



The Deadly EU Border Control

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Let's start with three recent maritime lethal incidents at the gates of the European Union.

1. On 29 March 2012, the Dutch Senator and law scholar Tineke Strik presented the report entitled *Lives lost in the Mediterranean: Who is responsible?*² on behalf of the Council of Europe. The document reported about what could be labeled a conscious non-rescue of a boat with migrants that had left Tripoli one year before, on 26 March 2011, for the Italian island of Lampedusa. Seventy-two refugees travelled in the boat. After two weeks adrift, the waves returned the boat to the coast of Libya with only 11 survivors on board. Two of them died in the following days.



¹ Published under Creative Commons licence: Attribution-Noncommercial-No Derivative Works
² “Lives lost in the Mediterranean Sea: who is responsible?” Report. Committee on Migration, Refugees and Displaced Persons. Rapporteur: Ms Tineke STRIK, Netherlands, Socialist Group
http://assembly.coe.int/CommitteeDocs/2012/20120329_mig_RPT.EN.pdf (accessed 11/04/2012)

Strik's story is compelling. She argued that the tragedy could have been avoided had not a chain of errors been made by respectively the Libyan authorities, the Centers for Maritime Rescue Coordination from Italy and Malta, and NATO. The incident took place during the military intervention of NATO in Libya. The report particularly criticized the lack of aid of two NATO vessels which were close to the boat carrying the refugees and who could have saved them from dying, but did not.

2. On March 11th 2013, one year after the aforementioned report was presented, public attention was drawn to another lethal incident that occurred at the maritime gates of the EU. This time, a video with images recorded by the cameras of the Integrated System of External Surveillance (SIVE) at the coast of Lanzarote was leaked to the media, revealing how a Guardia Civil patrol boat named "Rio Cabaleiro" collided with a small boat (*patera*) carrying 25 Moroccan youngsters³. The collision, which had taken place on 13 December 2012, made the *patera* shipwreck. Seventeen of the 25 passengers survived. Six people were lost at sea. Only one corpse was recovered. Three of the survivors remained in the Canary Islands. The rest were repatriated to Morocco.

After being leaked to the media, the images captured by the SIVE's surveillance cameras circulated widely. They served to publically monitor the performance of those in charge of the securitization of the Spanish EU external border segment. Many hours of bordering have been filmed since 2002, when the first sensors, radars and cameras of the SIVE were installed in Algeciras, Spain. But this was the first time that the collected visual material was not used to detect and block the arrival of immigrants. It was instead used to watch the watchers. It served to monitor some of those in charge of EU external border control.

The leaked recording, about 4 minutes long, is revealing. First, it shows how the Civil Guard patrol boat hits the *patera* and how it makes it sink. And second, because it shows that the official version provided by the Spanish authorities immediately after the incident does not correspond to what the leaked images show. The facts are currently being investigated by the judge of the court number 3 of Arrecife (Lanzarote). It might take a while though before we see how Spanish justice settles responsibilities.

³http://www.cadenaser.com/sociedad/video/video-desmonta-version-oficial-choque-lanzarote/csrsrpor/20130311csrsrsoc_1/Ves (accessed 1/04/2012)

3. On October 3rd 2013 a boat full of immigrants capsized in front of the island of Lampedusa. More than 300 people died. The death toll is shuddering. But it is even more shuddering to think that it is only a small percentage of the total amount of migrants who died at the gates of the EU over the last two decades.

On this occasion, the unusual accumulation of victims in the same accident, linked to the *vergogna* (shame) Pope Francis talked about, lead to a heavy media attention, compared to similar incidents in the past.

Deadly cat-and mouse game

These three tragic events occurred at the maritime gates of the EU are by no means exceptional. On the contrary, they are exemplary of the accountability battle around the current harsh management regime of human mobility to the European Union. Since the opening of the internal borders of the EU and the rapidly increasing fencing off and militarizing of its external borders, the coasts of the EU have become a death trap and a mass grave for refugees and irregular immigrants heading north. The EU external border is now the deadliest border on earth. In somewhat less than ten years, since the opening of the internal borders in the EU in 1993, it is estimated that at least 20.000 people have died⁴. And this figure only counts the deaths that were actually found. The Mediterranean Sea and the Atlantic Ocean have become a grave for probably many more bodies. In fact, over the last years, as the EU's rhetoric of proximity and support vis-a-vis a southern shore in geopolitical turmoil grew⁵, the number of migrants from Africa who died on the shores of the EU even reached a dramatic all-time peak. According to a report of the United Nations High Commissioner for Refugees⁶, more than 1,500 immigrants died in the Mediterranean in 2011.

In a continuous effort to escape the border controls of the EU, over the years, irregular migratory flows have shifted geographically. Ceuta and Melilla, the Canary Islands, Lampedusa, Greek Islands and the Evros River have now become hot spots in the self-acclaimed battle against undocumented travellers. Greece is now the main entry point for irregular migratory flows into the EU, while Turkey has become the main country of transit. As a response, a new wall has been built between the two countries to further fortify the EU outer contour.

⁴ <http://www.unitedagainstracism.org/> (accessed 20/10/2013)

⁵ Shown in EC communications like the one on *Partnership for Democracy and Shared Prosperity with the Southern Mediterranean* on 8 March 2011, see: <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/268>, or in the SPRING Programme, lunched on 27 September 2011, see: <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/11/636&format=HTML&aged=0&language=EN&guiLanguage=en> (accessed 11/04/2012)

⁶ <http://www.unhcr.org/4f27e01f9.html> (accessed 11/04/2012)

In this context, the first week of August 2012, the Greek government launched Operation Xenios Zeus. In the context of the operation more than 7,500 irregular immigrants were arrested. The Hellenic Minister of Public Order, Nikos Dendias, said that the objective of the manoeuvre was to fight what he called a "historical invasion." What happened showed the impetus with which the xenophobic overdose injected by neo-fascist party Golden Dawn currently flows through the veins of Greek politics. Eighteen seats occupied by fascists in the new parliament are currently putting a heavy burden on the actions and mindset of the government of Athens (Ferrer-Gallardo and Van Houtum, 2012).

Blaming the neighbours

The abovementioned report of the Council of Europe presented by Tineke Strik also makes clear that the Arab Spring (see Zapata-Barrero and Ferrer-Gallardo, 2012; Bialasiewicz, 2011; Echagüe et al., 2011) principally has not changed the border regime either. The collateral damage politics towards the migrants extended towards damaging the relations with the neighbours. The EU is showing a forked tongue vis-à-vis its north-African neighbours. On the one hand, there is an idealistic rhetoric of geopolitical and geo-economic approach to non-candidate neighbors, mediated via the European Neighbourhood Policy (see Ferrer-Gallardo and Kramersch, 2012; Bicchi, 2011; Van Houtum and Boedeltje, 2011).

After the outbreak of the Arab spring, the EU continued adding layers to its discursive palimpsest of assemblage vis-a-vis the southern shore of the Mediterranean: *New and ambitious European Neighbourhood Policy*⁷, *Partnership for Democracy and Prosperity Shared with the southern Mediterranean*.⁸ The EU also reshaped its *Global Approach to Migration*⁹, emphasizing the need to encourage certain forms of mobility through its external borders. On the other hand, this was however coupled and succeeded time and again with this harsh and discriminatory realpolitik of border remarking and the obstruction of free mobility to the vast majority of citizens of neighboring countries. What is more, over the last years, the neighbours and the neighbours of these neighbours are increasingly (ab)used to contribute to the securitization desires of the EU. The border cooperation with third countries – through whose territory irregular immigration routes run or from where they depart – develops in exchange for money and a more fluid bilateral relationship.

Increasingly, the stopping of unwanted migration now has started in origin countries by means of visa policies and deterrence campaigns (see Vaughan-Williams, 2008; Neal, 2009; López-Sala and Esteban-Sánchez, 2010; Van Houtum, 2010). Frontex's activities entail, for example, the deployment of European border

⁷ http://europa.eu/rapid/press-release_IP-11-643_en.htm (accessed 11/04/2012)

⁸ http://europa.eu/rapid/press-release_IP-11-268_en.htm (accessed 11/04/2012)

⁹ http://ec.europa.eu/home-affairs/news/intro/docs/1_EN_ACT_part1_v9.pdf (accessed 11/04/2012)

patrols in the territory of third countries. The EU border regime is therefore not only projected onto the spatial confines of the EU. It also crystallizes in the agreements on development cooperation signed between the EU and third countries, in biometric databases, or in immigration detention centers located both inside and outside the EU. The relocation of border control tasks has clearly increased the diffuse, volatile and scattered profile (Balibar, 2004, 125) of the EU external border.

The legal and moral outsourcing of migration and border control by the EU has transformed countries like Morocco, Libya, Algeria, Tunisia and Mauritania in a sort of *cordon sanitaire* of contention against the arrival of illegal immigration (Casas et al., 2011; Gammeltoft-Hansen, 2011; López Sala and Esteban Sánchez, 2010; Wunderlich, 2010, De Haas, 2008). Gradually, these new practices of immigration control and border management have been forming an archipelago-like cartography of "waiting areas" for immigrants and refugees. And, as year after year organizations like Migreurop or the Human Rights Association of Andalusia and denounce actions like Tribunal 12¹⁰ underline, at these new territorial and legal confines of the EU, respect for fundamental rights of migrants is not assured.

Collateral damage politics

Deaths at the external EU border have not gone unnoticed. But what is striking, is that by many observers, left and right, this dying is still seen as the "collateral damage" of the EU defending its own wealth and comfort. The EU sees no direct responsibility for itself. But we would argue here that the wasting of human lives in the seawaters at the doorsteps of the EU is anything but collateral. To answer the question of Strik's report *Lives lost in the Mediterranean: Who is responsible?*, we would argue that the EU border regime should be held responsible. The dying of migrants is consubstantial. The most important reason for this argument is that principally and strategically at the gates of the EU a moral distinction between the value of human beings is made (Van Houtum and Boedeltje, 2009). The lives of EU-citizens are valued differently than the lives of those who come irregularly by boats and wish to become part of the EU. This discrimination is not collateral but part and parcel of the border policy itself. Based on a negative and positive Schengen list, migrants born in and coming from poor countries (negative list, containing 135 states) are often denied access whereas migrants born in and coming from 'Western' or developed countries (positive list, containing 60 states) are usually heartily welcomed (Van Houtum, 2010). The consequence of this discriminatory regime based on the lottery of birth is that with the continuous demand for cheap labour in the EU, the migrants are sentenced to travel via the illegal and often deathly routes (see Tsianos et al., 2008). As Doty (2011, 2) notes, looking at the US-Mexico context, migrants who are wanted for

¹⁰See:http://www.migreurop.org/IMG/pdf/En_los_confines_de_Europa_Migreurop_2011.pdf , <http://www.apdha.org/media/FronteraSur2012.pdf> and <http://tribunal12.org/> (accessed 11/04/2012)

their labour but unwanted as human beings “are perfect candidates for being reduced to bare life”. These deaths are seen as the bodies of the nobodies or what Zygmunt Bauman called lives that are implicitly perceived as waste (Bauman, 2004).

The regime of EU outer bordering has become trapped in a logic of increasing investments without addressing or solving the underlying problem. It is on a mission impossible. Migrants will still come, no matter how high the fence is. But because of the increasing difficulty to get in legally, they are provoked to seek their entrances irregularly. Leading only to more phobia and criminalisation, which then is answered by yet higher fences and a further tightening of the legal ways to enter the EU, after which the vicious circle starts again. The only two parties that gain from this circle are security businesses to whom the control is increasingly contracted out and political extreme-nationalists. With regard to the latter, Claire Rodier (2012) recently has critically investigated the role played by this "commercial securitization industry", who contrary to political border control, does not democratically justify their actions and mechanisms, in the maintenance and consolidation of policies of (im)mobility which are expensive and ineffective. Rodier (2012:11) argues that "instead of providing the promised security, the main utility of each new border control device that is launched is to reveal the failures and shortcomings of the foregoing, and its primary purpose is to justify the need of those devices to come in the future¹¹." Global inequality consolidates and irregularized migration flows toward and across EU's borders persists. This, without doubt, is a gold mine for those who sell the illusion of a perfect sealing-off in times of globalization. And also, no doubt, to those who buy it in order to display it in the public square and collect some votes.

It is striking to see that, despite the many years of heavy investments in new border walls and controls, and despite a growing critique from academics, the EU still seems not to realise that higher walls have a counterproductive effect, nor does it want to take any legal responsibility neither for its discriminatory admission policy nor for the dying of people at its doorsteps (Spijkerboer, 2007). And there is no sign of moving in a different direction. In the present scenario, the centre of political and media attention is almost exclusively focused on EU's own financial debt. There seems to be almost no room for the moral bankruptcy of a border regime that has for years now proven to be harmful and lethal. What is more, at the moment, while EUROSUR, the “pan-European border surveillance system” (<http://www.frontex.europa.eu/eurosur>) is about to be born, there is even talk of the use of drones in the tracking and tracing of those who wish to flee from political prosecution or economic poverty to the EU (see: <http://www.publicserviceeurope.com/article/2133/the-eu-wants-to-protect-schengen-with-drones>).

¹¹ Translated by the authors

Growing protest

In the meantime, the protest from outside academia is growing. Let us highlight here two examples, outside mainstream politics, that demonstrate how the EU border regime is increasingly being contested by a rapidly growing network of observers and protestors. Various organizations in countries like Tunisia, Italy, Germany, Morocco, France, Mali, Spain or the Netherlands, often consisting of a mix of researchers, journalists and activists, are increasingly finding each other on the Internet and in self-organized protest camps (e.g. noborder.org). These encounters are fertile ground for the exploration of “phalansterian” spaces and practices (see Kramsch, 2012).

In this light, in July 2012, coinciding with the international preparatory meeting of the World Social Forum Tunisia 2013, a symbolic flotilla of small boats crossed the Mediterranean and in an attempt to “occupy” the sea. During the trajectory traced by the "Boats 4 People" project¹² – Palermo, Tunis, Monastir, Lampedusa – the travellers cried out against the discriminatory border regime of the EU.

In a similar vein, and also supported by a network of civil society organizations, researchers and individuals, the Frontexit Campaign was launched in March 2013. It is led by 21 [associations](#), researchers and individuals from both North and South of the Mediterranean (Belgium, Cameroon, France, Italy, Mali, Morocco, Mauritania, international organisations, regional networks). The campaign has a twofold objective: to inform a wide audience about the impacts of [Frontex operations](#) in terms of human rights, and to denounce these impacts to the political representatives who are directly involved. More concretely, through actions of investigation, litigation, awareness-raising and advocacy, this campaign aims to obtain: transparency surrounding mandates, responsibilities and actions of Frontex ; the suspension of Frontex activities violating human rights; the cancellation of regulations creating Frontex if it is proven that the agency’s mandate is incompatible with respect of fundamental rights (see www.frontexit.org).

Us against Us

Reports like that of Strik, the critical voices in academia, the growing protests among NGO’s like Amnesty and No Borders, together form an impressive list of criticisms on the politics of collateral damage of the EU. The strengthening and fertilization of new “phalansterian” spaces which enable to fruitfully work through the border theory/activism divide (explored in a recent [ACME special issue](#), see Kramsch, 2012) constitutes a useful step in this direction. But at the same time, it is unlikely that these voices will change the politics any time soon. The reason is not

¹² <http://www.boats4people.org/index.php/en/> (accessed 11/04/2012)

so much that they are morally wrong, or that their message is not heard enough. The message is heard all right and the appeal for a more just border regime is morally convincing, as we have demonstrated earlier (Van Houtum and Boedeltje, 2009). However, what the messengers face in changing the politics is the worst enemies of change: indifference. The message is largely ignored. A considerable part of the population is fearing the consequences of a more just border regime. And so the collateral damage politics of the EU is not contested but supported implicitly. It is a not-so-collateral damage politics. What is worse, the xenophobic electorate is not decreasing in numbers in Europe, but rising. The border closure politics is built on an increasing electoral thrust. And so the critics are increasingly fighting on the wrong battlefield. Yes, the EU is responsible. But the EU is not like an Orwellian ministry, but rather like a brave new world, a favourite enemy but one that in the case of border politics is executing a policy that is in fact desired and silently approved of by a growing electorate. So the real battle that needs to be won is not against the acclaimed them of the EU and Frontex, but against the other us. For the period ahead, in changing the not so collateral damage politics of deadly EU border control it is not us against them, but us against us.

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