

The effects of EU migration management on a third country:
**'Multi-level governance of boat people (1992-2013) and the influence
of the EU's external border and migration policy on Morocco'**



Image: El Mundo, '30 años de inmigración y hundimientos en el Estrecho', 30 December 2018 © Marcos Moreno AFP.

Master thesis: **Prisca Bernadette Ebner**

Student number: **2322811**

Master in History: **Cities, Migration and Global Interdependence**

Specialization: **Governance of Migration and Diversity**

Supervisor: **Dr. Irial Glynn**

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1 Introduction

Irregular migration by boat via the ‘Western Mediterranean route’, the maritime route from northern Morocco or Algeria to southern Spain, received media attention again in 2018. However, the issue of ‘boat people’ is by no means new. Current policies by the European Union (EU) to curb irregular migration in the Mediterranean are only the latest in a long series of attempts to control the external maritime border. To understand the processes of migration policies today, it is crucial to look at the historical background and the making of these policies. This thesis will examine the topic from a historical, multi-level governance perspective over a time period of approximately 20 years. It starts in 1992, with the beginning of a common EU migration governance and ends in 2013, with the promotion of a new public policy approach by the Moroccan government.

At the narrowest point, the distance between Morocco and mainland Spain is only 14km wide (Tanger-Tarifa). Despite the short distance it is a hazardous journey, as strong tides and winds are common around the Strait of Gibraltar. Migration between Morocco and Spain has also a long-standing history. A share of this migratory movement became irregular when Spain entered the European Community (EC) in 1986 and began to request visas from Moroccan nationals in 1991. Small fishing boats with irregular migrants, so-called *pateras*, started crossing the Strait of Gibraltar. At first, passengers were mainly Moroccans, however, increasingly migrants from sub-Saharan Africa and Asia attempted these dangerous journeys. The numbers of intercepted unauthorized migrants as well as the number of deaths in the Western Mediterranean rose steadily in the 1990s, and sharply increased at the turn of the century. Severe efforts by Spain and the EU aimed to control irregular migration across the maritime borders and externalize security measures. In 2003, Morocco introduced a migration law which criminalized irregular immigrants and enhanced securitization. Following tragic incidents at the wire-fenced borders of the Spanish enclaves Ceuta and Melilla, the ‘Moroccan migration crisis’ of 2005 sparked an internal debate on migrants’ rights. After the mass-arrival of boats on the Canary Islands in 2006 and with enhanced cooperation on maritime patrol, irregular migration decreased. The numbers of arrivals to Europe dropped and the Moroccan-Spanish-EU collaboration was seen as an example of ‘good practice’. However for Morocco, this led to an increasing presence of immigrants within the country and corresponding governance challenges.¹

These arising challenges along with the influence of EU external measures are the subject of this thesis. The main research question to be answered is: **How did the Moroccan state and civil society react to the increasingly multi-leveled and externalized EU migration governance from 1992 to 2013, in the context of irregular migration by boat?** To answer this question, interviews were conducted in Morocco with two groups: (a) governance actors who work with or on Moroccan migration policies, and (b) governance actors working with migrants. The focus is set on the multi-level governance of *pateras* in the Western Mediterranean. *Multi-level governance* indicates that various stakeholders across different levels are involved, for example local, national and international actors. In the analysis, first national and international policies, events and approaches are highlighted. Second, the

¹ For an extensive overview see: Jørgen Carling, ‘Unauthorized migration from Africa to Spain’, *International Migration* 45:4 (2007); Miranda Poeze, ‘High-risk Migration: From Senegal to the Canary Islands by Sea’, in: Alessandro Triulzi and Robert Lawrence McKenzie (eds.), *Long Journeys. African Migrants on the Road* (Leiden and Boston 2013). For a critical reflection: Sergio Carrera, Jean-Pierre Cassarino, Nora El Qadim, Mehdi Lahlou and Leonhard Den Hertog. ‘EU- Morocco Cooperation on Readmission, Borders and Protection: A model to follow?’ *CEPS / Liberty and Security in Europe* 87 (January 2016).

statements of local Moroccan governance actors on these occurrences are analyzed. And third, the effects and (unintended) consequences for the Moroccan state, civil society and migrants' realities are examined.

The dominant perspective on migration governance continues to be a nation-state based view from the Global North. Yet, to facilitate EU's migration management approach, collaborations with third countries are necessary and externalization measures continue to expand, moving south to the Sahel zone and beyond.² Based on a solid comprehension of EU and Spanish migration policies, this thesis argues that to understand governance realities, it is crucial to include third countries' perspectives. Following the path of El Qarim, Mouna and Collyer, interdependences between Moroccan, Spanish and EU policies are established.³ While extensive state-centered research has been carried out, I argue that also the perspective of civil society and 'actors on the ground' should be included and connected to the debate on 'boat people'.

1.1. Historiography

Much has been written on 'Fortress Europe' and 'Irregular migration across the Mediterranean'. However, the topic has been seldom researched from a historical migration governance perspective, and scholars have devoted even less attention to the perspective of Moroccan governance actors. As the topic is highly interdisciplinary, insights will be taken from the disciplines of political science, governance, law, history, European- and Development studies. From a historical perspective, Miller shows the evolution of Moroccan ties with European countries since colonialization.⁴ Crucial points in diplomatic relations are the Spanish exclaves of Ceuta and Melilla, the territory of Western Sahara and the balance between independence from the colonial past *vis-à-vis* sustaining ties with Europe. An extensive examination of the creation of 'illegality' at the external frontiers of Spain has been carried out by Anderson.⁵ It is generally agreed that free internal movement in the European Community (EC, later EU) correlates with the securitization and tightening of the external borders. The explanatory background to this security interest can be linked to free trade, the post-Cold War situation and/or smuggling networks.⁶ The different steps in the making of a 'culture of border control' within the

² González Enríquez et al., 'Italian and Spanish approaches to external migration management in the Sahel: venues for cooperation and coherence', *Working Paper: Istituto Affari Internazionali* 13 (2018).

³ Nouredine Harrami and Khalid Mouna, 'Migratory Management in Morocco - What do the stakeholders think?', *MEDRESET Working Papers* 20 (September 2018); Michael Collyer, 'Geopolitics as a migration governance strategy: European Union bilateral relations with Southern Mediterranean countries', *Journal of Ethnic and Migration Studies*, 42:4 (2016) 606-624; Nora El Qadim, 'Postcolonial challenges to migration control: French-Moroccan cooperation practices on forced return.' *Security Dialogue* 45:3 (2014) 242-261, 244.

⁴ Susan Gilson Miller, *A History of Modern Morocco* (Cambridge 2013).

⁵ Ruben Andersson, *Illegality Inc.: Clandestine Migration and the Business of Bordering Europe* (Berkeley 2014).

⁶ Xavier Ferrer-Gallardo, 'The Spanish-Moroccan border complex: Processes of geopolitical, functional and symbolic reordering', *Political Geography* 27 (2008) 301-321, 302; David A. McMurray, *In & Out of Morocco: Smuggling and migration in a frontier boomtown* (Minnesota Press 2001), 115-116; Esther Barbé, 'En busca de lo cooperación y seguridad en el Mediterráneo o el "espíritu de Barcelona"', *Anuario Internacional CIDOB* 1 (1995) 485-494; Esther Barbé, 'Reinventar el Mare Nostrum: el Mediterráneo como espacio de cooperación y seguridad', *Papers* 46 (1995) 9-23.

European Union are outlined by Zaiotti.⁷ Several scholars address the creation of Schengen as well as common EU migration and border policies from a legal and institutional perspective.⁸

The growing interest of the EU in the Mediterranean became apparent in the *Barcelona Declaration* in 1995 and the following *Euro-Mediterranean Partnerships*.⁹ Boni and Lacomba show how official- and non-official initiatives between Morocco and Spain intersect.¹⁰ Next to an 'informalization', a clear trend towards the externalization of migration governance became noticeable. *Externalization* implies that a usually sovereign task is carried out by an actor outside the sovereign territory, for example Morocco implementing EU migration control measures. It can be split up into external relations and extraterritorial control. Lavenex describes the rise of the external dimension of EU asylum and immigration since the 2000s.¹¹ Strategies, on the one hand, integrate these aims into all external actions of the Union, such as development, trade, human rights and humanitarian assistance. Extraterritorial control, on the other hand, consists of attempts by third countries and external actors to control migration flows outside EU territory.¹² The term externalization highlights the hegemony of EU policies over neighboring countries, which have been pressured into adopting similar securitized norms of migration control. The case of the securitization approach towards immigrants in Morocco around 2003-5 is an example of this.¹³

Early literature on externalization left little room for the perspective of local actors in third countries. The major focus was on new internal developments, such as the EU receiving more competences by the Member States in this field.¹⁴ Compared to the vast literature on the externalization of European migration policies, few scholars have considered the agency of third countries in these negotiations. Notable exceptions in the context of North Africa are Cassarino, El Qadim and Paoletti.¹⁵ Providing an

⁷ Ruben Zaiotti, *Cultures of Border Control Schengen and the Evolution of European Frontiers* (London and Chicago 2011).

⁸ Jorrit Rijpma, 'It's My Party and I'll Cry If I Want To - 'Celebrating' Thirty Years of Schengen', in: Bernard Steunenberg, Wim Voermans and Stephaan Van den Bogaert (eds.), *Fit for the Future? Reflections from Leiden on the Functioning of the EU* (The Hague 2016), 147-170; Jorrit Rijpma, 'The Third Pillar of the Maastricht Treaty: The Coming Out of Justice and Home Affairs', in: Maartje de Visser and Anne Pieter van der Mei (eds.), *The Treaty on European Union 1993-2013: Reflections from Maastricht* (Cambridge 2013), 269-288; Jörg Monar, 'The Dynamics of Justice and Home Affairs: Laboratories, Driving Factors and Costs', *Journal of Common Market Studies* 39:4 (2001) 747-64; Simone Paoli, 'The Schengen Agreements and their Impact on Euro-Mediterranean Relations: The Case of Italy and the Maghreb', *Journal of European Integration History* 1 (2015), 127-148; Violeta Moreno-Lax, *Accessing Asylum in Europe: Extraterritorial Border Controls and Refugee Rights under EU Law* (Oxford 2017).

⁹ Markus Hahn, *The Euro-Mediterranean Partnership: The Barcelona Process Since 1995* (Hamburg 2009); Federica Bicchì, *From Security to Economy and back? Euro-Mediterranean Relations in Perspective* (Florence, European University Institute 2002).

¹⁰ Alejandra Boni and Joan Lacomba, 'The New Co-Development Agenda: Official and Non-Official Initiatives between Morocco and Spain', in: Thanh-Dam Truong and Des Gasper (eds.), *Transnational Migration and Human Security: The Migration-Development-Security Nexus* (Heidelberg 2011).

¹¹ Sandra Lavenex, 'Shifting up and out: The foreign policy of European immigration control', *West European Politics*, 29:2 (2006) 329-350.

¹² Lavenex, 'Shifting up and out'.

¹³ Khadija Elmadmad, 'La nouvelle loi marocaine du 11 novembre 2003 relative à l'entrée et au séjour des étrangers au Maroc, et à l'émigration et l'immigration irrégulières.' *CARIM Analytic and Synthetic Notes* 01 (2004); Abdelkrim Belguendouz, 'Expansion et sous-traitance des logiques d'enfermement de l'Union européenne: l'exemple du Maroc' *Cultures et Conflits* 57 (2005).

¹⁴ Andrew Geddes, 'Europe's Border Relationships and International Migration Relations', *Journal of Common Market Studies* 43:4 (2005) 787-806; Christina Boswell, 'The "External Dimension" of EU Immigration and Asylum Policy', *International Affairs* 79:3 (2003) 619-638; Lavenex, 'Shifting up and out', 329-350.

¹⁵ Nora El Qadim, 'De-Europeanising European Borders. EU-Morocco negotiations on migrations and the decentring agenda in EU studies' in: Marc Woons and Sebastian Weier (eds.), *Critical Epistemologies of Global Politics* (Bristol 2017); Emanuela

analysis of the practices of forced return between France and Morocco, El Qadim argues that migration is a fruitful field in which countries from the South can challenge the hegemony of the North.¹⁶ She concludes that actors in the field, such as street level bureaucrats, play a decisive role in terms of cooperation and negotiating forced returns.¹⁷ Cassarino highlights the power position of third countries as an essential element to understand their cooperation. His central argument is that Mediterranean countries, among them Morocco, gradually became aware of their empowerment and 'played the migration card' to receive further international credibility and regime legitimacy.¹⁸ Highly interesting studies have been further conducted by scholars who assessed the factors leading up to a change in Morocco's social policies between 2001-2013.¹⁹ Paoletti also argues against the view that 'migrant-sending countries are passive agents forced to adjust to the rules of the supposedly stronger countries in the North'. Instead, collaborative arrangements constitute a nuanced bargaining process of 'giving and receiving'.²⁰

Within studies on migration and migration theory, *boat people* are rarely addressed. The concept is, however, a chance to avoid the dichotomy of 'economic migrants' and 'refugees'. Clandestine migration channels, such as irregular crossings by boat, are often used by irregular migrants and refugees alike.²¹ An important publication in this regard is Glynn's comparison of Italy's and Australia's reaction towards boat people.²² The Moroccan approach towards European policies and boat people has to be seen in the context of the country's history. Therefore, it is important to separate the emigration of Moroccan nationals and the immigration from the Global South to Morocco. On the one hand, studies have focused on the reasons why Moroccans emigrate and how this influences internal development as well as external relations.²³ On the other hand, scholars working on immigration to Morocco highlight socio-economic and sociological perspectives.²⁴ Development studies show the

Paoletti, 'Power relations and international migration: The case of Italy and Libya', *Political Studies* 59:2 (2011) 269–289; Jean-Pierre Cassarino, 'Dealing with unbalanced reciprocities: Cooperation on readmission and implications', in: Jean Pierre Cassarino (ed.), *Unbalanced Reciprocities: Cooperation on Readmission in the Euro-Mediterranean Area* (Washington 2010) 1–29.

¹⁶ El Qadim, 'Postcolonial challenges to migration control', 256.

¹⁷ El Qadim, 'Postcolonial challenges to migration control', 256.

¹⁸ Cassarino, 'Dealing with unbalanced reciprocities', 16.

¹⁹ Kelsey P. Norman, 'Between Europe and Africa: Morocco as a country of immigration', *The Journal of the Middle East and Africa* 7:4 (2016) 421-439; Thierry Desrués, 'Mobilization in a hybrid regime: The 20th February Movement and the Moroccan regime' *Current Sociology* 61:4 (2013) 409-423; El Arbi Mrabet, 'Readmission Agreements. The Case of Morocco', *European Journal of Migration and Law* 5 (2003) 379-385.

²⁰ Paoletti, 'Power relations and international migration'.

²¹ Irial Glynn, *Asylum Policy, Boat People and Political Discourse: Boats, Votes and Asylum in Australia and Italy* (London 2016), 17 -48; Heaven Crawley and Dimitris Skleparis 'Refugees, migrants, neither, both: Categorical fetishism and the politics of bounding in Europe's "migration crisis"', *Journal of Ethnic and Migration Studies* 44:1 (2018) 48-64.

²² Glynn, *Asylum Policy, Boat People and Political Discourse*.

²³ Stephen Castles, Hein de Haas and Mark Miller, *The Age of Migration. International population movements in the modern world* (London 2014), 25-53.; Aly Tandian and Sylvia I. Bergh, 'From Temporary Work in Agriculture to Irregular Status in Domestic Service: The Transition and Experiences of Senegalese Migrant Women in Spain' in: Thanh-Dam Truong et al. (eds.), *Migration, Gender and Social Justice: Perspectives on Human Insecurity* (Berlin 2014); Alessandra Corrado, Carlos de Castro and Domenico Perrotta (eds.), *Migration and Agriculture: Mobility and change in the Mediterranean area* (London and New York 2017); McMurray, *In & Out of Morocco*, 131.

²⁴ Mohamed Khachani, *La question migratoire au Maroc* (Rabat 2019); Mehdi Alioua, 'Transnational migration: a staged migration. The example of Sub-Saharan transmigrants. stopping over in Morocco', in: Hein de Haas, Franck Düvell, Irina Molodikova, Michael Collyer (eds.), *Transit Migrations in Europe: Contested Concepts and Diverse Realities* (Amsterdam 2012); Mehdi Alioua, 'La migration transnationale des Africains subsahariens', *Mémoire de DEA de Sociologie* (2004).

effects of remittances, migration culture and returnees on Morocco's civil society.²⁵ The so-called 'third wave' of migration studies further aims to challenge the perception of smugglers by shedding light on the dynamics behind irregular migration and clandestine journeys.²⁶ It is frequently concluded that enhancing border control, security and restrictions leads to more danger, costs and the need for smuggling networks for people on the move, but does not necessarily decrease migration.²⁷ The example of boat people highlights this paradox.

The analysis of the historiography brings up several constraints and gaps in the literature: Third countries' interests and challenges in the governance of migration have received little attention. Further, there are substantial knowledge gaps concerning irregular migration, as reliable data is scarce and intensification of border control leads to the diversification of routes and methods.²⁸ Related to this, there is a need to look beyond national borders at routes and patterns, as international migration implies border crossing(s) and constitutes a transnational phenomenon. Finally, the importance of a bottom-up approach on migration governance, thus to include the perspective of civil society, has to be highlighted. I add to the understanding of externalization effects and multi-level governance of migration, by basing my empirical research on these findings.

1.2. Theoretical approach

The theoretical framework is a historical, multi-level governance approach which adds two important aspects. First, a longer period of time (1992-2013) allows me to assess the interdependencies and connections between different events and policy changes. Studies before were often focused on a specific year or shorter time frames, which leaves out long-term processes. Through a historic lens these changes become apparent. Second, migration governance is a multi-level and multi-actor phenomenon. In order to understand the developments, it is necessary to analyze different perspectives on a vertical (multi-level) and horizontal (multi-actor) axis. Further, since the 2000s a multiplication of non-state actors took place.²⁹ In terms of civil society, the expanding role of non-governmental organizations (NGOs) and grassroots associations requires a broader approach and

²⁵ Hein de Haas and Aleida van Rooij, 'Migration as Emancipation? The Impact of Internal and International Migration on the Position of Women Left Behind in Rural Morocco', *Oxford Development Studies* 38:1 (2010) 43-62; June de Bree, Tine Davids and Hein de Haas, 'Post-return experiences and transnational belonging of return migrants: a Dutch-Moroccan case study' *Global Networks* 10:4 (2010) 489-509; Alice Elliot, 'Paused subjects: Waiting for migration in North Africa', *Time & Society* 25:1 (2016) 102-116.

²⁶ Sheldon X. Zhang, Gabriella E. Sanchez and Luigi Achilli, 'Crimes of Solidarity in Mobility: Alternative Views on Migrant Smuggling', *ANNALS AAPSS* 676 (2018) 6-15; Stephanie Maher, 'Out of West Africa: Human Smuggling as a Social Enterprise', *ANNALS AAPSS* 676 (2018) 36-56; Anna Triandafyllidou, 'Migrant Smuggling: Novel Insights and Implications for Migration Control Policies', *ANNALS AAPSS* 676 (2018) 212-221.

²⁷ Maarten den Heijer, Jorrit Rijpma and Thomas Spijkerboer, 'Coercion, prohibition, and great expectations: The continuing failure of the Common European Asylum System', *Common Market Law Review* 53 (2016) 607-642, 616; Noelle Brigden and Ćetta Mainwaring, 'Matryoshka Journeys: Im/mobility During Migration', *Geopolitics* 21:2 (2016) 407-434.

²⁸ Hein de Haas, 'Irregular Migration from West Africa to the Maghreb and the European Union: An overview of recent trends', *International Organization for Migration* (Geneva 2008); Rickard Sandell, 'Spain's Immigration Experience: Lessons to be Learned from Looking at the Statistics', *Working Paper: Real Instituto Elcano* 30 (2006); Migration Policy Centre, 'Country Report: Morocco', *European University Institute* (2016); Rob van der Erf and Liesbeth Heering, 'Moroccan Migration Dynamics: Prospects for the Future', *International Organization for Migration* (2002).

²⁹ Jan Kooiman, 'Societal governance: Levels, models and orders of social-political interaction', in: Jon Pierre (ed.), *Debating Governance* (Oxford 2000) 138-166, 139.

interactive instruments from national governments. The EU adds yet another layer and specific institutional set-up to the multi-levelled setting, inside the EU but also outside through external actions.³⁰ Precisely because so many actors are involved, their interdependencies and collaborations need to be addressed. In this thesis, the interplay between different Moroccan governance actors on a vertical and horizontal dimension sheds light on these dynamics. The basis for this analysis is the evolving tendency of the EU to externalize migration governance. Three theories can be drawn from the literature on the reaction of the Moroccan state:

- (1) **Morocco complying with EU approaches.** Collyer, for example, highlights Morocco's cooperation on migration control in a wide range of agreements and geopolitical tools. He assesses the regionalization process of the Mediterranean as a governance strategy by the European Union.³¹ Following early theories on EU externalization policies and this path, it would be expected that Morocco complies and follows the policy approach implemented by Europe.
- (2) **Migration control as a 'bargaining chip'.** The prospect of financial incentives for enhanced border securitization and the power of migration as a 'pressure button' in negotiations might be reasons for collaboration. It can be argued that Morocco is actually gaining power from holding back migrants and manages to negotiate its own interests with the EU accordingly.³² Certain issues, such as readmission agreements, can serve as a 'bargaining chip' in the otherwise asymmetrical relationship.³³ Morocco in this regard actively uses its position to obtain certain advantages in exchange for migration control.³⁴
- (3) **The 'gap hypothesis'** argues for a cleavage between policy targets and their implementation in practice. According to this hypothesis, there is a gap between the goals of immigration policies and their actual implementation and outcomes.³⁵ The framework is usually discussed in the context of liberal democracies. Joppke argues, for example, that many liberal states have a restrictive immigration framework, yet due to liberal constraints they still accept 'unwanted' migration.³⁶ Morocco's political system is defined as a (constitutional) monarchy or 'hybrid regime', which means that Morocco was presumably more flexible in this regard.³⁷ Additionally, until 2013 officials remained reluctant to acknowledge the transition of Morocco into a country of immigration and implemented controversial measures.³⁸ Combined with the 'gap framework', the implementation of migration laws, policies and agreements would diverge from the defined goals and signed international assurances.

³⁰ Anne Mette Kjaer, *Governance* (Cambridge 2004), 193.

³¹ Collyer, 'Geopolitics as a migration governance strategy', 606-624.

³² Castles, de Haas and Miller, *The Age of Migration*, 300.

³³ El Qadim, 'Postcolonial challenges to migration control', 244.

³⁴ Nora El Qadim, 'La politique migratoire européenne vue du Maroc : contraintes et opportunités', *Politique européenne* 31:2 (2010) 91-118.

³⁵ James Hollifield, Philip Martin and Pia Orrenius, *Controlling Immigration: A global Perspective* (Stanford 2014), 3.

³⁶ Christian Joppke, 'Why Liberal States Accept Unwanted Immigration', *World Politics* 50:2 (1998) 266-293.

³⁷ Miller, *A History of Modern Morocco*; Thierry, 'Mobilization in a hybrid regime', 409-423.

³⁸ Norman, 'Between Europe and Africa', 421-439; Hein de Haas, 'Morocco: Setting the Stage for Becoming a Migration Transit Country?' Migration Policy Institute (2014).

Certainly, also internal developments interplay with Morocco's governance of migration.³⁹ In the established timeframe, for example, terrorist attacks took place in Casablanca in 2003 and social unrest led up to the 'Moroccan Arab Spring' in 2011. Besides, with the shift from the King Hassan II to Mohammed VI in 1999, Morocco began to incorporate human rights into the national agenda and slowly transformed towards decentralized and participatory governance approaches.⁴⁰ However, little research has been done on civil society's reactions in regard to EU's external border and migration policy. As a second step it will be thus analyzed what effects externalization measures had for civil society actors in Morocco. Two hypotheses drawn from the literature highlight the presence of international organizations and/or mobility regimes.

- (a) **International Organizations:** As Lavenex argues, the service provision by International Organizations (IOs) are an important EU strategy of externalizing and multi-leveling migration governance.⁴¹ This means that IOs become increasingly active in the diffusion of EU policies in third countries. In this regard, it can be assumed that the growing presence of IOs and funding by the EU would affect the situation of local Moroccan actors. This could, for example, result in the notion of being 'subcontracted', as shown by Harrami and Mouna.⁴²
- (b) **Mobility Regimes:** With intra-EU mobility and the differentiated system of rights and visa obligations for third country nationals (TCNs), an inevitable discussion arises around mobility regimes. Mobility regimes, as outlined by Glick Schiller and Salazar, conceptualize the privileges of 'elite travelers' and contrast these with the immobility and restrictions imposed on most (lower- or unskilled) migrants.⁴³ For Moroccan civil society real effects of (im)mobility and stratification of rights may dominate the discussion. This is also linked to the forced returns of Moroccan emigrants and sub-Saharan immigrants alike.

I believe that an inclusion of local actors' perspectives in countries affected by the EU's externalization approach is essential for research on this topic. El Qadim argues for a decolonialization of migration policies and highlights the need to look at the agency of actors in these third countries.⁴⁴ This thesis illustrates why this is crucial, not only to tackle the issues of Eurocentricity and Neo-Colonialism surrounding migration governance, but also to understand implementation 'on the ground'.

1.3. Material & Methods

The method for conducting this research will be related to Glynn's approach in *Asylum policy, boat people and political discourse*.⁴⁵ For the topic and time frame of this thesis (1992-2013) limited archival

³⁹ El Qadim, 'De-EUropeanising European Borders', 141.

⁴⁰ Sylvia I. Bergh, *The Politics of Development in Morocco: Local Governance and Participation in North Africa* (London and New York 2017).

⁴¹ Sandra Lavenex, 'Multilevelling EU external governance: the role of international organizations in the diffusion of EU migration policies', *Journal of Ethnic and Migration Studies*, 42:4 (2016) 554-570.

⁴² Harrami and Mouna, 'Migratory Management in Morocco'.

⁴³ Nina Glick Schiller and Noel B. Salazar, 'Regimes of Mobility across the Globe', *Journal of Ethnic and Migration Studies* 39:2 (2013) 183-200.

⁴⁴ El Qadim, 'Postcolonial challenges to migration control', 242-261; El Qadim, 'De-EUropeanising European Borders', 135.

⁴⁵ Glynn, *Asylum Policy, Boat People and Political Discourse*, 183.

material is available and accessible. Therefore, I use historical methodologies but largely analyze more contemporary sources. The research question shall be answered by combining the documentation of policies, agreements and legal developments with insights from Oral History narratives of different governance actors. Contrasting and contextualizing official documents with Oral History interviews provides insights into the driving factors and underlying interests. A crucial benefit of using Oral History is that many of those insights are not present in the official debates. Including local governance actors' perspectives, for example, sheds light on the effects and consequences of top-down policies on their work. The disadvantage of oral personal accounts is the fading of memory and the remembering of events in a favorable light towards personal interests.⁴⁶ Besides, the recent history of Morocco remains subject to discussion. Official documents for the period of Hassan II are not available and a certain political repression as well as infringements on freedom of speech remain.⁴⁷ While memory can be misleading, it also represents a valuable source of information under these circumstances.

The aim of the empirical research was to personally interview Moroccan governance actors, based in Rabat and the region of Tanger-Tétouan in the North.⁴⁸ In total, eleven interviews and five contextual talks with Moroccan-based governance actors were conducted in May 2019.⁴⁹ An appendix is included at the end of the thesis with a list of these people's roles. To receive a wide range of perspectives, I reached out to two different groups of people: (a) to people working on/with migration policies and (b) people working with migrants or for migrants' rights. For the first group, (former) civil servants, (policy) researchers and consultants were interviewed.⁵⁰ For the second group, I spoke to NGOs, IOs, grassroots civil society actors and related networks.⁵¹ While the statements analyzed are by no means representative, they give insight into the realities on the ground and enhance our understanding of the issue. To create a network of potential interviewees, prior research on institutions was done and the 'snowball effect' was used.⁵² This means that at the end of each interview, I asked for further contacts or institutions working on the matter. The advantage of this was that it made use of the

⁴⁶ Andrea Hajek and Angela Davis, 'Oral History', in: James D. Wright (ed.), *International Encyclopedia of the Social & Behavioral Sciences* (Amsterdam 2015) 284-290.

⁴⁷ Miller, *A History of Modern Morocco*, 5; FRAME, 'International Human Rights Protection: The Role of National Human Rights Institutions' (Leuven 2016), 40-45.

⁴⁸ I am highly grateful for the support of the Leiden University Fund and the Leiden LUSTRA+ Program that made the research stay possible. To conduct the interviews and contextualize the results I was based in Rabat during May 2019 at the NIMAR Institute, the external faculty of Leiden University. The research stay included a week in the region of Tanger- Tétouan, to interview local actors and understand the realities at the Mediterranean coast and around the Spanish enclave of Ceuta.

⁴⁹ Eight interviews were done with national or local entities, three interviews were done with international actors based in Rabat. Out of the eleven interviewees, nine were Moroccan nationals, the remaining two had a European background and substantial professional expertise on migration governance in Morocco. Five of my Interviewees were female, six were male. In this regard the remarkable role and the great work of Moroccan women on this topic shall be highlighted. Finally, there was a language mix in the interviews: six were conducted in English, four in Spanish and one in German. In the translations close attention was payed to stay 'true' to the original meaning and wording, any adaptation from the wording is marked in brackets.

⁵⁰ See interviews 1, 2, 3, 5, 6 & 10.

⁵¹ See interviews 4, 7, 8, 9 & 11.

⁵² Of great help was the list of 28 NGOs working with migrants across Morocco, listed in a Bachelor thesis by Anna Jacobs under the supervision of Mohammed Khachani at the University Mohammed V in Agdal-Rabat: Anna Jacobs, 'Civil Society in Morocco: Key Actors that Support Migrants', *Morocco World News* (1 February 2013), <https://www.morocoworldnews.com/2013/02/76273/civil-society-in-morocco-key-actors-that-support-migrants-part-2/> (last accessed 13 June 2019).

interviewees' social capital, the disadvantage is that the results cannot be considered representative but are rather indicative.⁵³

The outcomes of my research are shaped accordingly. Besides the professional background, criteria for the interviewees were: the availability and readiness to conduct an interview with me; the ability to speak English, Spanish or German; and their willingness to have their statements recorded/noted and published.⁵⁴ For the first aspect timing was critical, because my research stay in May 2019 partially overlapped with Ramadan. The language aspect influenced the range of actors I could speak to, and indicates that most interviews were conducted in languages other than the mother tongues of the actors.⁵⁵ The latter is a sensitive topic due to the inherent political nature of 'migration management' and the human rights' situation in Morocco in general. Together with all interviewees the decision was made to anonymize their statements. Finally, also my role as a young, female European student-researcher played a decisive role. On the one hand, it led to an experience-, background-, gender- or age- divide in the interviews, on the other hand it also influenced my analysis. The interviews were semi-structured. A set of pre-determined questions on the topics of irregular migration, *pateras*, multi-level governance, externalization, securitization, migrants' rights, national and transnational collaboration and major policy changes was prepared. The focus of the interview, the timing/framing of the pre-set questions as well as additional questions were set according to the expertise of the interviewees. The interviewees represented standpoints of the institutions they were working for but also included personal narratives. This perspective-change was further enhanced by the fact that many actors had changed job positions throughout the time frame. I believe it shows how important the personal and professional backgrounds of staff, 'street level bureaucrats', researchers and civil society activists are. References to this background information are made, when anonymity permits.

The material for contextualization depends on the time period, national context and topic. For the historical background, research was conducted in the EU Commission Archive in Brussels on immigration of third country nationals (TCNs), Spanish enlargement negotiations, border control and EU-Morocco relations. Files in the EU historical archives remain closed for 30 years. Hence, for official documents, projects and agreements by the EU the EUR-LEX online database was consulted.⁵⁶ El Qadim highlights that the Eurocentric bias of most studies on EU externalization policies arises also from the practical fact that European Institutions typically produce more accessible documentation than institutions from third countries.⁵⁷ This also presented an issue in this thesis. For the Moroccan context,

⁵³ Erik Snel, Godfried Engbersen and Arjen Leerkes, 'Transnational Involvement and Social Integration', *Global Networks* 6:2 (2006) 285-308, 289; Gaim Kibreab, 'The national service/Warsai-Yikealo Development Campaign and forced migration in post-independence Eritrea', *Journal of Eastern African Studies*, 7:4 (2013) 630-649.

⁵⁴ For the reasons above, it can be assumed that the interviewees generally had a medium to high education, foreign language competences and an open attitude to discuss the topic. In two cases, the analysis of the interviews relied on elaborate discussion notes, as the request was made to not be recorded. I am very grateful for their openness and support of my research and aim to treat the information provided with the utmost precaution and confidentiality.

⁵⁵ Attention is paid in the translation of the statements. However, due to the international dimension and the Spanish legacy in the North, the impact was not as profound as expected.

⁵⁶ EUR-LEX, 'Access to European Law', <https://eur-lex.europa.eu/homepage.html?locale=en> (last accessed 10 June 2019); Based on the literature, search words mainly referred to transnational meetings (Barcelona 1995, Rabat 2006), EU migration and external border policies (ENP, GAMM), mayor agreements with third countries (Cotonou Agreement, Association Agreement, EURA), funding schemes and legal pathways for TCNs (MEDA, AENEAS), internal EU policy changes (Treaty of Amsterdam, Council Meeting Tampere/Sevilla, Frontex) and relations with Morocco in general.

⁵⁷ El Qadim, 'De-EUropeanising European Borders', 136.

interviewees were asked about the links to certain laws, policies and agreements, as they remain difficult to access for outsiders. For the Spanish legislation and bilateral agreements, research was conducted on Spanish-Moroccan relations and migration laws using the online database of *Boletín Oficial del Estado* (BOE).⁵⁸ For official reports, the 2000-2012 collection by the Spanish Ministry of Interior was used.⁵⁹ In regards to migrants' and asylum seekers' rights and their violations, reports from national and international institutions such as *Human Rights Watch*, the *European Council of Refugees and Exiles* (ECRE), the *Association for Human Rights of Andalusia* (APDHA) as well as the Moroccan governmental institution *Conseil National des Droits de l'Homme* (CNDH) and the civil society association *GADEM* were consulted and incorporated.

The overall aim of the thesis is to highlight Moroccan governance actors' perspectives on the governance of boat people.⁶⁰ The methodology was first to assess policies, events and their change through time from a triangular perspective (EU-ESP-MOR). Next, interviews were conducted with Moroccan governance actors, who were asked about these topics and encouraged to share their perspectives. It was then analyzed what different actors state on the matters, where they (dis)agree and why. Finally, the developments of policies and the statements of different actors were brought together and conclusions on the consequences were drawn. The analysis is done chronologically, and the empirical section is structured in three chapters. The following section will address the historical background of multi-level governance in the Western Mediterranean. Next, the increasing externalization of migration control, the securitization of borders and the consequences for civil society are analyzed. Finally, the shift towards immigration as a Moroccan governance issue is illustrated before concluding on the links to the established theories. The guiding research question is: **How did the Moroccan state and civil society react to the increasingly multi-leveled and externalized EU migration governance from 1992 to 2013?**

⁵⁸ Gobierno de España - Ministerio de la Presidencia, Relaciones con las Cortes e Igualdad, 'Boletín Oficial del Estado', <https://www.boe.es/aeboe/organismo/historia.php> (last accessed 10 June 2019).

⁵⁹ Gobierno de España - Ministerio del Interior (Mdi), 'Sala de Prensa: Balances e Informes', <http://www.interior.gob.es/prensa/balances-e-informes> (last accessed 10 June 2019).

⁶⁰ For international organizations, Moroccan staff were interviewed. Migrant organizations would be essential to include but given the time frame of the thesis it proved to be difficult. For reasons highlighted in chapter 3, migrant associations and formations played an important role from the beginning, but only became legal and formalized with the new public strategy in 2013. Informal contact was made, but no interviews conducted with sub-Saharan migrants or migrants' organizations because of language barriers and the relatively recent arrival in Morocco of those that I met.

2 The historical background to multi-level governance of boat people (1992-1999)

The topics of (im)mobility, governance and the situation of migrants in Morocco need to be related to internal social and political developments. Key for the discussion on the governance of irregular migration in the 1990s are the making of the EU external borders, the relations between Morocco and Spain as well as the internal transition from the King Hassan II to Mohammed VI in 1999. These national developments and intergovernmental collaborations provide the basis for the further analysis. It will be shown that irregular migration by boat in the 1990s mainly concerned Moroccan nationals and the discourse was shaped by emigration and diaspora politics. The conclusion of a readmission agreement with Spain in 1992, and the subsequent struggle surrounding the implementation gives a first example of negotiation tactics and agency by Morocco.

The chapter starts out by providing the historic background of the EU-Moroccan relations, the creation of an EU external border and a common migration policy (1992). Next, a closer look is taken at the effects on Moroccan civil society in terms of mobility regimes. After visa requirements were introduced by Spain, a rise of irregular migratory movements occurred, followed by the signing of bilateral agreements with Spain. It is analyzed how the rise of *pateras* in the Mediterranean links to the emerging EU interest in this region, characterized in the *Barcelona Process* (1995). Finally, the history of boat people, as experienced by local actors in Morocco, is outlined. Their insights into the realities of boat people before the implementation of high-tech security measures are crucial to understand these changes in regard to mobility and illegality. The chapter concludes on interdependencies of state practices in the 1990s, on which further transnational collaborations are built upon.

2.1. Morocco-EU relations and the making of the EU's external border in the 1990s

Moroccan relationships with Spain as well as the EC/EU have a long-standing history. Morocco was considered a 'western ally' and keen to emphasize its strategic position between Europe, Africa and the Arab World.⁶¹ With the neighboring country Spain, migration history dates back to the empire of *Al-Andaluz* and the Spanish protectorate in the North and in Western Sahara.⁶² The colonial past, geographic proximity and economic reality were key drivers for two-way cross-border mobility.⁶³ Further, post-World War II reconstruction efforts and a high demand for manual labor fostered migration routes for Moroccans to Europe. Morocco even applied for membership of the EC in 1984 but was rejected. However, the EU Commission stated Morocco was a 'special partner' and cooperation should be strengthened.⁶⁴ Internally, the autocratic rule of King Hassan II led to a dark

⁶¹ Miller, *A History of Modern Morocco*.

⁶² The Spanish protectorate in Morocco was established in 1912 and consisted of the northern zone at the Mediterranean and the Strait of Gibraltar (excluding Tanger) and the southern part, then called Spanish Sahara. The northern zone became independent in April 1956. Spain withdrew from Western Sahara in 1975, which prompted Hassan II to claim the territory Moroccan through the 'Green March' in November 1975. See also: Miller, *A History of Modern Morocco*, 181.

⁶³ Carrera et al., 'EU- Morocco Cooperation on Readmission, Borders and Protection'.

⁶⁴ On an economic level, relations were fostered by the EC-Morocco Association Agreement on Trade 1976/81. European Commission, 'Press release MEMO-88-27' (1988).

period of political suppression around 1975-90, commonly known as the ‘Years of Lead’ (*les années de plomb*).⁶⁵ Dominated by mass political trials and violent suppression of opponents, many Moroccans fled the country. After 1990, a certain political opening occurred, fostered by the King's knowledge of his approaching demise and his son's Mohammed VI succession in July 1999.⁶⁶

For the Moroccan economy, export and remittances are essential. According to *World Bank* data, remittances surpassed ‘development aid’ and ‘foreign investments’ already in the 1980s and their importance for the Moroccan *Gross Domestic Product* (GDP) increased during the 1990s. By 1999, remittances accounted for 4.7% of the GDP, which rose to 8.7% in 2007.⁶⁷ De Haas, an expert on Moroccan emigration, further estimated the annual number of Moroccans emigrating Europe. As *Figure 1* shows, in the second half of the 20th century, this remained around 60.000 emigrants per year, a phenomenon that other authors relate to as ‘migration culture’.⁶⁸ After 1990, with the implementation of the *Schengen Accords* in Europe and the creation of the external frontiers, the numbers dropped, before rising again from 1998 until the economic crisis in 2008.

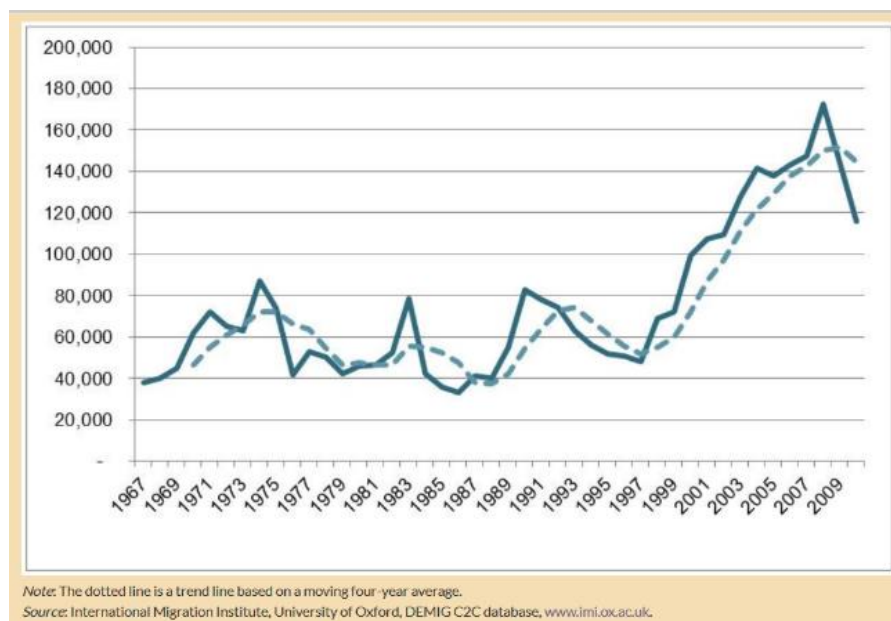


Figure 1: Total Estimated Annual Moroccan Migration to Europe 1967-2009 (retrieved from Hein de Haas, ‘Morocco: Setting the Stage for Becoming a Migration Transit Country?’, 19 March 2014, Migration Policy Institute.).

Migration policies became a shared competence between the EU and the Member States only in 1992, with the establishment of the ‘third pillar’ *Justice and Home Affairs* in the *Treaty of European Union*. It formalized a Common Foreign and Security Policy for the first time. Previously, border control was seen exclusively as a sovereign national interest, but the idea of a common European migration policy steadily evolved. Negotiations between France and Germany led to the *Schengen Agreement* (1985),

⁶⁵ See also: Miller, *A History of Modern Morocco*, 73.

⁶⁶ FRAME, ‘International Human Rights Protection’, 40-45.

⁶⁷ World Bank, ‘Personal remittances, received (% of GDP) 1975-2017’, <https://data.worldbank.org/indicator/BX.TR.F.PWKR.DT.GD.ZS?locations=MA> (last accessed 10 June 2019); See also: De Haas, ‘Morocco: Setting the Stage for Becoming a Migration Transit Country?’.

⁶⁸ De Haas and Van Rooij, ‘Migration as Emancipation?’; De Bree, Davids and De Haas, ‘Post-return experiences and transnational belonging of return migrants’.

were signing parties agreed to an abolition of internal border controls by January 1990.⁶⁹ For the removal of internal border controls, however, it was deemed necessary to increase checks at the external frontiers, as they became the key and single place of entry control. To achieve this, collaboration and harmonization of asylum, visa, extradition policies and frontier control was agreed upon.⁷⁰ The *Schengen Implementing Convention* (1990) and the *Maastricht Treaty* (1992), set the base for new operational structures. This frontier development and the making of the external border ran parallel to the enlargement negotiations with Spain. Back then, Spain was still primarily a country of emigration. Hence, movement and rights of Spanish nationals in the European Community were debated and a five-year transition period (1986-1991) with limited free movement was agreed upon.⁷¹ Tensions arose around geopolitical issues, such as Gibraltar, Western Sahara and the Spanish exclaves of Ceuta and Melilla. The proximity of the Spanish Canary Islands to the African West coast led to an overlap of fishing areas between Morocco and Spain, which gave rise to the discussion on fishery agreements.⁷² As will be shown throughout the analysis, these issues prevail and continue to be major points of discussion, at times also linked to migration control.

2.2. The Spain-Morocco readmission agreement and the start of the EU Mediterranean policy

The transition of Spain becoming a Member of the EU affected bilateral relations with Morocco. In April 1991 the Spanish government and representatives of the Kingdom of Morocco apparently agreed through a verbal note on mutual visa requirements.⁷³ Previously, no visa was needed for Moroccan or other North African nationals when entering Spain. The new requirements caused diplomatic problems, leading to another note issued on behalf of tax exemptions for visas.⁷⁴ The follow-up agreement of July 1991 concerned friendship, good neighborhood relations and cooperation between the two countries. It emphasized collaboration in economic, legal and financial terms and Spain highlighted its motivation to support Moroccan development.⁷⁵ The introduction of visa requirements led to a decrease of regular migrants. Simultaneously, a share of Moroccan emigrants became illegal, as they aimed to reach Spain without a visa. Reacting to this phenomenon, Spain and Morocco signed a *provisional* agreement on 'the movement of people, the transit and the readmission of foreigners

⁶⁹ European Commission - Historical Archives (further: EU-Com), BAC 224/1994 438, 'Commission of the European Communities: Communication of the Commission on the abolition of controls of persons at Intra-Community borders' COM (88) 640 final, Brussel 7 December 1988.

⁷⁰ For a history of this development see also: Tony Bunyan (ed.), *Statewatching the new Europe: a handbook on the European state* (Nottingham 1993); Zaiotti, *Cultures of Border Control*; Rijpma, 'It's My Party and I'll Cry If I Want To'; Rijpma, 'The Third Pillar of the Maastricht Treaty'.

⁷¹ See further: EU Com, BAC 147/1991 (206); EU Com, BAC 147/1991 (24).

⁷² EU-Com, BAC 147/1991 (24), 'Adhésion ESPAGNE – Project de communication de la Commission au Conseil 'Propositions concernant le secteur des matières grasses végétales', 000488 file 489, p. 4.

⁷³ Agencia Estatal Boletín Oficial del Estado (further: BOE), 'Canje de Notas constitutivo de Acuerdo sobre gratuidad de visados entre España y Marruecos', Rabat 15 July 1991' Nr. 220, 13 September 1991, 30225-30226.

⁷⁴ BOE, 'Canje de Notas constitutivo de Acuerdo sobre gratuidad de visados entre España y Marruecos'.

⁷⁵ BOE, 'Tratado de Amistad, Buena Vecindad y Cooperación entre el Reino de España y el Reino de Marruecos', Rabat 4 July 1991, Nr. 49, 26 February 1993, 6311-6314.

who have entered illegally' in September 1992.⁷⁶ It includes a mutual readmission clause for irregular migrants. Both states shall readmit their own nationals, if they have entered the other state illegally. The condition is that one's nationality can be proven, as no obligation exists for the readmission of other TCNs. Further, the readmission had to be requested within 10 days, if no visa or refugee status was applied for post-entry. Further, a *Spanish-Moroccan Joint Committee* was established with the objective to assist in the development of border control measures.⁷⁷

The agreement was partially adopted in 2004, however it only *fully* entered into force in December 2012 with the official publication in the BOE stating that the constitutional requirements on both sides were then fulfilled.⁷⁸ Asking Moroccan governance actors about this agreement and the implementation, it became apparent that this was not *really* enforced. A former diplomat highlighted the fact that Morocco is obliged by law to accept the return of Moroccan nationals, if they can prove their origin.⁷⁹ One of his arguments was that bilateral migration governance depends on the political context, as relations between Morocco and the Social Democrats (*Partido Socialista Obrero Español, PSOE*) in Spain are better than with the Popular Party (*Partido Popular, PP*).⁸⁰ This coincides with the analysis of López-Sala who found that during the government of the *Partido Popular* (1996-2004), the readmission agreement was partly suspended. López-Sala notes that political tensions and the refusal of Morocco to accept Spanish petitions explain why, between 1998-2003 not a single readmission was carried out by Moroccan authorities.⁸¹ A researcher on migration policies and Spanish-Moroccan relations stressed that the major issue is identification. He argues that Morocco signed readmission agreements with EU Member States, but they do not function because 'a Moroccan without papers is hard to identify as a Moroccan'.⁸² Asking a Moroccan legal scholar about this, she argued that this readmission agreement cannot even be found, because "they don't feel okay with it... that they have signed these agreements".⁸³ And she adds that it is not published on the Moroccan Ministry of Foreign Affairs website nor elsewhere in French: "The Spanish [version yes], but not the Moroccan, because I don't speak [Spanish] – You know, this is the hesitation. We have signed them, [but] they don't want to use them, they don't want to talk about them."⁸⁴

Amongst my interviewees, Spain was generally seen as active in forming EU migration policies. The underlying argument is that Spain was at the 'forefront', sharing a vast external border with Morocco, from the land borders surrounding the enclaves of Ceuta and Melilla, to the maritime borders in the

⁷⁶ BOE, 'Acuerdo entre el Reino de España y el Reino de Marruecos relativo a la circulación de personas, el tránsito y la readmisión de extranjeros entrados ilegalmente', Nr. 100, 25 April 1992, 13969-13970.

⁷⁷ BOE, 'Acuerdo entre el Reino de España y el Reino de Marruecos relativo a la circulación de personas, el tránsito y la readmisión'.

⁷⁸ BOE, 'Entrada en vigor del Acuerdo entre el Reino de España y el Reino de Marruecos relativo a la circulación de personas, el tránsito y la readmisión de extranjeros entrados ilegalmente, hecho en Madrid el 13 de febrero de 1992', BOE-A-2012-15050, Nr. 299, 13 December 2012, 85068. see also: Haizam Amirah-Fernández (Coord.), 'Relaciones España-Marruecos', *Real Instituto Elcano* (2015).

⁷⁹ Interview 2, Rabat, May 2019, Interview with Prisca Ebner (Leiden University).

⁸⁰ Interview 2.

⁸¹ Ana María López-Sala, 'Immigration control and border management policy in Spain', *Spanish Council for Scientific Research CSIC* (2009).

⁸² Interview 3, Rabat, May 2019, Interview with Prisca Ebner (Leiden University).

⁸³ Interview 6, Rabat, May 2019, Interview with Prisca Ebner (Leiden University).

⁸⁴ Interview 6.

Mediterranean and in the Atlantic towards the Canary Islands. Further, it was agreed that Spain, especially the Social Democrats, shared a certain ‘understanding’ of Moroccan geopolitical interests.⁸⁵ Expressing the interdependencies between Spanish and Moroccan politics, a Moroccan scholar and expert on this topic argues that “with the Socialists we had and have good relations [...] because they understand the problems of Morocco and have a pertinent, rational, geostrategic idea.”⁸⁶ In this remark he refers to the issue of Western Sahara, which is disputed in the international community.⁸⁷ When the Spanish withdrew from Western Sahara in 1975, Morocco claimed it as “its southern province”. Having a position that favors Morocco on the topics of Western Sahara, Ceuta and Melilla as well as fishery zones, is essential for certain relations and negotiations.

An example of Spain actively shaping EU policies in the Mediterranean region is the *Barcelona Process*. At the *Euro-Mediterranean Conference* in November 1995, twelve countries on the European continent, the EU Commission, the EU Council and ten countries of the greater Mediterranean region met in Barcelona (hence *Barcelona Process*). The aim was to develop a *Euro-Mediterranean partnership* (Euro-Med) in order to strengthen the political dialogue as well as socio-economic development cooperation.⁸⁸ Spain’s role was presumably fostered by holding both the presidency of the Council of the European Union as well as the representing Vice President of the EU Commission at that time.⁸⁹ The core of the Euro-Med partnership was the gradual establishment of a free-trade area in the Mediterranean basin, based on new *Association Agreements*. Besides economic and financial partnership, however, also the role of migration in this partnership was highlighted. It called for enhanced cooperation to “reduce migratory pressure”, especially in the area of illegal immigration and responsibilities for the readmission of country nationals.⁹⁰

The MEDA fund was created to support these steps financially and technically. Countries were encouraged to make project proposals, “concerning migration flows and pressures”.⁹¹ Further aims included the strengthening of civil society, democracy and human rights as well as tackling ‘root causes’ of migration through development projects. The meeting in Barcelona set the basis for informal collaboration between the EU and third countries in the Mediterranean-basin on migration governance, but the outcomes are debated. Amongst Moroccan governance actors, the idea prevails that on a policy level it was a failure, in so far as it was not respected and/or implemented efficiently.⁹² Yet several organizations noted the importance of MEDA funded projects, as will be shown further in

⁸⁵ Interview 5, Rabat, May 2019, Interview with Prisca Ebner (Leiden University); Interview 2 & 3.

⁸⁶ Interview 3; Origina: “Entonces, con los Socialistas teníamos y tenemos buenas relaciones, [...] porque entienden los problemas de Marruecos y tienen una idea racional, geoestratégica, pertinente.”

⁸⁷ This thesis follows the position of the United Nations which does not recognize Moroccan claims on Western Sahara, but instead highlight the right to ‘self-determination’. When the *Organisation of African Unity* (OAU, now African Union AU) admitted the *Sahrawi Arab Democratic Republic*, as proclaimed by the *Polisario Front*, as a member to the OAU in 1982, Morocco withdrew. It is thus important to note that Morocco was not a member of the OAU/AU between 1984 and 2017.

⁸⁸ Euro-Mediterranean Conference, ‘Barcelona declaration’, (Barcelona, 27-28 November 1995).

⁸⁹ The President of the Council of the European Union was Javier Solana, and the representing Vice President of the EU Commission was Manuel Marín, both Spanish nationals.

⁹⁰ Euro-Mediterranean Conference, ‘Barcelona declaration’.

⁹¹ Council of the European Union, ‘Council Regulation No 1488/96 of 23 July 1996 on financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of the Euro-Mediterranean partnership’, *Official Journal of the European Communities*, L 189/1 (30 July 1996).

⁹² Interview 2, 5 & 6.

this thesis. The promised benefit for Mediterranean countries were *Association Agreements* linked to trade in the controlled and protected European single market. They were introduced in support of neighboring countries' trading positions, but also carried political interests.⁹³ The *Euro-Mediterranean Association Agreement* was signed with Morocco in February 1996 and entered into force in 2000, with amendments on trade specification.⁹⁴ It generated a Free Trade Area with a tariff-free two-way trade of industrial products, together with a selective liberalization of trade in agricultural, agro-food and fishery products. However, as Sippel argues, the preferential treatment of trade was deeply linked to other EU foreign policy interests, such as curbing irregular migration.⁹⁵

2.3. Crossing the Mediterranean: the rise of *pateras*

The focus of this thesis remains on *pateras*, traditional wooden fishing boats. *Pateras* are highly common in fishing villages on the northern coast and have a distinctive look: "The *patera* is a Moroccan fishing boat. Like those you can see if you go closer to any fishing village, then you see the fishing boats painted in blue, white or sometimes green, but mostly in blue. Those are the typical *pateras* here in Morocco."⁹⁶ As Miller illustrates, boat people in this region are by no means a new phenomenon and routes are multi-directional. Already in the mid-19th century Morocco, for example, accepted boats carrying Algerian refugees arriving in the ports of Tanger and Tétouan and when competition among potential colonizers arose, many Moroccans fled by boat to Cadiz or Gibraltar.⁹⁷ After visa obligations for Northern Africans were introduced by Spain in 1992, however, a share of the migration by boat through the Strait of Gibraltar became 'illegal'. The stretch is 14 km at its narrowest part, linking the city of Tanger in Morocco to Tarifa in Spain. Despite the proximity, currents and winds coming from the Atlantic make it a dangerous journey. Next to *pateras* alternative ways of crossing the Mediterranean irregularly were and are speedboats, rubber boats or as clandestine passenger on board of a 'regular' ship. Techniques used range from smuggling and drawing on social networks to independently hiding in trucks or carrying false papers.

As can be seen on *Map 1*, points of departure differ and have changed over time from east to west. Along the Mediterranean coast, they stretch from the fishing villages around the province of Tanger, via Tétouan, to Nador in the Rif Region. Also, the Spanish enclaves of Ceuta and Melilla became an important destination and transit point.⁹⁸

⁹³ Sarah Ruth Sippel, 'Contested red gold: the tomato in the context of European-Moroccan relations', in: Alessandra Corrado, Carlos de Castro and Domenico Perrotta (eds.), *Migration and Agriculture: Mobility and change in the Mediterranean area*. (London and New York 2017), 147-168.

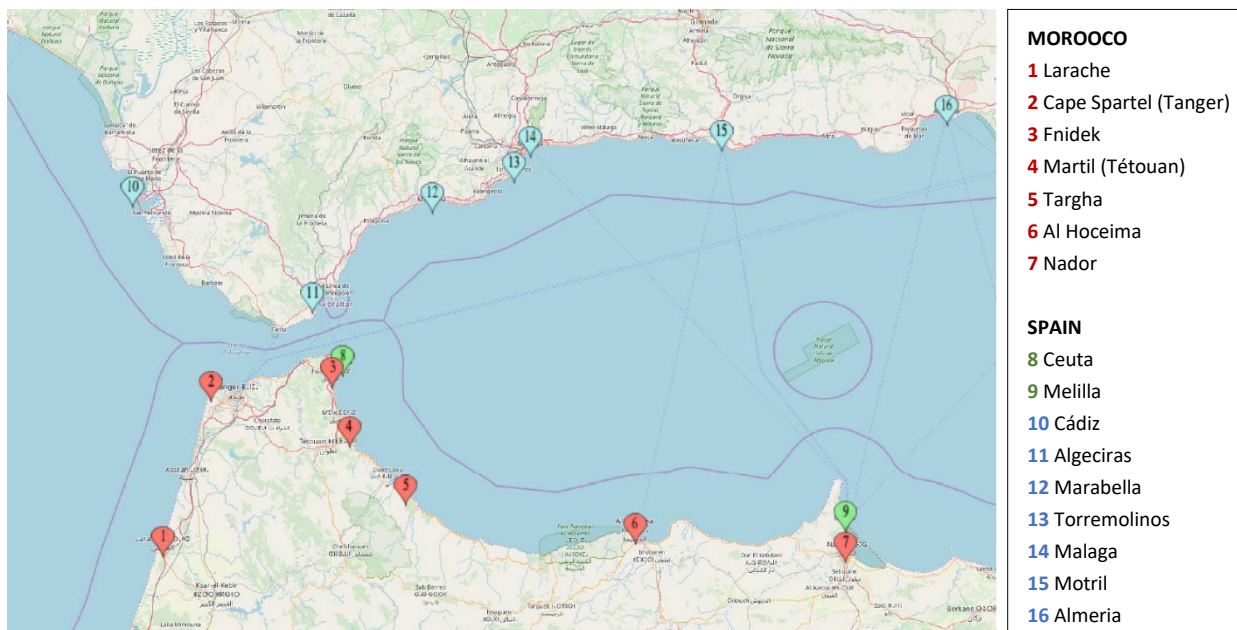
⁹⁴ Council and Commission Decision, 'Conclusion of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part', *Official Journal of the European Communities*, L 070 (18 March 2000).

⁹⁵ Sippel, 'Contested red gold'.

⁹⁶ Interview 8, Tanger, May 2019, Interview with Prisca Ebner (Leiden University); Original: "Si, si, la patera es una barca de pesca marroquí. Como las que puedes ver si te acercas a cualquier pueblecito pesquero, pues vez las barcas de pesca que son pintados en azules, blanco o verdes algunas veces, pero mayoritariamente azules. Estas son las pateras típicas de aquí de Marruecos."

⁹⁷ Miller, *A History of Modern Morocco*, 19.

⁹⁸ Ceuta and Melilla are considered Spanish territory but remain outside the Schengen area. Many migrants try to cross to the enclaves, often in the hope that it will be easier to cross to mainland Spain from there. See: Xavier Ferrer Gallardo, 'Border



Map 1: Major points of departure and arrival of pateras along the Strait of Gibraltar and the Mediterranean coast of Morocco and Spain (own elaboration).

In the 1990s mainly Moroccans took clandestine routes to mainland Spain. The repressive regime, the established ‘migration culture’ as well as a structural demand by Spain for an informal workforce, enhanced by an economic boom after joining the EU, fostered this.⁹⁹ An interviewee who then worked on the Spanish side with a human rights organization recalls: “So, the first *pateras* started to arrive around the 90s in the bay of Cadiz, but with Moroccans. It was the Moroccan people, who were leaving their country. And later, well, I don’t remember exactly, but around 2000, the first sub-Saharanans started to arrive on the coast of Cadiz”.¹⁰⁰ Moroccans, often fishermen, started to take people across the Mediterranean, among them sometimes also sub-Saharanans using Morocco as a transit point. Yet, “in the 1990s sub-Saharanans were not really visible in Morocco”, as stated by one interviewee originally from Tanger, “they came, stayed in a cheap hotel, caught a *patera* and left”.¹⁰¹ According to him, the only few African migrants who stayed, were usually students. He argues that irregular migrants were mostly successful in their attempts to cross, as controls were more ‘flexible’:

Many times, they managed to cross because [...] there was more border contact [...], there was more mafia. There was no obsessive control like now. There were the usual controls, like on corruption and all that, but people could [pass]. Now let’s say, there is no flexibility like before. Without agreements ... if Morocco obtains concrete

acrobatics between the European Union and Africa: The management of sealed-off permeability on the borders of Ceuta and Melilla’, in: Emmanuel Brunet-Jailly, *Borderlands: Comparing Border Security in North America and Europe*, (Ottawa 2007).

⁹⁹ Sippel, ‘Contested red gold’; Emmanuelle Hellio, “‘They know that you’ll leave, like a dog moving onto the next bin’: undocumented male and seasonal contracted female workers in the agricultural labour market of Huelva, Spain’, in: Alessandra Corrado, Carlos de Castro and Domenico Perrotta (eds.), *Migration and Agriculture: Mobility and change in the Mediterranean area*. (London and New York 2017), 198-217.

¹⁰⁰ Interview 8; Original: “Entonces, las primeras pateras empezaban a llegar al torno a los años ’90 a la bahía de Cádiz, pero con marroquíes. Era el pueblo marroquí el que estaba saliendo de su país. Y bueno, pues con el tiempo, no recuerdo exactamente, por el año... creo que... en torno al 2000, 2000 y algo, empezaban a llegar sub-saharianos a las costas gaditana...”

¹⁰¹ Interview 4, Rabat, May 2019, Interview with Prisca Ebner (Leiden University).

agreements with the EU, 'not even a fly passes'. This is also a card, which both parties play. The immigration card, to pressure the EU or vice versa.¹⁰²

This framing of migration control as a 'playing card' that Morocco began to use, backs the theory on the agency of third countries in negotiation processes and migration control as a 'bargaining chip'. The interviewee refers to agreements on enhanced securitization and reinforced border control that made the journey more difficult (see chapter 3.3). The immediate effects of enhanced control for civil society and migrants was that it became increasingly harder to cross the Mediterranean. While immigration appears to have not been a visible topic in the 90s, neither socially nor politically, this changed at the turn of the century: "Later it became visible, because more [immigrants from sub-Saharan] arrived. The pressure of the EU began, and [they] became visible. And also the policies started to take it into account, well then the negotiations with the EU began. This led to [migration] becoming a hyper-visible element."¹⁰³ According to *Statewatch*, in the early 1990s illegal immigration from North Africa was already described as 'the key problem facing Spain and the EC'. Detention centers for undocumented migrants were set up in Spain and complaints of illegal expulsion started to rise. Further, five new Spanish ships with electronic detection facilities patrolled the Spanish coast and under an agreement with Morocco, 2,500 men patrolled Morocco's coast to prevent the departure of boats.¹⁰⁴

To conclude this chapter on the historical background, governance of migration in the 1990s predominantly concerned Moroccan emigrants. After Spain joined the EU and the Schengen Area, a change in mobility regimes took place. With the implementation of visa obligations for Moroccan nationals an interviewee argued that the "closure of the border" began because "we didn't need any visa [before]. When I was a student, we didn't need any visa to go to any European country."¹⁰⁵ This shift in mobility regimes also led to a rise in irregular migration; a common way to cross the Mediterranean was in *pateras*. Findings indicate that Morocco has a good relations with both Spain and the EU, yet positions on certain geopolitical issues and party politics dominated the negotiation outcomes. In the 1990s, predominately bilateral agreements between Spain and Morocco influenced migration governance around the Strait of Gibraltar. The 'making of' the EU external border and a common migration policy began with the *Maastricht Treaty* and the creation of *Justice and Home Affairs* in 1992. While there were informal meetings to discuss regional cooperation in the Mediterranean, as in Barcelona 1995, the major change in transnational cooperation on migration governance was with the *Treaty of Amsterdam* in 1999. This is the starting point for the next part of the analysis as it provides the base for collaboration between the EU and third countries as well as enhanced security measures on the coasts.

¹⁰² Interview 4; Original: "Muchas veces logran a cruzar porque tampoco... pues había mucho contacto fronterizo [¿?]. Había más mafia. No había un control obsesivo como ahora. Habían los controles de siempre, también de la corrupción de todo eso, pero a gente podía. Ahora digamos, no hay flexibilidad como antes. Sin acuerdos... si Marruecos consigue acuerdos concretos con la UE, no pasa ni una mosca. Esto también es una carta, que dos partes juegan. Pues la carta de inmigración, para presionar la UE o viceversa."

¹⁰³ Interview 4; Original: "Luego, paso a ser visible, porque también cada vez llegaban más. Empezó la presión de la UE y empieza a ser visible. Y ya las políticas empezaban a tenerlo en cuenta, pues ahí empezaban las negociaciones con la UE. Hace que se convertí a un elemento hipervisible."

¹⁰⁴ Frances Webber, 'The new Europe: immigration and asylum', in: Tony Bunyan (ed.), *Statewatching the new Europe: a handbook on the European state* (Nottingham 1993), 130-142, 141.

¹⁰⁵ Interview 6.

3 Governance of boat people, immigration and securitization (1999-2004)

At the turn of the century, the debate gradually changed from Moroccans emigrating to Europe, to Morocco becoming a country of transit and immigration. As one interviewee put it: “I think there [are] two things, if I may make it like this, on migration: The question of migration of Moroccans themselves and migration as an issue for Morocco, Morocco being in the South, [...] a destination of migrants, especially from migrants coming from sub-Saharan. So this is two things.”¹⁰⁶ Of course, the divide is not clear cut, neither in time nor in the origin of migrants. As El Miri highlights, there are also certain class and income divides in the routes of clandestine migrants. In his ethnographical research in Morocco he concluded that social stratification highly influences the choice in ‘services’, routes and boats. For example, poor Moroccans and sub-Saharans would opt for *pateras* to reach the closest country Spain, while migrants from richer families would use different, more expensive ways which included bribes, false papers and transnational social networks.¹⁰⁷

This chapter analyses the transition from Morocco as a country of emigration to a country of transit and increasingly immigration. First, this development is shown from a civil society perspective. Afterwards, developments and consequences of EU externalization measures are outlined. Two related factors in this regard were the enhanced border surveillance by Spain and the new securitization law by Morocco. Consequently, changes in migration patterns and effects for Moroccan civil society are addressed. Internal changes led to a rise of non-governmental organizations that became increasingly active and critical towards state practices. The latter is linked back to a shift in reign in 1999, to rising Human Rights debates and social policy claims. Important to highlight is that in this period (1999-2004) new responses from Spain, the EU and Morocco evolved, as irregular migration became a major governance issue in this specific political and multi-level governance framework.

3.1 Immigration of sub-Saharan Africans to Morocco

The moment when Morocco became a country of transit and immigration is debated. Some argue that there have always been immigrants from Europe, Asia, Africa and the Arab world in Morocco, while others emphasize that migrants from the South, until today, only use Morocco as a stop-over on their way to Europe.¹⁰⁸ The latter interpretation relates to the official narrative, describing Morocco, and especially the North as an ‘obligatory destination’ and ‘waiting room’ for migrants hoping to reach Europe.¹⁰⁹ Moroccan authorities remained reluctant to admit that Morocco was also becoming a host country until 2013. The state’s position until then was “that Morocco is not concerned, it is Europe who should be concerned first, because all those people wanted to cross to Europe.”¹¹⁰ This shows a certain reluctance of the Moroccan state to accept a share of responsibilities. Europe is held

¹⁰⁶ Interview 10, Rabat, May 2019, Interview with Prisca Ebner (Leiden University).

¹⁰⁷ Mustapha El Miri, ‘Border makers: Clandestine migration from Morocco’, in: Jörg Gertel and Sarah Ruth Sippel, *Seasonal Workers in the Mediterranean Agriculture: The social costs of eating fresh*. (London 2014), 222-231, 225.

¹⁰⁸ Interview 2, 5 & 10; Interview 1, Rabat, May 2019, Interview with Prisca Ebner (Leiden University); Interview 11, Rabat, May 2019, Interview with Prisca Ebner (Leiden University).

¹⁰⁹ Interview 1 & 2.

¹¹⁰ Interview 10.

accountable for the situation of migrants in Morocco, while it is Moroccan stakeholders who are active on the ground. With reference to the ‘gap hypothesis’ a cleavage between the official position and the realities in practice becomes noticeable in this phase.

A growing number of sub-Saharan Africans attempted the Western Mediterranean route in the 2000s, while the number of Moroccans dropped. Sub-Saharans are reportedly the most contested flow of immigration, other people from the Middle East or Asia, such as Afghan or Syrians are discursively seen as less problematic.¹¹¹ A shared narrative is that migrants who came to Morocco in the 2000s only aimed to cross the Mediterranean: “We would always see, people coming from other regions of Africa, from sub-Saharan Africa. It was just, they are here, and it is clear that they just wanna cross.”¹¹² Asked about how this played out in practice, a civil society actor from the northern coast recalled: “Well, [they] arrived, started to look for a way to cross the border. The majority was searching for somebody who could bring them to Spain. And when they found someone, [the smugglers] would bring them to a house.... they rented a house, and [the migrants] would stay there for a while so the journey could be prepared, and they take them [to Spain].”¹¹³ Until the turn of the century it was still relatively easy to cross but with rising security measures and border control it became more difficult and costly.¹¹⁴ This led to the situation that many migrants from sub-Sahara Africa stayed, unwillingly or intentionally, in Morocco for a longer period of time.

According to my interviewees, immigrants from sub-Saharan states became visible in northern Morocco from 2000 onwards. Migrants started living in the surroundings of coastal cities and became more prominent in the old town (*medina*) of larger coastal cities, such as Tanger, Tétouan and Nador. However, it was also noted that they were perceived as relatively few in numbers, compared to nowadays.¹¹⁵ There are no official camps for migrants or refugees in Morocco. A consultant for international organizations, stated: “Morocco has no camps. It was a pressure by Europe sometimes, to have, to create this, but I think it was the Minister of Foreign Affairs himself who said no, we will never have this.... As I know... If there are secret ones, I don’t know [*laughing*]. As [far] as I know, there are no camps.”¹¹⁶ The topics of camps, ‘hotspots’ and readmission of TCNs are still rejected by the authorities.¹¹⁷ According to one interviewee from a national institute:

Morocco is still refusing to ‘fix’ migrants. In a way, the hotspots, the centers, and all these things... Morocco is still reluctant to do this. Morocco still has ... what we call in Morocco, or what the official call “the two or the three no’s”: No police [at] the borders, no to the guards of Europe, the *gendarme of Europe*. We will not be only the *gendarme of Europe*... No to center of detention... we will not gather people, living sometime... this is why migrants in Morocco are free to move... from time to time they bring them from a region to another, but they will not detain

¹¹¹ This may relate to the smaller numbers, the enhanced resemblance to Moroccans and/or the legitimacy given to their movement as official recognized refugees. C.f. Interview 5; Interview 7, Tétouan, May 2019, Interview with Prisca Ebner (Leiden University).

¹¹² Interview 5.

¹¹³ Interview 7; Original: “Bueno, venían, empezaban a buscar un medio para pasar la frontera. La mayoría buscaban alguien que les puede trasladar a España. Y cuando encuentran uno, [el] les llevaba a una casa,... alquilaron una casa, se quedan aquí una temporada para que preparar su viaje, y le llevan.”

¹¹⁴ Interview 4.

¹¹⁵ Interview 7; Original: “Antes había migrantes, desde 2000 empezaban a venir migrantes, pero no había tanta población. Había muy poco de migrantes que venían a Marruecos.”; also: Interview 3.

¹¹⁶ Interview 6.

¹¹⁷ Interview 1 & 10.

them in centers... and the third no... I think these are the two or the three no's [...] Readmission is negotiable, [it] depends on who has to be readmitted or not.¹¹⁸

Unofficial migrant settlements in the North can mainly be found around the Spanish enclaves and are called 'forests', which refers to self-built camps in the countryside. The largest ones are/were *Gourougou* close to Melilla and *Bel Younes* close to Ceuta. Human rights reports by Amnesty International and CIMADE in 2004/5 calculate that 500-800 immigrants were living in the forests of *Bel Younes*. Most of them were young men from the Democratic Republic of Congo, Cameroon, Ivory Coast, Mali and Senegal. The reports show severe preoccupation for living conditions and violence, especially for women.¹¹⁹ It criticizes the fact that only a few NGOs had access to the forest. This is confirmed to still be the case according to one interviewed NGO. As *Bel Younes* is considered a military zone, humanitarian assistance is restricted at times.¹²⁰ Other NGOs report no problems and highlight the fact that the camps are mobile: "One camp that is here today, is somewhere else tomorrow. They are made out of plastic and blankets, if the police see that they are there, they go somewhere else."¹²¹ The self-organized form of these camps by the migrants themselves is stressed by civil society actors and viewed as positive.

To conclude, from a Moroccan civil society perspective the 'governance of boat people' is divided in two parts: the emigration of Moroccan nationals themselves in the 1990s and the immigrants and transit of migrants from sub-Saharan Africa in the 2000s.¹²² The rising numbers of *pateras* at the turn of the century, as can be seen in *Figure 2* by Lopéz-Sala, is thus linked to the rising number of immigrants from sub-Saharan Africa. The years 2000 and 2001, are also labeled as the '*patera crisis*' in the Strait of Gibraltar. The response in governance was the strengthening of border control, security measures, surveillance technology and the emerging multilateral cooperation on migration control.

¹¹⁸ Interview 10.

¹¹⁹ Amnesty International, 'España Frontera Sur: El Estado da la espalda a los derechos humanos de los refugiados e Inmigrantes', (Madrid 2005); CIMADE, 'Gourougou, Bel Younes, Oujda. La situation alarmante des migrants subsahariens en transit au Maroc et les conséquences des politiques de l'Union européenne', (Paris 2004).

¹²⁰ Interview 7.

¹²¹ Interview 8; Original: "Y un acampamiento que hoy está aquí, mañana está ahí. Son con plástico, con manta, cuando la policía los ve que están ahí, se van a otro sitio."

¹²² Interview 10.

Irregular immigrants arriving in Spain in small boats (*pateras* and *cayucos* (1999-2008)

	Strait of Gibraltar	Canary Islands	Total*
1999	2,694	875	3,569
2000	12,785	2,410	15,195
2001	14,405	4,112	18,517
2002	6,795	9,875	16,670
2003	9,788	9,388	19,176
2004	7,245	8,426	15,675*
2005	7,066	4,715	11,781
2006	7,502	31,678	39,180
2007	5,579	12,478	18,057
2008	4,243	9,181	13,424

Source: Spanish Civil Guard and Ministry of the Interior (the ministry responsible for policing, national security, and immigration)

*The total includes 4 arrivals in the Balearic Islands

Figure 2: Irregular immigrants arriving in Spain in small boats (*pateras* and *Cayucos* 1999-2008). Retrieved from: Ana María López-Sala, 'Immigration control and border management policy in Spain' Spanish Council for Scientific Research CSIC (Madrid: 2009)

3.2. Externalization of EU 'migration management'

For EU migration governance, the *Treaty of Amsterdam* (1999) and the subsequent meetings of the European Council in Tampere (1999), Laeken (2001) and Seville (2002) were essential for the security focus on the external border.¹²³ The *Treaty of Amsterdam* created the basis for a common European Union migration policy.¹²⁴ This was strengthened by the conclusions of the European Council meeting in Tampere (1999), where the 'external dimension' of EU asylum and immigration policies was officially embraced.¹²⁵ As argued by Norman, rising number of *pateras* throughout the 1990s, were a reason why the EU started pressuring North African countries to bolster border security and to curb irregular migration.¹²⁶ Between the different EU institutions it was agreed to insert standard readmission clauses in all future Community agreements and 'mixed' agreements between the EU, its Member

¹²³ European Council, 'Presidency conclusion: Tampere', SN 200/99, 15-16 October 1999; European Council, 'Presidency conclusion: Laeken', 14-15 December 2001, SN 300/1/01 REV I; European Council, 'Presidency conclusion: Seville', SN 200/1/02 REV I, 21-22 June 2002. For an elaborate history see: Rijpma, 'It's my party and I'll cry if I want to'.

¹²⁴ The aim was to develop the EU as an Area of Freedom, Security and Justice. Free internal movement of persons is assured in conjunction with increased external border controls. The treaty envisioned a common asylum, visa and external action policy and committed the Council to adopt certain measures. See: European Communities, 'Treaty of Amsterdam amending the Treaty of the European Union, the Treaties establishing the European Communities and certain related acts', 2 October 1997.

¹²⁵ European Council held a special meeting on 15 and 16 October 1999 in Tampere on the creation of an 'Area of Freedom, Security and Justice' (AFSJ) in the European Union. In the field of migration governance, it outlined the implementation of a Common European Asylum System (CEAS), a common Visa-policy for Third Country nationals as well as more cooperation and partnerships with Third Countries. One aspect highlighted was the need to "conclude readmission agreements or to include standard clauses in other agreements between the European Community and relevant third countries or groups of countries." See: European Council, 'Presidency conclusion: Tampere'.

¹²⁶ Norman, 'Between Europe and Africa'.

States and third countries.¹²⁷ The restrictive approach became evident with the turn towards a *combat* of illegal immigration. After the meeting in Seville (2002) the consent was to ‘speed up’ readmission negotiation with third countries, establish joint border controls and enhance external border security. The main objectives were linked to joint control on entries and readmission of irregular migrants, including those in transit. Thus, the readmission clause referred to third countries’ own nationals and included “other countries’ nationals who can be shown to have passed through the country in question.”¹²⁸ In this case study this means that Morocco would have to readmit sub-Saharan nationals that have departed irregularly from Moroccan shores.

In terms of EU migration governance, the turn of the century was marked by a new wave of multi-national agreements with third countries. An emphasis was put on establishing forced return clauses, in the form of readmission agreements. For EU relations with third countries, the *Cotonou Agreement* (2000) between the European Union and the African, Caribbean, and Pacific (ACP) Group of States is a mayor example. It does not include Morocco, but many neighboring countries and countries of origin of migrants.¹²⁹ The *Cotonou Agreement* stipulates that each EU Member State shall accept the return and readmission of its nationals residing irregularly on ACP territory and vice versa.¹³⁰ On paper, this constitutes a readmission agreement with the 46 sub-Saharan states. However, in practice this remains unsatisfactory for the EU and there has been a downwards trend in readmissions since 2008.¹³¹

As discussed earlier, the *Euro-Mediterranean Association Agreement* between EU and Morocco entered into force in 2000 and represents the legal basis for EU-Morocco relations. Unlike other *Euro Mediterranean Association Agreements*, e.g. Algeria (signed 2002), Egypt (signed 2001) or Lebanon (signed 2002), the *Association Agreement* with Morocco (signed 1995) does not include a readmission clause. This could be because it was negotiated before this turn, or because of the opposing position of Morocco. Further negotiations with Morocco on a *European Readmission Agreement* (EURA) took off in 2002 in form of a ‘comprehensive dialogue on migration issues’, yet failed in 2010.¹³² Readmission remains a ‘hot topic’ and a difficult subject in Morocco. While the readmission of its own nationals is governed by international law, the key issue is the readmission of TCNs who departed from Morocco.¹³³ An interviewee who worked previously in the national security ministry, stressed that the

¹²⁷ Council of the European Union - Justice and Home Affairs, '22229th Council meeting, Brussels 2 December 1999', 13461/99 Presse 386 (Brussels 1999), p. III. Also cited in: European Parliament Policy Department External Policies, 'Readmission Agreements and Respect for Human Rights in third countries, review and prospects, for the European Parliament', *Briefing Paper* (Brussels, October 2007).

¹²⁸ European Council, 'Presidency conclusion: Seville'.

¹²⁹ In this regard it has to be reflected on the fact that most migratory movement happen between neighbouring countries and most migrants from African countries stay on the African continent. See: Hein de Haas, 'The Myth of Invasion: The inconvenient realities of African migration to Europe', *Third World Quarterly* 29:7 (2008) 1305-1322.

¹³⁰ European Commission, 'Cotonou agreement', (Cotonou, 23 June 2005) Art. 13.

¹³¹ EU Commission, 'Fifth Progress Report on the Partnership Framework with third countries under the European Agenda on Migration, Brussels' COM(2017) 471 final, (Brussels, 6 September 2017); MPI Policy Institute, 'An "Informal" Turn in the European Union's Migrant Return Policy towards Sub-Saharan Africa' (Washington DC, 10 January 2019).

¹³² European Commission, 'Visit to Ceuta and Melilla – Mission Report Technical mission to Morocco on illegal immigration 7th October– 11th October 2005', MEMO/05/380 (Brussels, 19 October 2005).

¹³³ Interview 6.

readmission of TCNs will not be permitted and emphasized that this was also never signed with Spain.¹³⁴

The EURA negotiations were a controversial subject in the interviews across the levels, positions and views of the people interviewed. One line of argumentation is built on the basis that no readmission responsibilities will be accepted without getting more visa rights.¹³⁵ One former government official stated, “The EU wants Morocco to protect the external borders as if they were a Schengen member, but they are not, they don’t get Schengen visas.”¹³⁶ Controversies around mobility regimes and unbalanced power relations arose. A lack of understanding towards the readmission of TCNs, passing through Morocco, fostered this:

Why does the EU insist - and blackmail - for example [with] 'we can give more visas, but they have to sign this agreement'? That is not correct from an ethical point of view, because [the] EU has an idea that in my opinion is not a rational idea ... Because, how can you know ...? And although it is known that it is an intercepted sub-Saharan... first, how can you confirm that they have passed through Morocco? And second, why do they not send them to their country of origin? Why does the EU insist [to] send them to Morocco, as if we do not have problems with our own youth here? So we have to, every time the EU countries, every time they see a clandestine of color ... *yaní* African... 'he must have gone through Morocco, we have to send him back to Morocco'. It's an idea ... I think it's a stupid idea. Because if they want to expel that migrant, expel him to his country.¹³⁷

Morocco has signed bilateral readmission agreements for its own nationals with several EU Member States, including Spain (1992), France (1993), Germany (1998), Italy (1998) and Portugal (1999).¹³⁸ Asked about the reactions of Moroccan actors, it was said: “[Y]ou got many agreements between Moroccan authorities and European authorities. But until now Europe was pushing Morocco to have an agreement with all Europe. And the Moroccans... and the civil society in Morocco are really against this. And I think now even the authorities are against this.”¹³⁹ The topic appears to unite actors on a horizontal level, from NGOs, to researchers, national institutions and grassroots associations. As local actors argue, this is a highly disputed issue as identification is difficult and because it remains incomprehensible for many why Morocco should take on such a responsibility. A second narrative usually refers to unequal power relations, with Morocco as the weak partner and the EU as the strong partner. The general reasoning for the question, why Morocco would reinforce border control and obey EU policies, is related to money and hegemonic power relations. In the responses of my

¹³⁴ Interview 1.

¹³⁵ Interview 1 & 2.

¹³⁶ Interview 1.

¹³⁷ Interview 3; Original quote: “¿Por qué la UE insiste – y hace un chantaje: por ejemplo ‘podemos dar más visas pero tienen que firmar este acuerdo’? Eso no es correcto desde el punto de vista ético, porque [la] UE tiene una idea que a mi juicio es una idea no razonada... Por qué, ¿cómo se puede saber...? y aunque se sabe que un subsahariano interceptado... ¿cómo se puede confirmar que ha pasado por Marruecos, primero? Y segundo, ¿por qué no envían a su país de origen? Porque la UE insista [que] enviarla a Marruecos, como sí aquí no tenemos problemas con nuestra propia juventud. Y tenemos que, cada vez que los países de la UE, cada vez que vean un clandestino de color... *yaní* Africana... bueno ‘ese tiene que pasar por Marruecos, tenemos que enviarlo a Marruecos’. Es una idea... yo pienso es una idea tonta. Porque sí quiere expulsar ese migrante, expulsarlo a su país.”

¹³⁸ Nora El Qadim, ‘Le gouvernement asymétrique des migrations : Maroc/Union Européenne’, *PhD thesis Science Po* (Paris 2015).

¹³⁹ Interview 6.

interviewed group, Morocco was described as the 'perfect student', as 'gendarme of Europe' or as the 'pressured victim'.¹⁴⁰ Two interviewees explained:

Moroccan policies on this very topic have always been impacted, influenced by Europe and European policies, what Europe wanted to do on this subject. Europe is the big player here, and the strongest player [in] imposing things... at that time we would have talked of externalization of the European policies, of controlling the European borders and asking Morocco to contribute. [...] [M]igration or any other topic or subject of policy between Morocco and Europe is dominated by the structure of their relationship, between the two parts: Morocco as the weakest part and *THE EU*.¹⁴¹

This is also something, but you know governance... This is Darwinism [...], survival of the strongest. Europe is strong, Europe is one, Europe is many countries. They are pressuring Morocco, sometimes they will lead, sometimes they will not.¹⁴²

Externalization, as outlined in the theoretical section, can take place as physical measures or via a shift of responsibilities and tasks. An example for the latter is the externalization of EU 'migration management' through clauses on migration control established in trade, development and cooperation agreements. As described above, serious attempts were made by the EU to shift the responsibility of migration control to Morocco. Contrary to the impression that the governance actors presented, however, Morocco was not a weak or subordinate partner in this context but had a rather strong negotiating power and actively challenged EU aims. This could be shown based on an analysis of the policy documents surrounding the EURA, which Morocco opposed.¹⁴³ El Qadim argues that this resistance of Morocco *vis-à-vis* the EU in the context of the EURA is surprising, giving the asymmetrical relationship between the two countries. Yet, the outcomes show how the issue of readmission became a 'bargaining chip' that led to a paradoxical empowerment of Morocco in this relationship.¹⁴⁴

3.3 Securitizing the Mediterranean: Spanish and Moroccan approaches

From the 2000s onwards, high investments in border surveillance have been made by Spain. In response to the rising numbers of small vessels arriving irregularly on Spain's' coasts, the Spanish government made maritime surveillance a top priority and began with the implementation of the *Integrated External Vigilance System (SIVE)*.¹⁴⁵ It is a high-tech electronic surveillance and interception system, which combines radar stations, control centers for cameras and radars installed along the coast as well as 'interception units', consisting of patrol boats, helicopters and vehicles. According to López-Sala, the cost for the SIVE system amounted to €136 million from 2001-2009.¹⁴⁶ Also the EU Council became increasingly concerned about the subject of boat people, as a 2003 report shows:

Use of makeshift craft (rubber dinghies and small or unseaworthy boats) gives rise to particular public concern, as they often sink with the loss of many lives. Illegal immigration on cargo vessels or fishing boats and, to a lesser

¹⁴⁰ Interview 3 & 5.

¹⁴¹ Interview 10.

¹⁴² Interview 6.

¹⁴³ The negotiations on the EURA failed in 2010 and led to the establishment of an EU-Morocco Mobility Partnership in 2013, where ongoing dialogues on the subject are reassured.

¹⁴⁴ El Qadim, 'Postcolonial challenges to migration control', 244.

¹⁴⁵ López-Sala, 'Immigration control and border management policy in Spain'.

¹⁴⁶ López-Sala, 'Immigration control and border management policy in Spain'.

extent, on pleasure craft or regular shipping services between Member States is perceived as less significant, being harder to detect and not gaining full public awareness. Yet it is a particularly widespread and insidious method of unlawful entry.¹⁴⁷

From 2000 onwards, the SIVE system began to be implemented in the Strait of Gibraltar and along the Andalusian coast, first in the area of Algeciras. It then expanded to the area of Cadiz, and on towards the provinces of Malaga and Granada, as well as to Ceuta and the Canary island of Fuerteventura (2001-2004).¹⁴⁸ The unintended consequences of these securitization measures were highlighted by a Spanish-Moroccan NGO worker: “On the one hand there are political agreements on border control, but on the other hand, these political agreements trigger a series of tools to prevent [irregular migrants] from passing. [...] It was when the SIVE started with all those cameras and ships... it was then when they started to climb the fences.”¹⁴⁹ A change in and a diversification of migration routes were the most imminent results of the enhanced securitization measures. One shift was from the maritime route towards the land route to Ceuta and Melilla. A second shift happened along the Moroccan Mediterranean coast towards the East, in the direction of Nador and Algeria. This meant *pateras* in Spain no longer reached Cadiz but started to appear in Malaga and the coastal town of Motril in the province of Granada. A third shift appeared to be away from the Mediterranean, to the Atlantic coast in direction of the Canary Islands.¹⁵⁰

What the SIVE controls is the Strait [of Gibraltar], the narrowest part between Spain and Morocco. Then immigration started there towards the Canary Islands [points to a map] with boats leaving from El Aaiún, and also the *cayucos* that left from Senegal. Because Morocco does not have *cayucos* [...] *cayucos* are very long fishing boats, and they are from Senegal. Then, of course, when the whole part of the Strait was fortified with the SIVE system, the fences began to rise and they started to put up *concertinas*, cameras and more, migration does not go so much to Morocco anymore. Even those from the North moved towards zone of El Aaiún [Western Sahara] and the Senegal area. Some left with *pateras*, and others left with *cayucos*.¹⁵¹

The change in pattern is a result of migrants making conscious decisions, potentially influenced by operating smuggling networks. The example of *pateras* from Morocco and *cayucos* from Senegal shows how migratory routes fluctuate transnationally. Between Morocco and Spain, diplomatic relations remained tense and the situation escalated in the *Perejil Crisis* of 2002, an armed conflict between Spain and Morocco over a small island, consisting solely of a rock.¹⁵²

¹⁴⁷ Council of the European Union, 'Programme of measure to combat illegal immigration across the maritime borders of the European Union', 13791/03 (Brussels 21 October 2003), 5.

¹⁴⁸ Gobierno de España (Mdi), 'Balance de la lucha contra la inmigración ilegal' (Madrid 2007); López-Sala, 'Immigration control and border management policy in Spain'.

¹⁴⁹ Interview 8; Original: “Por un lado hay acuerdos políticos de control de frontera, pero por otro lado, esos acuerdos políticos lo que desencadenan son una serie de herramientas para impedir que se pueda pasar. Y después que se firmaron ese acuerdo de que España tiene que proteger entre comillas, ‘proteger’ los inmigrantes. Es cuando empieza el SIVE, con todas las cámaras, los barcos... y es cuando empiezan a subir unos metros a las vallas.”

¹⁵⁰ Interview 8.

¹⁵¹ Interview 8; Original: “Lo que controlan el SIVE es el estrecho, la parte más estrecha entre España y Marruecos. Entonces la inmigración empieza ahí hacia Canarias [points to a map]. Salieron las *pateras* desde El Aaiún, y también los *cayucos* que salieron desde Senegal. Porque Marruecos no tiene *cayucos*. [...] los *cayucos* son unos barcos de pesca muy alargados, y son de Senegal. Entonces, claro cuando, se fortalece toda la parte del estrecho con el SIVE, las vallas empiezan a subir y empiezan a poner *concertinas*, cámaras y de más la migración ya no sube tanto a Marruecos. Incluso los que estaban por el Norte se desplazan hacia la zona de El Aaiún y la zona de Senegal. Unos salen con *pateras*, y otros salen con *cayucos*.”

¹⁵² Tensions may have been further affected by installation of the SIVE surveillance system by Spain, the new Spanish migration law of 2000 (*Ley Orgánica 8/2000*), the new Spanish 'GRECO Plan' on immigration (2001-2004) and the completion of fencing of Ceuta and Melilla (1993-1999). See: López-Sala, 'Immigration control and border management policy in Spain'.

While Spanish-Moroccan cooperation on border control only developed later, a major internal change in Morocco's migration approach took place. Previously, Morocco's migration discourse was dominated by the emigration of Moroccans to Europe and the diaspora policy.¹⁵³ With the increase in arrivals of immigrants in Morocco, however, a first immigration law was implemented. The securitization approach towards immigrants in Morocco officially began in November 2003 with the law on 'the entry and stay of foreigners in the Kingdom of Morocco' (*loi 02/03*). Under this Law 02-03 the entry and presence of undocumented foreigners in Morocco became criminalized, those supporting and organizing illegal entry penalized and border control capabilities increased. It is well documented that while the principles of *non-refoulement* as well as the right to claim asylum would be guaranteed under this law, they were frequently violated.¹⁵⁴ The common narrative is that the implementation of the Law 02-03 was done under pressure by the EU, pushing for stronger control on irregular migration. The end or the change of this Moroccan security focus is usually labelled as the start of the new public policy on migration and asylum (SNIA) in 2013.¹⁵⁵ Yet, the Law 02-03 exists until today, it has never been reformed or substituted.¹⁵⁶

Next to the pressure of the EU, the reasons leading up to Morocco's increased security focus regarding immigrants are linked to the terrorist attacks of Casablanca in 2003.¹⁵⁷ Opinions from Moroccan governance actors today on this law differ greatly: From a more conservative standpoint the hesitation of Morocco between 'hospitable Islamic law' and 'modern securitizing European law' is highlighted; human rights actors criticize the law and researchers see different, national security interests behind it.¹⁵⁸ This securitization approach by Morocco may also highlight the agency of Morocco's own interests. Although a national actor claims that "Europe was pushing for these [North African] countries to cooperate with its policies. And the European policies at that time were that Europe wanted to keep migrants away as much as possible, on the African continent and was ready to help, or to pressure."¹⁵⁹ Still, external factors such as the terrorist attack of Casablanca, and national interests have been crucial for change towards more securitization and the Law 02-03. As a researcher on migration policies noted: "if it is not good for us, for any reason, than we stop the people, we arrest the people. So it is like, even if they are doing this displacement, this is not talked about. And this law 02/03 gives them the legitimacy to do that, for security reasons. And I think Morocco will always put security interests [forward] as main reasons to arrest the migrants."¹⁶⁰ In terms of national interests, it must also be noted that the general public experiences a new wave of repression after the terrorist

¹⁵³ Interview 10.

¹⁵⁴ Royaume du Maroc, 'Loi n° 02-03 relative à l'entrée et du séjour des étrangers au Royaume du Maroc, à l'émigration et l'immigration irrégulières', *Bulletin officiel* 5160 (13 November 2003); See also e.g. Euro-Mediterranean Human Rights Network, 'Asylum and Migration in Maghreb: Country Fact Sheet Morocco 2012' (Copenhagen, December 2012); Amnesty International, 'Fear and Fences: Europe's Approach to keeping refugees at bay' (London 2015).

¹⁵⁵ Interview 1; For further information on this policy, see chapter 4.4.

¹⁵⁶ Despite promises in 2013/4 to reform the law, this has until now (July 2019) not been done; c.f. Interview 5 & 6.

¹⁵⁷ Interview 10. Yet neither aspect fully explain this step. First, the series of suicide bombings in Casablanca on the 16 May 2003 were done by Moroccan nationals, and not by immigrants. Second, the EU and the Member States, following up on *Tampere*, did call for new restrictive, security-based policies, but Morocco has been keen to emphasize the sovereign and decolonizing aspects of this Law 02-03. So it can be assumed that a certain national interest of Morocco was a driver as well.

¹⁵⁸ Interview 5, 6 & 10.

¹⁵⁹ Interview 10.

¹⁶⁰ Interview 5.

attacks in Casablanca of 2003.¹⁶¹ Thus, for civil society national developments left major impacts, while the Moroccan state had to balance its interest between the national, the Spanish and the EU level.

3.4 The rise of non-governmental actors in Morocco and the role of funding

The rise of governmental actors on human rights issues already began in the 1990s. After the repression in the 'Years of Lead' (1965-1990), the following decade showed a slow rise of democratic, liberal and human rights aspects in the national agenda. Two examples thereof are the reform of the Constitution (1992) and the creation of the national *Advisory Council on Human Rights* (ACHR) in 1990, which was the predecessor of the *National Council on Human Rights* (CNDH) that becomes important in chapter 4.4.¹⁶² However, it can also be argued that the strategy of the regime was to use 'modern' institutions and instruments to preserve political authority.¹⁶³ Until today several human rights issues constitute a challenge.¹⁶⁴ Further, it is important to note that in Morocco, the King is the governing Head of State and formulates most policies.¹⁶⁵

Despite governmental changes, the situation of non-governmental actors remained reportedly difficult, especially for actors critical towards state practices. In April 2002, a new law on associations was approved in Morocco.¹⁶⁶ Bergh, an expert on local governance in Morocco, stipulates that this was reached after intense lobbying by civil society representatives. According to Bergh, the law struck a balance between an opening up towards civil society and the maintaining of 'soft' state control.¹⁶⁷ The law obliges every association to submit a declaration of its constitution to the Ministry of Interior. Upon handing in this declaration, applicants should receive a confirmation of the process and, after a thorough check, a receipt proving their legal status. Yet, the working conditions of migrant associations and civil society organization remained precarious. Until the public policy migration and asylum (SNIA) was launched in 2014, many of these organizations were lacking official status for administrative reasons. Referring to registration process for associations in Morocco, an interviewee from a grassroots association stated: "So this whole process was just blocked and [we] could not submit this application. And that happened to a lot of other organizations as well. But they still existed."¹⁶⁸ A lack of legal proof for the founding of an organization created administrative issues but also practical ones: "That actually means if you are somewhere [doing] fieldwork and you are stopped by a police officer

¹⁶¹ See also: Miller, *A History of Modern Morocco*, 224.

¹⁶² For a detailed history see: Miller, *A History of Modern Morocco*; FRAME, 'International Human Rights Protection', 40-45.

¹⁶³ Abdeslam Maghraoui, 'Political Authority in Crisis: Mohammed VI's Morocco', *Middle East Report* 219 (2001) 12-17.

¹⁶⁴ Particularly human rights' issues regarding the position of women; freedom of expression, assembly and religion; judicial proceedings and torture; political dissenters as well as the pervasive state security service. See further: FRAME, 'International Human Rights Protection', 40-45.

¹⁶⁵ Mrabet, 'Readmission Agreements. The Case of Morocco'.

¹⁶⁶ Royaume du Maroc, 'Dahir no 1-02-206 du 12 jourmada I 1423 (23 juillet 2002) portant promulgation de la loi no 75-00 modifiant et complétant le dahir no 1-58-376 du 3 jourmada I 1378 (15 novembre 1958) réglementant le droit d'association.' *Bulletin officiel* 5048 (17 October 2002) 1062-1064.

¹⁶⁷ Bergh, *The Politics of Development in Morocco*, 71.

¹⁶⁸ Interview 11; Original: "Also dieser ganze Prozess war halt blockiert und (wir] konnte diesen Antrag gar nicht abgeben. Und das ging ganzvielen anderen Organisationen genauso, die aber *de facto* trotzdem existieren."

who wants to make an identity check, it's very difficult, if you have no way to identify yourself and say 'I work for this organization'." ¹⁶⁹ This caused serious problems for civil society actors active in this field.

A second issue for associations was to raise funding. Techniques used by civil society organizations to operate were diverse: some relied on volunteer work, others received support from international NGOs, applied for EU funds, or collaborated more with IOs. In terms of the presence of international organizations, UNHCR received honorary status in Morocco in 2004 and IOM signed a host agreement in 2005.¹⁷⁰ The cooperation between civil society actors and IOs is usually done via regional organizational networks or as local implementing partner. On this matter, an IO project manager explained the importance of local partners since the mid-2000s. The benefits, according to her, are two-directional: On the one hand the NGOs and migrant associations often "do not have enough money [...] to have a durable staff, so when they have the opportunity to be supported by the ministry, by IOM or by UNHCR, it presents to them a good opportunity to be[come] strong[er]."¹⁷¹ On the other hand, for IOs the implementing partners mean stability, as there is usually less staff rotation and more continuity.¹⁷² From these statement derives that international project proposals may secure financial basis for some local actors. From a grassroots perspective, however, pre-designed projects also challenge associations' independence, because "the problem with the prefabricated project proposals is that the independence of the civil society actors is lost relatively easy."¹⁷³

A second source of funding for civil society actors are EU projects. Until recently, the Moroccan government had little influence on how these funds are distributed and who became beneficiary.¹⁷⁴ A representative of a governmental institution criticized the form in which EU finances have been granted to local organizations in the past. From a national perspective, more agency is requested in terms of which institutions receive finance support:

The money is there, Europe is doing a lot, providing the funds, but the discussion needs to be done again [...], to make sure that the interventions, the funding and the support go to the right [entity. ...] A huge job has been done by this structure to set or the size of the NGOs and to rank them by size... and to define an amount for the grant in proportion to the size of the NGOs. [...] But what still needs to be done and reformed and corrected is how the EU supports local actors with these financial instruments, and how these instruments are or are not appropriate to the impact we want to have.¹⁷⁵

For civil society this development is also challenging. A local NGO representative stated that "before any entity could request the EU funds for any project; now not anymore."¹⁷⁶ Mentioned civil society projects in regard to migration, can be clustered in humanitarian direct assistance, human rights'

¹⁶⁹ Interview 11; Original: "Genau und das heißt eigentlich auch wenn du irgendwo [...] *mission de terrain* machst und angehalten wirst von einem Polizisten der eine Identitätskontrolle machen will. Das ist halt total schwierig wenn du keine Möglichkeit hast dich auszuweisen und zu sagen, 'Hey ich arbeite für diese Organisation'."

¹⁷⁰ It is important to note that Morocco ratified the UN Refugee Convention and its amendment in 1956 and 1971 respectively. Further, Morocco became signatory to the UN Convention on the 'Protection of the Rights of All Migrant Workers and Members of their Families' in 1990 and ratified it in 1993.

¹⁷¹ Interview 9, Rabat, May 2019, Interview with Prisca Ebner (Leiden University).

¹⁷² Interview 9.

¹⁷³ Interview 11; Original: "Also das Problem mit den vorgefertigten Projekt-proposals ist ja, dass sich die Unabhängigkeit der zivilgesellschaftlichen Akteure da relativ schnell verliert."

¹⁷⁴ The application for EU finances has changed recently, since 2 years this is apparently done via the UN agency UNOPS.

¹⁷⁵ Interview 10.

¹⁷⁶ Interview 8; Original: "Antes cualquier entidad podía solicitar a la UE fondos para cualquier proyecto. Y ahora no."

advocacy or socio-economic integration. Humanitarian assistance could mostly be seen in the context of migrants living in the North, in *medinas* and in the 'forests' as described in chapter 2.3. Human rights' advocacy saw a rise in the 90s, and focused more on migrants' human rights post-2005, as will be outlined in the next chapter. The socio-economic integration measures, from language courses to professional training, started more recently. Yet, one of the first attempts was an IOM project regarding a training center in the region of Tanger. The EU Commission supported this pilot project (2003-2006) to foster social development in this migration prone region. In collaboration with the national authorities, a training center for professional training and education was set up, targeting specifically youth and women.¹⁷⁷ As discussed with one interviewee, it shows a clear example of long term governance strategies of irregular migration by boat, so that the youth become "more open to opportunities and not have the only choice and the only idea in their mind to cross and go to Europe."¹⁷⁸ This governance strategy, focusing on professional and educational training, is viewed by several Moroccan governance actors as a "good" one.¹⁷⁹ The issue with short- and medium term projects, for example in the '*patera crisis*' 2001/2, is that these were mainly done as (inter-)governmental cooperation. The presence of authorities in the North is higher than in other parts of the country and the working fields of IOs and NGOs remain limited.¹⁸⁰

However, a multiplication of both local, national and international organizations working on migration related topics could be noticed throughout the 2000s. Working realities of NGOs, IOs and civil society actors are very much influenced by state positions and governance approaches. An example of this is the support of asylum seekers. Civil society and non-governmental organizations were the main address for humanitarian assistance. Until now, Morocco does not have an official asylum procedure or a law on asylum. Immigrants in Morocco can make an asylum application via UNHCR in Rabat, but very few actually receive refugee status.¹⁸¹ Despite signing up to the 1951/67 Refugee convention, Morocco offers little support. Refugee camps are rejected and asylum seekers only receive a small allowance by UNHCR since 2004.¹⁸² An EU Commission report from a field mission to Morocco in 2005, for example, states concerns about the effective protection of asylum seekers and the practical implementation procedure:

There are doubts as to whether Morocco is able to offer in practice effective protection to all those seeking protection inside its territory. Despite the existence of governing legislation, no appellate authority for hearing refugee claims appears to have been established and there remains some confusion as to the correct procedure for claiming asylum. UNHCR has been represented in Casablanca since 2002 but the practical implementation of refugee protection remains problematic. [...] According to UNHCR statistics, in 2004 there were 177 applications for asylum but no positive decisions were granted during that year.¹⁸³

¹⁷⁷ European Commission, 'Follow-up Rabat Ministerial Conference Meeting on Migration and Development (Rabat 10-11 July 2006) - Inventory of ongoing and planned projects involving one or more member states' (Rabat and Brussels, April 2007).

¹⁷⁸ Interview 9.

¹⁷⁹ For example: Abdelhak Bassou and Amal El Ouassif, 'Investing in "Migrant" Human Capital', *OCP Policy Center*, Policy Brief PB-18/30 (September 2018).

¹⁸⁰ Interview 9.

¹⁸¹ Interview 6 & 8.

¹⁸² Interview 4 & 6.

¹⁸³ European Commission, 'Visit to Ceuta and Melilla'.

The situation of asylum seekers in the mid-2000s and beyond, again shows a certain gap between what Morocco has signed up to and what is being implemented in practice. Non-governmental actors play a decisive role to compensate this. As could be established, there was a multiplication of actors on a horizontal level from 2000 onwards, due to internal changes and external project funding.

Overall, chapter three analyzed the transition from Morocco as a country of emigration, to a country of transit and gradually immigration. The latter increased due to enhanced border security and surveillance by Spain, especially through the SIVE system, and the augmented efforts to externalize migration control by the EU. The EU externalization approach around the turn of the century is marked by efforts to establish readmission clauses in agreements with third countries. Despite these endeavors, Morocco remained reluctant to sign such an agreement and to agree to the readmission of TCN who have passed through Morocco. The major consequence of externalization and securitization was the diversification of routes and methods for irregular migrants. This in turn also affected the work of civil society actors, geographically speaking as well as in terms of assistance and needs. Immigrants began to settle in the old-towns of larger cities and in so-called 'forests' around the borders with Spain. Particularly the presence of sub-Saharan immigrants became more visible and more contested. Key factors, from a national perspective, were the new Law 02-03 and the related security approach by Morocco. This sets the base for the analysis of the Moroccan 'migration crisis' and the shift towards more participation and responsibilities in the governance of immigration, as will be discussed in the next chapter.

4 Moroccan governance of immigration and transnational collaboration (2005-2013)

Frequent police raids, deportations and ambivalence towards the presence of immigrants constituted the *modus operandi* of Morocco in the first decade of the 2000s, concludes Norman.¹⁸⁴ The new legal framework by Morocco, the anti-terrorist agenda and pressure of the EU led to what became known as the *combat of illegal migrants*. First, this chapter looks at how the Moroccan ‘migration crisis’ of 2005 shaped the debate on Human Rights. Then, it analyzes how enhanced trans-national collaboration, from funding schemes to informal dialogues and joint border controls, affected Moroccan governance of boat people. Thereinafter, the transition of Morocco towards a country of immigration and ‘prolonged’ transit is outlined. As security measures made it increasingly difficult to cross into Spain, many immigrants ended up staying in Morocco. Finally, arising governance challenges and shifting responsibilities are analyzed.

Some key results of these developments were the diversification of migratory routes and the multiplication of actors ‘on the ground’. As it became more difficult to cross the Mediterranean by boat, attempts to scale the border fences surrounding Ceuta and Melilla, or to reach the Canary Islands from the Atlantic coast increased. Consequently, the enhanced border security also influenced the internal transformation of Morocco towards a country of immigration. Governance challenges, the pressure of civil society and shifting responsibilities marked this development. A central argument is that for Morocco this transformation process was a difficult balancing act. On the one hand, Morocco was torn between relations with the EU and the African Union (AU). On the other hand, following a new wave of social movements across Northern Africa, Morocco found itself compelled to open up towards society’s claims while keeping the regime in power. This ambivalence is analyzed in regard to the governance of immigration. Eventually, it cumulated in a new public policy approach in 2013, the end point of the empirical part of this thesis.

4.1. ‘Migration Crisis’ 2005 and Human Rights debates

Morocco experienced a ‘migration crisis’ in 2005, as described by local actors, when migrants scaled the border fences surrounding Ceuta and Melilla in ‘collective attempts’. It is calculated that between August and October 2005, approximately 1000 to 2000 sub-Saharan immigrants tried to climb up the fences, usually in larger groups. A few hundred entered the enclaves, dozens were injured and at least thirteen lost their lives, due to wounds and shootings by the Moroccan police.¹⁸⁵ The action, the brutal violence and the deaths of the migrants, raised national and international awareness, as one national actor recalls:

2005 [was] the “attack” of sub-Saharan migrants on the fences of Melilla and Ceuta, on the Spanish occupied provinces in the North of Morocco. I think - and I can remember myself this moment - that the opinion of Moroccans themselves, but also internationally speaking, came to realize that there was a serious “problem”. [...] For Morocco,

¹⁸⁴ Norman, ‘Between Europe and Africa’.

¹⁸⁵ Jaime Castan Pinos, ‘La Fortaleza Europa: Schengen, Ceuta y Melilla’, *Instituto de Estudios Ceuties* (Ceuta 2014), 129; Amnesty International, ‘Spain and Morocco: Failure to protect the rights of migrants - Ceuta and Melilla one year on’, EUR 41/001/2006 (30 October 2006).

the founding moment of awareness that there is an issue with this, was in 2005. Definitely 2005, [with] the problems, I think there were some casualties, injured people, even dead people I think. From that moment on the discussion was no longer the same.¹⁸⁶

On the 14th of October 2005, the Spanish Secretary of State Security, Antonio Camacho, declared an emergency situation at the borders of Ceuta and Melilla. In this exceptional situation, increased security measures were deemed necessary.¹⁸⁷ The installation of barbed wire fence formed in coils, so called *concertinas*, at the Spanish side followed. According to reports from international human rights organizations, it led to an increase in dramatic incidents in the following years.¹⁸⁸ From a multi-level governance perspective it is interesting that in his speech Camacho not only refers to Spanish security but also to the overlap of geopolitical interests with the EU and its Member States.¹⁸⁹ The EU Commission, at the same time, reports from a visit to the northern area of Morocco of the 'mounting migration pressure from Africa'.¹⁹⁰ The report argues that 10.000 immigrants were waiting in Morocco to start their journey to reach Ceuta and Melilla.¹⁹¹ Next to highlighting the significant efforts made by Morocco to control irregular immigration, "a € 40 m[illion] project to reinforce border control by way of making equipment and training available" was agreed upon between the EU Commission and Morocco. The project included the creation of a Moroccan "S.I.V.E-like system" and the participation of the newly founded EU border agency *Frontex* was highly encouraged (see next subchapter).¹⁹²

In Morocco the 2005 situation was considered a 'crisis' from two sides: From a government perspective, the mass-attempt to scale the fences and reach the enclaves of Ceuta were constituted a migration or rather a diplomatic crisis. From a civil society perspective not only the grave injuries due to the scaling of the fences, but also the violence, deportation and riots by the authorities against immigrants marked the crisis. One NGO representative stated on the gravity of these actions:

Morocco had a major crisis in 2005. It was when the frontier had to be heavily protected and when many migrants were deported out of the country, they were even abandoned in the desert. After 2005 we had outbreaks of persecution of immigrants, but we never had anything as grave as in that epoch [again].¹⁹³

¹⁸⁶ To "attacks" and "problem" the interviewee literally added "in brackets". He was stressed that neither himself nor the institution see migration as a problem, but that he was referring to the policy makers and the public discourse. See: Interview 10.

¹⁸⁷ Gobierno de España (Mdl), 'Sala de Prensa: Interior ha reforzado con 134 guardias civiles la frontera de Melilla y Camacho anuncia en el Congreso un refuerzo de los medios técnicos' (Madrid, 28 September 2005).

¹⁸⁸ Amnesty International, 'Spain and Morocco'; Amnesty International, 'Fear and Fences: Europe's Approach to keeping refugees at bay' (London 2015); Asociación Pro Derechos Humanos de Andalucía (APDHA), 'Derechos Humanos en la Frontera Sur' (Sevilla, March 2004).

¹⁸⁹ Gobierno de España (Mdl), 'Sala de Prensa: Interior ha reforzado con 134 guardias civiles la frontera de Melilla y Camacho'.

¹⁹⁰ European Commission, 'Visit to Ceuta and Melilla'.

¹⁹¹ Again, it should be noted that most migrants from African countries stay on the African continent. Overly high estimations or political 'number games' as well as corresponding misconceptions lead up to what de Haas defines as a 'myth of invasion'. He concluded that "Of the estimated 65 000 to 120 000 sub-Saharan Africans entering the Maghreb yearly, several tens of thousands (not hundreds of thousands, as media coverage might suggest) try to cross the Mediterranean each year. Therefore, common views that reduce North Africa to a transit zone or springboard to Europe are inaccurate." See: Hein de Haas, 'The Myth of Invasion', 1317.

¹⁹² European Commission, 'Visit to Ceuta and Melilla'.

¹⁹³ Interview 8; Original: "Marruecos tuvo una gran crisis en 2005. Fue cuando hubo que proteger mucho la frontera, y cuando se deportó a mucho migrantes fuera del país, incluso se abandonó en el desierto. Después de 2005 hemos tenido brotes de persecución de los inmigrantes, pero no hemos tenido en ningún momento algo tan fuerte como en esa época."

In any case, 2005 is believed to be an important moment for the consciousness of civil society. The severe human rights violations in the treatment of immigrants by the authorities led to a subsequent rise of critical society formations. This development was described as the initiative of certain activists who aimed to document what was happening.¹⁹⁴ Despite a new Moroccan law on associations, however, many of these new civil society associations could not register officially, as the administration office did not accept their legal applications.¹⁹⁵ In the interviews conducted with non-governmental actors also the actions and reactions by Europe were criticized, including the Spanish *Guardia Civil's* treatment of migrants and the restrictive mobility regime in place. Amongst officials, a reoccurring pattern was to shift Moroccan's responsibility away towards the EU. This links back to the questions raised in the theory section, whether Morocco was 'only' implementing EU policies or actively shaping these in its own interests. According to the interviewees, Moroccan civil society became very active around 2005 in the human rights debate surrounding these issues. The perception of the Moroccan state, however, was rather passive and the EU was seen as responsible for the situation. How this intersects with transnational cooperation and joint border control, is the focus of the next section.

4.2. Enhanced transnational collaboration: funds, dialogues and joint border controls

The national, positive narrative of the EU-Moroccan relationship is supposedly affected by current attempts to restore the EU-Moroccan relationship, after stalled communications between 2016-18.¹⁹⁶ In regard to migration governance, Morocco was described, for example, as 'the perfect student' of the EU. One interviewed scholar researching Moroccan external relations said "that is why, we have a symbiosis, a political relationship... there is a almost perfect coordination between Morocco and the EU."¹⁹⁷ The importance of negotiating migration management is highlighted, as is the hesitation towards being the sole *guardians* of the frontiers. The latter is noteworthy, as Morocco rejoined the African Union in 2016, and increasingly oriented itself towards intra-African relations in the years before. Asked about cooperation with EU migration policies, an official responded:

This has always been a sensitive point for Morocco, since Morocco has always considered that it is also a sovereign state and that it has to determine its policies towards its border etc. And that Morocco has some interests in dealing for example with African countries that Morocco does not want to appear as the *Gendarme of Europe* that Morocco does not want to appear as a subcontracting [partner] to Europe. All these topics were politically sensitive or politically challenging to Morocco, as a regime, as a state, as a sovereign state. From one hand, and from the other hand, also as a state of interest, and Morocco wanted to negotiate its cooperation with Europe. Wanted to obtain something in return for that, some financial incentives or something maybe to operate the policy on the ground and maybe to gain something from that.¹⁹⁸

¹⁹⁴ Interview 11.

¹⁹⁵ Interview 11.

¹⁹⁶ The latter was due to conflicting interests on fishery agreements and the European Court of Justice ruling that EU-Morocco agreements are not applicable to Western Sahara. See: European Commission, 'EU-Morocco Fisheries Partnership Agreement to enter into force' Press Release IP/14/836 (Brussels 15 July 2014); Court of Justice of the European Union, 'Judgement in Case C-104/16P: The Association and Liberalisation Agreements concluded between the EU and Morocco are not applicable to Western Sahara' Press Release No 146/16, (Luxembourg 21 December 2016).

¹⁹⁷ Interview 3; Original: "Bueno, Marruecos es un alumno ideal por la UE. Entonces, tenemos una simbiosis, una política... hay una coordinación casi perfecta entre Marruecos y la UE."

¹⁹⁸ Interview 10.

This 'financial' aspect in the relationship is essential. The quote illustrates how Morocco wanted to gain something in return for cooperating with Europe on migration management. This is to be seen in contrast to the notion of 'passivity' described above. One highly interesting line of argumentation presented by a migration policy researcher in Morocco refers back to the use of migration control as a 'bargaining chip' in negotiations. She argued that "I really see Morocco as helping Europe in doing whatever they decide to do, and this would just need a small negotiation time and then they would just apply what Europe is doing."¹⁹⁹ It was further highlighted that in her view, peaks of boat people correlate with peaks of negotiation times. Following up on that argument a closer look will be taken at negotiations and incentives provided by the EU to Morocco in the mid-2000s.

Three important aspects came up in the research: The first one is the *European Neighbourhood Policy* (ENP), which was launched in 2004, followed by an *EU-Morocco Action Plan* (2005) and a *Memorandum of Understanding* (2007). Through this development Morocco gradually became a 'privileged partner' of the EU, leading up to an 'advanced status', adopted in 2008.²⁰⁰ The second aspect relates to informal pathways, such as regional and international processes involving Morocco, the EU and EU Member States respectively. In particular, the *Euro-African dialogue on Migration and Development* of June 2006 in Rabat (hence *Rabat Process*) is important. It was founded on the initiative of France, Morocco, Senegal and Spain, "based on the acknowledgement that finding a response to the increasing number of migrants wishing to cross the Straits of Gibraltar or to reach the Canary Islands, the gateway to Europe, was not exclusively the responsibility of Morocco and Spain."²⁰¹ A stronger link between countries of origin, transit and destination along this migratory route was stressed. This initiative was part of a general focus on transnational, informal cooperation on migration management in this epoch. The third aspect involved financial incentives. With the *Global Approach to Migration and Mobility* (GAMM) the EU in 2005 established an overarching framework on external migration and asylum policy. Embedded therein is what became known as the 'more-for-more' principle. The more third countries cooperate, the more incentives and benefits will be provided.²⁰² As one interview candidate argued, this approach was very clear to national actors in Morocco:

And the question of migration and later on of security, on terrorism and security threats, were very early linked in the European policies and presented as such to the partners in the South and trying to get some cooperation from them, understanding that they needed, were asked... in a kind of "deal": it is 'this' in counterpart of 'this'. I think we have always been aware in this country that [these were] the rules of the EU, these were priorities of the European Union, and that Morocco even if it does not want to follow on all the political lines of approaching things... was somehow forced or obliged to cooperate on that. So it was forced to adopt some legislation and some policies, and especially to cooperate on [migration control].²⁰³

Two important sources of funding mechanisms in these 'deals' were the MEDA fund and the AENEAS fund. As briefly addressed in chapter 2.1 on the *Barcelona Process*, the MEDA fund was based on the

¹⁹⁹ Interview 5.

²⁰⁰ Council of the European Union, 'Joint declaration establishing a Mobility Partnership between the Kingdom of Morocco and the European Union and its Member States', 6139/13 ADD 1 REV 3 (Brussels 3 June 2013).

²⁰¹ Rabat Process - Euro-African Dialogue on Migration and Development, 'A Decade of Dialogue on Migration and Development: 10 years of dialogue' (Brussels and Vienna 2015), 11.

²⁰² European Commission, 'The European Union's cooperation with Africa on migration' (Brussels 9 November 2015); European Parliamentary Research Service, 'Growing impact of EU migration policy on development cooperation', Briefing PE 614.577 (Brussels November 2017).

²⁰³ Interview 10.

Euro-Med Partnerships. From 1995 onwards it was a complementary measure to fund projects related to civil society, democracy, human rights and ‘root causes’ of migration. A concrete example of the application of a MEDA fund in Morocco was on the labor migration schemes. With over €5 million in support, a project was implemented in Morocco 2005-2008 to foster legal pathways for Moroccan labor workers into the EU.²⁰⁴ In this regard, parts of the negotiation on migration control was related to mobility regimes in place. To put it differently, with enhanced cooperation and border securitization, Morocco was rewarded with, for example, enhanced mobility for its citizen into the EU. Next to legal pathways and visa regimes, a second important factor for civil society was multiplied funding. Several organizations in Morocco confirmed that they participated in Euro-Med funded projects. A Moroccan researcher referred to the effects of this fund for Moroccan civil society as follows:

I think they do a very good work [in] putting together civil society actors. [W]e have a collaboration with them [...] and it is about putting civil society actors together. And we work with AMDH, GADEM and with many migrant associations that are based in Morocco. This year in the collaboration with them they will be putting together the civil society actors from the whole region [...] and then putting these civil society actors in contact with decision makers. And I think this is an important thing to do, to be able to reach the decision makers. As much as the civil society is doing a very good job in Morocco, they have a hard time, getting directly to the decision makers.²⁰⁵

The quote raises the point that internationally funded projects gradually strengthened the position of civil society actors in Morocco. This aspect can be linked back to the rise of non-governmental actors in Morocco and the multiplication of governance actors in the field of migration. Funding and dialogues on a horizontal level are two essential ways to incorporate civil society actors in the governance process. In this regard, the enhanced externalization of financial and collaboration structures, as outlined in the theory section, impacted the opportunities of local actors ‘on the ground’.

Besides MEDA, the second mayor fund was the AENEAS program, established in 2004.²⁰⁶ The AENEAS program was specifically designed by the EU as a response “to the needs of third countries in their efforts to manage more effectively all aspects of migratory flows, and in particular to stimulate third countries’ readiness to conclude readmission agreements, and to assist them in coping with the consequences of such agreements.”²⁰⁷ In the budget for projects on ‘African and Mediterranean migratory routes’ (2004-2006) it can be noticed that most were granted to international organizations, followed by NGOs and states. From the more than €54 million budget in this group the main country of implementation was Morocco; 43,7% of the projects were related, directly or partial, to governance of migration in Morocco.²⁰⁸ The projects mainly concerned three areas: (1) bilateral collaboration between Morocco and certain regions in Spain, on forced return, minors and legal pathways, (2)

²⁰⁴ The Moroccan *National Agency for the Promotion of Employment and Skills* (ANAPEC) became an office in Brussels and was considered the official Moroccan partner for dealing with job offers in Europe. Further, training programs and information centers for legal pathways into the EU were created. See: European Commission, ‘Circular migration and mobility partnerships between the European Union and third countries’, Press Release MEMO/07/197 (Brussels 16 May 2007).

²⁰⁵ Interview 5.

²⁰⁶ European Parliament and the Council, ‘Regulation (EC) No 491/2004 of the European Parliament and of the Council of 10 March 2004 establishing a programme for financial and technical assistance to third countries in the areas of migration and asylum (AENEAS)’, *Official Journal of the European Union* L80/1 (Brussels 18 March 2004).

²⁰⁷ European Parliament and the Council, ‘Regulation (EC) No 491/2004’.

²⁰⁸ 14% of the AENEAS funds in this section affected solely Moroccan migration governance, another 30% where multi-national projects that were partially implemented in Morocco. See: European Commission, ‘Aeneas programme - Programme for financial and technical assistance to third countries in the area of migration and asylum: Overview of projects funded 2004-2006’ (Brussels, 1 January 2004).

Spanish and European authorities visiting and training Moroccan and West African border management officials, and (3) networking, research, collaboration and information on irregular migration especially from sub-Saharan Africa. Supported organizations were: local Moroccan actors, human rights organizations as well as non-governmental actors, international organization and economic actors. Training and resources were also offered to national governance actors such as public officials, policy makers, judiciary and border officials or the Moroccan police.²⁰⁹ A bureaucrat at a national human rights institution explained about the financial involvement of the EU:

[T]hey are supporting us. So we know they are supportive and they are aware of what is at stake in terms of human rights in Morocco. And sometimes they do not have the appropriate mechanisms to use, but at least I think that we as an institution we benefit from this support. The government also, they do support directly [for example] the inter-ministry delegation. They are trying to do a lot of things. They support a lot of institutions, the judiciary, the EU is supporting the delegation *general de prisons*...²¹⁰

These national financial streams were also criticized by civil society. One interviewee argued that it is a two-sided concept: "In Morocco what is happening is that the borders are being fortified, in the entire North of Morocco, with money that is being paid by the EU. But at the same time, the EU is paying the governments to integrate the migrants."²¹¹ According to this testimony, EU financial flows to the national level aimed to stop immigrants reaching Europe and to strengthen their integration in Morocco. With regard to the 'more-for-more' principle, the conclusion can be drawn that this mechanism affected a wide range of institutions: For national institutions this meant financial incentives and 'knowledge transfer'; for civil society this meant a broader range of projects and funding possibilities; and for the general society it influenced mobility into the EU. Again, under the principal that the state agreed to strengthen EU-Moroccan migration management collaboration.

I argue that one of these assurances towards migration management was joint border controls. One of the most contested projects of AENEAS was the *seahorse project* and the *seahorse network*.²¹² Operation *Seahorse* was based on previous bilateral experience between Morocco and Spain. Bilateral police collaboration carried out joint surveillance and control of irregular migration along the maritime route since 2004. These took place between the *Guardia Civil* from Spain and the *Royal Moroccan Gendarmerie*, mainly in Mediterranean waters. It was done in the form of joint patrols as well as joint police stations in the harbors of Algeciras and Tanger. Two former state officials explained that this still exists and functions as a 'mobile border control' directly on the vessels: When a ship comes from Spain, a Moroccan official is on board and when a ship leaves from Morocco to Spain, a Spanish official is on board.²¹³ Both interviewees emphasized that this was agreed upon for the sake of 'sound neighborliness' and highlighted the giving and receiving nature of agreements with Spain. Increasingly,

²⁰⁹ European Commission, 'Aeneas programme'.

²¹⁰ Interview 10.

²¹¹ Interview 8; Original: "Marruecos, lo que pasa es que las fronteras están fortaleciendo, en todo el norte de Marruecos, con un dinero pagado por la UE. Pero al mismo tiempo, la UE paga a los gobiernos para que integren a los inmigrantes."

²¹² Project Seahorse (MIGR/2005/103-569) and Project Seahorse Network (MIGR/2006/120-179) implemented by the *Guardia Civil* received in 2004-2006 approximately €4 million to tackle Irregular migration and border management in Morocco, Mauritania, Senegal and Cap Verde; See also: Amirah-Fernández, 'Relaciones España-Marruecos', 53-62; López-Sala, 'Immigration control and border management policy in Spain'; Carrera et al., 'EU- Morocco Cooperation on Readmission'.

²¹³ Interview 1 & 2; See also: El País, 'Acebes anuncia que las patrullas conjuntas con Marruecos comenzarán a funcionar en enero', 4 December 2003.

Spain also collaborated with other Western African states such as Mauritania, Senegal and Cape Verde.²¹⁴ *Seahorse* was run by Spain (2004-6) and included the participation of police from these West and North African states. In addition, training by the *Guardia Civil* tasks included joint operations and deploying liaison officers, as well as establishing a regional network to counter irregular migration by sea.

A second joint border initiative began in 2004 with the founding of the *European Agency for the Management of Operational Co-operation at the External Borders* (since 2016 and hereinafter *Frontex*).²¹⁵ Some scholars argue that Spain was very active on the Europeanization of migration policies and promoted the creation of *Frontex*.²¹⁶ The appointment of a border management official of the Spanish police as the first executive director of the agency, might be an example thereof. Furthermore, one of *Frontex*' first joint mission was HERA in the Atlantic Sea (2006-2007) to counter the flow of irregular boats towards the Canary Islands.²¹⁷ According to the figures of the Spanish Ministry of Interior, the joint operation concluded in the detection of 134 *cayucos* and 10,634 irregular migrants around the Canary Islands in 2 years.²¹⁸ Additionally, it was stated that the repatriation rate in 2007 was 92,3%.²¹⁹ Asked about whether Morocco cooperated or opposed the *Frontex* operations, a Moroccan policy researcher stated: "They rather cooperated. I think here, really Morocco [aimed] for their personal interest. And in their personal interest... to receive enough money from Europe."²²⁰ This leads back to the start of the argumentation, that the 'more-for-more' principle, financial incentives and diplomatic relations with Spain and the EU provided reasons for the Moroccan state to cooperate or tolerate joint border missions on the high seas.

In any case, multilateral surveillance and the joint border patrols increased the interceptions of vessels and made it increasingly difficult to use sea routes to Spain. Combined with the expulsion policy and the economic crisis, the drastic decrease of arrivals since 2008 can be explained.²²¹ *Figure 3* shows a graph in a report of the Spanish Ministry of Interior, illustrating the number of irregular arrivals by boat on the Canary Islands. The box titles: "The numbers registered in 2012 are the best in the last 15 years. With this decrease we are again at the historic level of the year 1997". Coinciding with other Spanish or European statements, it frames multilateral collaboration as a success. From a Moroccan

²¹⁴ Bilateral readmission and migration management agreements signed in this period were e.g. with Mauritania (2003), Senegal (2006/7), Gambia (2006), Guinea (2006), Mali (2007) and Niger (2008).

²¹⁵ After the proposal of the European Commission 2003 and the Council's decision in October 2004 the agency was set up in Warsaw. See: Council Regulation, 'Establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union' 'No 2007/2004, (26 October 2004).

²¹⁶ Enríquez, 'Italian and Spanish approaches to external migration management in the Sahel'.

²¹⁷ Gobierno de España (Mdi), 'Balance de la lucha contra la inmigración ilegal'.

²¹⁸ According to the Spanish Ministry of Interior, HERA was implemented in two programs and six phases: HERA I-III was launched in June 2006, had a budget of 6.502.315€ and led to the detection of 69 *cayucos* and 5157 irregular migrants. HERA 2007 was running between April and December 2007, detecting 65 *cayucos* and 5477 irregular migrants. Based on the report, contributions in form of providing experts, planes and boats were made by several European states, e.g. Italy, France, Germany, Portugal, Luxembourg, UK, Swiss, Germany and Spain.

²¹⁹ From 50.318 irregular migrants who have been detected or arrived, 46.471 were repatriated by Spain. See: Gobierno de España (Mdi), 'Balance de la lucha contra la inmigración ilegal'.

²²⁰ Interview 5.

²²¹ López-Sala, 'Immigration control and border management policy in Spain'.

perspective, however, this development produced internal governance issues on immigration and integration.

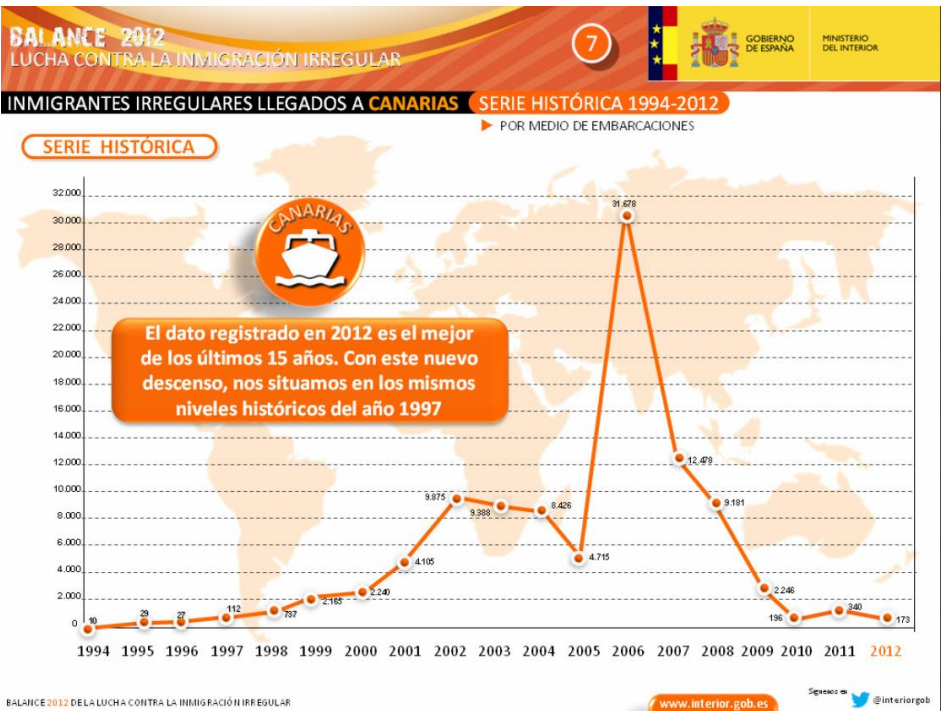


Figure 3: Irregular Migrants arriving to the Canary Islands between 1994-2012, arguing that the number in 2012 is the 'best' (lowest) in 15 years. Ministerio del Interior, 'Balance 2012: Lucha Contra la inmigración irregular', 8.

4.3. Morocco as a country of immigration and 'prolonged transit'

Less migrants arriving in Spain indicated that more potential trans-migrants would stay in Morocco. As elaborated before, immigration from sub-Saharan African, the Middle East and Asia increased since the turn of the century. While for some arguably the destination was Morocco, others were caught in situations of 'prolonged waiting', remaining in transit while hoping to still reach Europe. From a Moroccan civil society perspective, the result of Spain's securitization and EU's externalization approach was thus that more immigrants stayed and that new routes, methods and ways to cross the border emerged.²²² The geographical context of the North, and the proximity of the Spain as well as the Spanish territory inside Morocco enhanced this:

And we have people among us, who today are held by the police, the Moroccan gendarmerie, they take them to Casablanca or below, and in two days they are back here in Tanger. The only thing they do to them is to bother them. But in reality [the people] have a very clear idea, that is to cross, that is to cross. And especially when they are in the North it is very difficult, because of Ceuta, you see the lights of Melilla, you see until there, there is a square where you can perfectly see Tarifa. Well, of course, all those kilometers they have walked to be in Morocco,

²²² Interview 3 & 8.

and now that they are here ... So no matter how far they are taken away, as they see it, of course ... [and the authorities] will not put a wall up that covers this [laughing].²²³

As sea crossings became more difficult and prices were raised by smuggling networks, attempts to cross the land borders increased. An NGO worker explained that scaling the border fences of Ceuta and Melilla does not cost money and even if people get caught, many return.²²⁴ Thereby she stressed the self-organized forms of migrant networks in the forests and beyond in migrant associations, independent from smuggling networks. Further, the interdependencies between migration patterns becomes apparent: if one migration route becomes more difficult, numbers on a different route generally go up.²²⁵ After 2008 the Western Mediterranean route was not fully blocked, but *pateras* left in fewer numbers and with less success of arriving clandestinely in Spain. Asked about this, an interviewee who lives in the North and works on a daily basis with migrants, revealed:

Well, it has not stopped completely, it decreased a bit, but there are still a lot. There is surveillance from the side of Morocco and from the side of Spain. There is complete surveillance with cameras, infrared, radars and everything. [...] As I said, there was lots of surveillance in the epoch between 2008 and 2013/4. There was a lot of surveillance, that's why it went down a little, but not a lot. There were still *pateras* that left regularly.²²⁶

Potentially, more migrants have been returned to Morocco or less irregular crossings detected as other methods emerged. However, what remained relatively unmentioned upon in the interviews were the fatalities associated with these journeys as well as the Search-and-Rescue (SAR) Operations.²²⁷ To contextualize the responses above on the unintended consequences of EU policies, it stands out that one effect was the drop of deaths at sea. Counting irregular border crossings and deaths is a highly complicated matter, as there are limited and uncomplete sources. Spijkerboer and Last created a database based on bodies found or buried, while most other estimates are based on news reports.²²⁸ What can be seen in their comparison of different datasets on border deaths (1988-2014) in *Figure 4* is that with less boats arriving on Spanish shores after 2008, there were also less deaths, at least between Africa and Spain.

²²³ Interview 8; Original: "Y tenemos entre nosotros gente, que hoy esta tenida por la policía, la gendarmería marroquí, lo llevan a Casablanca o más abajo, y a los dos días están nuevamente aquí en Tánger. Lo único que les haces es molestarlos. Pero realmente ellos tienen una idea muy clara que es cruzar, que es cruzar. Y sobre todo cuando están en el norte es muy difícil, porque de Ceuta, ves las luces de Melilla, ves desde ahí, hay una plaza que vez perfectamente Tarifa. Pues, claro, tantas kilometras que han caminado por estar en Marruecos, y ahora que están aquí ... Entonces por mucho que los alejen, como lo ven, pues claro... no van a poner un muro que tape [laughing]."

²²⁴ Interview 8.

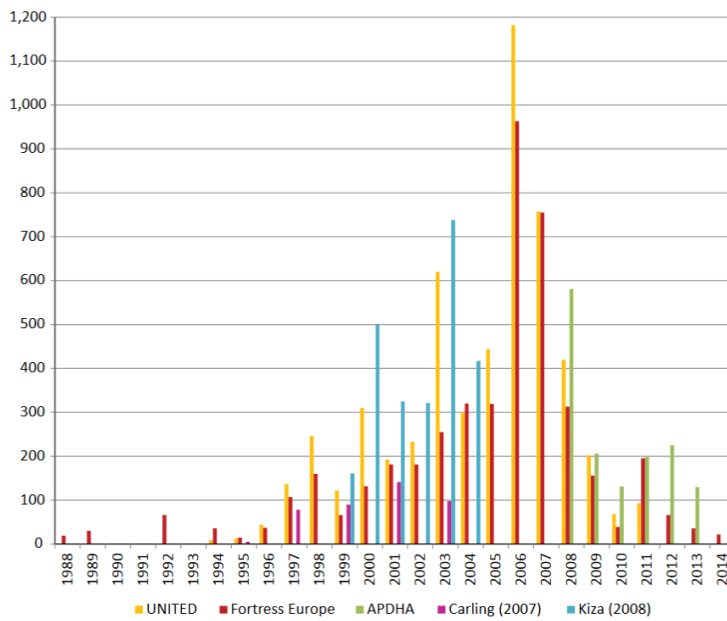
²²⁵ Interview 8.

²²⁶ Interview 7; Original : "Bueno, no ha parado completamente pero ha disminuido un poco, pero hay mucho. Hay vigilancia de parte de Marruecos y de parte de España. Hay todo lo vigilancia con cameras, infrarrojas, radares y todo. [...] Como he dicho, hay muchísima vigilancia en la época, entre 2008 y 2013-14. Hay muchísima vigilancia, por eso ha disminuido un poco pero no es mucho. Había *pateras* que salieron regularmente."

²²⁷ There could be several explanatory factors for this, one of which a lack of focus on the matter in my pre-set questions.

²²⁸ Thomas Spijkerboer and Tamara Last, 'Tracking Deaths in the Mediterranean', in: Tara Brian and Frank Laczko (eds), *Fatal Journeys. Tracking Lives Lost During Migration*, International Organization for Migration, (Geneva 2014) 85-106, 95.

Figure 3.5: Border deaths between Africa and Spain – comparison of datasets, 1988–2014



Source: UNITED; Fortress Europe; APDHA; Carling, 2007; Kiza, 2008.
 Note: 2014 data is until the end of June.

Figure 4: 'Border deaths between Africa and Spain – comparison of datasets, 1988-2014. Retrieved from: Thomas Spijkerboer and Tamara Last, 'Tracking Deaths in the Mediterranean', in Tara Brian and Frank Laczko (eds): Fatal Journeys. Tracking Lives Lost During Migration, International Organization for Migration, (Geneva 2014) 85-106, 95.

One aspect that has been highly criticized by interviewees, were human rights developments in Europe. What was stressed was the cleavage between what they believed Europe stands for, and how this played out in practice. Examples mentioned a range from 'hot returns' and mass-expulsions to closed ports for rescue ships in the Mediterranean and *Frontex* operations.²²⁹ In a broader picture, the return operations did not create the same controversies as on the 'Central Mediterranean route', from Italy to Libya. As argued by Glynn, the key differences are that unlike Libya, for example, the Western African states were not associated with refugee flows and the major countries of departure, Morocco and Senegal, both signed the UN Convention on Refugees.²³⁰ However, different than Turkey, Morocco is not part of the European Convention of Human Rights. Certain human rights standards are thus not applicable, including the prohibition of collective expulsion.²³¹ A legal assessment on the correspondence of these practices with Fundamental Rights and responsibilities was subsequently conducted by the European Court of Human Rights (ECtHR) in the cases *Hirsi Jamaa and Others v Italy* (2012) and *N.D. and N.T. v. Spain* (2017).²³² Overall, the developments showed the rising transnationality of this governance issue, raised voices on human rights' developments and finally, also the responsibility of Morocco towards its immigrants.

²²⁹ For example: Interview 1; Interview 2; Interview 8.

²³⁰ See: Glynn, *Asylum Policy, Boat People and Political Discourse*, 172.

²³¹ Carrera et al., 'EU- Morocco Cooperation on Readmission, Borders and Protection'.

²³² European Court of Human Rights (ECtHR), 'Hirsi Jamaa and Others v Italy', No. 27765/09 (23 February 2012); ECtHR, 'N.D. and N.T. v. Spain', No. 8675/15 and no. 8697/15 (3 October 2017).

4.4 Shifting responsibilities: from an EU ‘governance issue’ to a Moroccan ‘governance issue’

A collective point of agreement by both groups of interviewees, (a) people working with migration policies and (b) people working with migrants, was that securitization measures did not stop migrants. In their opinion, the EU externalization and Moroccan security measures failed to prevent migrants from attempting these journeys or from coming to Morocco in the first place. An interviewee with experience on both sides of the Mediterranean phrased it as follows: “What is certain is that, despite putting up fences, duplicating them, putting up *concertinas*, having the SIVE, deporting immigrants out of the country or displacing them from the area in the North towards the South - the immigrants keep coming.”²³³ From a policy perspective this created the need for new immigration and integration approaches. Also non-governmental organizations working on the socio-economic integration of immigrants in Morocco considered the situation of ‘prolonged waiting’ as a challenge. At a NGO, which offers language courses in Moroccan Arabic and Spanish, I was told: “The majority all want to learn Spanish, because their dream is to cross to the other side.”²³⁴

Important in this regard is that immigration to Morocco often occurs legally. Several countries in Western and Central Africa have visa exceptions for Morocco. According to the digital archive of the Ministry of Foreign Affairs website, in 2011 these were: Algeria, Guinea (Conakry), Tunisia, Senegal, Niger, Mali, Ivory Coast and the Republic of Congo (Brazzaville). As can be seen on *Figure 5*, these are several neighboring countries and ECOWAS states. ECOWAS abbreviates the *Economic Community of West African States*, a trading union which includes the principle of free movement of people as well. These governance structures and free movement in parts of Western and Northern Africa work partially in contra to the European goal of externalizing border control. Considering the geopolitical position of Morocco, interviewees argue that Morocco increasingly became torn between the EU and the African Union (AU) in the 2010s. On the one hand Morocco “has to obey the EU, because it is paying.” On the other hand Morocco’s aim was to reenter the AU and to maintain diplomatic relationships on the continent.²³⁵ For the situation of migrants in Morocco, this led up to the situation that:

Many of the undocumented immigrants that are here in Morocco, are undocumented, but did not enter illegally. They entered with their passport. Because there are Senegalese who have the Moroccan stamp, where they put ‘three months’. Well, they have overstayed those three months, but they have not committed any delict in going to another country, [did not] violate any law. They have entered with their passport.²³⁶

²³³ Interview 8; Original: “Lo que si es cierto es que, aun poniendo vallas, poniendo las dobles, poniendo concertinas, teniendo el SIVE, deportándolos fuera del país o desalojándolos de la zona Norte y alejándolo hacia el sur - los inmigrantes siguen viniendo.”

²³⁴ Interview 7; Original: “La mayoría todos quieren aprender el español porque el sueño es cruzar al otro lado.”

²³⁵ Interview 8; Original: “Entonces Marruecos se debate entre la UE, porque tiene que obedecer a la UE, porque le está pagando. Y por otro lado a la UA.”

²³⁶ Interview 8; Original: “Muchos inmigrantes que están sin papeles aquí en Marruecos, están sin papeles pero no han entrado ilegales. Han entrado con su pasaporte. Porque hay Senegaleses que lo que tienen es el sello de Marruecos donde ponen tres meses. Pues se la ha pasado los tres meses, pero no ha cometido ningún tipo de delito por pasar a otro país, infringiendo una ley. Han entrado con su pasaporte.”

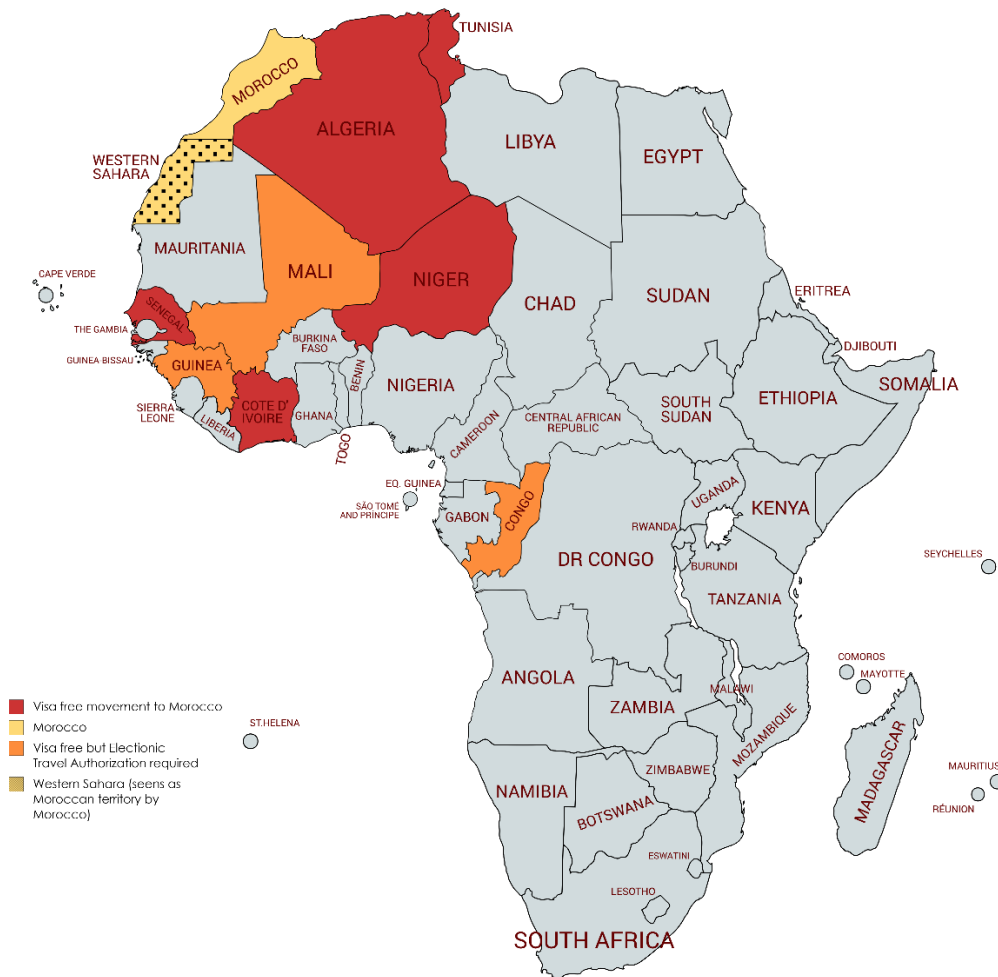


Figure 5: Countries with Visa-free travel to Morocco, own elaboration with the mapchart tool, based on the archival website of the Moroccan Ministry of Foreign Affairs (2011).

The difficulty of balancing European and African relations resulted in immigrants being stuck ‘in-between’. In terms of responsibilities, it is the EU which is predominantly held accountable for the economic and social challenges arising. As analyzed, the external pressure to of Europe and the perceived ‘weakness’ of certain African states dominated the discourse. Interestingly, despite the power relations, many of this top-down policies were considered a failure. The continuous movement of people into Morocco is provided as an example thereof:

Now we talk about externalization, externalization is a failure. Why? Because the EU wants to give poor countries a share of responsibility that they cannot support. Morocco, Algeria, Senegal, Mali ... cannot. Because you cannot guard borders of thousands of kilometers. It is irrational. The EU does not reflect, in my opinion, does not reflect because you cannot monitor borders of thousands of kilometers [...] You cannot do it.²³⁷

To put it differently, the argument surrounds the fact that if it were not for the EU, the borders in the North would be open. It is argued that Europe must be the driving force “because otherwise, if Morocco really didn’t want migrants, instead of fortify[ing] borders between Morocco and Spain, they

²³⁷ Interview 3; Original: “Ahora hablamos de la externalización, la externalización es un fracaso. ¿Porque? Porque la UE quiere hacer soportar a los países pobres un precio de responsabilidad que no pueden soportar. Marruecos, Argelia, Senegal, Mali... no puedan. Porque no se puede guardar fronteras de miles de kilómetros. Es irracional. La UE no reflexiona, a mi juicio, no reflexiona porque no se puede vigilar fronteras de miles de kilómetros [...] No se puede hacerlo.”

would fortify the other borders and stop the [migration] from the [South].”²³⁸ Also in this aspect the cleavage of interests between EU-Morocco and Morocco-AU relations becomes apparent. In regards to mobility regimes, it appears to be a ‘balancing act’ between enhancing control towards Europe while maintaining intra-African mobility.

Finally, the governance issues related to immigration can again only be understood in the context of society as a whole. Particularly in Northern Africa, the ‘Arab Spring’ around 2011 affected social movements, regimes and stability. In Morocco the *20 February Movement* was formed. Responding to the calls of civil society, in July 2011 a new constitution was presented.²³⁹ In regards to migrants in Morocco, the principle of non-discrimination, the right to seek asylum and the equality between nationals and foreigners, are included. Interviewees described it as a very progressive constitution, written by University professors and national advisors, who meticulously cared to respect international standards.²⁴⁰ Yet, parts of the Constitution are in conflict with different national legal areas and there is no mechanism in place to file a complaint to a Constitutional court in these cases.²⁴¹

Two years after the turbulences, the National Council on Human Rights (CNDH), which is historically linked to the King, published a report on the rights of foreigners in Morocco. In this report CNDH claimed that “Morocco is undeniably suffering the effects of the drastic policy of control by Europe at its external borders”.²⁴² A “radical new policy towards immigration and asylum” was argued for. The new approach should include the improvement of the situation for foreigners in irregular administrative situations, refugees and asylum seekers. Further, the incorporation of different governance actors was emphasized and a specific note made in regards to the regularization of migrant associations and migrants’ rights organizations.²⁴³ Asked about this change of policy approach, a national actor responded:

[I]f you are searching for why CNDH published this document, I think it is again a combination of the presidency of the chairperson ... and the context and the need for change. Because migrants were becoming visible, we could see them in every light in the street trying to survive, others having problems, we hear from some trying to pass the fences, people dying in the Mediterranean. So the opinion was ready to move on, on the question.²⁴⁴

Following the CNDH report of September 2013, the King called in November for a new and more ‘humanitarian’ policy on immigration and asylum. For the first time Morocco was officially recognized as a country of immigration. The *National Strategy for Immigration and Asylum* (SNIA) concluded in 2014, materialized this new policy orientation. Yet it only constitutes a public policy and the interviewed governance actors are still waiting for the promised laws on immigration and asylum, as well as a reform of the Law 02-03.

²³⁸ Interview 5.

²³⁹ Royaume du Maroc, ‘Dahir n° 1-11-91 du 27 chaabane 1432 portant promulgation du texte de la constitution’ (Rabat 29 July 2011). See also: Anja Hoffmann and Christoph König, ‘Scratching the Democratic Façade: Framing Strategies of the 20 February Movement’, *Mediterranean Politics* 18:1 (2013) 1-22; Desrues, ‘Mobilization in a hybrid regime’, 409-423.

²⁴⁰ Interview 10 & 11.

²⁴¹ Interview 11.

²⁴² Conseil national des droits de l’Homme (CNDH), ‘Etrangers et Droits de l’Homme au Maroc: pour une politique d’asile et d’immigration radicalement nouvelle’ (Rabat 2013), 6. Original: « Enfin, le Maroc subit incontestablement les effets de la politique drastique de contrôle par l’Europe de ses frontières extérieures. »

²⁴³ CNDH, ‘Etrangers et Droits de l’Homme au Maroc’.

²⁴⁴ Interview 10.

The actions, such as the regularization campaign, and limitations of this new ‘humanitarian approach’, are part of the current debate. The SNIA is generally presented as an independent, national strategy of a reformed Morocco that is more oriented towards the African continent. Yet, one last aspect shall be addressed to round up the analysis on interdependencies with European governance approaches. This reaches back to the negotiations on the European Readmission Agreement (EURA) lasting from around 2003 to 2010. After the failure of these negotiations, a *Mobility Partnership* (MP) was established in June 2013 between the EU, the Member States and Morocco.²⁴⁵ The main two objectives concerned legal pathways and the ‘combat’ of illegal immigration. On the one hand, in terms of mobility for Moroccan nationals, it was agreed to improve the facilitation of Schengen visas and the procedures for legal access and stay, especially for labor migration and highly skilled people. On the other hand, negotiations on a readmission agreement were resumed and cooperation endeavors on the ‘fight’ against illegal migration, smuggling and trafficking reassured. This informal cooperation framework was signed in June 2013 and included a set of programs targeting the situation of TCNs residing in Morocco.

The fast sequence of events - from the MP in June, to the CNDH report in September and the King’s positive response in November 2013 – suggests an interlinkage of events. In the discussion with a Moroccan policy researcher, the hypothesis of the interdependencies between the EU and Moroccan migration policies was further fostered:

I think it is very important because migration really only became a topic in Morocco, the day the King decided to implement the regularization campaign. Before that migrants did not have [any] rights, laws criminalizing them have been going on etc. One of the... and I saw that you wrote it as well... the accord that was concluded between Morocco and the EU. I think it was in 2013 that the Mobility Partnership was signed. Only then Morocco claimed itself publically as a hosting country and started the regularization campaigns. Before you would only hear that Morocco is not a hosting country, it is mostly just a transit country etc.²⁴⁶

While this researcher believed the Moroccan shift in policy approach towards migrants, including the regularization campaigns established in the SNIA, was linked to the EU-Moroccan partnership, others disagree. The official version is that Morocco, acknowledging its position as a country of immigration, adopted a more human approach under the leadership of the King himself.²⁴⁷ Explanatory factors for this development were on the one hand evolving aims to foster intra-African relationships and on the other, increasing pressure by civil society in the wake of the Moroccan Arab Spring in 2011. The EU in any way supports the national strategy and has since committed “€232 million channeled through different funds and instruments” for these initiatives.²⁴⁸

Summarizing chapter four, it could be seen how Morocco cooperated with the EU on migration control. After the immigration crisis of 2005, these collaborations ranged from joint border controls to forced displacements of immigrants living in the North. However, under the ‘more-for-more’ principle and with the ‘enhanced status’, Morocco also gained from these practices. A major aspect were transnational funding schemes, such as MEDA or AENEAS, and enhanced prospects for legal pathways

²⁴⁵ Council of the European Union, ‘Joint declaration establishing a Mobility Partnership’.

²⁴⁶ Interview 5.

²⁴⁷ Interview 6 & 10.

²⁴⁸ European Commission, ‘Western Mediterranean Route: EU reinforces support to Morocco’ Press Release IP/18/6705 (Brussels 14 December 2018).

into the EU. For Moroccan civil society the effects were two folded: on the one hand, more opportunities for mobility and visas arose, on the other hand, the multiplication of funding strengthened the position of certain civil society actors. Finally, the state also had to take on more responsibilities towards migration, not at last to balance intra-African relations and civil society claims. The outcome of this 'balancing act' in regards to the governance of migration, can be seen as the launch of the SNIA policy. What unites all interviewed governance actors is the awaiting of the legal implementation and future developments in regard to the Moroccan governance of immigration.

5 Conclusion

Overall, the thesis analyzes the influence of the EU's geopolitical interests, tools of externalization and the evolution of multi-leveled migration management policies regarding boatpeople. It shows how these aspects changed over time and what perspectives different Moroccan governance actors have on the subjects. The question to be answered was: **How did the Moroccan state and civil society react to the increasingly multi-leveled and externalized EU migration governance from 1992 to 2013, in the context of irregular migration by boat?** In the theory section, hypotheses have been drawn from migration governance literature. For the national level, thus the reactions by the Moroccan state, the theories of (1) cooperation, (2) migration control as a negotiation strategy and (3) a gap between theory and practice are discussed. For civil society, hence the perspective of non-governmental actors, the theory suggests that (a) the externalization led to a certain sub-contraction of local actors and/or (b) that discussions around mobility regimes dominated the issue.

The year 1992 marked the creation of the EU external frontiers and Spain introducing visa requirements for Moroccans, which shaped emigration from Morocco to Spain. With the creation of EU citizenship and a common migration policy, differentiations between (non-)citizens' rights and their (im)mobility took place. Relating back to the theory on 'mobility regimes', this marked a key change for Moroccan civil society.²⁴⁹ Additionally, a stratification between Moroccan nationals and sub-Saharan immigrants became noticeable throughout the 2000s and 2010s. Other scholars have theorized the stratification between EU citizens and third country nationals' (TCNs), and I argue that in this case stratification has also occurred amongst TCNs.²⁵⁰ While legal pathways and visa regimes were eased for Moroccan nationals, the mobility of sub-Saharan nationals became increasingly restricted, *inter alia*, through forced returns.

In the framework of 'mobility regimes', the state practices are two-fold. On the one hand, Schengen visas and enhanced legal pathways for Moroccan migration into the EU constituted a major point of discussion in negotiations. On the other hand, the Moroccan practice of deportations and expulsions of sub-Saharan nationals from its territory, especially around 2005, added to stratified mobility rights between the EU, the 'Neighborhood' and other third countries. The civil society actors interviewed for this research criticized these constraints, reflecting on the situation of 'prolonged waiting' and the immobility of sub-Saharan migrants in North Africa.²⁵¹ A key argument made was that the securitization measures and control elements curtail migrants' human rights and limit their legal mobility. However, it was stressed that this did not stop immigrants from hoping or attempting to reach Spain. The mobility restriction in legal terms led to an amplification and diversification of illegal attempts. The focus point of this thesis were *pateras*, small fishing boats used to cross the Mediterranean. While in the 1990s these were mainly Moroccan nationals, in the 2000s the hazardous journey was primarily attempted by sub-Saharan migrants. From an 'on the ground' perspective,

²⁴⁹ Glick Schiller and Salazar, 'Regimes of Mobility Across the Globe'.

²⁵⁰ Bernhard Perchinig, 'EU citizenship and the status of third country nationals', in: Reiner Bauböck, *Migration and Citizenship: Legal Status, Rights and Political Participation* (Amsterdam 2006) 67-82; Lydia Morris, 'Managing contradiction: Civic stratification and migrants' rights', *International Migration Review* 37:1 (2003) 74-100.

²⁵¹ See also: Elliot, 'Paused subjects: Waiting for migration in North Africa'; Brigden and Mainwaring, 'Im/mobility During Migration'.

changes in migration patterns became evident. Against the background of increased security measures, interviewees saw a correlation between rising attempts at land- or sea-borders as well as a diversification of routes. Three shifts occurred in the early 2000s, one along the Mediterranean from west towards east, a second towards the Canary Islands and a third shift to the land borders surrounding the Spanish enclaves. From a broader perspective, the historical analysis thus adds to the understanding of fluctuations concerning irregular pathways.

Overall, the situation of migrants needs to be seen in the context of general society. The perspectives of local actors are crucial for an enhanced understanding of the implementation, effects and controversies surrounding policies introduced 'from above'. From my interviews with civil society actors it appeared that their working realities were shaped by national developments.²⁵² These include the slow political opening, legal reforms and participatory approaches, which affected organizations' legal statuses as well as possibilities for assisting migrants and advocating for migrants' rights. However, international funding schemes, IOs and horizontal dialogue initiatives also strengthened the position of Moroccan civil society actors in some regards. Examples for theory (a) thus are project financing, collaboration as local implementing partners or the inclusion in decision making processes. Yet, in this specific case study, the effects of externalization measures by the EU on local civil society actors were dominated by (b) the impact of changes in mobility regimes and stratification.

On a national level, the collaboration of Moroccan authorities in joint-border patrols is critical. Next to the national securitization approach, collaborations with the Spanish *Guardia Civil*, the *Seahorse* program and the toleration of *Frontex* are primary examples. Aiming to answer the question why Morocco agreed to reinforce border control, the financial instruments and geopolitical negotiations stand out. For one, funds such as MEDA or AENEAS targeted multi-level governance actors - from civil society and non-governmental organization to official structures - and offered incentives to cooperate. Next to this, geopolitical issues surrounding Western Sahara, Ceuta and Melilla as well as fishery territories shaped the debate. Linking Morocco's national interests to the incentives provided through the 'more for more' approach by the EU explains this collaboration. However, it is essential to take a closer look at the implementations to understand the Moroccan state's position.

The bilateral readmission with Spain is highly interesting and offers a first example for the 'gap hypothesis'.²⁵³ In this regard, it can be observed that the content of the legally binding agreements signed by Morocco diverged from their implementation in practice. Next, the case of asylum seekers in Morocco is raised, where again, a divergence between legal assurances on paper and their outcomes is noticeable. Further, the notion of being a sole '*gendarme of Europe*' or '*guardian of the frontiers*' is contested, yet Morocco was/is still supporting these practices. According to the official position of the state until 2013, it was the EU who should have been responsible for immigrants held up in 'prolonged transit' in Morocco. The EU is held accountable for the situation of migrants in Morocco, while Moroccan stakeholders are active on the ground. A cleavage between the official outlined position and the realities in practice becomes noticeable, which is also reflected in the national legal framework. The specifications on protection of migrants' rights made in the Law 02-03 as well as in the 2011 Constitution are challenged by the practical experience of local governance actors. The divergences,

²⁵² Bergh, *The Politics of Development in Morocco*, 71.

²⁵³ Hollifield, Martin and Orrenius, *Controlling Immigration*, 3.

however, were not produced by 'liberal constraints', as usually discussed in the 'gap hypothesis', but are rather based on governmental decisions and negotiation tactics. The position of Morocco as 'in-between' Europe and Africa and the balancing act of managing these relations have added to this arbitrariness in certain regards.

Third countries have to balance demands and interests from all directions and conditional clauses in international agreements will not necessarily lead to factual cooperation.²⁵⁴ Drawn from the analysis of the negotiations surrounding migration control, the theory of migration as a 'bargaining chip', or as a 'playing card' as framed by one interviewee, has the best explanatory power on the national level.²⁵⁵ Firstly, it gives agency to Moroccan authorities and stipulates that their position as a third country in the neighborhood of Europe with a certain percentage of intra-African migrants enhances their negotiating position. Secondly, the 'gap hypothesis' can serve as an explanation for why certain cooperation agreements were signed, as the implementation derives from the original goals in several cases. And thirdly, the 'bargaining chip' theory helps to understand cases in which Morocco opposes EU demands. A concrete example of this is the European Readmission Agreement (EURA) which has never been signed. The EURA includes the readmission of TCNs who have departed through Morocco, a fact that is heavily challenged by both authorities and non-governmental actors. Despite the EU attempting to negotiate this clause in several agreements, Morocco never agreed to it. Overall these findings go well with the argumentation of El Qadim who stipulates that Morocco is not a 'victim' of the European policies but rather actively negotiating its own interests.²⁵⁶ However, this subtle agency is complicated and contrasts the official Moroccan narrative, reflected in many statements of the interviewees.

Summarizing, the inclusion of third countries' perspectives on the externalization of migration control, broadens the understanding of the effects 'on the ground'. As could be established in this thesis, interdependencies in EU and Moroccan approaches derive from negotiations, with migration as a 'bargaining chip' (2). This relates to why the 'gap hypothesis' (3) explains certain cleavages between agreements on paper and the implementations in practice. In conclusion, this analysis gives insight into multi-level and multi-actor dynamics in terms of migration governance. It stresses that the effects of EU migration policies on third countries, as well as civil society's reactions to these, have to be considered for a better understanding of this complex issue. The case study of irregular migration by boat from Morocco to Spain highlighted the agency of Moroccan actors in this regard. It is a delicate and complicated agency, influenced by Morocco's balancing act between African- and European relations as well as societal claims and the established ruling power. However, to increase our understanding on transnational and multi-level governance this agency is crucial to include, and as El Qadim argues, it should not be underestimated.²⁵⁷

²⁵⁴ Carrera et al., 'EU- Morocco Cooperation on Readmission, Borders and Protection', 13.

²⁵⁵ Castles, de Haas and Miller, *The Age of Migration*, 300; El Qadim, 'Postcolonial challenges to migration control', 244.

²⁵⁶ El Qadim, 'Postcolonial challenges to migration control'; Carrera et al., 'EU- Morocco Cooperation on Readmission, Borders and Protection'; El Qadim, 'La politique migratoire européenne vue du Maroc'.

²⁵⁷ El Qadim, 'De-EUropeanising European Borders', 136.

6 Appendix

Interviews

Nr.	Profession	Level(s) / Expertise	Date / Place
1	Former official in the security ministry; now senior policy analyst	National / policy & government	Rabat, May 2019
2	Former Moroccan diplomat; now senior policy analyst	National / policy & government	Rabat, May 2019
3	Researcher and scholar; coordinating research networks	National / policy & research	Rabat, May 2019
4	Project manager at an international NGO; coordinating a national umbrella organization	(Inter)national / migrants & assistance	Rabat, May 2019
5	Policy researcher at an international Think-Tank	(Inter)national / policy & research	Rabat, May 2019
6	Legal scholar and consultant for International Organizations	(Inter)national / policy & consultancy	Rabat, May 2019
7	Representative of a local NGO in the region of Tétouan-Tanger	Local / migrants & assistance	Tétouan, May 2019
8	Former part of a Spanish, now of a Moroccan NGO; Expert on <i>pateras</i>	International & local / migrants & assistance	Tanger, May 2019
9	Project manager at an international organization	(Inter)national & / migrants & projects	Rabat, May 2019
10	Official at a national institute; before at an international Think-Tank	(Inter)national / policy & government	Rabat, May 2019
11	Legal expert at a civil society association	National & local / migrants & advocacy	Rabat, May 2019

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