

Democratic Control

for the administration of
the southern border

A proposal to the Members
of the European Parliament attending
the seventh legislature

April 2009



Jesuit Migrant Service (JMS), Spain

The JMS-Spain Network and the Southern Border

The Jesuit Migrant Service of Spain (JMS-Spain) is a network of Jesuit institutions committed to studying migration, to welcoming and training immigrants, and to promoting a social ambience that is inclusive, integrated, and intercultural. The network includes: the University Institute of Migration Studies (Pontifical University of Comillas), the Migra-Studium Foundation (Barcelona), the CeiMigra Foundation (Valencia), the San Juan del Castillo Foundation (Madrid), the Ignacio Ellacuría Social Foundation (Bilbao), and the Claver Association of Volunteers (Seville). The network works in coordination with the Jesuit Migrant Service of Latin America and the Caribbean, and it unites its efforts with the Jesuit Refugee Service in Europe (JRS-Europe) in order to have a presence in North Africa, where it works with the migrant population. In its accompaniment of the migrants, it has become conscious of how their living conditions are affected by the European mechanisms that externalize administration of the borders.

In this document, drawn up with the collaboration of Entreculturas and Alboan, JMS-Spain proposes to offer a brief analysis of how the European mechanisms for controlling the southern border distort the very notion of border and how they affect negatively the living conditions of the migrant population located in the border areas. On the basis of such analysis, a proposal is made to the Members of European Parliament in favor of greater democratic control on the border, such as will guarantee the space of freedom, security, and justice that we desire for the European Union.

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A popular image of migration that is as powerful as it is inaccurate

The small craft packed full of Sub-Saharan Africans is one of the images most powerfully associated with immigration: it is the image that is most immediate, readily reproduced in the mass media. But that small boat is an image that creates a distorted view, for it eclipses all other news reports about the lives of the migrants.

Such a distorted, media-driven image exercises a negative effect on political discourse. The popular imagination has been filled with explicit messages which associate the image of the small craft with the irresistible and irregular nature of the migratory flows. It is important to show how inadequate this image is for conveying the actual situation to those who view it from a Spanish perspective. After studying the socio-demographic nature of African migrations to Spain between 1996 and 2008, we would highlight the following conclusions:

How many migrants are there?

Between 1996 and 2008 the number of people of African origin (Maghreb and Sub-Saharan) residing in Spain has risen from 110,414 to 813,958, but their share in the total foreign population in Spain has dropped from 20.4% in 1996 to 15.6% in 2008.

Where do they come from?

In 2008, about 75% of African migrants (613,458) were from Morocco and Algeria, while those who were from Sub-Saharan countries numbered 186,851. As of 2009 there are residing in Spain migrants from 27 African nations. The nationality with the largest increase in resident population in Spain is Nigerian (from 632 in 1996 to 33,137 in 2008).

What is the proportion of men and women?

Sub-Saharan immigration is even more heavily male than immigration coming from Morocco and Algeria: it exceeds 80% for residents from Mali, Ghana, Senegal, Mauritania, Gambia, and Guinea Bissau. In contrast, Cape Verde and Equatorial Guinea show migration patterns that include slightly more women.

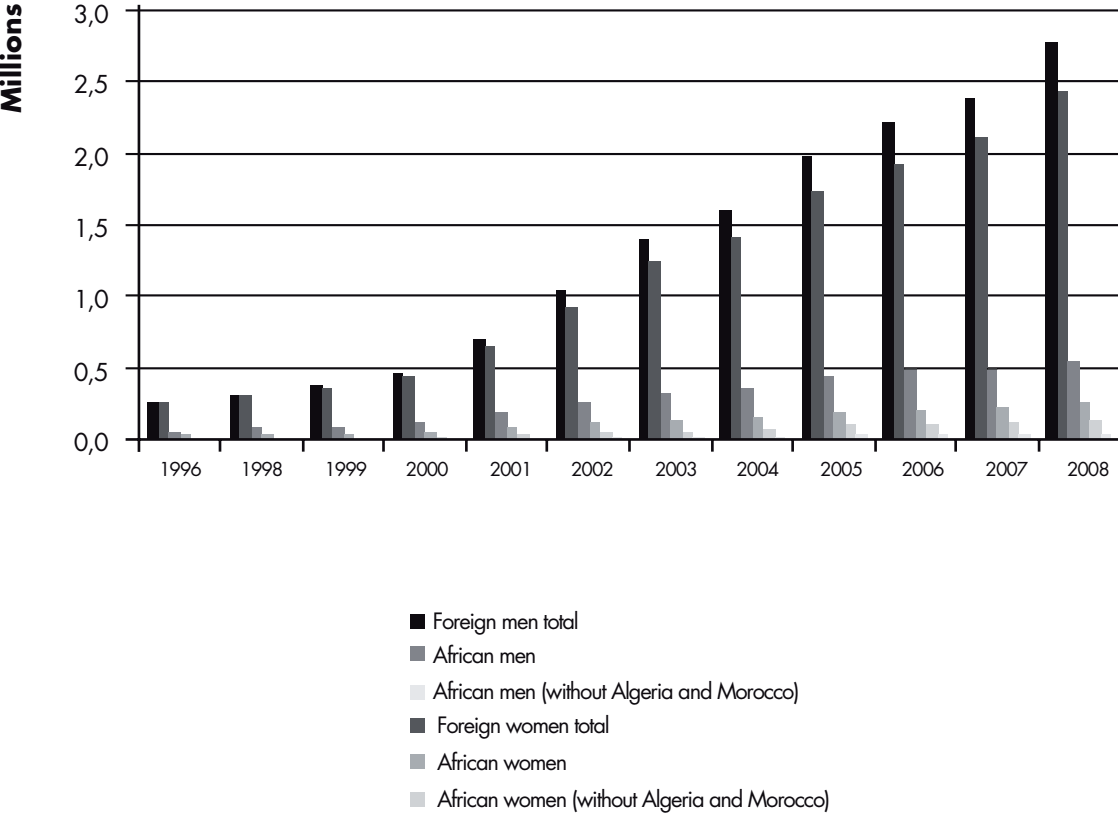
How old are the migrants?

In 2008 more than 78% of the residents of African origin in Spain were less than 40 years of age.

Where do they take up residence in Spain?

They are very dispersed. The Autonomous Communities or Cities where we find the highest proportions of foreign population of African origin are: Melilla (7.4%), Murcia (4.8%), Cataluña (3.8%), Ceuta (3.4%) and La Rioja (3.0%). Who can talk of an avalanche?

The following graph helps to visualize the low percentages of Africans among the foreign population residing in Spain, and the even lower percentage of Africans from Sub-Saharan countries:



Source: Investigation of the Observatorio Valenciano de las Migraciones-CeiMigra, with data from the INE as of 26 December 2008.

In light of the foregoing data, we must question the value of the border control mechanisms that have been deployed in response to a very distorted popular image of the reality, even while we keep in view the problems that have been created. We do not deny the legitimacy of border control to regulate migratory flows, but we do raise questions about the extent to which these mechanisms provide a proper guarantee of human rights, about the indirect consequences they have for the migrants' living conditions, and about their proportionate character.

2

Questionable controls that need to be controlled

Since 2005 the European political discourse has focused on the need for a **'global approach on immigration'**: one that would combine instruments of border control, e.g. repatriating persons and combating irregular immigration, with tools for managing legal immigration and integration and with measures aimed at attacking the deeper causes of migratory flows, such as policies of development cooperation, peace and security issues and commercial policy. Nevertheless, more recent instruments such as the **European Pact on Immigration and Asylum** (2008) clearly strengthen border control and the prevention of irregular migratory flows while neglecting the other aspects.

The **Africa Plan** (2006-2008) of the Spanish government adopts the principles enunciated in the EU's global approach. It declares its intention *"to attend to the causes that provoke immigration, to limit as much as possible the irregular flows and the influence of mafias, and to increase as much as possible the benefits of legal, orderly migration for both sides."*¹. In this regard it is necessary to analyze the extent to which these principles evenhandedly treat all aspects of the migratory phenomenon and to examine the profile of the new Africa Plan (2009-2011), which is currently being elaborated.

What is certain is that the European Union and Spain have invested heavily in costly technical and human resources for restricting the migratory flow from Africa: sea and land borders are strictly controlled, agreements for the readmission of deported or returned irregular migrants have been signed with the countries of origin, human trafficking networks have been dismantled, and development aid agreements have been tied to policies aimed at controlling migration.

■ 2.1 Joint maritime patrols²

It is necessary to investigate the way joint maritime patrols are deployed in the territorial waters of African countries, to examine the international agreements that make it possible to operate within the sovereign territory of other states, and to consider how such patrols proceed and what consequences they have.

We are referring to the systems and operations deployed under the coordination of the European Agency for External Borders (FRONTEX), such as HERA, or to those deployed outside that umbrella, such as ATLANTIS, SEA HORSE or NOBLE SENTRY. We also refer to the European Border Patrols Network. All these mechanisms present such serious juridical and moral problems that they need to be submitted to political control.

¹ Africa Plan 2006-2008, Ministry of External Affairs and Cooperation, p. 72.

² For this section we have drawn on the Report of C. GORTÁZAR ROTAECHE and P. GARCÍA ANDRADE, "La Unión Europea y España ante el reto de gestionar las migraciones africanas"; P. GARCÍA ANDRADE, "Extraterritorial strategies to tackle irregular immigration by sea from a Spanish perspective"; and V. MITSILEGAS and B. RYAN (coord.), "Extraterritorial Immigration Control: Legal Challenges," soon to be published.

Are the maritime operations for border control in conformity with due protection of human rights and with the requirements of the rule of law?

1. The joint patrols operating in the waters of African countries appear to be carried out using Spanish ships that have on board agents of the country in question. These agents are the only ones who can legitimately order to return to shore persons on boats intercepted within their territorial waters, in accord with their internal migratory law. Since these agents are the only ones who can require the boats with migrants to return to land in the African country, we ask: what is the role of the Spanish forces? Is it legitimate?

2. The extraterritorial practices of border control may violate the human rights of potential migrants. In particular, control at the point of departure jeopardizes the right of every person to leave a country, including his or her own. Although it is true that this right is not absolute, the “struggle against irregular immigration” runs the danger of becoming a rigid control of “irregular emigration.”

3. Externalization of border control: is due respect given to the juridical guarantees provided in the legislation of Spain and the European Union for persons who attempt to reach our national territory? These include the rights to be informed, to have legal assistance (even without cost), to have an interpreter, to appeal the measure imposed... Are the guarantees provided in the legislation of the states where we patrol truly adequate?

4. The interception of migrants in the waters of their country of origin violates their right to request asylum and the principle of “non refoulement,” since the 1950 Geneva Refugee Convention can be invoked only outside the country of one’s nationality. As regards the interception of migrants who are traveling through other countries, is it guaranteed that proper asylum procedures will be applied in the case of persons in need of international protection?

3 This right is stated in article 12.2 of the International Covenant on Civil and Political Rights (1966), in article 2.2 of Protocol no. 4 to the European Convention of Human Rights (1950), and in article 12.2 of the African Charter of Human and Peoples’ Rights (1981).

4 The right mentioned can be the object of restrictions provided by law and necessary to protect certain legitimate state interests (article 12.3 PIDCP; article 2.2 Protocol no. 4 to the European Convention of Human Rights; and article 12.2 of the African Charter).

■ 2.2 Electronic instruments of surveillance

Maritime border control is supported by surveillance instruments such as: the Integrated System of External Surveillance (SIVE), the military satellite SPAINSAT (2008) as part of the SEA HORSE NETWORK, and the proposed European Border Surveillance System, also called EUROSUR. Designed to detect boats, these systems serve to facilitate interception or rescue. Beyond that, however, they raise important questions, such as the following:

Questions about the surveillance systems

1. By extending surveillance and the possibilities of action beyond national territory and jurisdictional waters, so as to cover even the sovereign territory of other states, are we in danger of extra-territorializing our jurisdictional borders?
2. There is evidence of the dissuasive effect of the surveillance systems on the migratory flows that came through Algeria and Morocco: there has been a progressive shift toward Senegal and Mauritania. Apparently, the pressure on Spain is less. Nonetheless, that means a tremendous increase in the danger involved in the migratory journey. Can we in justice consent to such danger as an effect of our policies?

■ 2.3 Agreements for readmission of deported or returned migrants⁵

One of the instruments for controlling migratory flows is the signing of agreements for readmission of deported or returned migrants. It is noteworthy that the European Commission has signed such agreements only with the bordering countries of Eastern Europe and that it employs only mandates of negotiation with Algeria and Morocco. Spain has signed such mandates with Morocco (1992), Nigeria (2001), Algeria (2002), Guinea Bissau (2003) and Mauritania (2003). The Spanish government makes mention of the increase in the number of repatriations, but it does not give comparative figures.

The readmission of deported or returned migrants in the new-generation agreements with the countries of Sub-Saharan Africa.

Within the context of the Africa Plan, the Kingdom of Spain concluded framework agreements of migratory cooperation with Guinea and Gambia in 2006, with Cape Verde and Mali in 2007, and with Niger in 2008. Regulation of the readmission of nationals of the Contracting Parties is included in the final chapter of the respective agreements. The impression is given, therefore, that priority is placed on questions of legal immigration

⁵ For this section we have drawn on GARCÍA ANDRADE, P., "La gestion de l'immigration irrégulière entre l'Espagne et l'Afrique: d'une «approche sécuritaire» à une «approche globale»", Migration clandestine africaine vers l'Europe: un espoir pour les uns, un problème pour les autres, acts of the Congress organized by the CERMI, Faculty of Juridical, Economic and Social Sciences of the Hassan II University, Casablanca, July 2008, soon to be published.

and integration of legal residents. However, the only matter treated in the development agreements is the repatriation of persons in an irregular situation; the details of the repatriation process are expounded in an annex on "Procedure and Guarantees for the Readmission of Persons." **Most astonishing is the absence of any references in these accords to the due protection of human rights, a matter of enormous importance in all stages of the repatriation process.** There is only a vague allusion, in the preamble to the agreements, to "full respect for human rights and the personal dignity of the emigrants". A further cause for concern is the lack of any mention of the 1950 Geneva Refugee Convention and respect for the principle of "non-refoulement." This is at the very least surprising, if we consider the spirit underlying these new-generation agreements which are far more susceptible to possible violations of human rights.

Readmission agreements signed prior to the context of the Africa Plan –such as with Nigeria, Mauritania and Guinea Bissau– do include specific dispositions prohibiting the use of force and any recourse to torture or other cruel, inhumane, or degrading treatments, and they refer expressly to the 1950 Geneva Refugee Convention. In contrast, the agreement signed with Morocco in 1992 at no moment makes mention of the protection of human rights.

Respect for human rights on the part of the authorities and security forces in charge of deported or returned migrants is not the only unresolved question. Whatever be the tenor of the administrative procedure, it is important that it take into account the vulnerability of transient migrants returned to countries that are not their own.

■ 2.4 The struggle against international crime and the trafficking and exploitation of human beings

It is also important to mention the instruments designed to combat international crime and the trafficking and exploitation of human beings: the United Nations Convention Against Transnational Organized Crime (2000), the Palermo Protocols that complement it (the Protocol against illicit trafficking of migrants by land, sea, and air, and the Protocol to prevent, eliminate, and penalize the exploitation of persons, especially women and children), and the bilateral agreements for the fight against crime signed between Spain and the countries from which migrations originate and through which they pass. Besides these international instruments, the EU has developed other control mechanisms, such as the network of immigration liaison officials (2004)⁶. These instruments also need to be examined:

⁶ Regulation no. 377/2004 of the Council of the EU, approved on February 19, 2004, for the creation of a network of immigration liaison officials, DOUE of March 2, 2004, L 64.

**Agreements
that are
necessary, but
insufficient**

There is an unquestionable need to fight against the trafficking and exploitation of human beings in order to save human lives and to prevent criminal gain. Such an undertaking deserves international cooperation, but it is not enough to achieve justice.

The European Union's defense of its policies for the integration of immigrants and the protection of their rights will be incoherent as long as its Member States do not ratify the **International Convention on the Protection of the Rights of All Migrant Workers and Their Families** (1990).

There is a shocking disproportion between the international cooperation mounted against illicit trafficking of migrants and that dedicated to protecting the labor rights and civic rights of the migrants.

2.5 Development cooperation policies linked to control of flows

Spain has significantly increased its development aid funds for Sub-Saharan Africa⁷, and in 2006 it included Nigeria and Mali among the countries in need of special attention. This aid will be steadily broadened to those countries of West Africa that have generated increased migrant flows toward Spain⁸.

Although the aid is justified by reason of poverty indicators and crisis situations, the cooperation agreements are linked to countries' efforts to control the flow of migrants and to facilitate their readmission. This is clearly the case in the 2008 agreement signed that Spain signed with the West African Economic Community for a total of ten million Euros. Its objectives were oriented toward stemming the flow of illegal migration, controlling the traffic of light arms, and creating public migration policies.

**Coherence
in cooperation
policy is
lacking**

When development cooperation is made a means for achieving migration policies, is due regard being given to the welfare of persons who find themselves in a situation of mobility?

⁷ In 2007 Spain allocated 1,189,200,000 Euros to development aid for Africa (principally through multilateral cooperation), 70% of which was assigned to Sub-Saharan Africa.

⁸ In 2006 Nigeria received 108 million Euros of bilateral development aid from Spain, through debt operations.

3

From a “line” to a “no man’s land”

European and Spanish border control policies have altered the concept of the border. It is no longer a line. Rather, the images of double barricades surrounding Ceuta and Melilla, with their roped off paths and other open spaces for control, communicate the idea that the border territory is a true no man’s land. The images of boats intercepted and rescued on the high seas only broaden the horizons of that deadly no man’s space stretched between two worlds.

■ 3.1 Living conditions of migrants on the other side of the Southern border

Like other agencies, JMS-Spain and JRS-Europe have also made themselves present on the other side of the southern border. They deal there with persons who are hoping to enter Europe. No migrant is any longer ignorant of the time needed to arrive at those European borders that reach far beyond Europe. No migrants are uninformed about the dangers they will face. We for our part want to call attention to the inhumane living conditions of those who are simply waiting. We have personally witnessed those conditions, and we have drawn on the testimony of other NGOs, both local and international, and on studies carried out by North African research institutes⁹.

It is difficult to calculate the number of persons who are waiting in such countries as Algeria, Morocco, or Mauritania. We can get an idea from the number of files of persons receiving help from social agencies like CARITAS-Morocco, which total around four thousand. But how many persons make use of false identities in their struggle to survive? The police records of those detained will give us an estimate: as of January 2009, the Moroccan police had records on some 500 deported persons. But when deportations take place and are not recorded, how can we know how many correspond to the same person, apprehended time and again?

What is clear is that number of persons migrating between Algeria and Morocco has declined in recent years. In 2000 the number was calculated at between 15,000 and 20,000, but in 2008 the estimated figures are between 6,000 and 8,000. Such a decrease may result from the successful application of instruments of control such as the SIVE. Yet such an impression could be deceptive, especially if migrants have sought out alternative routes such as through Libya and Senegal. And such success is truly tragic when one considers the great number of persons who have drowned as they came by sea from Senegal.

The migrants stationed in North African countries like Morocco, experience abject poverty and juridical insecurity. Since they are in an irregular situation, they cannot get work. Their access to health and educational services is extremely limited. They cannot open bank accounts, send or receive packages or money. They cannot register changes in their civil status or the births of their children. Many refugees refuse to obtain official recognition by UNHCR in the country where they are waiting, preferring rather to wait in hopes of being able to get such recognition in a Member State of the EU.

⁹ Report of the Association Marocaine d’Études et de Recherche en Migrations (AMERM), directed by Professor Mohamed Khachani, University of Rabat, June 2008.

Some migrants subsist by unloading sacks in the markets or by gathering scraps of leftover food. A few migrants occasionally get assistance from an NGO to undertake small-scale subsistence activities, such as mending cords. Many migrants live in overcrowded conditions, with up to 20 persons living in small, dilapidated dwellings. We visited one such house in the slum of Takaddoum: it was just three small rooms, one without a window, and a toilet in the staircase. Migrants live together according to nationalities, common languages, religion, and for mutual support in solidarity. Sometimes prostitution becomes the only way to obtain a little more money to pay rent and buy food. For most migrants, access to health services is difficult, risky, or simply beyond their economic means. Mothers have seen their babies die for lack of medical attention.

Living on the other side of the European border (such as in Moroccan territory) means just waiting for the right opportunity to arrive. It means investing money and taking risks; it means failing time and again before finally making it across. Contacts with family networks provide the flow of money needed to pay the smugglers. Some people have been trapped that way for years. As time goes by, the debts to the networks financing the migration become insupportable, and the horrendous living conditions begin to take their toll. After the third or fourth year, some of them begin the return journey, either with their own funds or with the aid of the International Organization for Migration.

Only with great difficulty will they renounce their migratory ambitions. Nothing dissuades them –not the deaths of companions along the way, not the failures in the attempts to get aboard boats or to cross the barricades, not the repeated deportations to a more distant border. Many have sold everything they had in their land of origin– nothing remains for them there other than a pile of debts and the prospects of being reduced to begging.

The impossible return

“I will keep trying to get to Spain as often as I can because **here there is nothing, and I cannot bear to see my family this way – I cannot die without having tried.** I say it and I repeat it. I am hiding nothing.”

“I tried to cross four times. Each time I had to beg for money from different people. Even my mother sold her land to send me the money to cross. I failed each time. Now I owe about 8,000 Euros to my friends and family. How do you expect me to return to my home? Give me the money and I’ll go back tomorrow, but with nothing in my hands... it is simply impossible. **I am going to try to cross into Europe every time I get the opportunity. I have to do it.**”

“**Once you begin on the way, there’s no turning back. It’s not just you emigrating, but your whole family and your village.** A Senegalese friend of mine owes money to his whole village! He cannot return; he has to reach Europe and earn money there, or else die. If you return without anything, it seems you have not had the fortitude to sacrifice yourself for your village, and they reject you. You’re nothing. All the people of your village collected money among themselves so that you could emigrate – you’re the one chosen, and you accept. This is the story of many of us.”

Testimonies collected by the Jesuit Migrant Service

■ 3.2 Spaces of injustice, insecurity, and lack of freedom outside the borders

The living conditions borne by migrants in North Africa are attributable to the European policies that have externalized the borders. These borders, when they deprive people of justice, security, and freedom, cease to be simple administrative demarcations, and this is precisely what has happened as policing functions have been externalized.

Detentions and deportations of Sub-Saharan immigrants living on the African side of the southern border of Europe have become habitual since 2005. Often they have to do with external factors, such as visits of European authorities or the signing of international agreements – they serve as a country’s “demonstration of good intentions” towards migrants. Or sometimes they may be due to massive arrivals in the Canaries, or to police crackdowns on the drug trade. Occasionally they have to do with internal factors, such as denunciations on the part of the native-born.

To illustrate this situation, we cite several instances from reports collected by other NGOs and made available on the Internet. The first refers to detentions and deportations that took place in December 2006:

“More than twenty Moroccan and foreign associations and organizations are demanding that authorities put an end to the massive detentions of clandestine Sub-Saharan immigrants in Morocco, and they denounce the violations committed against the same. In the last week of December, more than 400 Sub-Saharan immigrants were intercepted in Rabat, Nador, and El Ayoun, and they were subsequently transported to Oujda, on the border with Algeria. From there many of these immigrants returned on foot to Oujda, where they took refuge, while it is not known what happened with about a hundred of them. **These associations condemn these detentions, made ‘without any respect either for Moroccan law or for the international agreements and documents concerning human rights in general and the rights of migrant, refugees, and asylum seekers in particular.’** Their accusations were also addressed to the European Union because of the pressure it has exerted to ‘subcontract control of its borders,’ as well as to the United Nations High Commission for Refugees (UNHCR), for having failed in its mission. According to these associations, at least one third of the immigrants detained possessed refugee affidavits that were recognized by the UNHCR¹⁰.”

10 “Clandestins: Des ONG contre le refoulement,” published on the Web January 8, 2007.

The second report dates from October 2007:

“On the 25th and 26th of October, 2007, large-scale detentions took place once again in Morocco, simultaneously in a Rabat slum with a concentration of Sub-Saharanans and on a university campus in Oujda, in the eastern part of the country, near the Algerian border, where many migrants live. The detentions took place two days after the visit of Nicolas Sarkozy to Morocco.”¹¹.

The press in Morocco also reported these incidents:

“On Friday, October 26, 2007, the Moroccan police made another massive detention of Sub-Saharan immigrants in order to deport them, for the umpteenth time, to the Algerian border. The police made no distinctions among the persons apprehended. As a result of this, **the trucks were filled with asylum seekers and even with officially recognized refugees.** Around midday, in response to the protests of the detained refugees and asylum seekers, contact was established with the U.N. High Commission for Refugees (UNHCR). The Commission explained that it would in fact be against the law to deport asylum seekers or those who enjoyed refugee status. The Moroccan authorities consequently freed those who presented documents proving their status as asylum seekers or as refugees. **The rest were transported to Oujda, where they will be deported into the Algerian desert,** according to the principle which stipulates that immigrants will be returned to the border by which they entered. This action was roundly condemned in a communiqué issued by a collective of labor unions and other associations, which stated that the international human rights agreements signed by Morocco prohibited such treatment of immigrants. For example, article 3 of the U.N. Convention Against Torture prohibits persons from being sent to a country where they might be submitted to abusive treatment.”¹².

11 Report at http://www.hns-info.net/article.php3?id_article=12488, October 30, 2007.

12 “Macro: Raffles arbitraires contre les immigrés subsahariens à Rabat”, Nouri Zyad, newspaper Libération, 29 October 2007.

And on this occasion, more than 20 labor unions and other associations of Morocco, Benin, Germany, France, and Italy, as well as two international federations, joined together to denounce what had been done and the part played in the affair by Africa and Europe:

On the morning of Friday, October 26, 2007, the Moroccan security forces carried out two large-scale detention operations against Sub-Saharan migrants and asylum seekers, one in Rabat and the other in Oujda. At least 100 persons have been detained by the Moroccan police. Among the persons detained there were refugees and asylum seekers; these were later freed by the Moroccan authorities in response to action that was coordinated with the office of the UNHCR in Morocco. The other persons were taken in bus to Oujda and then to the Algerian border, as is customary. As organizations of the civil society and defenders of human rights:

- We express our concern in view of the risks inherent in such massive operations, involving the detention and deportation of migrants and of those seeking asylum in Morocco;
- We denounce the conditions in which these massive detention operations are carried out;
- We declare that these detentions have been carried out in a haphazard manner;
- We remind authorities of the obligations incurred by Morocco, particularly in article 3 of the UN Convention Against Torture, not to send any person back to a country where he or she could be submitted to maltreatment, and we consider that, given the existing conditions, the deportation of migrants and asylum seekers to the Algerian border constitutes a violation of that principle;
- We ask the Moroccan authorities to make public the list of detained persons;
- We call attention to the close link that exists between the hardening of Moroccan policy regarding border control and management of migratory flows, on the one hand, and the increased pressure of the EU on Morocco to cooperate in curbing irregular migration toward Europe's borders, on the other;
- We regret that policies currently being pursued in the cooperation agreement between Morocco and the EU do not include as a priority for action the protection of the rights of migrants and refugees, and we decry the violations of human rights committed in the name of protecting European borders;
- We request that a revision be made of the chapter on migration and asylum in the EU-Morocco Action Plan, and we insistently declare that focusing on public security is not the proper response to the phenomenon of migration;
- We remind all the members of the EUROMED network of their obligations with regard to respecting human rights, including those of migrants, and finally we insist on the fact that every migrant, even if irregular, enjoys basic rights that must be respected.¹³

On that occasion the migrants requesting asylum and the refugees recognized by UNHCR were freed after the European Commission intervened in Rabat. Since that time, the status of refugee has been respected.

Responsibility of the EU for safeguarding freedom, security and justice on the border

The EU cannot evade its responsibility for the assaults made on freedom, juridical security, and justice by the security forces of the countries in which the Union has externalized the administration of its borders. It must seek agreements that guarantee the application there of the same democratic standards that are required in Europe.

3.3 Spaces of injustice, insecurity, and lack of freedom inside the borders

Europe defines itself as a space of freedom, security, and justice. **But it does not hesitate to lower the requirements of democracy and the rule of law when it externalizes the administration of its borders. Nor does it hesitate to fold its borders inwards, producing new spheres of insecurity and injustice and improperly restricting the freedom of persons.**

Restricting the regular paths of migration does not reduce the flows. Rather, it simply places them outside the law and thus subjugates migrants to insecurity and penury. The increased number of obstacles to obtaining administrative regularization has not been effective either in decreasing the flows: rather, it has resulted in deteriorating living conditions for the migrants, and it would place outside the law those who provide humanitarian aid for the migrants. Police persecution against migrants often reflects unacceptable ethnic prejudices and a type of social discrimination that is based on apparent economic capacity. A multiplicity of perverse effects is produced by legal instruments seeking to penalize irregular migration, such as the deportation orders against African migrants who arrive in the Canaries, which are not executable before they are dispersed in the peninsular territory.

In the current period of economic crisis, the loss of jobs and the difficulty of making social security payments result in a decrease in the number of work and residency certificates renewed. Such a circumstance does not so much cause the migrants to return to their native countries. Instead it forces them to struggle harder to survive until they can once again accede to legal status.

No further explanation is needed to make people understand that the border is no longer just a "line." No further explanation is needed to help people understand that the similarities between the "no man's land" that stretches outward from the EU and the one that stretches inward. A border that is broadened in this way becomes a space where grave injustices are committed, juridical insecurity is endorsed, and people's freedom is unjustifiably limited.

4

Conclusions

As JMS-Spain and JRS-Europe jointly analyze the control mechanisms of the southern border of Europe, it becomes abundantly clear that the border controls have become externalized and that the very notion of border has been deformed. As they analyze the living conditions of the migrant population, it becomes clear how sorely dispossessed the migrants are in matters of freedom, security, and justice. Such conditions are seen in all segments of the migrant population, including those waiting to cross the border from North African territory, those already en route, and even those now living in European territory without legal resident status.

Given the forgoing evidence, JMS-Spain requests that the European Parliament pursue the following objectives in its seventh legislature:

Objectives for the European Parliament

1. Make the political discourse concerning African migration conform to actual facts and not to fanciful projections distorted by the mass media.
2. Use its authority to create a global approach on migration in the international treaties that the EU and its Member States sign with African countries, so as to:
 - Develop effective channels for legal migration, and
 - Insure the coherency of development aid policies, especially when they are linked to migration issues, so that development aid is not used as a way to control migratory flows and is rather made to serve the human development of the populations subjected to mobility.
3. Be scrupulously vigilant in safeguarding the juridical guarantees in the control of migration beyond the European borders, especially for persons who are in need of international protection.
4. Intensify the effort to combat the networks engaged in the exploitation and trafficking of human beings, and concentrate on dismantling them both inside and outside European borders, while taking care that no harm is done to the most vulnerable persons.
5. Eliminate all policies that infringe on the spaces of liberty, security, and justice both inside and outside the borders of the EU, so that there are no violations of the basic rights of persons as recognized in the legislation of the European Community and in the that of the Member States.
6. Strengthen the protection of the rights of the migrant population by ratifying the International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).

And as a means for achieving these objectives, JMS-Spain requests that the MEPs pursue the following activities:

Actions

- 1.** That they consult civil society regarding the observance of standards of respect for human rights in the multilateral and bilateral instruments for controlling the EU's southern border.
- 2.** That they personally travel on patrol boats, for the purpose of witnessing how the operations are carried out, interviewing migrants who are intercepted, and evaluating the degree to which the instruments for the international protection of refugees are being respected.
- 3.** That they visit detention centers for foreigners operated by the states with which Spain and/or the EU have signed readmission agreements, in order to verify that there exists the same level of observance of respect for human rights as would apply in EU territory.
- 4.** That they visit the *Center for Administration of Emigration* in Bamako, and such others as may begin to operate, in order to see the extent to which they succeed in channeling regular migratory flows.
- 5.** That they visit the Offices for Foreigners and the Centers of Internment for Foreigners and that they investigate, in dialogue with the civil society, the degree to which the "internal border" creates spaces lacking in freedom, security, and injustice, similar to the spaces created outside the border.



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