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Legal mechanisms to combat illegal immigration

Dr. Ouali Sabrine [1], **Dr. Abdlkader Kefaifi** [2], and **Dr. Belassel Bent Nbi Yasmine** [3]

[1] Faculty of Law and Political Science, Yahya Fares Medea, Algeria
Email: sabrineouali18@gmail.com
[2] Faculty of Law and Political Science, Yahya Fares Medea, Algeria
Email: kefaifi.adblkader@univ-medea.dz
[3] Faculty of Law and Political Science, Yahya Fares Medea, Algeria
Email: yasmine38yasmine00@gmail.com

Abstract---This complex phenomenon has resulted in complex negative repercussions, including security aspects that threaten the sovereignty of states and the integrity of their borders, economic dimensions that drain their resources and affect labor markets, as well as profound social and humanitarian effects that affect migrants themselves and receiving communities alike. At the international level, there are agreements and treaties aimed at regulating illegal immigration and enhancing security and judicial coordination between countries, but practical application still faces obstacles, such as different national priorities and the difficulty of tracking cross-border smuggling networks. combating illegal immigration is not limited to the security aspect alone. It requires a balance between protecting borders and ensuring human rights, while working to improve the economic and social conditions that push individuals to venture into irregular migration.

Keywords---illegal immigration, legal mechanisms, humanitarian.

Introduction

The phenomenon of illegal immigration is one of the most prominent dilemmas facing the international community in the current era, as its effects extend beyond national borders to cast a shadow on the stability of countries and societies at the regional and global levels. This complex phenomenon has resulted in complex negative repercussions, including security aspects that threaten the sovereignty of states and the integrity of their borders, economic dimensions that drain their resources and affect labor markets, as well as profound social and humanitarian effects that affect migrants themselves and receiving communities alike.

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In light of this growing reality, the international community has urgently needed concerted efforts and effective legal mechanisms to curb this phenomenon and undermine its root causes. In the context of the steady rise in illegal immigration rates, fueled by successive economic crises, severe political unrest, and devastating armed conflicts in various regions of the world, it has become more necessary than ever to adopt an integrated and comprehensive legal framework. This framework should be based on interaction and integration between relevant international agreements and treaties and national legislation, with the aim of enhancing levels of judicial and security cooperation and exchanging vital information necessary to prosecute organized smuggling networks and those involved in facilitating illegal immigration and bring them to justice.

From these perspectives, we raise the following question: What are the legal frameworks regulating the fight against illegal immigration at the international and national levels, especially in Algeria? How effective is it in reducing this phenomenon? To answer this problem, we have divided this intervention into two main axes. This is to shed light on the analysis of the international legal framework for combating illegal immigration by examining relevant agreements and treaties, while assessing their integration with national legislation, particularly in Algeria.

This study has great importance, which it derives from the complex nature of the phenomenon of illegal immigration, which requires a multi-level legal approach. It also contributes to enriching academic debate on the feasibility of current legislation and provides insights for its development, ensuring national security without neglecting human rights guarantees.

Section One: International legal mechanisms to combat illegal immigration

First: The international legal framework
1- International agreements and treaties:
International agreements and treaties play a vital role in building the global legal framework to combat the phenomenon of illegal immigration. The international community realized not long ago that this phenomenon is not limited to the borders of one country, but rather extends beyond them to become a common threat that requires cooperation and coordination between countries.
A- The United Nations Convention against Transnational Organized Crime and its Protocols
The United Nations Convention against Transnational Organized Crime, adopted by United Nations General Assembly resolution 25/55 of 15 November 2000, is the principal international instrument in combating transnational organized crime. The Convention was opened for signature by Member States at a high-level political conference held for this purpose in Palermo, Italy, from 12-15 December 2000 and entered into force on 29 September 2003. Three protocols targeting specific areas and manifestations of organized crime were annexed to the Convention, including the following: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition. Countries must be parties to the Convention itself before they become parties to any of the Protocol**(1) United Nations - https://www.unodc.org/romena/ar/untoc.html ،Retrieved 2025/02/18 at 12:10**.
Objective and content:
This agreement aims to combat cross-border organized crime, including migrant smuggling. Illegal immigration is classified as an organized crime exploited by criminal networks for financial or material gain. Through this protocol, information is exchanged and judicial and security cooperation takes place between countries to control and track these networks.
Implementation mechanisms:
The agreement includes several mechanisms, such as judicial cooperation and the exchange of security information between countries, in addition to joint procedures to prosecute those involved, which

enhances the efficiency of international efforts to reduce this phenomenon.**(1) United Nations Convention against Transnational Organized Crime, United Nations, 2000**

b- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families/158 was adopted by General Assembly resolution 45 of 18 December 1990

• Objective and content:

Combating illegal immigration is not limited to security aspects only, but extends to protecting human rights. This Convention was established to ensure that migrant workers, whether in a legal or illegal situation, receive humane treatment that respects their dignity and fundamental rights.

Importance of the agreement:

Protecting the rights of migrants is a fundamental pillar in reducing exploitation and abuse, which contributes to reducing the motivations that may drive some to resort to illegal migration as a means of escaping inhumane working conditions or financial exploitation.**(2) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families/158, adopted by General Assembly resolution 45 of 18 December 1990**

J. Schengen Agreement and mobility systems within the European Union

The Schengen Agreement is a historic multilateral treaty that allows freedom of travel and movement within and across its member states. This agreement resulted in the emergence of the Schengen Area, which was formed of 26 European countries that agreed to abolish internal border controls among themselves for travelers crossing between the borders of those countries that share a unified visa policy together. **Schengen agreement(3)**

• Objective and content:

Although the Schengen Agreement was originally designed to facilitate the movement of individuals within the European Union, it also contributes to combating illegal immigration by regulating internal and external borders.

• Mechanism of action:

The agreement relies on an integrated information system (the Schengen System) that enables the exchange of security data between member states, contributing to identifying and preventing the infiltration of illegal immigrants across common borders.(1) **Island, Schengen Treaty, https://www.aljazeera.net/encyclopedia/2011/8/11/ معاهدة-شنغن، Retrieved 08/11/2011 at 23:03.**

Dr. The importance of these agreements in combating illegal immigration

• Promotes international cooperation:

International agreements provide a legal and cooperative framework between countries to combat illegal immigration, which contributes to coordinating efforts and exchanging information through the exchange of information

With joint measures, countries overcome differences in national legislation and work hand in hand to pursue smugglers and hold those involved accountable. **United Nations, United Nations Convention against Transnational Organized Crime, op. cit. (2)**

• Protecting the rights of migrants:

International agreements guarantee the protection of migrants' rights, including avoiding their exploitation by human trafficking networks, providing them with legal protection, and reducing violations that could exacerbate the phenomenon**(1). International Labour Organization, Convention on the Rights of Migrant Workers, 1990, https://www.ohchr.org/ar/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers ، Retrieved 2025/02/20 at 00:15**

• Regulates the movement of individuals:

Following integrated systems such as the Schengen system, the movement of people within common areas is controlled, reducing opportunities for illegal entry and enhancing collective security.

• Combating smuggling and human trafficking networks.

• International agreements help dismantle smuggling and human trafficking networks by enhancing security and judicial cooperation between countries**(2). Protocol against the Smuggling of Migrants, 2004**

Improving border management:

International agreements provide technical and financial support to improve border management, reducing the chances of illegal immigration.**(3) International Organization for Migration, Reports on Border Management, Building a Better Future for Migrants and Refugees in the Arab Region, 2021**

• Promoting awareness and education:

The agreements contribute to raising awareness of the dangers of illegal immigration through educational and awareness programmes targeting local communities**.(1) UNESCO, Awareness Programmes on the Risks of Illegal Migration, 2018**

oProviding long-term solutions:

International agreements focus on addressing the root causes of illegal migration, such as poverty and conflict, by promoting sustainable development.**(2) Official portal of the Government of the United Arab Emirates, Agenda 2030 for Sustainable Development, United Nations, https://u.ae/ar-ae/about-the-uae/leaving-no-one-behind ‹Retrieved 20/02/2025 at 01:03**

oStrengthening international accountability:

International agreements impose accountability on countries that do not adhere to standards for combating illegal immigration, strengthening global commitment to this issue.

Second: International executive mechanisms

International executive mechanisms come to embody the obligations of countries concluded on agreements to combat illegal immigration, as they work to transform legal texts into concrete measures to confront the phenomenon on the ground.

2- Legal and judicial mechanisms and judicial cooperation:

Countries rely on international agreements and domestic laws to combat illegal immigration, such as the Protocol against the Smuggling of Migrants to the United Nations Convention against Transnational Organized Crime **(3)United Nations Office on Drugs and Crime (UNODC**)

The mechanism of judicial cooperation between countries is also considered an essential and effective element in enhancing integration between the various legal systems and security services at the international level. This mechanism represents a cooperative bridge linking countries, facilitating the coordination of joint efforts to combat cross-border crimes, including migrant smuggling. This cooperation is primarily manifested in the exchange of security information and data between judicial and police agencies in different countries, which enhances transparency and accelerates the response to security threats.

Through this information exchange, countries become better able to track the movements of migrant smuggling networks, identify the routes they use, and uncover the organizational structures of these networks. Judicial cooperation also contributes to facilitating the legal prosecution of those involved in these crimes, whether they are organizers or participants, by coordinating legal procedures between the countries concerned. In addition, this mechanism enhances States' ability to take rapid and effective action when needed, reducing security gaps and limiting the exploitation of migrants. This cooperation also contributes to building mutual trust between countries and enhances the effectiveness of international legal systems in confronting common challenges.

Ultimately, international judicial cooperation is a vital tool for enhancing security and stability, and supporting efforts to combat illegal immigration comprehensively and sustainably**(1) International Criminal Court (ICC), "Crimes Against Humanity," https://www.icc-cpi.int/crimes-against-humanity, accessed on February 20, 2025, at 18:59.**

• Border control and information exchange systems:
With rapid technological development, advanced border control systems, such as the Schengen system, have become vital and effective tools in monitoring illegal cross-border flows. These systems rely on advanced technologies such as biometric identification systems, smart cameras, and drones, in addition to common databases that enable the exchange of information between member states.**(2) European Border and Coast Guard Agency (Frontex), "Border Surveillance Technologies," https://frontex.europa.eu/border-surveillance, accessed on February 21, 2025, at 17:22.**
These systems collect and analyze data related to the movement of people and goods, giving countries the opportunity to identify illegal infiltration attempts early. For example, the European Union's EUROSUR system helps track the movements of irregular migrants and identify potential threat points. These systems also help coordinate efforts between countries to take quick and effective measures to prevent illegal immigration**(3)'. European Commission, "EUROSUR: The European Border Surveillance System," https://ec.europa.eu/home-affairs/policies/schengen-borders-and-visa/schengen-information-system_en.**
In addition, information exchange between countries enhances their ability to address common security challenges, such as human smuggling and human trafficking. Through these systems, countries can track and dismantle smuggling networks more efficiently, contributing to enhanced border security and protecting the rights of migrants.**(1) United Nations Office on Drugs and Crime (UNODC), "Global Report on Trafficking in Persons," https://www.unodc.org/unodc/en/human-trafficking**
Border control systems are an integral part of modern migration management strategies, providing countries with the tools to balance ensuring national security with respect for human rights **(2)International Organization for Migration (IOM), "Border Management and Technology," https://www.iom.int/border-management.**

• The role of specialized international organizations:
Specialized international organizations, such as Interpol (INTERPOL), Europol (Europol) and the European Border Management Agency (Frontex), play a pivotal role in coordinating international efforts to combat illegal migration and cross-border crimes. These organizations act as cooperative bridges between countries, providing effective platforms for exchanging information and security expertise between relevant agencies.
For example, INTERPOL is one of the most prominent international organizations working to facilitate cooperation between police agencies in different countries. Through shared databases and early warning systems, INTERPOL contributes to tracking criminals and dismantling human smuggling and human trafficking networks.**(3) Anderson, M. (1997). Policing the World: Interpol and the Politics of International Police Co-operation. Oxford UniversityPress, p. 45**
As for Europol (Europol), it focuses on strengthening security cooperation within the European Union. Europol provides technical and analytical support to Member States, including analyzing data on illegal migration and identifying criminal trends. It also contributes to coordinating joint operations between countries to pursue criminals across borders.**(4) Bossong, R. (2013). The Evolution of EU Counter-Terrorism: European Security Policy after 9/11. Routledge**
On the other hand, the European Border Management Agency (Frontex) is considered one of the cornerstones in strengthening the European Union's border security. The Agency coordinates maritime and land border controls and supports Member States in managing irregular migration flows. Frontex also provides specialized training programs to enhance the capabilities of security personnel to use modern technologies in detection and investigation.**(1) Leonard, S. (2010). EU Border Security and Migration into the European Union: FRONTEX and Securitisationthrough Practices. European Security, 19(2), p. 231**
In addition, these organizations are developing specialized training programs to enhance the skills of security personnel in combating illegal immigration. These programs include training in the latest detection and investigation methods, such as using artificial intelligence and big data analysis to track smuggling networks.**(2) Leonard, S. 2010 ، p .231**

• Technical assistance and joint training:
Exchanging technical expertise and providing joint training between countries is an essential mechanism for bridging the gaps in security capabilities that some countries suffer from. Through these efforts, the practical efficiency of security and judicial bodies is enhanced, contributing to improving the implementation of international agreements on the ground.
For example, international organizations and developed countries offer specialized training programs for security personnel in developing countries, including the use of modern technologies and advanced investigative methods. These programs not only enhance the capabilities of individuals, but also contribute to building more effective security systems capable of meeting contemporary challenges.
In addition, joint training contributes to enhancing trust and cooperation between countries, facilitating information exchange and coordination in joint security operations. This cooperation is vital to combating cross-border crimes, such as human smuggling and human trafficking**(1) Andreas, P., &Nadelmann, E. (2006). Policing the Globe: Criminalization and Crime Control in International Relations. Oxford UniversityPress, p. 89**.

• Joint legal proceedings:
Joint legal procedures, such as cooperation in international litigation and the prosecution of perpetrators through international courts or arbitration mechanisms, facilitate the bringing to justice of those involved in illegal immigration crimes. This type of cooperation strengthens the principle of international accounting and reduces the chances of avoiding punishment due to differences in national legal systems.
International legal texts, including agreements, treaties and interconnected implementation mechanisms, form the basis of the international legal framework to combat the phenomenon of illegal immigration. Although these mechanisms have established principles for protecting human rights and regulating movement, challenges in practical application and disparities in national legislation remain significant obstacles.
Therefore, strengthening international coordination and integration is essential to ensure the effectiveness of the international legal framework. This framework is considered the cornerstone of efforts to combat illegal immigration, but it requires more support to strengthen implementation mechanisms and expand cooperation between countries to confront this multidimensional phenomenon.**(2) United Nations, Protocol against the Smuggling of Migrants by Land, Sea and Air (2000) – supplementing the United Nations Convention against Transnational Organized Crime**

Second: International challenges in combating illegal immigration
1- Legal challenges
A. Variation in national legislation:
Although there are international agreements aimed at regulating cooperation in combating illegal immigration, countries differ in their application of national immigration legislation.**(1) United Nations Office on Drugs and Crime (UNODC). (2004). United Nations Convention against Transnational Organized Crime and the ProtocolsThereto. Retrievedfrom https://www.unodc.org, p. 12.**
This legislative disparity constitutes a major obstacle to effective coordination between countries, which hinders the possibility of applying the texts of international agreements in a unified and effective manner.**(2) Betts, A. (2011). Global Migration Governance. Oxford UniversityPress, p. 78** For example, some countries adopt strict border control legislation and prosecute illegal immigrants, while others prefer a more aggressive approach
Respect for human rights**(3) FitzGerald, D. S., & Cook-Martín, D. (2014). Culling the Masses: The DemocraticOrigins of Racist Immigration Policy in the Americas. Harvard UniversityPress, p. 45**.

This difference in priorities and methodologies weakens the effectiveness of joint international efforts and complicates the process of confronting illegal migration at the global level**(4). Betts, A. (2011). Global Migration Governance. Oxford UniversityPress, p. 82**. Therefore, enhancing compatibility between national legislation and the international legal framework is essential to ensure tangible results in combating this phenomenon.**(5) United Nations Office on Drugs and Crime (UNODC). United Nations Convention against Transnational Organized Crime and the ProtocolsThereto. Retrievedfrom https://www.unodc.org, (2004). p. 15.**

B. Difficulty of implementation and practical application:

International agreements often remain ink on paper, as countries face significant challenges in translating these texts into concrete implementation measures**.(1) Betts, A, op.cit, p. 67.**

This is due to weak executive mechanisms, insufficient financial and human resources, and a lack of the judicial and security infrastructure necessary to ensure the implementation of the agreements on the ground.**(2) United Nations Office on Drugs and Crime op.cit, p. 18**

T. Different legal interpretations:

Different interpretations of legal terms between countries make it difficult to define a common concept of illegal immigration,**(3) Ghosh, B. (2007). Managing Migration: Towards the MissingRegime? In A. Pecoud& P. de Guchteneire (Eds.), Migration WithoutBorders: Essays on the Free Movement of People (pp. 97-118). UNESCO Publishing, p. 105**(. which further complicates international cooperation. This difference weakens the effectiveness of international agreements and hinders the achievement of common goals**(4) Koser, K.. International Migration: A Very Short Introduction. Oxford UniversityPress, (2010), p. 89.**

The issue of state sovereignty:

The issue of state sovereignty is a sensitive issue in the implementation of international agreements, as some countries reject the interference of external parties in their internal affairs**(5). FitzGerald, D. S., & Cook-Martín, op.cit. p 72.** This position leads to opposition or delay in the implementation of joint procedures and judicial cooperation between countries, which weakens the effectiveness of international efforts**(6). Betts, A, op.cit, p. 91**

2-Practical challenges

A. Poor coordination between countries:

Although there are mechanisms for security and judicial cooperation between countries, weak joint coordination between the competent authorities is considered a major obstacle.**(1) Khaira Al-Arouchi, Migration Management in Algeria: Challenges, Concerns, and Future Prospects (EuroMeSCo), EuroMed Survey for the EuroMed Migration V Programme, p. 32.**

This weakness hinders the exchange of information and reduces the effectiveness of joint efforts to combat illegal immigration**.(2) Manar Sabrina, Manar Fatima Zohra, Ichoui Imad, "International Mechanisms for Combating Illegal Immigration," *Al-Bahith Journal of Legal and Political Sciences*, Issue 6, December 2011, p. 77.**

B. Lack of technical and technological capabilities:

Many countries, especially those with limited resources, face difficulties in providing modern technologies for border control and documenting the movement of migrants. The shortage of advanced equipment and electronic monitoring systems negatively impacts the ability to monitor and prevent illegal flows. **(3) Arafat Miftah Mayouf and Adel Bashir Shuaib Al-Zayani, "The Dangers of Illegal Migration and the Role of Media in Combating It," *Journal of Media and Arts*, Year 2, Issue 6, September 2021, Libyan Academy for Postgraduate Studies, p. 198.**

T. Weak logistical capabilities and financial resources:
Countries need a strong infrastructure to control borders and implement inspection and rescue procedures. However, the lack of financial and logistical resources makes it difficult to implement national and international plans efficiently.**(4) Khayra Al-Arouchi, op. cit., p. 33.**
Th. Obstacles to the implementation of international agreements:
Despite countries' obligations to implement international agreements and treaties, the gap between legal texts and practical application remains an obstacle, leaving some loopholes that smugglers exploit in regulating smuggling operations.**(1) Manar Sabrina, Manar Fatima Zohra, op. cit., p. 78**
These practical challenges underscore the need to enhance cooperation and provide the necessary technical and financial support to countries with limited capabilities, in addition to developing effective mechanisms to unify procedures and exchange information quickly and accurately to confront this phenomenon on the ground**(2) Arafat Miftah Mayouf, Adel Bashir Shuaib Al-Zayani, op. cit., p. 193**

Axis II: National legal mechanisms to combat illegal immigration
1- US Legislation – Immigration and Nationality Act (Immigration and NationalityAct)
A- General framework:
The Immigration and Nationality Act is the primary legislative framework regulating the entry and residence of aliens in the United States, and is a comprehensive law regulating all aspects of legal and illegal immigration. The law is divided into provisions regulating obtaining visas, entry conditions, and asylum, as well as disciplinary procedures applied to violators.**(3) Section 101(a) of the Immigration and Nationality Act (INA)**

B- Implementation mechanisms:
The law is enforced through the Immigration and Naturalization Service (USCIS), which manages examination procedures, interviews and evaluation of asylum applications**(4) Section 103 of the Immigration and Nationality Act (INA).**
In addition to the Immigration Law Enforcement Agency (ICE), which undertakes the tasks of searching and arresting violators**.(1) Section 287 of the Immigration and Nationality Act (INA)**
It also includes cooperation with judicial authorities that pursue cases of illegal entry and impose penalties that may include imprisonment and deportation**.(2) Sections 103, 235, and 287 of the Immigration and Nationality Act (INA).**

T**- Details of penalties**:
The law determines penalties based on the seriousness of the violation. In cases of illegal entry, penalties may reach several months in prison and large fines, while harsher penalties are imposed in cases of migrant smuggling or involvement in organized crime networks.**(3) Sections 274, 275, and 276 of the Immigration and Nationality Act (INA).**

2- European legislation – framework of European Union agreements and the Schengen system
A- Joint agreements:
The Schengen Agreement and the Dublin System represent two fundamental pillars of the European Union's legislative structure in the field of migration management and border control. These two legal frameworks were developed as a strategic response to address the complex challenges arising from the movement of individuals across borders. They embody a unified European philosophy based on two complementary principles: on the one hand, facilitating freedom of internal movement between member states by abolishing internal border controls, thus enhancing economic and social integration among EU countries.**(4) Schengen Agreement, Article 2.**
On the other hand, tightening control over the external borders of the Schengen area by adopting strict security measures and advanced tracking systems, while delegating responsibility for processing asylum applications to the first member state that the migrant enters, in accordance with the "Dublin" principle**.(5) Dublin III Regulation (No. 604/2013), Article 3**

This dual model reflects a European quest to achieve a delicate balance between the requirements of internal openness and the imperatives of collective security, with the accompanying practical challenges and political contradictions that are particularly evident during periods of humanitarian crises or irregular migration flows.

B- Implementation mechanisms and relevant bodies:

Member states rely on Frontex (Frontex) to coordinate border control**(1), Regulation (EU) 2019/1896, Article 3**

and it uses advanced information systems to exchange security data and personal information**,(2) Regulation (EU) 2018/1861, Article 1.**

which helps detect and prevent smuggling operations**(3). Regulation (EU) 1155/2019.**

Countries also have uniform policies on visa and asylum systems, with European rules such as the Dublin Regulation serving as a mechanism to ensure that an asylum application is submitted in the first country an immigrant enters.

D- Details of penalties and procedures:

European immigration and border management legislation adopts an integrated framework of disciplinary measures and deterrent penalties to combat migrant smuggling and violations of legal entry rules.**(4) Facilitators Directive 90/2002/EC, Article 1**

This penal system includes gradual measures, starting with the administrative detention of suspects, through issuing immediate deportation orders for individuals who violate residency requirements, and ending with imposing heavy financial penalties that include high-value fines and confiscation of assets linked to smuggling operations**(5). Regulation (EU) 1624/2016, Article 18.**

The European Commission is working to strengthen cross-border judicial cooperation mechanisms between member states, where legal procedures are standardized and information is exchanged systematically to ensure the effective application of these sanctions.

These efforts also include establishing joint databases to facilitate the tracking of criminal networks, and enhancing coordination between law enforcement agencies through the Europol mechanism and the European Border and Coast Guard Agency.**(1) Regulation (EU) 794/2016, Article 3**

This strict approach is based on European Directive EC/90/2002, which sets criteria for criminalizing smuggling, and on EU Regulation No. 1624/2016, which strengthens external border control procedures. These legislations aim to achieve effective deterrence while maintaining a balance between security requirements and respect for human rights in accordance with the Charter of Fundamental Rights of the European Union**(2) Charter of Fundamental Rights of the European Union, Article 4.**

3- Arab legislation – the Algerian model for combating illegal immigration

A- General legislative framework:

In light of the rapid geopolitical transformations that the Maghreb region has witnessed over the past two decades, specifically after the security crises in neighboring countries, Algeria found itself at the heart of the illegal immigration crisis. It transformed from a mere source country for migrants into a transit and receiving country, which imposed a fundamental shift in Algerian legislative policy. This shift was not just a security response, but rather the product of a complex interaction between international pressures, internal security requirements, and human rights obligations.

In the context of the complex challenges posed by the phenomena of irregular migration and human smuggling, Algeria has adopted a gradual legislative approach that reflects a qualitative development in dealing with this multidimensional issue. This trend is evident through an interconnected series of legal texts that aim to address the phenomenon from a comprehensive perspective, combining security imperatives and humanitarian considerations.

Law No. 01-09 of 2009/02/25, as amended by Law No. 02-16 of 2016/06/19, stands out as a fundamental pillar of this legislative structure, as it constitutes a comprehensive reference document that defines the basic concepts and defines the punitive framework for crimes related to illegal immigration(1) **The Algerian Penal Code, Law No. 01-09 dated February 25, 2009, as amended by Law No. 02-16 dated June 19, 2016.**

However, this legislation does not operate in isolation from the existing legal system, but rather complements substantial amendments made to numerous laws, particularly with regard to criminalizing cross-border smuggling networks and strengthening financial and punitive penalties against those who organize them. Border security regulations serve as a complementary link in this system, activating modern monitoring mechanisms and developing regional and international cooperation in combating organized crime.**(2) Executive decrees and decisions regarding border regulation and control in Algeria, such as Executive Decree No. 12-247 dated June 21, 2012**

It is worth noting that this legislative framework is based on a balanced approach that goes beyond the purely security dimension to include:

• Protecting victims and taking into account the humanitarian conditions of migrants.

• Strengthening international judicial cooperation to combat smuggling networks.

• Developing mechanisms to prevent and reduce the root causes of irregular migration**(3). Constitution of the Algerian Republic, Articles 31 to 40 (Fundamental Rights and Freedoms)**.

This legislative development represents a serious attempt by Algeria to keep pace with its international obligations in this field, while preserving the specificity of its geopolitical position as a country of source, transit and future of migration. It also reflects an effort to achieve a balance between the requirements of national sovereignty and border protection on the one hand, and respect for human rights and international standards on the other hand, within the framework of a comprehensive and sustainable approach**(4). The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was ratified by Algeria in 2003.**

B- Objectives of Algerian law:

The Algerian law on combating illegal immigration and human smuggling represents a comprehensive legal framework that seeks to achieve a number of overlapping strategic objectives, which can be analyzed at three main levels:

• **Preventive and punitive level:**

Through this legislation, the Algerian legislator seeks to achieve two complementary goals: criminalizing illegal entry into the national territory through tight regulation of land, sea and air borders, while establishing precise controls to distinguish between the different situations of migrants; Combating organized crime networks by criminalizing all forms of human smuggling and human trade**(1), Algerian Penal Code, Articles 303 bis 30 to 303 bis 41.**

with a focus on dismantling the infrastructure of these criminal networks.**(2) Law No. 11-08 dated June 25, 2008, relating to the conditions of entry, residence, and movement of foreigners within Algerian territory.**

• **Punitive and deterrent level**:

The legislation includes a gradual penal system that takes into account the nature of the crimes and the circumstances of their commission. A progressive imprisonment system is applied, ranging from reduced penalties for individual violations to severe penalties for organized smuggling crimes. It also establishes a system of financial fines commensurate with the seriousness of the acts and the nature of those involved, with the possibility of doubling these penalties in the event of repeated violations. It also takes into account aggravating and mitigating circumstances in applying penalties, paying particular attention to crimes involving the exploitation of vulnerable groups.**(3) Penal Code, Articles 51 bis to 53 (aggravating circumstances), Articles 54 to 60 (mitigating circumstances).**

• **Protection level:**

The law goes beyond the punitive aspect to include protecting victims of smuggling operations through reporting and shelter mechanisms**(1) Algerian Penal Code, Article 303 bis 32**

, ensuring the rights of those arrested in legal proceedings, and cooperating with international organizations concerned with protecting the rights of migrants.**(2) Law No. 06-23 dated December 20, 2006, amending and supplementing Law No. 01-10 dated July 3, 2001, relating to the Code of Criminal Procedure, Articles 48 to 65**

This legislation is not satisfied with the security dimension, but rather seeks to achieve a delicate balance between the requirements for protecting national sovereignty, the necessities of combating organized crime, obligations to protect human rights, and the requirements of international cooperation in this field. Thus, the law emerges as an integrated tool that keeps pace with contemporary challenges of irregular migration in the region, while preserving national specificities and human values.**(3) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.**

C- Details of sanctions and security measures:

Penalties:

The Algerian Penal Code represents the cornerstone in addressing acts related to irregular migration, as it criminalizes some behaviors, sometimes taking into account their motives and humanitarian circumstances. For example: In Article 303 bis 30 of the Penal Code, the Algerian legislator criminalizes the act of smuggling migrants, as any process of facilitating illegal exit from the national territory with the aim of obtaining a material or moral benefit is considered a crime punishable by imprisonment from three to five years and a fine ranging from 300,000 to 500,000 Algerian dinars. The scope of criminalization expands to include all forms of participation in this criminal operation, whether through planning, financing, or actual implementation, with the requirement of criminal intent represented by knowledge of the illegality of the operation and the pursuit of a benefit from it.

Penalties are more severe in specific cases stipulated in Article 303 bis 31, with the penalty ranging from five to ten years in prison and a fine ranging from 500,000 to one million Algerian dinars when a minor is among the migrants, when the migrants' lives are in danger, or when they are treated inhumanely. This tightening comes in line with Algeria's international obligations in the field of protecting human rights, especially the Convention on the Rights of the Child, which the country has ratified.

The penalty reaches its maximum level in Article 303 bis 32, where the penalty is imprisonment from ten to twenty years and a fine ranging from one to two million Algerian dinars when the crime is committed by organized criminal networks, or by using or threatening with weapons, or when the perpetrator exploits his official position to facilitate a smuggling operation. This punitive approach reflects the legislator's desire to adapt punishment to the degree of seriousness of the criminal act and the seriousness of the perpetrator, with a particular focus on the phenomenon of organized crime, which poses a threat to the security and sovereignty of the state.

Among the innovative mechanisms approved by the Algerian legislator in this context is what is stipulated in Article 303 bis 36 of the system for exemption or reduction of punishment for those reporting smuggling crimes, whereby anyone who reports the crime to the authorities before it is carried out is exempted from punishment, while the punishment is reduced by half if it is reported after Implementation and before filing a public lawsuit. This text aims to encourage breaking the silence around these criminal networks and facilitate the task of the security services in dismantling them.

In contrast, Article 303 bis 37 stipulates a penalty of imprisonment from one to five years and a fine ranging from 100,000 to 500,000 Algerian dinars for anyone who learns of the commission of a migrant smuggling crime and fails to report it to the competent authorities, with the exception of the perpetrator's relatives up to the fourth degree of this penalty. This text strikes a delicate balance between the need to strengthen community cooperation in combating crime, on the one hand, and respect for family ties, on the other.

Article 303 bis 38 represents a qualitative shift in Algerian criminal policy, establishing the principle of criminal liability for legal persons for smuggling crimes. This allows for accountability for companies or associations that contribute to these criminal operations by financing them, providing forged documents, or engaging in other forms of participation. The penalties applied in this case vary between financial fines, judicial dissolution of the institution, and ban from practicing the activity.**(1) Section 5 bis 2 of the Algerian Penal Code (added by Law No. 18-06 dated December 25, 2018), Articles 303 bis 30 to 303 bis 41.**

Law No. 11-08 of June 25, 2008: Regulating the entry, residence and movement of foreigners

Law No. 11-08 details the conditions and procedures for the entry, residence and movement of foreigners in Algeria, and specifies penalties for violating these provisions, emphasizing the importance of adhering to the procedures. Legal texts regulating the entry and residence of foreigners in Algeria: Under Article 28, every foreigner wishing to enter the Algerian national territory must have an entry visa issued by the competent authorities, unless applicable international agreements stipulate that he is exempt from this condition. This measure comes within the framework of the state's policy aimed at regulating entry movement through border crossings and maintaining national security, taking into account Algeria's international obligations in this area.

Article 29 adds a set of obligations to foreigners upon entering the country. Foreigners must present a valid travel document and state their identity, justifying their reasons for stay, the expected duration of their stay, and their means of subsistence during this period. These requirements seek to achieve transparency in the entry process and ensure the availability of the minimum conditions necessary for legal residence.

Article 33 regulates the visa system in detail, specifying the different types of visas (tourist, work, study, treatment...) And the conditions for granting each type, in addition to its validity periods and conditions for extending it. This regulation provides a clear legal framework that facilitates the movement of individuals for legitimate purposes while maintaining security controls.

With regard to long stays, Article 40 stipulates that a foreigner who intends to stay for more than ninety days must obtain a residence permit from the competent authorities. This procedure aims to register long-term resident foreigners and ensure that their legal status is monitored periodically.

On the other hand, Article 61 stipulates a fine penalty for any foreigner who violates legal procedures related to entering, residing in, or moving between its various states. This article emphasizes the need to respect the laws and regulations governing the movement of foreigners as a basic condition for ensuring the regularity of their conditions. Article 63 also imposes a fine on a foreigner who exceeds the legal period for an entry visa or residence permit without completing the required extension or renewal procedures. This text reflects the legislator's commitment to ensuring that foreigners remain within the legal framework throughout their stay in the country.

Finally, Article 66 stipulates penalties ranging from imprisonment to a fine for a foreigner who does not comply with an order to leave the national territory issued by the competent authorities. Emphasizing the need to take into account humanitarian aspects when implementing these decisions, especially in cases involving families, children, or people with special needs.**(1) Law No. 11-08, Articles 28, 29, 33, 40, 61, 63, and 66.**

Law No. 01-09 amending and supplementing the Civil Code: Civil Liability

Civil liability may arise in specific cases related to irregular migration, where a person harmed by an act in this regard may resort to the tort provisions of the Civil Code (Articles 124 et seq.) to claim compensation for the damages he has suffered, which enhances the legal protection of individuals in this context.**(2) Ordinance No. 75-58 dated 20 Ramadan 1395, corresponding to September 26, 1975, promulgating the Civil Code, Article 124 and the following articles.**

Attempting to leave the country irregularly

The criminalization of attempting to leave the national territory irregularly is based on articles in the Penal Code criminalizing attempted violations, in addition to the provisions on border control in Law No. 11-08. In this context, it must be understood that these attempts may stem from individuals' despair and desire to seek better opportunities or reunite with their families, which calls for addressing the root causes of this phenomenon.

- Control procedures:

The Algerian authorities have developed and strengthened the control system on its national borders, by creating highly qualified security units that undertake the task of securing both land and sea border crossings. This trend has been accompanied by intensive investment in modern technology

It included the deployment of advanced visual surveillance systems via cameras and radar devices to detect suspicious movements, in addition to the use of technologies to identify individuals' biometric data.**(1) Law No. 18-06 dated June 10, 2018, amending and supplementing Ordinance No. 76-97 dated November 22, 1976, relating to the law on border regulation.**

- International cooperation:
Algeria's legal strategy to combat irregular migration also relies on activating cooperation mechanisms with neighboring countries and international organizations active in this field, most notably the International Organization for Migration (IOM) and the United Nations Organization against Transnational Organized Crime (UNODC). This cooperation aimed to achieve effective exchange of relevant information and coordinate joint security and judicial efforts to prevent smuggler infiltration and dismantle criminal networks involved in smuggling operations.
- Support and protection measures:
The Algerian legislative framework was not limited to the punitive aspects of dealing with irregular migration, but also included specific mechanisms aimed at providing the necessary support and protecting the rights of victims of illegal immigrants. These mechanisms include providing psychological and legal support to those in need, in addition to taking measures aimed at rehabilitating migrants returning to their countries of origin through special programs funded by the state or in cooperation with international bodies.

Conclusion

At the conclusion of this study, and after analyzing international and national legal frameworks to combat illegal immigration, it becomes clear that this complex phenomenon requires a comprehensive approach that combines deterrent legislation with effective international cooperation. At the international level, there are agreements and treaties aimed at regulating illegal immigration and enhancing security and judicial coordination between countries, but practical application still faces obstacles, such as different national priorities and the difficulty of tracking cross-border smuggling networks.

At the national level, the study showed that many countries, including Algeria, are making legislative efforts to combat this phenomenon by enacting strict laws and preventive measures. To achieve tangible results in reducing illegal immigration, the research proposes a set of recommendations, the most important of which are:

1- Updating legislation to keep pace with the advanced methods used by smuggling networks.
2- Strengthening regional and international cooperation through exchanging information and expertise and coordinating security efforts.
3- Addressing the root causes of illegal immigration, such as poverty and unemployment, through sustainable development policies.

Finally, combating illegal immigration is not limited to the security aspect alone. It requires a balance between protecting borders and ensuring human rights, while working to improve the economic and social conditions that push individuals to venture into irregular migration.