Musah (MS); 24th September 2011, Italy.

Q: How did you arrive in Italy?

A: Hmm! It is a long story and I don't know where to begin. I lived in Libya for 10 years before moving to Italy by crossing the sea.

Q: How was life in Libya?

A: From the beginning it was very difficult because I did not speak and understand the language; also I could not find regular work to do. But later on, I got work doing and I really got money. But my wish was to go to Europe. So anytime I worked I saved for that purpose. I never thought of coming to Ghana. In view of that, I tried crossing the sea with the help of human smugglers (called gild) four times; and succeeded the fourth one.

Q: In your first, second and third attempt; what happened?

A: We (numbering up to 50) hired the service of a smuggler (gild); and each of us paid \$1 100 USD. Unfortunately, on the night of the journey, they were conveyed in a heavy-duty truck to the shores of the sea only for them to hear a gunshot by the smuggler. And he told them that all of them should run away or else he will shot and kill them. So we all run for our dear lives. On my **second attempt**, Each and every one us paid \$1 400 USD to a different 'gild'. On the night prior to our journey, we were conveyed to an unknown location close to the sea awaiting our journey. To our dismay, the following morning, we were informed by the 'gild' that the weather is not good and that there is storm on the high sea; so we cannot embark on the journey. In that case, what happens was that, our money was not refunded. So I could not get my money back. ` Furthermore, on my third attempt 79 people got drowned and died out of 90 people. Luckily for me, prior to the journey, when the smugglers came to convey us to the shore of the sea; I had gone out to buy food. And they said they could not wait for me and they left. That was how I am alive today; I could have also died.

Lastly, I tried for the fourth time and that was how I succeeded to be in Italy today. We were 103 in number. Ideally, the capacity of the boat was 25.

Three people are always exempted from paying. The three were the captain (me), compass controller and self-acclaimed mechanic. This time, each one paid 1000 Euros or its dollar equivalent each. This time round, there were 30 women on-board the boat; and three were from Ghana. One of the Ghanaian women travelling with the husband was pregnant. As soon as we got to the island of Lampedusa, the pregnant woman became so weak and was about to give birth. So, with the help of Italian coast guards, a helicopter came and took her to the hospital. And we remain in Lampedusa for three months.

Q: How were you treated while in Lampedusa?

A: In fact, we were taken care of well; we were fed well.

Q: Were you at any point in time tortured?

A: Not at all

Q: And how did you get settled now with this Job and apartment?

A: While at Lampedusa, CARITAS assisted us in getting temporary permit and we were moved to northern part of Italy. Life was difficult there for me. So I moved to Milan. I slept in the Train station for close to two weeks in the cold.... Hmmm. I really suffered. I then got a job as a driver with a company through one Italian. That was how I got settled.

Q: Did you know how to drive already?

A: Yes, I do

Q: Having been through these entire predicaments; what would you say 'push' or motivated you to embark on this journey?

A: My brother! There was no future for me in Ghana. I lost hope. Since I completed my JHS, my father did not have money at then to allow me further my education. So I could not continue and I could not find job to do. And worst of it all was that I am the first child of my parent. That was why I embarked on this 'do and die' journey to look for money.

Q: Would you advise anyone in Ghana to embark on this trip?

A: I will never! I will never! I will never advise anybody to embark on this journey. However, if you have genuine travel documents, why not. Again, if you have some trade in Ghana, which is fairly paid, I will advise you to stay and work. Because many are here who have worked for several years and are getting old because of the

nature of the jobs here and have saved some monies, but they send money back home to their family for investments, and they do otherwise. So, some want to go back, but the problem is they do not know what to do when they get back home. I for instance have stopped sending money to my families in Ghana because, anytime I send them money; they end up misusing it and expecting more.

Q: Having stayed here for close to 10 years now, I guess you speak and understand the language?

A: Oh yes I do. I don't have problem. But from the beginning it was hell. I do not understand the people and the people do not understand me; especially when I go to the market to buy items.

Q: Do you have any dependents?

A: Yesss! I have a wife living with me here. All members of the family in Ghana depend on him. 'I do send money home every now and then. There are a lot of pressures on me.

Q: Any child/children?

A: No child yet

Educational Level: Primary Level

Ethnic Origin: Zongo

Q: Anything you would like to share with me again?

A: I cannot let you go without telling you this. I remember on our journey to entering Libya between Dirkou (a town in northern Niger) and Sabha (a town in Southern Libya), we run out of water and food and as a result four people drank each other's urine.....you drink mine and I drink yours. That was how those four people survived'. We had to walk for three days between the borders of Algeria and Libya.

Memuna (MM) 24th September 2011, Italy.

Q: How is life in Italy?

A: Not bad at all

Q: How did you arrive here?

A: By courtesy of my husband

Q: How long have you been here?

A: 7 months now

Q: What are some of the problems you have encountered so far?

A: My biggest problem is the language; I do not understand the language of the Italian people. And because of that I am not employable. And you know how our people are in Ghana. Expectations are very high; my families are expecting me to send them money. And my husband cannot look after his families and me and look after my families too. So, I am looking forward to get a job.

Q: Is there any school available where you are taught the language?

A: Yes. My husband has enrolled in a nearby school to learn the language

Q: What is your last word for me?

A: I will like to advice the youth especially ladies like me back home who think they cannot make livelihood in Ghana unless they move out of Ghana, that they are mistaken. It is not easy at all as they think. If you take a walk on the streets of Milan and Torino, you see young girls from Africa selling their bodies to live here because there are no places of work for them to fit in.

Kwesi (KS); 24th September 2011, Italy.

Q: How are you doing?

A: Am feeling ok

Q: How is work?

A: Not bad...by His Grace

Q: How did you arrive here?

A: Hmmm! Is a very long story...but in short I came through my sister by air. I am lucky; because I did not have to cross the Sahara and the sea.

Q: So, how did it happen?

A: It all happened this way. My sister lives and works legally in Italy. She has resident permit. And she wrote me a letter as a husband inviting me to join her in Italy. So documents (original passport, marriage certificates signed and stamped by all appropriate authorities were obtained); as well as some photos of the two of us dressed in a kind of wedding mood. As a result, we used these documents to apply for visa and we got it.

Q: Any thing you would like to share with us?

A: If you go back home (Ghana), tell those would-be migrants that it is not easy at all.

Jamal (JM): Telephone Interview 25th September 2011, Italy.

Q: How are you feeling now after crossing the sea?

A: I am very happy I have made it...many did not make it. Some are arrested and detained, other people were killed in Libya, and others got drowned in the sea; so for me I give thanks to the almighty God who has made possible to get here.

Q: How are the conditions at the camp where you are now? Are you treated well?

A: We have no problem at all here. The treatment is good, food and everything. We have been granted a temporal permit of stay. And I am lucky again because of my age as a minor; I have been made to attend school for now.

Q: How old you then?

A: I am 17.

Q: What was your level of education?

A: I dropped out of school because my father could not afford to pay my school fees..., and I am the first child of my father's children, who is a watchman. There are therefore a lot of pressures on me"

Q: Is that what pushed you to go to Libya?

A: O yeaaah!

JM's father – Issah (IS) 10th OCTOBER 2011, Nima.

Q: How are you doing Baba?

A: by God's grace, we are fine.

Q: Would you permit me to have some few minutes of your time for an interview about the movement our youth to Libya.

A: O why not...you are welcome.

Q: Thank you so much; and how your son Jamal doing?

A: He is now Italy and he is doing well; He called me just yesterday. I am always happy that he has been able to get that far.

Q: Why are you happy?

A: My son! I think you know the condition we are living in here. You can see things for your eyes...look at where we all (myself, my wife, and my five children including Jamal) we all sleep. And I am a night watchman. And our children do not want to do the work we are doing today. And they do not have certificates to get office jobs. So how will they live their lives? They have to travel to Libya.

Q: I spoke with Jamal while I was in Italy; and he told me he is attending school. Are you happy that he is attending school?

A: While Jamal was in Libya, I did communicate with him several times and asked him to come back home since Libya was unsafe. But Jamal told me: 'Father...how could I come back home knowing very well the family condition – you are now a very old man still working as a 'watchman' taking care of my siblings. I myself dropped out of school because you could not afford to continue paying my school fees and I do not have any skill'. So, for me I think he should be there...probably he will come back one day to wipe our tears; and I am very happy that he is back in school since that was he always wanted to do.

Q: What is your last word?

A: I am very happy to talk with you...and please anytime you meet my son (Jamal) or speak with him, advice him for me that he should be where he is and take schooling very serious.

Fusseini (FS) 15TH OCTOBER 2011, Nima.

J: Assalamu alaikum my brother! How are you doing?

FS: Wa alaikum salam.

Q: Would you permit me some time to have a conversation with you about your journey to and back from Libya?

A: Sure!

Q: How is life back from Libya?

A: hmmmmmmmm! Is hell my brother...we are back to ground zero; back to the old work I used to prior to my journey. I came back empty handed.

Q: Then why did you come back?

A: It is because of the instability in Libya now; most of us would not have come back now. Our lives were at risk; we are the target of the rebels now just because we are black. They said we are the ones supporting Gaddafi to fight them. Most Africans have been arrested and detained without any reasons. As for the African women when they arrest them, they take them away to unknown places and rape them. One boy called Salamu...this is their house (pointed his finger at their house to me); has been shot and killed in Libya.

Q: How was he killed; what happened to him?

A: He went out to buy some foodstuffs; and that was the end. He did not come back again. We later heard that he was shot by a stray bullet from the rebels of the NTC and was taken to the hospital. But as fearful as we were at that time we could not go out to find out which hospital he was to visit him. We were living in our room for two months in anxiety and in anticipation that Salam could appear one day but that did not happen. And as I am speaking with you now, it has been four months now since we came back to Ghana and no information about his whereabouts-in Libya. So I can confirm to you that he is dead. None of us saw his corpse and where he was buried.

Q: This is very sad indeed! So would you go back when the war ends?

A: I will not but I know most of my friends will be going back again.

Q: Anything you would like to share with me again?

A: Yes! I have these videos that will interest you if you see. One showing dead bodies on the Sahara. It tells how people die on the desert, which most people do not know. The second is about how people suffer from lack of food and water as a result of broken vehicles. The third shows the ordeal and agonies of crossing the Sea.

Q: Wooooow! These are interesting indeed. How did you get them?

A: One Libya desert patrol officer whom I became friend with gave them to me. He told me he took those videos on their patrol duty of the desert as they usually do. And I also have another two videos, which I took myself.

Q: What are those ones about?

A: They were about the sufferings and the ill treatments of Ghanaian migrants in Libya at the Tripoli Airport. We were picked to the Airport that we are going to be

airlifted to Ghana, but we were left at the airport for close to two weeks without food, water, mattresses and cloth. So I used my phone camera and acted as a journalist asking my fellow colleagues their opinion about our condition at the airport.

J: That is a great work! Bravo. I would like to thank you so much for your time and the videos you have given me. It is been great talking with you. I wish you all the best.

Awal (AW); 20th October 2011, Nima.

Q: When did you come back from Libya?

A: A year ago

Q: How long were you in Libya?

A: Two and half years.

Q: Why did you come back?

A: We were arrested and deported

Q: Did you do something wrong?

A: Not at all. Normally, when we get up in the morning we sit or stand by the roadside expecting a call from the passersby for a job. So it happens on one of such mornings while standing by the roadside, when a car stopped and called us for a job. They hired the services of fifteen of us. Surprisingly, the two Libyans in the car were policemen. They took us all the way to the police station. That was how we were arrested for no offence.

Q: What happened from there? Where you detained?

A: We were sent to a 'deportation' camp before we were sent to Ghana.

Q: What was your experience like in the detention camp?

A: My brother! I will never wish my friend to experience this not even my enemy. We remained in a deportation camp for six months together with people from Nigeria, Liberia and Niger. The food was horrible but we have no option. There was no separation between the toilets, urinals and where we sleep. We were over crowded to the extent that when you sleep on your right posture, you could not move till the next day. You cannot change your position. Not to talk about the bad smell.

Everyone got infected with skin rashes. And when you become ill, there is no medical treatment for you. Some died in the detention. They always beat us without any reason. Every night they asked us to come out of the camp and sit outside in the cold weather beating us. One boy from Ghana, got his hand fractured as a result of beating and on our way back in Ghana, he died.

Q: Did you feel disappointed in the embassy officials?

A: Yes. We called them once and they told us that, this is none of their business since they did not ask us to embark on this journey. We were the last group of nationals to be expelled. This was because the embassy officials were reluctant to come and process our travelling documents after making several calls to them. According to the security officers, left with them alone they would have deported us long time but had to seek the endorsement of the embassy first.

Q: What was your experience on the desert?

A: I left Accra for Libya in 2008. I first went to Burkina Faso, to Niger (Aghadez) then to Dirkou and then to Djannet (a border town between Algeria and Libya). We had to walk for two days to enter into Libya. Our driver abandoned us on the desert town of Djannet. From there we walked for more than 24 hours into a nearby village in Libya; because vehicles cannot move across the mountains; and so that was where the driver left us. And he only showed us the direction. We had to walk up and down of the mountains. I like my colleagues became very tired and dehydrated to the point of death. We could not walk anymore, as our legs became weak and our feet swollen. Whiles taking some rest in the village, two ladies appeared and we begged them to assist us. They went and brought their brother who came and took us to their home. We stayed there and worked for one month; and the money we got was used for transport to Sebha (a major Libyan town in the south). We were packed in a dilapidated pick up car like tuna fish packed in a refrigerator; and on top of that, goods were packed on top of us. We could hardly breathe. But luckily for us, the journey from the village to Sebha was an hour. When in Sebha, we were not working. We lived in a small ghetto with other Ghanaian immigrants. Every morning we just wake up and sit out there by the road with the expectations that any Arab man passing by will call us for any kind of available job to do.

Q: If you were not working then how did you feed yourself?

A: We depended on other caring Ghanaian brothers who were working for food. And you know Libya is not like Ghana. Food is very cheap and affordable by everybody.

Q: Given a second chance will you go back?

A: Never! I will stay here. I am a professional driver. I was working and I lost my job. Life became very difficult for me. I could not afford to look after myself let alone my old mother. And a friend lured me to travel to Libya. If I happen to get a job now any amount of salary I will take it.

Q: What is your educational background?

A: I could not finish Junior High School because my father divorced my mother and my mother who took care of me could not afford to take me to school any longer.

Q: What your age?

A: I am 29 now.

Q: What is your father's ethnic background?

A: Moshie

Q: Is there something I did not ask but you want to share with me?

A: I remember whiles walking around the border between Algeria and Libya; we came across many unidentified dead bodies of migrants. We could not but to walk over them. And most people...Ghanaians, Nigerians, Liberians, men and women die of tiredness, hunger and thirst. When you become tired or you fall sick, no one will attend to you. Everyone for himself.... we go and leave you. And when you die, we just bury you like a fowl under the desert and if you have passport we place it on you.

Danlami (DL) 20th October 2011, Nima

Q: How you Danlami?

A: good!

Q: When did you come back from Libya?

A: I just returned from Greece; but I went to Libya two times before.

Q: When was your first journey to Libya?

A: First I went to Libya by road in 2005, and stayed there for one and half years

whiles working.

Q: What can you say about crossing the desert?

A: You know how the desert is my brother. No trees...nothing. And due to the large distances of walk and the nature of the vehicle we board, you are not allowed to carry heavy load. So you can only carry a gallon of water and some 'gari' or sugar. That is all. You do not share your food with anyone. No sympathy on the desert. You only take a sip of the cork of the gallon at given times.

Q: Did you ever attempt crossing the sea?

A: I attempted crossing the Mediterranean on two different occasions. I was the captain of the vessel on all two occasions. The first trip we were in the middle of the sea when we experience some turbulence. We kept drifting on the sea for two days and then return back. The second attempt we about to leave the shore, when we were arrested by Libyan coast guards and detained.

Q: How much did each and every one of you paid?

A: Every one paid 1,200 USD. I did not pay because I was the captain of the vessel.

Q: When such a situation happened, are your monies refunded?

A: Never! And worst of it all was that we were arrested by the Libyan police and detained for two and half months. Afterwards, they deported us.

Q: What was the condition in the detention center like?

A: It was bad. We were over-crowded; one could not sleep on his back or on his stomach. You could only sleep on your right or left side. We were beaten up everyday. The toilets and urinals smelled very bad.

Q: What about food?

A: As for food, it was good. We were given three square meals a day.

Q: And when did you returned back to Libya?

A: I spent only four months home and I went back

Q: Why did you return knowing all the dangers on the way?

A: When I returned, things were the same as I left. High cost of living, no jobs, high cost of accommodation. And I am the first child of my father. The responsibility on me is huge.

Q: How long did you stay in Libya on your second trip?

A: For two years and I came back to Ghana and travelled to Greece.

Q: Talking about Greece, how did you get Greek visa?

A: I did not get Greek visa. It is a long story. I first got a Lebanese visa and travelled to Lebanon. I lived and worked there for two months.

Q: How did you pay for the visa?

A: Just 300 USD

Q: How did you enter Greece from Lebanon?

A: When I return to Ghana, I got the services of 'connection' men and I paid 650 USD from Lebanon to Syria and from Syria to Antalya (Turkey). From Antalya, I paid 250 USD to Istanbul. Then I stayed in Istanbul for six months while working. I then got another 'connection' man who charged me 1,250 USD to Greece.

Q: How did you enter Greece from Istanbul?

A: We used vessel again by crossing the river. But this was safer

Q: How was life in Greece?

A: I stayed in Greece in for two and half years. But as you know the Greek economy is bad. So I tried to enter Spain and Germany with fake documentation but I was arrested on both occasions.

Q: How much did you spent on both?

A: For each, I paid 700 USD.

Q: Did you have any formal education?

A: NO

Q: What work does your father do?

A: He is a 'watchman'

Q: How old are you?

A: 28

Q: Are you married?

A: No

FOCUSED GROUP DISCUSSION ON THE 12TH OF NOVEMBER 2011,

NIMA.

A Focused Group Discussion was carried out the on the 12th of November 2012 at Nima; a suburb of Accra. Six people who were involved. Four of who were returned migrants from Libya and the other two were prospective irregular migrants. They all range between the ages 18 to 30. No female was involved. The whole discussion lasted for an hour.

Q: What was your favorite food whiles you were in Libya?

YK: We normally like Egg stew and rice a lot. It is very easy to prepare and it takes less time.

HS: I used to cook meat or chicken stew a lot with some rice.

Q: Did you understand the Libyan language (I mean Arabic)?

AB: For me I stayed for over three years, so I speak very well.

FS: I speak some. You will force to learn and speak; since that is the only medium of communication everywhere you go.

Q: How were you guys treated in Libya?

YK: Since they know very well that we do not have documents or permit of stay, a Libyan man will hire your services sometimes a day, a week or a month. After your hard days work, when you ask him to pay you, he tells you he will not pay. And that if you do not go away he will call the police.

HS: And you cannot report to any police officer because we live in the country without documents. We are afraid that when you go report, they will arrest you yourself and deport. Already they are looking for us to arrest.

AB: Because of lack of documents, they see us as criminals or illegal immigrants.

Q: Since coming back from Libya, how has your life been so far?

HS: I don't know how to describe my situation; is like being taken from the frying pan into the fire. It has been worse. I am doing nothing...only sleeping.

YK: When I was in Libya, I could afford to send some dollars every month for my fiancé, daughter and my father. But as a result of the war, I have lost everything and now I am back in Ghana sleeping with my father, my daughter and my siblings in the same room. What a shame...I cannot withstand this shame anymore. I am ever ready

to return when the war ends. You know we all went to Libya because of poverty we find ourselves in, but here we are back in the same poverty we were running away from. Poverty is the worst form of any diseases you can think of...it is more stigmatizing and deadly than HIV/AIDS.

AB: If you were a native of Zongo (Nima), sometimes it makes you feel like you are a second-class citizen meanwhile we are all Ghanaians. When you go to look for job to do or other social services, as soon as you mention you are from Nima, there is some attitude of reluctance for your demand. That is the truth my brother...you know it more than we do.

YW: How do I get job to do, get money to buy a house and get married if I do not travel abroad? We have made an alert to go back. We are just praying that the war should come to an end.

YK: If we lived in a country where there are no jobs for us to do; if we lived in country where we cannot afford a well-balanced three square meal a day; if we lived in a community where there are no sanitation facilities rather you only have to walk a distance to a so-called public place of convenience where the smell alone can kill you; the only way we can escape all these is to go abroad.

Q: How are the deserts experiences like?

YW: There are usually stoppages by armed-robbers on the way harassing us. They stop the vehicle and asked all of us to get down. They searched each and everyone to take away any money on us. And when they came to notice that migrants now hide their monies by inserting it into their anus, they now insert their fingers into our anus.

Again, one Nigerian emigrant we were travelling with was having some grams of gold in his pocket. As soon as robbers stopped us and we were being searched, he quickly threw the gold in his mouth and swallowed it. When he was ordered to bring it out he refused and one of the robbers slashed his throat with knife

Q: When someone dies on the way, how is that person buried?

YK: What! Nothing like burial exists on the desert.

AB: What we do is that we just cover the body with sand and if he has a passport, we place the passport on him. Knowing how the desert is, you cannot dig a grave to bury

human being. So, on our way we came across several dead bodies of people from different West African countries lying dead on the desert as you can see from this video.

ASST. DIRECTOR (MIGRATION UNIT): Mr. Reuben Okine.

Date: 15th Novemner 2011, Legon-Accra (Ghana).

Could you please permit me some few minutes of your time?

J: How is your work as an assistant director of migration unit?

O: At the moment am on study leave.

J: Where and what are you studying?

O: Studying for MA in migration studies at University of Ghana

J: That is great since that is my area of research too. What is your area of research?

O: I am looking at the governance of migration in Ghana.

J: Why did you choose this area?

O: As you may be aware or read, the governance of migration in Ghana is very poor. Ghana...we do not have a policy document on migration as at now, but we do have legislations concerning migration passed by the legislature in line with international conventions. And the moment, the Unit is working in collaboration with the Center for Migration Studies and other stakeholders to come up with a draft migration policy document for migration governance.

J: Could you tell me more about the Migration Unit?

O: It was set up in 2008 under the Ministry of Interior to coordinate all government activities related to migration and development; and to come up with a migration policy framework. It is made of three main bodies and these are: the inter-ministerial committee, the secretariat and the thematic working groups. We are also composed of 12 state institutions:

- Ministry of Interior;
- Ministry of Foreign Affairs and Regional Integration;
- Ministry of Women and Children Affairs;
- Ministry of Employment and Social Welfare;
- Ministry of Tourism;
- Ministry of Finance and Economic Planning;

- Ministry of Health;
- Ministry of Trade and Industry;
- Ministry of Justice;
- Ghana Immigration Service (GIS);
- National Development Planning Commission, and;
- Bank of Ghana.

For now, the main focuses of our work are: migration policy and research, labour migration, irregular migration, development aspect of migration.

J: You have made mention of the main areas of your work as a unit; what about human rights aspect of migration?

O: Yeah...that is another area that we are given priority to. I am very much aware as you might do since that is your area of research that, that nexus is new in the migration textbooks and is not being explored. So I am very happy with your work and I am looking forward to reading it.

J: Is there something you may want to talk about that I did not asked?

O: We are faced with lots of challenges. You know the centre was established in 2006 but due to lack of support and logistics, it was inaugurated two years later. And this was made possible by the maximum support of the International Organization for Migration (IOM) by the supply of office equipments and other logistics. As it is now, we lack human resource; and there is lack of effective and efficient coordination amongst all the institutions.

Q = Question	AB = Ali	AL = Alhassan
A = Answer	YK = Yakub	
O = Okine	YW = Yaw	
J = Jalil	HS = Hashim	

APPENDIX B: FIGURES

FIGURE 2: Comparison of JHA issues: Pre-Maastricht, post-Maastricht and post-Amsterdam

	Pre-Maastricht	Post-Maastricht Third Pillar	Post-Amsterdam First Pillar (Communitarised areas of former Third Pillar)	
			1999-2004	Post-2004
Asylum, Immigration, External Borders	Domestic policy-making giving way to intergovernmental cooperation <i>outside</i> the Community framework	Third Pillar, Title VI, Article K of TEU	Article 73 of Amsterdam Treaty	
European Parliament	No role	Limited role	Consultation for the first five years after Amsterdam Treaty takes effect, co-decision afterwards	
European Court of Justice	No jurisdiction	No jurisdiction	Referral for an obligatory first ruling for national last-instance courts	
Decision-making	Intergovernmental negotiations Nonbinding decisions in the form of resolutions Binding decisions in the form of treaties	<i>Unanimity</i> rule on all issues	Council acts <i>unanimously</i> on proposals from Commission and member states <u>for the first five years</u>	Council will act unanimously on a move towards <i>qualified majority voting</i> (with no need for national ratification of this decision)
Commission's Right of Initiative	None Occasional observer status at intergovernmental meetings	<i>Shared</i> right of initiative for the Commission and Member States	Commission has shared right of initiative (member states have encouraged the Commission to assume an exclusive right for asylum issues)	Commission has <i>exclusive</i> right of initiative in Title IIIa

Source: Ucarer, E. M. 2001. From the Sidelines to Center Stage: Sidekick No More? The European Commission on Justice and Home Affairs [http://eiop.or.at/eiop/texte/2001-005t.htm# \(I\)](http://eiop.or.at/eiop/texte/2001-005t.htm# (I))

FIGURE 3

OVERVIEW OF THE KEY CONVENTIONS AND PROTOCOLS CONCERNING MIGRANTS AND HUMAN RIGHTS	
<p>The International Covenant on Civil and Political Rights enumerates the civil and political rights, which all persons within the state's territory or within its jurisdiction should enjoy. It forbids the discrimination between nationals and non-nationals, with narrow exceptions for political rights that are explicitly guaranteed to nationals, and freedom of movement.</p>	<p>The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children requires States to prevent the trafficking in persons and to protect and assist persons who become victims of human trafficking. The protocol calls for greater cooperation among states and different stakeholders in order to achieve these objectives.</p>
<p>The International Covenant on Economic, Social, and Cultural Rights establishes that states shall protect the rights of all individuals – regardless of citizenship – to work, just and favorable conditions, an adequate standard of living, good health, and other economic, social and cultural rights.</p>	<p>The Convention on Rights of the Child establishes that all children within the jurisdiction of a State Party shall have the right to a name and to acquire a nationality; the Convention also provides that State Parties shall ensure the implementation of these rights, in particular when the child would otherwise be stateless.</p>
<p>The International Convention on the Elimination of All forms of Racial Discrimination prohibits all discrimination on the basis of race, color, descent or national or ethnic origin. It allows distinctions to be made between nationals and non-nationals; provided that such distinctions do not result in discrimination against any particular group and that they do not affect the equal enjoyment of rights guaranteed to all persons under the relevant international human rights instruments.</p>	<p>The CRC Optional Protocol on the Sale of Children a legal framework to prevent and punish sale of children, child prostitution and child pornography. This Protocol also deals with the issue of protection of children victims of these crimes both when they enter in contact with the criminal justice system as victims or witness and more generally with respect to their recovery and reintegration.</p>
<p>The International Convention on the Protection of the Rights of All Migrants and Members of their Families defines the rights of migrants in every country regardless of their legal status, inter alia, guaranteeing equal treatment and working conditions on par with nationals. It also provides additional rights for migrant workers and members of their family who reside in the country lawfully.</p>	<p>The CRC Optional Protocol on the Involvement of Children in Armed Conflict establishes the obligation to take all feasible measures to prevent the participation in hostilities by persons under the age of 18 years, notably by ensuring that there is no compulsory recruitment into the armed forces under this age and by criminalizing the recruitment by armed groups. The Protocol sets forth a duty to provide victims of such acts with recovery and reintegration measures.</p>
<p>The Convention on the Elimination of All Forms of Discrimination against Women defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.</p>	<p>The Protocol Against Smuggling of Migrants by Land, Sea and Air has its objective the reduction of organized crime groups abusing migrants. It calls for greater cooperation and the exchange of information and other appropriate measures, including socio-economic measures, at the national, regional and international levels, to achieve this objective.</p>
<p>The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment prohibits all forms of torture and ill treatment. It also prohibits the refoulement of any person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture.</p>	<p>The Convention on the Status of Refugees establishes the rights of individuals of asylum and the responsibility of States granting asylum.</p>
<p>The Convention on the reduction of Statelessness and the Convention on Status of Stateless People refer to stateless persons who are not refugees and therefore establish the rights of persons who do not fall within the scope of the Convention Relating to the Status of Refugees.</p>	<p>Source: Global Migration Group (2008)</p>

FIGURE 4

CONVENTIONS	YEAR RATIFIED BY GHANA
United Nations Convention Relating to the Status of Refugees, 1951 (The Geneva Convention relating to the Status of Refugees) and its 1967 Protocol (UN, 1951, 1967).	18 th March 1963
Migration for Employment Convention (Revised), 1949 (No. 97) and Migration for Employment Recommendations (Revised), 1949 (No. 86), ILO, adopted 1st July, 1949	25 th January 1958
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), UN 1965, adopted on 4th January, 1965	4th January 1969
The OAU Convention on the Status of Refugees in Africa, 1969	
The ECOWAS Protocol on Free Movement of Persons, Rights of Residence and Establishment, 1979.	
International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979, UN, adopted on 18th December 1979.	2nd January 1986
African Charter on Human and People’s Rights, 1981	
African Charter on the Rights and Welfare of the Child, 1990.	
International Convention on the Rights of the Child (CRC) UN, adopted on 20th November 1989; Ghana ratified the Convention on International Convention on the Rights of the Child (CRC) UN, adopted on 20th November, 1989	2nd September 1990; and was the first country in the world to do so
International Covenant of Economic, Social and Cultural Rights, UN, adopted on 16th December 1966.	7 th September 2000
International Covenant on Civil and Political Rights (ICCPR), UN, adopted on 16th December 1966.	7th September 2000
International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UN, adopted on 9th December 1975.	7 th September 2000
Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143), ILO; and Migrant Workers Recommendation, 1975 (No. 151), adopted on 24th June 1975.	2000
International Convention on the Protection of the Rights of All Migrant Workers and their Families (ICRMW), UN, adopted in December 1990.	20 th June 2002
SOURCE: IOM (2009): Migration in Ghana-Thematic Document	

FIGURE 5

CORE TREATIES OF HUMAN RIGHTS LAW	
UN International Convention on the Elimination of All Forms of Racial Discrimination (CERD)	Year adopted: 1965 Year entered into force: 1969 Number of ratifying countries: 170
UN International Convention on Civil and Political Rights (ICCPR)	Year adopted: 1966 Year entered into force: 1976 Number of ratifying countries: 154
UN International Covenant on Economic, Social and Cultural Rights (ICESCR)	Year adopted: 1966 Year entered into force: 1976 Number of ratifying countries: 151
UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	Year passed by UN General Assembly: 1979 Year adopted: 1981 Number of ratifying countries: 179
UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	Year passed by UN General Assembly: 1984 Year adopted: 1987 Number of ratifying countries: 139
UN Convention on the Rights of the Child (CRC)	Year adopted: 1989 Year entered into force: 1990 Number of ratifying countries: 192
International Treaty Protecting Migrants' Rights to Consular Access and Protection	
Vienna Convention on Consular Relations	Year adopted: 1963 Year entered into force: 1967 Number of ratifying countries: 166
International Treaties Protecting the Rights of Refugees and Migrants	
UN Protocol relating to the Status of Refugees (Applied to refugee situation after 1951)	Year adopted: 1967 Year entered into force: 1967 Number of ratifying countries: 142
International Labor Organization (ILO) Convention concerning Migration for Employment (No. 97)	Year adopted: 1949 Year entered into force: 1952 Number of ratifying countries: 42
International Labor Organization (ILO) Convention concerning Migrants in Abusive Conditions and Promotion of Equality of Opportunity and Treatment of Migrant workers (No. 143)	Year adopted: 1975 Year entered into force: 1978 Number of ratifying countries: 18
UN International Convention on the Protection of the Rights of All Migrants Workers and Members of their Families	Year adopted: 1990 Year entered into force: 2003 Number of ratifying countries: 27
SOURCE: "Migrants' Human Rights: From the Margins to the Mainstream" (Migration Policy Institute)	

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