



Ministerie van
Veiligheid en
Justitie

Friday 14 October 2016

International Legal Aspects of Migration: African and European Perspectives

Venue: Ministry of Security and Justice, Turfmarkt 147, 2511 DP The Hague, The Netherlands

09:00

Introduction and Welcome

- André Nollkaemper, President, European Society of International Law (ESIL)
- Olufemi Elias, Secretary-General, African Association of International Law (AAIL)
- Kees Riezebos, Director of Migration Policy, Ministry of Security and Justice of the Netherlands

Panel 1 – 09:15-10:45

Foundational Issues

What are the drivers of irregular migration, what are the differences between the 1969 African Union Convention definition pertaining to refugees and the protection regime applicable in the EU, and what are the implications of conflicting international and regional protection regimes in regard to people traversing numerous regions on their move to safety? This panel discusses various push factors (including armed conflict and situations of generalized violence) and their numerical, geographical reflection, the legal rights and obligations of countries of origin, transit, and destination, and the relevance and adequacy of the current legal framework to address intra-, cross-regional, and mixed-migration flows.

Moderator:

- André Nollkaemper, President, European Society of International Law

Panelists:

- Maya Sahli Fadel, Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa, African Commission on Human & Peoples' Rights
- Tom Syring, UNE / Norwegian Appeals Board
- Ralph Wilde, University College London

Break – 10:45-11:00

Panel 2 – 11:00-12:30

African and European Perspectives on recent “safe (third) country” debates

The tightening of EU visa requirements, the tendency towards stricter interpretation of the refugee definition and exclusion clauses, harsh detention conditions, and increased securitization of migration and asylum law in Europe put people fleeing their country at additional risk by forcing them to seek unnecessarily dangerous avenues, sometimes in contravention of state obligations under international law. Do recent EU efforts to expand the list of so-called “safe (third) countries” run counter to the prohibition of *refoulement* in Art. 33, Refugee Convention, and how do African (Union) States themselves define and apply the notion of “safe country” also in relation to their own neighbors? This panel discusses the narratives of migrants, the positions of African States on the unjust treatment of their own citizens, the criteria generally to be employed before determining any country as “safe”, and the *refoulement* of migrants and how to counter the risk of brain drain/promote circular migration.

Moderator:

- Olufemi Elias, Secretary-General, African Association of International Law

Panelists:

- John Oucho, Population Studies and Research Institute, University of Nairobi
- Kees Wouters, United Nations High Commissioner for Refugees
- Ibrahim Awad, American University in Cairo

Lunch – 12:30-13:30

Panel 3 – 13:30-15:00

Multilateral Dependencies and Migration Management

In numerous migration related aspects, African and European countries are more interdependent than meets the eye. While European economies traditionally represent strong pull factors for African migrants, the very same countries highly rely on cheap and informal migrant labor in order to uphold their growth. On the other hand, many families and, to a certain extent, African countries’ economies depend or benefit, to varying degrees, on remittances stemming from overseas migrant workers. But are existing institutional and legal frameworks adequate? Furthermore, regulating refugee flows, on land and at sea, and successfully conducting search and rescue operations, depends on international coordination and cooperation beyond regional boundaries. What, according to African perspectives, is the EU’s (e.g. FRONTEX) role in preventing the loss of lives, how do African states define their own role in this regard, and how could migration in all its aspects be better managed in the future?

Moderator:

- Tom Syring, UNE / Norwegian Appeals Board

Panelists:

- Aderanti Adepoju, NOMRA (Network of Migration Research on Africa)
- Bernard Mumpasi Lututala, University of Kinshasa
- Siobhán Mullally, University College Cork, Vice-President of the Council of Europe Group of Experts on Action against Trafficking in Human Beings

Break – 15:00-15:15

Panel 4 – 15:15-16:45

The End of the Journey – International Legal Obligations Regarding Resettlement, Relocation, and Return

People move and are moved to their final destination for various reasons and motivations. Some have sought protection in a state often neighboring their own, that cannot offer them a durable solution. Others have managed to flee to safety (e.g. in Europe), but are stuck in a state that cannot cope with the pressure of hosting a relatively large refugee population. In these circumstances, resettlement or relocation to a third state might alleviate some of the pressure on the respective state and the protection needs of its most vulnerable refugee population. Yet others are ‘failed’ asylum seekers, or migrants on other grounds. Some then return voluntarily, others are forcefully removed and returned to their countries of origin. And some stay in a legal limbo, not having received a positive decision on their (asylum) application, but neither being “returnable”, due to a lack of cooperation on the part of their country of nationality, their host state, and/or their own refusal. This panel will discuss to what degree there is an international legal obligation of states to receive refugees for resettlement and relocation, the obligation of states of origin to readmit their own nationals when they can no longer stay in the country where they applied for asylum, as well as the obligations owed by the states of application, by the individual applicant, and by international organizations charged with providing assistance.

Moderator:

- Ibrahim Awad, American University in Cairo

Panelists:

- Djacoba Tehindrazanarivelo, Vice-President, African Association of International Law
- Johan Rautenbach, IOM (International Organization for Migration)
- Marjoleine Zieck, University of Amsterdam

16:45-17:00

Closing remarks

- Maya Sahli Fadel, Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa, African Commission on Human & Peoples’ Rights

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