

Ceuta and Melilla: Security, Human Rights and Frontier Control

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At the beginning of the 90's, a new phenomenon started to appear at the frontiers of Ceuta and Melilla: sub-Saharan immigration. After over ten years of continuous migration, 2005 represents a point of no return in the development of the management and regulation of these flows. The mass assaults against the border fences in both cities and the death of 14 immigrants, tragic events which appeared on the front pages of the main national and international media, showed the inefficiency and shortfalls of the security and public order policy introduced by Spain and the European Union along its southern border.

When dealing with social political events and phenomena related to the cities of Ceuta and Melilla, it is inevitable to take into due consideration that Ceuta and Melilla have always been two border cities free from any material obstacles disrupting communication with their hinterland, and sensitive to migratory flows from the nearby Rif Mountains. In Ceuta and Melilla the northern and southern worlds have coexisted for over a century, during which time they have attempted to erase the cultural, economic and religious gap separating Europe and Africa. Here the northern and southern shores come together, and Europe and Africa are indissolubly linked.

Let's begin this overview analysis of border management in Ceuta and Melilla during 2005 by taking into consideration that it has been over a decade since the two North African cities became transit territory for new sub-Sa-

haran migratory flows, and Ceuta and Melilla were definitively included in the geopolitical panorama of South-North migrations. North and South started to assume once again a crucial importance in both cities and the management of these new migratory flows started to reveal political contradictions of great depth. The first of these being the uneven application of regulations concerning immigration as regards to the rest of the Spanish territory. In 1999 the Spanish Government and the European Union decided to protect the cities' borders with a modern and sophisticated system which would prevent immigrants from entering, delimiting those imaginary boundaries between Europe and Africa which were never definitely marked in Ceuta and Melilla. Those borders which only appeared on military maps and tourist guides, that for various centuries had represented a place of interaction and exchange, those borders capable of colouring the social fabric of both cities, are today the defiant symbol of the divide between two worlds, and are evidence of police supervision of immigration, as well as being the most expressive demonstration of the concept of a Fortress Europe that only accepts capable, good and qualified immigrants into its territory. There is absolutely no doubt that 2005 brought back the barrier running along Ceuta and Melilla's border perimeter into the sad and paradoxical limelight of Spanish and international public opinion. Just five years ago there were very few studies warning of the terrible consequences of building a fence towards the sky, asserting that immigration was and is a world-scale phenomenon, and that it could not be resolved by blocking borders. The communication me-

dia fomented alarm in Spanish society by inducing *fear of an invasion of immigrants*, with an avalanche of immigrant groups attempting to jump over the fences in search of the promised land; and this could be seen as an indirect means of justifying police and security policies.

A more appropriate and reasonable analysis in the face of the sealing of the borders in Ceuta and Melilla inevitably leads us to question the impact on immigrants' human rights, and the arbitrary nature of the treatment the respective border police would reserve for those desperate human beings fleeing from a precarious existence, and who would have been willing to attempt to cross the wired wall. The death of a 17-year-old young Cameroonian in August 2005, while attempting to jump over the barrier in Melilla, represented the start of the tragic events which took place between September and October. For some years now, the areas surrounding the border perimeter of the two cities, their woods and hills, had become the last stage of these immigrants' long journey. These are overcrowded and precarious places where they wait for an opportunity to jump over a threatening barrier, which between September and October claimed the lives of 14 human beings. I do not intend to spend time describing in detail what actually happened nor reporting the responsibilities of Spanish and Moroccan forces for the death of these victims, who died because of hunger and political persecution. It is of no use to note that hundreds of defenceless immigrants were shot, leaving them with either superficial wounds from rubber bullets or fatal wounds from real ones, after having travelled for thousands of kilome-

ters along badly-defined migratory routes in the African desert.

It is essential to point out that everything that happened around the borders of Ceuta and Melilla, as well as the extraordinary increase in the amount of people dying whilst attempting to emigrate, are inevitable implications of the way in which the European Union and, of course, the Spanish Government approach immigration on the southern frontier. This is a policy according to which the priority is to ensure a system of police control which can close the borders and does not hesitate to infringe people's fundamental rights, including the one to live. From my point of view, this is not coherent with the political message of the High-Level Meeting between Spain and Morocco which took place in Seville, nor with that of the visit of the Spanish deputy prime minister Maria Teresa Fernández de la Vega, and more recently of the Prime Minister himself, to the cities of Ceuta and Melilla, in September and October 2005 and in January 2006. It would be restrictive to focus one's attention on the exchange of accusations between Madrid and Rabat or to frame the events in the panorama of bilateral relations between Spain and Morocco. Actually we are confronting issues for which the European Union and the International Conventions for Human Rights have the leading roles, followed by Spain and Morocco, whose secondary roles are no less significant and who have committed themselves to follow those binding guidelines which have been assigned to them in a script entitled: "Protection of Human Rights¹." For those who have had the opportunity to closely observe the development of the Spanish Government and the European Union's frontier control policy in the face of the phenomenon of sub-Saharan immigration in the cities of Ceuta and Melilla, it is essential to take 1999 as a point of reference; this was the

year when the wired fences were built. Since then, frontier control policy has taken on a threatening and defiant character, another *wall of shame* having been permanently established in a location which for centuries represented a focus for economic and cultural exchanges.

The repeated attacks on the fences of Ceuta and Melilla throughout 2005; the shootings and deaths of immigrants in September and October; the immediate sending in of troops as an exceptional measure to control the borders; the Spanish Government's returning of 73 immigrants to their countries of origin; raids by the Moroccan Gendarmerie on the zone adjoining the fence that separates Ceuta and Melilla from Morocco, and the subsequent transporting and abandonment of hundreds of sub-Saharan immigrants at the Algerian border in the depth of the desert – all this paints a horrific picture in which two sovereign countries adhering to the main instruments protecting Human Rights and the European Union itself declare their own war against the hunger and desperation of those deciding to voluntarily abandon their countries of origin.

It was thought that by sealing the borders in Ceuta and Melilla, and with the initiation of the Integrated System of External Vigilance (SIVE), the creation of a new European Borders Agency, and the deployment of hundreds of well-armed soldiers, it would be possible to prevent or regulate the flow of sub-Saharan immigrants. Sub-Saharan immigrants currently represent 4% of the immigrant population legally resident in Spain, a truly ludicrous number if compared to the Moroccan, Colombian and Ecuadorian communities present in the country. However, the construction of the two wire fences, which the Executive has since raised to a height of six metres and to which it has added a system of three-dimensional railings, the con-

stant supervision of these installations, and finally, the allocation of significant resources for their maintenance, seem to be key aspects in the border management of migratory flows towards Ceuta and Melilla. We are experiencing a controlling attitude which has proved to be incompatible with the respect for Human Rights and which goes beyond the concept of mere frontier control.

Policies for the control and regulation of immigration have been and continue to be controversial ground, as they involve tensions between the principle of national sovereignty and the safeguarding of human rights. Understanding and interpreting the attacks on Ceuta's and Melilla's fences, the deaths of some immigrants, the returning of others, and the abandonment of the majority in the African desert or near the Algerian frontier, becomes similar to shooting a film. Here the main actor, represented by the European Union, attempts to manipulate the secondary ones, amongst whom is Morocco, by linking the provision of development aid and/or EU funds to the country's acceptance of a new European role: controlling immigration. This involves the demand for results in the form of the expulsion and/or return of immigrants to their countries of origin, and implies that Europe is outsourcing the responsibilities it acquired through the communitarisation of the migration issue in the Amsterdam Treaty.

Everything considered, the migration issue was only ever going to get a *negative treatment*, in other words, it would never be possible to shoot the film, nor would there be any rewards if the secondary actors start to move freely on the scene without observing such an important rule as the respect of Human Rights. The measures to be taken so that Spain can manage its southern border more coherently, and so that in the near future Ceuta and Melilla no longer need to coexist with a barrier overlook-

¹ According to Luis Peral, the Ceuta and Melilla crisis did not fulfill some Principles of International Law. All the States belonging to the International Community shall not expel, extradite or refoule to the frontiers any person whose life or liberty may be threatened as a consequence of such actions. The no refoulement principle not only concerns people fleeing from persecution but also regular or not regular immigrants when they reach the frontiers. People refouled, whose access in the national territory is prevented by force, are under the jurisdiction of the refouling State, at least in the moment when the access on the territory is directly or indirectly prevented. At this moment the human rights principles are not fulfilled. Even though protecting the country's borders is legitimate, the fact of preventing the access to those people who will thereby suffer, with a valid concern, from tortures, life and freedom limitations, is a clear violation of the no refoulement principle. Sealing off borders in cooperation with Moroccan authorities would constitute an indirect, though serious, violation, but nevertheless a minor violation, of the no refoulement principle. Therefore, under any circumstance, a situation of emergency or necessity may justify the suspension or non fulfillment of the principles defending human beings from tortures and maintaining a minimum standard of life and liberty.

REPORT ON THE EUROPEAN COMMISSION'S TECHNICAL MISSION IN CEUTA AND MELILLA CONCERNING ILLEGAL IMMIGRATION

As a result of the incidents reported at the borders of the Spanish cities of Ceuta and Melilla in Northern Africa, which had tragic consequences as 14 people died whilst attempting to cross the frontier, the European Commission sent a technical mission over to both cities accompanied by a representative of the European Borders Agency, in order to get a direct testimony of the events and analyse and study the measures the EU should take to resolve the situation in the EU border zone.

The report reflects upon three main issues. Firstly, it observes that both Morocco and the EU are experiencing an increasing migratory pressure from Africa. Secondly, it highlights the need for the EU to increase aid and assistance to strengthen current control measures which both Morocco and Spain are already implementing. Finally, the report suggests that the EU's response should consider three lines of action: to increase aid to Morocco, involve Algerian participation and develop a comprehensive migration policy with countries of Sub-Saharan origin.

The increase of migratory pressure caused by flows of Sub-Saharan people going to the EU and passing through Morocco is not expected to diminish, at least in the near future, since the causes of these human movements are both of a structural (large scale environmental degradation) and situational nature (linked to war conflicts). The irregular character of these migratory flows has grown an exceptional way, and the large scale coordinated attempts to cross the bordering fence of Ceuta and Melilla is a reflection of this phenomenon. In fact, it is thought that these attempts represent a displacement of migratory flows caused by the intensified supervision taking place on Moroccan and Spanish coasts. During 2004, around 10,000 people were arrested by Spanish patrols as they were attempting to cross the Strait of Gibraltar and, according to Spanish sources, 20,000 people in Algeria and another 10,000 in Morocco could have been waiting to cross the Mediterranean. The great majority of them came from Sub-Saharan

countries, Mali and Gambia standing out among others, but there were also people originating from Guinea, the Ivory Coast, Ghana, Sudan, Liberia, Mauritania, Nigeria and Guinea-Bissau. Moreover, the presence of an increasing number of immigrants coming from South East Asia (India and Bangladesh) makes one think that the networks for trafficking and smuggling human beings are expanding across the area, whilst becoming more "professional" and intensifying the violent character of their actions.

The measures taken by the Spanish government to reinforce border control also have their correlate in the Moroccan authorities' response, not only with regards to their border supervision but also to stopping and dismantling networks for trafficking and smuggling human beings. One consequence of this effort on its maritime frontier has been the increase in irregular immigrants entering its territory, especially of those coming in via Algeria. In this light, the EC report stresses the importance of promoting dialogue and cooperation between both countries.

Another notable consequence is that, because of the increase in the number of people in an irregular situation in Morocco, there is a process whereby the differentiation between an immigrant and an asylum seeker or refugee is seriously affected. The report picks up on the fact that there are reasonable doubts to think that an effective protection practice for those people asking for help and safety once in Morocco is not taking place. This extends beyond the crisis linked to irregular immigration, a problem to be recognised and dealt with by international agreements linked to the protection of refugees. The report states that irregular immigration has to be seen as a problem for the EU. It has to be seen from the double perspective that these flows affect international commitments concerning the respect of human rights and are, therefore, of an essentially transnational nature. So, one of the main recommendations of the European Commission's report urges the intensification of cooperation and training of transit

countries situated on the southern border of the EU, so as to achieve an ordered management of migrations and to set up appropriate protection for refugees and asylum seekers.

With regards to specific measures towards Morocco, it affirms that the EU must consider a series of policies which complement the association agreement between the EU and Morocco, whilst it is becoming necessary to speed up the implementation of the action plan intended for this country within the framework of the recently approved European Neighbouring Policy. The main measure to be developed is the collaboration and exchange of information and knowledge for border control and surveillance, which would also extend to the Southern and Eastern frontier of the country.

As per Algeria, the EC report points out that up to now there has not yet been any dialogue between the EU and Algeria on this matter. However, because of the recent signature of the association agreement and, hence, the resumption of political dialogue, the Commission should encourage the possibility of collaborating with Algeria within the migration management context as soon as possible.

On a multilateral level, careful consideration is given to the fact that migrations should start to become part of the EU and African Union cooperation agendas, by identifying practical measures to manage migrations, fight against illegal immigration, and the traffic and smuggling of human beings.

Within the context of the Euro-Mediterranean Partnership, it states that during the summit for the tenth anniversary of the Barcelona Process, measures are introduced to increase Euro-Mediterranean cooperation with regards to migrations, initiating the necessary steps to guarantee an agenda which would reflect the Pan African dimension of the current migratory flows. Access to the entire document:

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/05/380&format=PDF&aged=1&language=EN&guiLanguage=en>

ing Africa through the continuity of the Spanish-Moroccan border would be: constant supervision of Rabat's progress in the field of human rights, cooperation and the reactivation of Global Action Plans for the development of sub-Saharan Africa (a constructive dialogue with the OAU – Organisation of African Unity – the ECOWAS – the Economic Community of West African States –

the NEPAD – the New Partnership for Africa's Development – and the IOM – the International Organisation for Migration), a change in emphasis of foreign policies both in member countries and in the European Union towards immigration and development and finally, Brussels' blunt intervention to gradually ease frictions within the bilateral relations between Morocco and Algeria.

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