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Management of migration through the European Neighbourhood Policy: The case of Morocco

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Universiteit Leiden

**MANAGEMENT OF MIGRATION THROUGH THE EUROPEAN
NEIGHBOURHOOD POLICY: THE CASE OF MOROCCO**

THESIS

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1. INTRODUCTION

EU-Morocco relations can be understood as a marriage of convenience where both actors acknowledge the cruciality the counterpart plays in a wide range of issues, and thereby, they are forced to engage in negotiations in order to reach agreements where both are better-off. One would argue that agreements between these two actors might be one-sided and unbalanced considering the power and reach the EU has vis-à-vis the Kingdom of Morocco, nonetheless, Morocco has repeatedly shown how geopolitics can catapult one's leverage to an extent whereby the EU has had to give in particular desires as a way of guaranteeing the stability of the region.

The European Neighbourhood Policy (ENP), conceived in 2004, has been the strategy that has dealt more in-depth with the relations of the EU with third states of the eastern and southern neighbourhood, in issues from enlargement to border control (Lippert, 2007). The EU envisioned a more stable Europe if the neighbouring countries enjoy security, stability, and democratic governments (European Commission, n.d.). Through this policy, cooperation is pursued with a group of countries that, although likely of being heterogeneous, share the same geopolitical elements that come to be of Europe's interest.

Morocco's relevance within the European Neighbourhood Policy, precisely the Southern Neighbourhood Policy¹ framework lies among other factors on its strategic position; Morocco shares land borders with Spain as well as a relatively small distance that separate them from the Canary Islands and the South of the Iberian Peninsula (Laroui, 1999). This geographical situation accounts for the massive number of migrants that take the Moroccan route to Europe (European Commission, 2021).

Migration has been weaponised by Morocco and used as a sort of ace under the sleeve once the European Union established the control of irregular migration as a priority, which gave the Kingdom of Morocco a diplomatic opportunity (Natter, 2013). A year ago, for instance, in response to the hospitalisation of Brahim Ghali (leader of the Polisario Front) in a Spanish hospital, Morocco decided not opposing to the

¹ The European Southern Neighborhood is a ramification of the European Neighborhood policy and through which the EU wants to establish relations with its neighbors of the Middle East and Northern Africa (MENA) with the premise that economic, political, and social stability within these countries will result in an improvement of the overall welfare of Europe (European Movement International, 2017).

attempt of more than 2000 migrants to cross from Morocco to the autonomous city of Ceuta in a fashion never seen before, by swimming (Hedgecoe, 2021). That event is the clear example of how when diplomacy fails, Morocco is willing to make use of migration as a way to put pressure on the European Union.

The EU up until the outbreak of the Arab Spring approached the issue of migration through the European Neighbourhood Policy from a negative conditionality perspective (Limam & Del Sarto, 2015), meaning that incentives and support were offered to the Southern neighbours in order to control their borders and becoming the “gendarme of Europe” (Wunderlich, 2010). In case of non-compliance, the support offered could be withdrawn and sanctions put in place (Limam & Del Sarto, 2015).

The Arab Spring was seen as an opportunity for the EU to strengthen the ENP by switching from negative to positive conditionality when dealing with neighbouring countries in migration issues. The European Commission clearly stated the change of logic of the EU in regard to its foreign policy with its southern neighbours in the report *A Partnership for democracy and shared prosperity with the southern Mediterranean*: “The EU should be ready to offer greater support to those countries ready to work on such a common agenda, but also reconsider support when countries depart from this track” (European Commission, 2011, p.30).

The political and social turmoil Northern African countries were going through during the Arab Spring significantly reduced their capacity of decision and bargaining power, they could no longer exercise pressure and had to approach the European Union in a different manner as a way of regaining the contested legitimacy of their governments (Limam & Del Sarto, 2015). With this new approach, the initiative comes from the third country, whose efforts to fulfil certain requirements and standards established by the EU will eventually be rewarded (Koch, 2015). Nevertheless, this has not been as effective in the case of Morocco since the Arab Spring did not have the magnitude it had in other countries and where the Monarchy proved to be strong enough (Limam & Del Sarto, 2015).

On June 24th 2022, a rare and lamentable event took place between the border of Morocco and Spain, precisely, at the fence that separates the autonomous city of Melilla with Moroccan territory. Although this event is still under investigation in order to shed light on what really went on, it has mobilized Human Rights groups and civil society at both sides of the border calling for a fair and thorough investigation and urging both Morocco and the European Union to take meaningful measures to prevent

such scenes to happen again in the future (Liboreiro, 2022). On that fateful day, between 23 and 37 sub-Saharan migrants (numbers differ between consulted sources) lost their lives after an estimate of 2000 undocumented migrants attempted to jump the fence (BBC, 2022). Despite this being a recurrent act by irregular migrants, it has never resulted in the horrendous footages of people laying on the ground either dead or in critical condition. What this event exemplifies is the complexity that the phenomena of irregular migration to the European Union has acquired over time, and how such challenging events are a threat to the EU's stability and international image. Although this thesis will not look at any particular event, but rather be an analysis of the European Neighbourhood Policy as perhaps the main partnership agreement between the EU and its neighbours, with a focus on the EU-Morocco partnership and how this has and still deals with migration, it is relevant to highlight such events to have an insight of how an important partner Morocco is for the European Union in terms of migration, and how the latter has to engage in gymnastics in order to keep Morocco under control and contented, whilst respecting human rights and its international image.

2. LITERATURE REVIEW

Determining the approach and course of action that the European Union (EU) must take when engaging in foreign policy has given rise to one of the most relevant debates within the EU academic sphere. The discussion about what is the ideal and presupposed way in which the European Union has to deal with third states, always in accordance with its principles and values, revolves around those scholars that advocate for a more idealist approach: Civilian power Europe and normative power Europe, and the most realist view: military power Europe. This debate is crucial in the sense that allows the reader, depending on its position and the theory he or she finds more accurate for the EU's foreign relations, to discern between what is logic and justifiable for the EU to do in terms of migration, and what represents an overstep of its boundaries or a contradiction. That debate will be laid out in the first part of the literature review.

The second part will look into existing literature regarding, first, the effectiveness of the European Neighbourhood Policy, and second, how this policy has impacted partner countries. Scholars have long discussed what is new about the ENP and whether it is an effective way to deal with neighbouring countries when there is no membership prospect. Despite this thesis being about Morocco as the partner country of the EU, the way in which scholars have assessed and dived into the impact of the ENP in other fields and countries will serve as the basis of my own research as I will be able to choose the most suitable methodology and provide the reader with a good level of understanding of whether this (the case of Morocco and migration) is a unique and divergent case, or rather follows the same patterns present in other case studies.

2.1. THE EUROPEAN UNION'S FOREIGN POLICY APPROACH

2.1.1. CIVILIAN POWER EUROPE

In an attempt to identify the best strategy when engaging in foreign policy for an institution of the calibre of the EU, François Duchêne concluded that the EU must adopt the role of a civilian power, "...the European Community will only make the most of its opportunities if it remains true to its inner characteristics. These are primarily: civilian ends and means, and a built-in sensed of collective action" (Duchêne, 1973,

p.20). What François Duchêne observed was that neither a Super-power Europe, competing with its counterparts in the field of hard politics nor a neutral Europe were desirable or feasible, since none of these approaches are faithful to the conception of the European community envisioned by the founders. The only way in which the European project could reach its highest potential on an international scale would be through the export of democratic and social values worldwide, getting away from the logic of power politics that was dominating the world during the cold war, and becoming a role model. Only then, is when the European Community is fulfilling its original mandate.

2.1.2. RELIANCE ON MILITARY POWER AND DEFENCE

Duchêne's perception of how the European Community should look like found one of the most critical voices in the figure of Hedley Bull. In his article *Civilian Power Europe: A contradiction in terms?*, Bull severely criticizes the fact that Western Europe does not provide for its own security and must rely on the protection offered by the United States. In words of Bull, "Even the idea that Western European nations constitute a "security-community", or area of peace is mere wishful thinking" (Bull, 1982, p.163). Bull's discrepancy with the idea of a civilian power Europe is reflected in the preponderance he grants to power politics, and the dismissal of the perception of Europe as an oasis of democracy, social values, and almost non-conflictual region. On the contrary, defence is at the core of the discussion for Bull. Only through defence and enhancing its security, the European Community can establish itself in the category it deserves, according to its population, wealth, history... and thereby, overcome its complexes.

2.1.3. NORMATIVE POWER EUROPE

One of the most, if not the most, relevant contributions to the discussion is Ian Manners' notion of Normative power Europe (2002). According to him, the problem the two previous notions have is their state-centred features. Both theories regard the European Community as a body with state-like features, and therefore, they want it to act accordingly. Without neglecting the importance military and civilian power Europe may have, Manner argues in favour of a post-Westphalian approach in which ideas

take over power politics, and where the European Union becomes a relevant actor in defining the conception of what is normal and what is unacceptable in world politics (Manner, 2002).

Although this conception might, to some extent, align with Duchêne's civilian power Europe notion, Manner argues that it is not enough with exporting democratic values. First, the European Union must be able to control the narrative, meaning that it should have a say in what is good and acceptable so that it has other countries aligning with that narrative. Second, diffusing EU values that go beyond just democratic values. Third, having real influence is necessary in a world where ideas are becoming more important than power politics (Manner, 2002).

2.2. EFFECTIVENESS OF THE EUROPEAN NEIGHBOURHOOD POLICY

At first sight, the ENP seems to be a logical approach to, on the one hand, uplift Europe as a "force for good" (Barbé & Johansson-Nogués, 2008), and on the other hand, a way to guarantee the welfare of the Europeans and the stability of the region. Nevertheless, the effectiveness of this policy is called into question.

(Wolczuk, 2009) argues that the incentives offered by the EU make partner countries wonder whether it is worth to conduct domestic reforms, since these incentives are sometimes unclear and even the credibility of the European Union when it comes to fulfilling its obligations is called into question. In addition to that, Wolczuk believes that domestic changes only come when the partner countries with the support of strong domestic actors are supportive of the EU's agenda and have the power of mobilizing public opinion in favour.

Whitman, following Wolczuk's critique on the lack of incentives argues that: "In practice the ENP has offered only rather modest gains to the partner countries to date" (Whitman, 2010). With minimal benefits, rather than for enlargement purposes, what are the incentives of neighbouring countries to engage in such policy having to adopt norms and values established by the EU? According to Whitman, although having the potential of becoming a successful policy, unless substantial incentives to the partner countries are offered, the EU will face lack of leverage, and therefore, the European Neighbourhood Policy will be watered down.

Manner's piles into the criticism to the ENP by stating: "The ENP is neither strictly EU enlargement policy nor strictly EU foreign policy. Instead, the ENP is best

characterised as a mass of contradictory impulses, led by an EU desire to improve its relations with its nearest neighbours in the aftermath of its most recent enlargements” (Manners, 2010, p.30).

(Kelly, 2006) puts into question the innovative nature of the ENP. According to her, the ENP is basically a system based in conditionality and socialization, the same system that had previously been used in the processes of enlargement of the European Union, however, this policy applies not only to countries seeking accession to the EU, but neighbouring countries who have no interest whatsoever to join the EU, and therefore, applying the same system might be useless. In addition to that, she suggests the ENP to be more flexible and adapt more to each particular country it is dealing with since the departing point in terms of values and level of democracy is not the same. This critique by Kelly finds a similar reasoning in Haukkala’s article *The European Union as a Regional Normative Hegemon: The Case of European Neighbourhood Policy*. The author claims that conditionality was well used during enlargement processes as a way for the European Union to strengthen its hegemonic role and normative image, however, it loses effectiveness if it is not envisioned to facilitate enlargement and it is applied to non-candidate countries. It is logic to have shared values with members of the same union, nonetheless, in case of third countries, it can be seen as “domination through normative power” (Haukkala, 2008).

Delkáder-Palacios (2008) criticizes both positive and negative conditionality of the ENP as according to him, they are in conflict with the principles of cooperation established in the Paris Declaration on Aid Effectiveness that establishes that the strategy of development must be put forward by the receiving country rather than the donor. Delkáder-Palacios also sees in conditionality applied to migration control the risk of ignoring countries that might need development aid in favour of those that have a major role in migration to the European Union but not per se be a priority in terms of aid allocation and where those funds might be used for purposes that do not have an impact in the country’s development (Delkáder-Palacios, 2019).

For (Torres, 2009), who disagrees with Delkáder-Palacios, the problem is not the instrument of conditionality itself, but rather the arbitrary way in which the European Union implements it. She applauds the fact that the European Union has moved from negative to positive conditionality, since the former could have negative consequences for the population of those countries in need of aid. Nevertheless, she identifies lack

of uniformity when dealing with neighbouring countries and omission of democratic and human rights conditions in some cases.

2.3. IMPACT OF THE EUROPEAN NEIGHBOURHOOD POLICY ON PARTNER COUNTRIES

Wolczuk (2009) in the article *Implementation without Coordination: The Impact of EU Conditionality on Ukraine under the European Neighbourhood Policy* assesses the impact of the ENP on this particular country. To do so, the author adopts an actor-centred approach, focusing on political elites and the bureaucracy and how they have responded to the ENP. Through an analysis and comparison of the different ENP Action Plans established between the European Union and Ukraine, she first assesses whether the Action Plans have stimulated institutional change by the government to adopt EU conditionality, and second, how those changes have impacted the implementation of further Action Plans. To have an overall idea of the effect of the ENP on domestic change, the period previous to the establishment of the ENP is also taken into consideration in order to get a bigger picture of how Ukraine's domestic legislation has evolved. Wolczuk concludes that the impact has been weak since it mobilized other domestic actors rather than the ones she considers relevant in this case, the bureaucracy and political elites. The fact that there was no perspective of Ukraine becoming a member of the EU and that the goals of the ENP were not clear account for this lack of mobilization. The success of the ENP relies heavily on the support of the political elites from the partner country as main ally of the European Union and failing to convince them or offering them the incentive of membership explains why it has not succeeded in Ukraine.

Similarly to the methodology followed by Wolczuk, Sasse analyses the cases of Ukraine and Moldova and the ENP also through the Action Plans and their evolution, and whether the European Union has increased or reduced their funds to these two countries. Nevertheless, Sasse introduces a new layer to the Commission's Action Plans and Action Plans assessment, which is looking at domestic NGOs assessments. Acknowledging the fact that the discourse of the Commission might be biased to portray the European Union as a successful actor in encouraging changes in partner countries, Sasse also looks at what NGOs like The Razumkov Centre have to say in

the case of Ukraine about the effectiveness of the ENP and democratic changes in the country. In this case, despite having found discrepancies in fields like freedom of speech, there is a general agreement that Action Plans have been implemented accordingly and that changes, although at a slower pace in some cases, are taking place. In the case of Moldova, the involvement of NGOs has not been as present as in the case of Ukraine, which makes it more difficult to assess to what extent the Action Plans are being implemented and the government conducting changes according to what the ENP establishes (Sasse, 2010).

Silander & Nilsson (2013) focus on the field of democratization through the European Neighbourhood Policy on some European post-communist states such as Belarus, Azerbaijan, or Moldova. The authors want to find out whether the ENP has had a positive impact on the democratization of these countries, and to do so, they make use of the Freedom House Survey, a democratization measurement carried out yearly by Freedom House. In particular, they make use of The Nations in Transit survey, which focuses on former communist states. Through the results that the countries of the study obtain, they conclude that the impact of the European Neighbourhood Policy on the development of democracy in eastern European states has been limited. They consider that democratization occurs when the possibility of membership is offered, as it happened with previous enlargement processes in countries like Poland or the Czech Republic. I find this study a little bit flawed since they do not look at agreements between each country and the European Union, and do not take into consideration the Action Plans. By looking at Action Plans, they could have seen what the specific goals for each country within the domain of democratisation are, and then by looking at the results obtained in each dimension of the survey, they could draw more accurate conclusions to whether the ENP has succeeded, in what fields there should be improvement, and where the ENP is doing better. Nevertheless, the article by Silander & Nilsson has shown me that looking at indicators is also a feasible way to carry out a study to assess the impact of the ENP in a particular country and a particular field.

The same methodology used in the article by Silander & Nilsson is implemented by Kleenman (2010) in the report *The European Neighbourhood Policy – A Reality Check: How effective is the European Neighbourhood Policy in promoting good governance?* A report where he intends to assess the impact that the establishment of the ENP has had for partner countries in the field of good governance. To do so, he makes use of the good governance indicators developed by the World Bank. He finds

out that good governance has not improved overall, but rather some countries have improved in some particular indicators. Kleenman believes that the ENP should be improved in its incentive structures, monitoring, and being able to involve the civil society (Kleenmann, 2010).

3. STRUCTURE AND METHODOLOGY

The relations between Morocco and the European Union in the field of migration through the European Neighbourhood Policy have been chosen as the case study of this research. The rationale behind choosing Morocco over other countries is: first, coming from Spain myself and having experienced the migration pressure and all the debates this phenomena has prompted within the political sphere and civil society makes it an interesting case to focus on, second, the strategical position of Morocco, third, its role as a regional power, fourth, the constellation of interests that bind them with the European Union, and lastly, the fact that Morocco's status as a partner of the European Union has been upgraded to a privileged status. Regarding the European Neighbourhood Policy, this has become one of the most relevant foreign policy instruments of the European Union and that deals with many aspects of foreign relations with its neighbours.

Although each Northern African country has its own particularities and different dynamics when dealing with the European Union, some of the results and answers obtained from this research will be extrapolatable to neighbouring countries, mainly due to the similar incentive approach that the European Union tends to implement when dealing with its southern neighbours. Even if the results are not fully applicable in those countries, they will provide a good insight on other dynamics taking place.

The research question that this thesis will try to answer is the following:

What is the impact of the European Neighbourhood Policy on Morocco's migration policy?

The term "impact" throughout this thesis will be used to refer to changes in Morocco's migration policy or approach to a migration issue based or influenced by the ENP and that get them closer to the objectives established by the Action Plans of the European

Union. This impact can be either positive, meaning that changes within the domain of Morocco's migration policy occur, aligning the country with the objectives of the European Union, or inexistent, in this case, changes do not take place and therefore there is a lack of improvement from the previous situation. Impact in this case will only be considered if it is reflected in Moroccan legislation or positively assessed through the progress assessments made by the Commission, debates prompted and that do not fructify will not.

In order to assess the impact of the European Neighbourhood Policy on Morocco's migration policy, I will carry out a policy impact evaluation based on the Action Plans agreed between the European Union and the partner country, in this case Morocco, and see how they have evolved. In addition to that, I will also look at the yearly follow-up reports that the Commission makes regarding the Action Plans to decide what course of action should be taken and make recommendations in that direction or in case there are positive developments, applaud the efforts made by the partner country.

In order to provide an answer to the research question, I will structure the paper in four sub-questions each of them being part of a different chapter. The first chapter will address the first sub-question:

- 1) What is the European Neighbourhood Policy? What are the purposes that the European Union wants to achieve through the ENP? What are the measures and instruments that the European Union implements to achieve those purposes? Have the purposes or measures of the ENP evolved over time?

This part is relevant as a departing point since it lays out the key aspects of the European Neighbourhood Policy, provides a theoretical framework, explains the functioning of the policy, and how it has evolved since it was established in 2004.

- 2) What does the European Neighbourhood Policy entail for Morocco? What are the goals that the European Union wants to achieve with Morocco in the field of migration through the ENP? Have the goals and/or measures of the ENP in regard to Morocco evolved over time?

In this second chapter, I will discuss the objectives established between the EU and Morocco in the first Action Plan both in general and more focused on the field of migration. I will also look at the next Action Plans and the assessments made by the Commission regarding the state of each issue.

3) What is the migration policy of Morocco and how does it deal with:

- Entry and stay of immigrants in Moroccan soil?
- Controlling migration of third country nationals from Morocco to the EU?
- Controlling migration from Moroccan nationals to the EU?
- Readmission of Moroccan migrants from the European Union?

The third chapter will focus on Morocco's 2014 Migration Law reforms as the only process of modernization of its 2003 Migration Law that has taken place since the adoption of the ENP. Through this chapter, I will establish some of the key aspects of the 2003 Law in order to better grasp the changes that have taken place with the 2014 process of modernization and better assess what are some of the reforms that derive from the Action Plans and negotiations within the context of the ENP.

4) What are some alternative explanations for the development in migration policy of Morocco?

Finally, in this fourth chapter, I will establish some alternative views to why Morocco's migration policy has changed beyond those linking it to the influence of the European Union.

My hypothesis is that the European Neighbourhood Policy has impacted great deal the formulation of a Moroccan migration policy more in line with human rights and that effectively deals with irregular migration. The use of incentives by the European Union has been the driving force for Morocco to take the assignment seriously, which at the same time serves to the underlined objective of becoming a key partner for the EU and a regional power. Looking only at legislation, overall, I would state that the European Neighbourhood Policy has been successful in encouraging changes in Morocco's approach to migration and Moroccan law, however, it hasn't been able to accomplish all its goals considering the power of Morocco and how much decisions

taken by Morocco can have a huge impact on the EU's stability. I would also argue that the European Union, contrarily to what would be expected, has been at Morocco's expense when negotiating some of the goals to be achieved, such as readmission agreements, but still has rewarded Morocco with more funds and a privileged status in order to ensure that other key areas are not affected by possible disagreements.

The methodology of this research paper will follow a qualitative logic. Through primary sources I will obtain most of the information relevant to answer the research question and the sub-questions that I have established. I will mainly look at legislation, directives, and agreements from both the European Union and the Moroccan government. As for secondary sources, academic articles, websites, and digital newspapers will be used in order to complement the information obtained through primary sources.

The timeframe of this research will be from 2004 to 2014. The relevance of 2004 lies on the fact that the European Union established the European Neighbourhood Policy on that year. I have decided establishing 2014 as the last year of research because that year Morocco initiated a process of modernization of its Migration Law in order to endow it with a more humanitarian approach. Moreover, 10 years are a reasonable time span to assess whether a policy of this magnitude has been successful. In that period, we will be able to identify the change in approach that the European Union has gone through with the ENP, how Morocco's status has improved, and other important developments.

4. THE EUROPEAN NEIGHBOURHOOD POLICY

INTRODUCTION

In this chapter I will establish the theoretical framework of the European Neighbourhood Policy and some of its key aspects so that the reader has a general idea of the functioning and goals of the policy and therefore be able to grasp how Morocco and the EU are interconnected through this policy. The sub-question that this chapter will answer is the following:

What is the European Neighbourhood Policy? What are the purposes that the European Union wants to achieve through the ENP? What are the measures and instruments that the European Union implements to achieve those purposes? Have the purposes or measures of the ENP evolved over time?

4.1. ORIGIN AND PURPOSES OF THE EUROPEAN NEIGHBOURHOOD POLICY

“The EU’s task is to make a particular contribution to stability and good governance in our immediate neighbourhood [and] to promote a ring of well governed countries to the East of the European Union and on the borders of the Mediterranean with whom we can enjoy close and cooperative relations” (Commission, 2004). This simple idea put forward by the Commission in 2004 explains the origin of the European Neighbourhood Policy. The timeline of the formulation of this policy is not a coincidence, it comes after the process of enlargement that the European Union had just gone through and that saw the external borders of the EU expanded. The fact that former neighbours, with whom the European Union had privileged relations, became new members, created a window of opportunity for the EU to work with its new neighbours in what the Commission presented as “Wider Europe Neighbourhood: A New Framework for relations with our Eastern and Southern Neighbours” (Commission, 2004). By reinforcing relations and encouraging cooperation with its neighbours at its southern and eastern borders, the European Union foresaw a general picture of “stability, security, and well-being” for both the EU and its partner countries. Through the European Neighbourhood Policy, the European Union intends to make

use of the expertise and experience gained with the process of enlargement, where it helped with the political and economic transition, development and modernization of the candidates stated that ended up becoming Member States of the EU and expand that same know how to neighbouring non-candidate countries. In addition to that, the ENP was perceived by the EU as a good instrument to settle regional conflicts that could spill-over to the European Union and whose settlement would contribute to the stability of the continent. Other objectives in the area of Justice and Home Affairs include fight against terrorism and criminal activity, corruption, money laundering, human and arm trafficking, and management of migration (Commission, 2004).

Regarding geographic coverage, meaning the countries that are eligible to partake in this policy, initially the criteria established by the Commission was countries that were existing neighbours of the EU or that became so after the process of enlargement. In the case of Europe those countries were Russia, Ukraine, Belarus, and Moldova. In the Mediterranean, the countries eligible were all non-EU participants in the Euro-Mediterranean Partnership, with the exception of Turkey. Later on, the Commission also suggested the inclusion of Armenia, Azerbaijan, and Georgia (Commission, 2004).

Currently the neighbouring countries that are members of the ENP are the following: Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestinian territories, Syria, and Tunisia make up the Southern Neighbourhood countries. Regarding the Eastern Countries that are part of the ENP we find Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine. Russia takes part in some of the activities of the ENP but is not a member (European Commission, 2022).

4.2. MEASURES OF THE EUROPEAN NEIGHBOURHOOD POLICY

The working method of the European Neighbourhood Policy is through the formulation of Action Plans. Action Plans are multi-annual priorities established jointly between the European Union and the Partner Country, whose fulfilment by the partner country will bring them closer to the EU. The key areas of these action plans are “political dialogue and reform; trade and measures preparing partners for gradually obtaining a stake in the EU’s internal market; justice and home affairs; energy, transport, information society, environment and research and innovation; and social policy and people-to-

people contacts” (Commission, 2004). Each of these domains goes through a negotiation process between both actors, in which once an agreement is reached, the EU will monitor its compliance, and in case of positive developments, reward the partner country with a privileged status. The process of monitoring is carried out by bodies designated in the Association Agreements, and the Commission will provide a follow up report regarding the progress in each field of the Action Plan, and alongside the partner country, they will decide what the best course of action is. A positive aspect of the Action Plans is that they take into account the context of each country individually, its economic power, level of development, and current relations with the EU, so that the ENP becomes a positive instrument rather than a burden (Commission, 2004). The Action Plans also serve as the point of reference of how much assistance a country requires from the EU to accomplish the objectives established.

4.3. INSTRUMENTS OF THE EUROPEAN NEIGHBOURHOOD POLICY

The EU through the ENP builds-up on existing relations with its Eastern and Mediterranean neighbours. In the case of Eastern Europe, the Partnership and Cooperation Agreements serves as the point of reference to develop even further their relations. For the Mediterranean neighbours, the Euro-Mediterranean Partnership establishes the framework, which is complemented by Association Agreements (Commission, 2004). This same logic applies to the financing of the ENP.

The existent economic mechanisms to grant assistance to Russia and the Western Newly Independent States (WNIs) is the *Tacis* programme, and for the Mediterranean countries the MEDA programme has assisted economically from the beginning of the century. In addition to that, other funding ways like the loans provided by the *European Investment Bank* or the Macro Financial Assistance have been used by the European Union to assist its neighbours. However, the European Neighbourhood Policy scope and complexity is such that the Commission thought that it would require a whole new financing instrument, the European Neighbourhood Instrument. Nevertheless, such instrument requires so many aspects to be dealt with, from legal to budgetary, that the Commission decided the establishment of two differentiated financing periods for the ENP. The first period would be from 2004 to 2006 and would be based on Tacis and MEDA for Eastern Europe and Mediterranean states respectively with the support of

other existing financial instruments. From 2007, the European Neighbourhood Instrument would become the main instrument for financing cross border co-operation and co-operation projects involving EU Member States and partner countries. The objectives set-out by the Commission regarding the European Neighbourhood Instrument are: “Promoting sustainable development in regions on both sides of common borders; Working together through joint actions to address common challenges, in fields such as environment, public health, and the prevention of and fight against organised crime; Ensuring efficient and secure common borders through joint actions; Promoting local cross-border “people-to-people” type actions” (Commission, 2004).

Economic assistance is supported by technical assistance to partner countries and their institutions to facilitate the process of adaptation to the standards established by the EU. This technical assistance is carried out mainly through two programmes: TAIEX (Technical Assistance and Information Exchange Instrument) or SIGMA (Support for Improvement in Governance and Management) (Commission, 2004). The EU also supports the ENP members with twinning, an idea based in close collaboration between the particular government structure that requires reform with its European counterpart. The EU funds a twinning advisor that for 12 months will work with the particular institution in the partner country to facilitate the changes and implementation of the legislation (European Commission, 2022).

In the case of enlargement, the instrument of conditionality established by the European Union was really effective in encouraging member states to conduct important reforms within their economic, political, and other important sectors. When the demands of the EU were fulfilled, the candidate state was rewarded with the accession to the EU as a new Member States, which was an important incentive for their governments to fulfil the assignment. That same conditionality strategy has been implemented by the EU through the European Neighbourhood Policy, where the incentives that we have seen, mainly economic, would be increased, reduced, or even withdrawn in case the progress the partner country shows is satisfactory or not for the European Union’s standards. Nevertheless, the fact that the main incentive disappears for these neighbouring countries, the possibility of membership, gives rise to the question of whether the instrument of conditionality in this case is as effective since the main incentive here is offering increased access to the Internal Market, which

despite being an attractive offer to partner countries, it does generate doubts of to what extent they should conduct reforms (Mocanu, 2007).

4.4. CHANGES IN THE EUROPEAN NEIGHBOURHOOD POLICY

In December 2006, the Commission made a communication with the purpose of “strengthening the European Neighbourhood Policy” (Commission, 2006). The Commission acknowledged the improvements that have taken place in partner countries thanks to the ENP, however, they considered crucial to “help those neighbouring countries who are willing to reform to do this faster, better and at a lower cost to their citizens. It must also provide more incentives and convince those who are still hesitant” (Commission, 2006). This communication served as an assessment of the first months of functioning of the ENP and where its strengths and weaknesses have proved to lie in order to make changes that allow the EU to have a strong policy. In order to strengthen the ENP, the Commission identified the following points: “Enhancing the economic and trade component; Facilitating mobility and managing migration; Promoting people-to-people exchanges; Building a thematic dimension to the ENP; Strengthening political cooperation; Enhancing regional cooperation; Strengthening financial cooperation” (Commission, 2006).

A year later, in 2007, a similar communication was made by the Commission, titled “A Strong European Neighbourhood Policy”. With this communication, the Commission applauded some improvements that had taken place since the previous one and that had strengthened the policy, nonetheless, other improvements were proposed: In the field of economic integration, the Commission found crucial the establishment of “tailor-made, deep, and comprehensive free trade agreements” urging the EU to offer further incentives to partner countries to conduct regulatory convergence; Mobility was another point of improvement, through revising the European visa policy and facilitating mobility of citizens from the partner countries with legitimate reasons to visit a Member State of the European Union; The EU according to the Commission had to also do more on mediating with regional conflicts that were frozen by offering ways out and resolution mechanisms, as otherwise would be detrimental for the ENP and its long-term objective of having an area of peace and security in its neighbours; Sectoral reform and modernisation of mainly the energy sector that would see more feasible

the idea of having a common legal framework for the neighbourhood in the field of energy; Facilitate the participation of partner countries in community programmes and agencies would enhance cooperation; Establishing new financial tools and cooperation with financial institutions that would facilitate the allocation of funds to partner countries in need. A New Governance Facility was created to allocate more funds to those partner countries that were more advanced in the achievement of the plans set out in the Action Plans, particularly those related to human rights, democracy, and rule of law. Creation of the Neighbourhood Investment Facility with an estimate allocation of 700 million € over 7 years to its budget (Commission, 2007). The most important change that the European Neighbourhood Policy has gone thorough came in 2011 in the context of the Arab Spring and with the publication of the document *A new response to changing Neighbourhood*. The context of turmoil that the Southern Neighbours were going through with these waves of protest that expanded over the Arab world were seen as the European Union as a key moment to support the establishment of democracies in partner countries while strengthening the partnership between the EU and members of the ENP. This new reality shows a change of approach of the European Union. From being the one encouraging changes, promoting debate and negotiations, to allowing each partner country to conduct changes that will get them closer to the EU. That change of approach is reflected with the statement made by the Commission in the communication: “The EU does not seek to impose a model or a ready-made recipe for political reform, but it will insist that each partner country’s reform process reflect a clear commitment to universal values that form the basis of our renewed approach. The initiative lies with the partner and EU support will be tailored accordingly” (Commission, 2011). The Commission links its support and increase of incentives to partner countries that work towards the consolidation of democracy and respect for the rule of law. Countries that engage in more meaningful changes in this direction and do so faster will benefit from: “increased funding for social and economic development, larger programmes for comprehensive institution-building, greater market access, increased EIB financing in support of investments; and greater facilitation of mobility”. For countries that do not engage in these reforms, the EU threatens to reconsider o reduce funding (Commission, 2011). This change has been labelled by some scholars as a switch from negative to positive conditionality (Delkáder-Palacios, 2019).

CONCLUSION

The European Neighbourhood Policy was envisioned by the European Union as a response to the fear of expanding its borders after the enlargement process and getting geographically closer to countries that do not per se share the same values as the EU, that are more heterogenic, and that pose a risk to the stability of the EU due to their own instability in some cases. That is when the EU found in this policy a good tool to strengthen relations with these countries at its Eastern and Southern borders, an enhancement of cooperation that could be beneficial for both. Nonetheless, the assessments made by the Commission showed some of the shortcomings of this policy and the changes that the ENP should undergo in order to be a policy that really works and engages positively with its neighbours. Changes were progressively implemented, however, the event that meant the major change was the Arab Spring. The EU saw this as window of opportunity to push further its agenda, knowing of its strengthened position of power and the need of this countries to align with the EU in order to survive socially, economically, and politically to the waves of protests. If convincing some countries to democratize their structures was a difficult task without the incentive of membership, from 2011 the EU linked support and incentives almost exclusively to democracy and rule of law when dealing with its Southern neighbours.

5. THE EUROPEAN NEIGHBOURHOOD POLICY AND MOROCCO

INTRODUCTION

In this chapter, I will put the focus on one of the main partners of the European Union within the ENP, Morocco. Through the following lines, I will lay out the objectives regarding migration established between the EU and Morocco in some of the action plans, and how those objectives and assessments made by the EU have evolved over time. The chapter will give answer to the following sub-question:

What does the European Neighbourhood Policy entail for Morocco? What are the goals that the European Union wants to achieve with Morocco in the field of migration through the ENP? Have the goals and/or measures of the ENP in regard to Morocco evolved over time?

5.1. MOROCCO WITHIN THE EUROPEAN NEIGHBOURHOOD POLICY

The European Union intends to deepen its political, economic, social, cultural, and security relations with Morocco through the European Neighbourhood Policy in order to “strengthen their relations, promote stability, security and prosperity based on partnership, common interests, common ownership and differentiation” (Commission, 2005). The bilateral and differentiated approach of the ENP was welcomed and celebrated by Morocco as it would allow them to distinguish themselves from the rest of the region and becoming a perfect partner for the European Union (Fernández-Molina, 2016).

The EU presents this as a great opportunity for Morocco to get closer to the EU in what is a “fundamental foreign policy choice” that would present them with the possibility of achieving an advanced status as a partner country. To achieve the advanced status, the European Union urges Morocco to conduct a process of adapting Moroccan legislation to the standards of the European Union and integrating in a gradual way the internal market of the EU and its way of functioning (Commission, 2005). Such process will also result in more economic integration with the objective of “encouraging trade, investment and growth” (Commission, 2005). The European

Union also confirms through the Action Plan the possibility of allowing Morocco to intervene in the internal market if goals are achieved, the provision of financial support by the EU to guarantee that Morocco has the right tools to engage in such process, an enhancement of political dialogue, and reduction of trade barriers. However, those incentives are offered in case Morocco manages to fulfil the following obligations and priorities established in the 2005 EU-Morocco Action Plan within the European Neighbourhood Policy: Adaptation of Moroccan legislation and incorporation of human rights provisions; Strengthening of dialogue through the Common Foreign and Security Policy and the European Security and Defence Policy, and more cooperation in the fight against terrorism; To negotiate a process of trade liberalization in services; Creation of the right environment for foreign direct investment, growth, and development in a sustainable manner; Cooperation in social policy to reduce poverty and boost job creation; Support for education to achieve the country's economic development; Effective management of migration; Development of a transport sector more safe and secure (Commission, 2005).

This Action Plan was set to last from 3 to 5 years (later it was agreed to last 5 years), and after three years both Morocco and the EU would take decisions on what the next stage of their partnership would be. The progress of the goals and priorities of the Action Plan are monitored jointly by sub-committees established in the 2000 Association Agreement between the European Union and Morocco in order to decide on what aspects of the Action Plan should be reconsidered and what aspects would have to be adapted or updated (Commission, 2005).

5.2. MANAGEMENT OF MIGRATION THROUGH THE EUROPEAN NEIGHBOURHOOD POLICY

One of the main objectives that the European Union has in regard to Morocco through the European Neighbourhood Policy is the effective management of migration. As it is established in the 2005 Action Plan, one of the priority actions is “The effective management of migratory flows, including the signing of a readmission agreement with the European Community, and the facilitation of the movement of persons, in accordance with the *acquis*, in particular by examining the possibilities of easing the formalities of obtaining short-stay visas for certain categories of people to be defined by mutual agreement” (Commission, 2005).

It is important to highlight the fact that the numbers of irregular migrants crossing from Morocco to the European Union were higher than ever in the years preceding the implementation of the European Neighbourhood Policy and during the negotiations of the Action Plan with Morocco as well² (Lahlou, 2015), which explains why it is one of the areas that is more detailed, developed, and emphaticised in the Action Plan.

Migration is included in the section of the Action Plan Cooperation in Justice and Home Affairs. The areas in the field of migration that are established as a priority for the EU and where Morocco has to work on are: Developing legislation that deals with refugees and asylum seekers in accordance with UN conventions; Effective management of migration flows(from information exchange with the EU, to information campaigns and offering legal migration ways in Morocco); Prevention and fight against illegal migration (Cooperation between the EU and Morocco, and incorporation of third countries into the dialogue); Cooperation in the readmission of Moroccan nationals, stateless persons, and third-country nationals (Conclude a readmission agreement with the EU); Initiate a dialogue on visa issues (Possibility of facilitating and speeding up the issuing of visas); Strengthening border management (Use of MEDA funds allocated to this purpose); Cooperation in the fight against those crimes that involve migrant smuggling and human trafficking (Commission, 2005).

5.3. CHANGES IN THE EU-MOROCCO PARTNERSHIP WITHIN THE ENP

In 2008 a joint document on “strengthening Bilateral Relations/Advanced Status” was made public by the European Union and Morocco. In this document they announced the opening of a new period for their partnership, the strengthening of the bilateral relations of the European Union and Morocco through granting Morocco the advanced status. In order to carry out the task, an ad-hoc group was established in order to hold meetings where both the EU and Morocco would present proposals that would materialize the granting of the advanced status. The working group agreed on the fact that the partnership forged through the European Neighbourhood Policy had contributed immensely to stronger political, economic, and commercial relations and that granting Morocco an advanced status would have a positive spill-over effect on

² A total of 31.397 immigrants managed to cross from Morocco to the EU in 2002, a number that increased up to 36.344 in the next year. Although decreasing by almost 10.000 people in 2004, 2005 also saw an increase to 29.808 (Lahlou, 2015).

many different areas that although not being yet part of their agreements, would be highly beneficial to cooperate on. Eventually, the advanced status would serve Morocco as a gateway of entrance to the EU Internal Market and receiving more financial support (Commission, 2008). The working group adopted a road map to be followed by Morocco and the European Union and that includes priorities in the political dimension, Economic, social, and financial dimension, and human dimension, priorities whose achievement would give Morocco access to certain European Union Programs and agencies as well as financial support (Commission, 2008).

As already mentioned in the previous chapter, the outbreak of the Arab Spring by the end of 2010 and the social unrest that the Southern Neighbours were going through was addressed by the European Union in the joint communication called “A Partnership for democracy and shared prosperity with the Southern Mediterranean”, a document where the EU positioned itself in favour of the reform demands and asking the governments of the countries involved to step up in their reforming process and adoption of more democratic ways and institutions if they were willing to receive support from the European Union in terms of “financial assistance, enhanced mobility, and access to the EU single market” (Commission, 2011).

Despite the Arab Spring not having the same impact in Morocco as in other countries of the region, the government and the King in view of the demonstrations that occurred and that asked for changes in the system, adopted a new constitution in 2011 that would make of Morocco a “constitutional monarchy”. Through this new constitution the powers of the Prime Minister and the Parliament were strengthened resembling more a liberal democracy (Rieker & Bremberg, 2014). This significant reform was quickly addressed and celebrated by the High Representative Catherine Ashton and Commissioner Štefan Füle saying that “It is a significant step and signals a clear commitment to democracy and respect for human rights” (European Union, 2011). The European Union saw in this decision made by Morocco a great advancement for their bilateral relations, justifying their decision of granting Morocco advanced status in 2008, and confirming that more support would be offered to Morocco by stating “The proposed constitutional reform is in line with the ambitions of the Advanced Status in the relations between Morocco and the EU. The European Union is ready to support Morocco’s efforts to implement such far-reaching reforms” (European Union, 2011).

The issue of migration was particularly addressed by the European Union, some of the Member States, and Morocco in 2013. Recognizing the importance and the

magnitude that the issue had and that linked Morocco and the EU for a long time, Belgium, France, Germany, Italy, Netherlands, Portugal, Spain, Sweden, and the United Kingdom decided signing a Mobility Partnership between Morocco, the EU, and its Member States and that would pursue the accomplishment of the following objectives: “To manage the movement of persons for short periods and legal and labor migration more effectively; To strengthen cooperation on migration and development; to combat illegal immigration, networks involved in the trafficking and smuggling of human beings, and to promote an effective return and readmission policy; To comply with duly ratified international instruments concerning the protection of refugees. In this Joint declaration establishing a Mobility Partnership, a list of activities that the European Union and its Member States were “prepared to organize, finance or co-finance in order to bring about this partnership” (Council of the European Union, 2013). This Mobility Partnership would be beneficial for qualified Moroccans as it is intended to make information more available regarding employment, education, and training opportunities in the EU, as well as facilitating the process of mutual recognition of qualifications (Rieker & Bremberg, 2014).

5.4. ASSESSMENT ON THE PROGRESS OF MIGRATION ISSUES BY THE COMMISSION

Table 1: Assessments made by the Commission through the yearly progress reports of the ENP Action Plans (2006-2014)

Issue	2006	2007	2008	2009	2010	2011	2012	2013	2014
Readmission agreement	Further negotiation sessions to be held to discuss technical points	Despite all the negotiation sessions, there's no progress	No real progress	No real progress	No substantial progress	Not mentioned	Not mentioned	Not mentioned	Negotiations for readmission agreement
Border control	Training activities aimed at border control forces have taken place	Significant progress. Strengthening of resources and improvement of coordination	Cooperation with the EU continues satisfactorily	Cooperation with the EU continues	Training center on migration and border monitoring starts its activities	Support by the EU completed	Not mentioned	Not mentioned	Not mentioned
Asylum and refugees	Ongoing negotiations between Morocco and the UNCHR, nevertheless, no overall legislation and regulatory framework on refugees	Signing of agreement with UNCHR. However, Morocco still not recognize refugees and does not provide assistance	No major progress. Morocco still not recognize refugees that arrived in Moroccan territory and does not assist them	Structural problems. Good cooperation between Morocco and the UNHCR	Structural problems like the absence of legal and institutional framework for asylum	Reference to right of asylum introduced into the Constitution. Not much progress	The issue is incorporated as a priority under the Mobility Partnership. Morocco says a law on the right to asylum is in preparation	Recommendations made by the CNDH after a report on the situation of migrants and refugees	Process of integration of refugees and regularization of migrants
Overall	Satisfaction with the initiatives taken by Morocco to cope with illegal immigration	Satisfaction in some areas, dissatisfaction with Morocco's lack of effort in others	Encouraging results in the prevention of irregular migration	Cooperation between Morocco and Spain has helped reducing illegal migration	Good cooperation between Morocco and Spain	EU and Morocco Dialogue on migration, mobility and security is launched	Active participation of Morocco in migration issues. Negotiation of a Mobility Partnership	Signing of a Mobility Partnership. Morocco takes initiative and coordinates actions at an African level	New Migration Policy is encouraging

Source: Own elaboration from Commission's ENP progress reports (2006-2014)

The progress reports made by the Commission to assess the overall health of the ENP in regard to each partner country are a great way to see the developments taking place in the context of this policy between the European Union and in this case Morocco and provides a great insight on where the EU is being more successful in promoting change and where the reticence for change lies in the Moroccan side.

Through the table we can see that the general tone of the European Union is of satisfaction with the efforts made by Morocco to comply with the agreements reached

in the Action Plan and the leadership that Morocco shows when dealing with migration issues with the EU and its African neighbors.

The Achilles' Heel of the European Union has been the Readmission Agreements. Despite the good intentions that Morocco initially showed and that led the EU to believe that only technical points separated them from signing a readmission agreement with the EU, Morocco has never entertained the idea and the hopes of the EU to accomplish this key point of the migration field within the ENP have vanished over time to the point that since 2008, although having granted Morocco the advanced status on that year, no progress has been made in this field.

Border control is undoubtedly the great success of the European Union. Morocco has been a great partner when it comes to border control, cooperation with the EU and some Member States like Spain, and even taking initiative to effectively control its borders. If we look at the figures, the number of irregular migrants that crossed from Morocco to Europe in 2005 was an alarming 29.808, a number that dropped considerably to 16.560 in the following year and was of 14.449 in 2007 (Lahlou, 2015), numbers that show how the task carried out by Morocco in this field was praiseworthy. In 2011 the EU considered its support in border control (through twinning for instance) completed as Morocco had shown enough knowledge about how dealing with its borders.

My doubts about the real implication of the European Union emerge in the case of refugees and asylum seekers. Most of the negotiations and back-and-forth occurred between the UNHCR and Morocco. It can be argued that Morocco changed its stance towards refugees and asylum seekers as a consequence of engaging in the European Neighborhood Policy and the EU putting the focus on this matter and therefore Morocco being more opened to discussions with the UNHCR. Nevertheless, it can also be due to the publication of a report made by Morocco's National Human Rights Council exposing the hardships, discrimination, and human rights violations that asylum seekers and refugees were facing (Cherti & Collyer, 2015), and the UNHCR issuing recommendations to the Moroccan government to improve the situation of asylum seekers and migrants in general. If we adopt the first position, the EU having encouraged this, it can be stated that there has been some success as Morocco's new migration policy tackles this issue.

CONCLUSION

The European Neighborhood Policy applied to Morocco has been applauded and celebrated by both partners. The EU, acknowledging the importance of Morocco in many fields managed to convince Morocco of the importance of this policy, and Morocco has shown its commitment and positivity about it from the beginning for its bilateral approach, for the fact that they could differentiate themselves from the rest of the region, and the feasibility of accomplishing its goals more easily than when dealing with the EU as a group of countries.

Despite establishing many objectives with Morocco in the field of migration, objectives that include from the cracking down of human trafficking groups to visa facilitation negotiations, the fundamental objectives are: Enacting legislation that deals with refugees and asylum seekers in accordance with what the UN establishes; Signing of readmission agreements; Effective border control. Both Morocco and the European Union agreed that they were important points to be achieved and thus included them in the 2005 Action Plan, however, later we see what Morocco prioritize was effective border control rather than readmission agreements, where there was no progress at all, or over asylum seekers and refugees, where negotiations extended for years until Morocco's migration policy was enacted in 2013.

The European Neighborhood Policy in regard to Morocco has gone through some important changes, nonetheless, Morocco has seemed to capitalize all of them. In 2008 with the advanced status Morocco achieved one of its objectives, becoming a key partner for the EU and separating themselves from the rest. In 2011, the Arab Spring, which was supposed to be really detrimental for the Moroccan government, was perfectly dealt by them through the change in the constitution and the political system, a process of reform that was applauded by the EU for being a change towards democracy and for the rapid answer of the Moroccan government to this new context. Despite all this changes, the goals to be achieved by Morocco in the field of migration within the ENP have remained the same.

6. MOROCCO'S MIGRATION POLICY

INTRODUCTION

So far, in the previous two chapters, the focus has been on the European Neighborhood Policy and how the European Union deals with its neighbors through this policy. We have seen the case of Morocco and the priorities that have been set out in the field of migration. This chapter will look at Morocco's domestic policy regarding migration, precisely, the 02-03 Migration Law of 2003 as the only current law that deals with migration in Morocco, and the 2014 Migration Policy reforms, and how this has resolved some of the issues identified as crucial within the Action Plans of the European Neighborhood Policy. Despite the timeframe of this research being from 2004 to 2014, the 2003 law is a crucial element to understand Morocco's migration policy and some of the changes the 2014 reforms have brought about. The sub-question that this chapter intends to answer is the following:

What is the migration policy of Morocco and how does it deal with:

- Entry and stay of immigrants in Morocco?
- Controlling irregular migration of third country nationals from Morocco to the EU?
- Controlling irregular migration of Moroccan nationals to the EU?
- Readmission of Moroccan migrants from the European Union?

6.1. 2014 MOROCCAN MIGRATION POLICY REFORMS

The current migration policy of Morocco, the Law 02-03 was adopted in 2003. Since then, there has not been any new law enacted despite all the voices claiming that its security driven approach is not the best way to deal with migration (Yachoulti, 2019). Nonetheless, in 2013, King Mohammed VI urged the government to take action in the matter of the protection of migrants living in Moroccan territory and engage in a process of reforms that would see the 2003 Law updated. As the King himself stated during a speech in 2013, "Once a crossing point to Europe, our country has

transformed to a residence destination” (Benjelloun, 2017). This decision to update the Law and protect migrants came after a report by Morocco’s National Human Rights Council was made public, denouncing the degrading and inhuman treatment that migrants were receiving in Morocco, both from the institutions and civil society, and urging the government to protect them and grant them the rights that citizens were enjoying (Cherti & Collyer, 2015).

The CNDH stated in the report that “Without contesting the right of Moroccan authorities to control entry and stay of foreigners and their duty to fight against human trafficking, the CNDH believes that public authorities cannot, in the fulfilment of their missions, evade the constitutional provisions in the matter of human rights and rights of foreigners, the international commitments under the ratification of all the instruments of protection of human rights...” (Conseil national des droits de l'Homme, 2013).

This report focused on the situation of refugees and asylum seekers and their integration on the one hand, and on the other hand suggested the government of Morocco to regularize the situation of migrants living in Morocco in irregular administrative status (Conseil national des droits de l'Homme, 2013).

In that context, and with pressure piling up, although rejecting the claims of use of systematic violence against migrants, the King gave guidelines to the government, in accordance with the recommendations issued by the CNDH, to develop and implement a strategy that allows the Kingdom of Morocco to formulate a “global policy on immigration” (Fornet, 2013). The new strategy intended to endow the management of migration with a more human approach, respecting the dignity of the migrants, since the previous law was accused by organizations and the international community of not respecting human rights and civil society groups in Morocco saw it more as the result of the dictates of the European Union rather than a genuine and independent attempt by Moroccan authorities to effectively tackle the issue (Cherti & Collyer, 2015).

The *National Strategy on Immigration and Asylum* carried out by the newly constituted Ministry in Charge of Moroccans Living Abroad and Migration Affairs identified 4 areas of improvement (Royaume du Maroc, 2014):

- Humanitarian Issues: Respect for human rights, fight against discrimination, fight against human trafficking.
- Integration: Facilitation of access to health system, to education and training, to housing, and to employment.

- Foreign policy issues and governance: Sharing of responsibilities, strengthening regional and international cooperation, and regional and international governance.
- Cultural: Perceive immigrants as an opportunity rather than an economic, cultural or social threat (Royaume du Maroc, 2014).

The adoption of the 2014 National Strategy on Immigration was accompanied by a process of regularization for undocumented immigrants living in Morocco and the adequate identification of asylum seekers and subsequent granting of refugee status. The fact that the announcement of changes in migration came in a speech from the King, exemplifies a real change in approach towards migration by the Moroccan government, that moved from a harsh stance towards irregular migration to a more lenient and human attitude meant to guarantee their rights (Yachoulti, 2019), with the objective of “deepening a <<common African vision>> on migration based on the principles of international law of human rights” (Royaume du Maroc, 2014).

6.2. ENTRY AND STAY OF IMMIGRANTS IN MOROCCO

The only legal instrument that deals with immigration in Morocco is Law 02-03. Article 3 of the Law establishes that any foreigner that enters in Morocco has to do so after having passed the controls carried out by the competent Moroccan authorities through border controls, with a document whose validity is recognized by Morocco (National Legislative Bodies / National Authorities, 2003). Any person that does not fulfil the requirements or it's considered a threat to public order may be refused the entrance as established in article 4 (National Legislative Bodies / National Authorities, 2003). Every foreigner person from the age of 18 that wants to stay in Moroccan territory has to have a registration or residence card. The first one is the certificate of registration delivered to foreigners residing in Morocco for more than three months, and the second one is for those that reside uninterruptedly in Morocco for at least 4 years. The certificate of registration is issued for visitors, students and migrant workers. Foreigners that do not hold none of these two, will be considered illegal and therefore be expelled from the country (National Legislative Bodies / National Authorities, 2003). The difficulties that many migrants were facing in order to obtain the residence permit and therefore have access to basic rights is one of the issues that the 2014 reforms

had to deal with. In 2013, in a press conference by Anis Birrou, Minister of Moroccans Living Abroad and Migration Affairs, and Mohammed Hassad, Minister of Interior, the government announced that a process of regularizing the situation of up to 40.000 irregular migrants would take place in 2014, in the context of the reforms of the Migration Policy. They also announced the migrants that would be eligible (Benjelloun, Nouvelle Politique Migratoire et Opérations de Régularisation, 2017):

- Migrants considered Asylum-seekers by the UNHCR.
- Foreigners married to Moroccan citizens that could prove they lived with the partner and children for at least 2 years.
- Immigrant couples that had lived together in Morocco for at least 4 years and their children.
- Immigrants that could prove having lived in Morocco for 5 continuous years.
- Immigrants with a serious health condition and that lived in Morocco before 31 December 2013 (Yachoulti & Jacobs, 2020).

Nevertheless, despite the process of regularization that took place in 2014, no changes were implemented regarding the illegal entry of immigrants into Moroccan territory and the same harsh stance continues in place. Article 42 says that whoever that enters or attempts to enter Moroccan soil without legal or valid travel documents or overstays the period established in their visa, will face either a fine from 2000 to 20.000 dirhams or an imprisonment of 1 to 6 months, in some cases even both would be applicable. Article 43 doubles the fines and prison sentence for those that reside in the country without any of the two legal documents mentioned above, or that have failed to renew them. Article 52 deals with those that help or assist someone in entering illegally the country, and the sentence in this case is from 6 months to 3 years imprisonment and from 50.000 to 50.000 dirhams (National Legislative Bodies / National Authorities, 2003).

6.3. CONTROLLING IRREGULAR MIGRATION FROM MOROCCO TO THE EU

Tackling irregular migration and strengthening its role as regional power was the main driving force behind Morocco's 2003 Migration Law (Benjelloun, 2017). This was promulgated following the demands of the European Union to act as "gendarme" of

Europe (Wunderlich, 2010), which saw Morocco taking a security driven approach to migration. That came with an increasing abuse of human rights justified through the idea of migration being an issue of national security (Yachoulti, 2019). Morocco was willing to do whatever it took to be seen by Europe as a reliable and strong partner in the management of irregular migration towards Europe, despite not being really concerned about the issue and not having the support of the society (Grange & Flynn, 2014).

Regarding the clandestine emigration from Moroccan territory to mainly the European Union, those that are engaged and get caught by Moroccan border patrols will be sentenced to 1 to 6 months imprisonment and receive a fine of 3000 to 10.000 dirhams, and that applies to all borders, maritime, aerial, and terrestrial. However, the most severe punishment is for those that organize these clandestine trips, with sentences from 2 to 5 years in prison and fines that could be from 50.000 to 500.000 dirhams. In addition to that, the means of transport used will be confiscated and all those linked to it will also be fined. If a trip causes permanent injuries to migrants, imprisonment will be of 15 to 20 years, and they will be sentenced to life if there are casualties (National Legislative Bodies / National Authorities, 2003).

Moreover, the government doubled the number of border guards to 8000 and also created a body called Direction of Migrations and Borders Surveillance under the control of the Ministry of Interior of Morocco (Natter, 2013).

Despite being a phenomena involving both Moroccans and sub-Saharanans, due to the fact that irregular migration was not per se seen as negative by Moroccans, and it was even encouraged by families to diversify their sources of income, the Moroccan Government approached it as a sub-Saharan problem and implemented this law mainly to apply to other nationalities and not Moroccans (Yachoulti, 2019), since restricting the movement of its citizens was an unpopular measure and could have consequences for the Government (Natter, 2013). The 2014 reforms did not tackle this issue, as the decrease in the number of irregular crossings from Morocco to the European Union had considerably decreased since the implementation of this Law, and the fact that sub-Saharanans overtook the number of Moroccan citizens crossing to Europe to some extent justified the approach of the Moroccan government framing irregular migration as a sub-Saharan issue (Yachoulti, 2019).

6.4. READMISSION AGREEMENTS BETWEEN MOROCCO AND THE EU

Neither Morocco's 2003 Migration Law nor the 2014 Migration Law reforms mention the issue of readmission agreements. Readmission agreements has perhaps been one of the most unsuccessful priorities established between the European Union and Morocco through the European Neighbourhood Policy in the field of migration. In the previous chapter we have seen how no further developments have taken place since 2005 rather than a commitment from both parts to restart negotiations on readmission agreements with the signing of the 2013 Mobility Partnership. The main point of disagreement has been the clause that the EU has tried to incorporate and that would see Morocco readmitting third-country nationals that had used Morocco as a transit point to the European Union. The Commission states that "Readmission Agreements stipulate the obligation to readmit nationals of the country with which the EU has signed the agreement. Also, these agreements contain the commitment to readmit stateless persons or persons of another jurisdiction who entered the EU illegally from the country in question, or vice versa (Commission, 2002). Morocco has firmly opposed such idea for the financial and political costs it would represent, but also the risk of deteriorating its relations with other African countries (Carrera, Cassarino, Qadim, Lahlou, & Hertog, 2016). Despite the additional financial offers made by the EU and linking the readmission agreements to the visa-facilitation agreements, Morocco has not accepted such agreement (Kaiser, 2019).

Despite the reservations shown by Morocco to sign a global readmission agreement with the European Union, surprisingly Morocco has signed readmission agreements in a bilateral way with some Member States of the European Union like Spain, Germany, France, and Portugal, but always applied only to Moroccan nationals (Wolff, 2014).

CONCLUSION

Morocco's current Migration Policy, the Law 02-03 of 2003 has been characterized by its harsh approach to migration, particularly, to sub-Saharan Africans. This approach has been the cause of many organizations and countries denouncing the inhuman treatment some immigrants face when living (either legally or illegally) in Morocco. The opprobrium and international condemnation encouraged the King and the Government

to conduct changes that would see Morocco's migration policy adopting a more human approach in accordance to human rights. Nevertheless, the fact that the 2003 Law is the only current law that deals with migration, and that the 2014 reforms focused mainly on regularization on the one side and refugees and asylum seekers on the other, emphasizes the need to conduct more deep changes that move beyond good intentions and translate into actions. If we look at the key objectives that the European Union has established with Morocco in migration issues, it can be stated that Morocco's migration law has been effective in controlling its borders and helping in reducing the number of attempts made by irregular migrants to cross from Morocco to Europe. Nevertheless, neither in 2003 Law nor in posterior reforms, the Moroccan government makes mention of readmission agreements. One of the main objectives of the European Union with Morocco has been the adoption of readmission agreements, but the fact that is not even mentioned by Morocco's migration law exemplifies the failure of the EU in this field.

7. ALTERNATIVE EXPLANATIONS TO MOROCCO'S MIGRATION POLICY

From a Eurocentric point of view, it could be argued that Morocco's Migration Policy derives from the prioritization that the European Union has given to this issue, which subsequently encouraged its partner countries to deal with migration in order to receive incentives from the European Union. Nonetheless, there are some other theories that suggest otherwise and that the influence of the European Union in the development of Morocco's migration policy hasn't been that powerful.

The 2014 reforms can be explained through Morocco's willingness of getting closer to its African neighbours. Since 1984, year in which Morocco abandoned the Organization of African Unity (current African Union), the relations with the continent have been tense and Morocco prioritized partnering with the North, the European Union. However, this has slowly started changing in 2013, with a series of visits made by King Mohammed VI to sub-Saharan states, trying to improve the relations of Morocco with Western African countries, a move that would facilitate the eventual reincorporation of Morocco to the African Union. Nevertheless, in view of the treatment that their nationals were subject to in Moroccan territory, with no respect to human rights and dignity, some of these African leaders urged Morocco to change its stance towards migrants, and having a more pan-African approach, which would facilitate the reincorporation of Morocco into the region (Cherti & Collyer, 2015). In that context, and with the publication of reports by Human Rights organizations denouncing the situation in the country for migrants, the King urged the government to make changes in the migration policy, therefore, the theory of Morocco changing its approach to migration in order to satisfy its African neighbours and facilitate an eventual incorporation to the African Union is a valid reasoning. Moreover, the 2014 reforms focus more on asylum seekers, refugees, and the regularization of undocumented migrants residing in the country, changes that a priori do not have an immediate effect for the European Union. The 2003 Migration Policy was criticized for being a response to the EU's demands, nonetheless, the 2014 reforms suggest that this is a result of Morocco's reapproach to its African neighbours, in order to reintegrate into the African Union, boost economic cooperation, and free movement of people between Morocco and West Africa (Jacobs, 2019).

Another explanation behind Morocco's migration policy reforms is its image of "regional exception" (Jacobs, 2019) and the jeopardy that the claims of human rights

abuse were posing to this image. In comparison to its regional neighbours, Morocco has been a stable state over the years, with higher standards in terms of human rights, and willingness to conduct changes to tackle international criticism. All these elements have helped Morocco in the process of becoming a regional power (Larramendi & Tomé-Alosno, 2017), which means that the Kingdom has made sure to keep these elements that characterize Morocco intact. When several organizations reveal some events taking place in Morocco in regard to migrants, and that severely damage this image of “regional exception”, there is no other alternative by the Moroccan government than engaging in a process of reforms that can have the effect of both silencing the critiques towards Morocco, and subsequently strengthen this image of sensitivity towards international criticism, and respect for human rights.

An alternative reason behind Morocco’s migration policy and subsequent reforms is the fear of domestic protests that may affect the stability of the government. The Arab Spring was a wakeup call for Middle East and North African states to embrace democratic reforms in order to guarantee the stability of their regimes. Fortunately for Morocco, the consequences were not as huge as in other countries, however, it did showcase the importance of rapid response to certain events in order to mitigate possible unrest and protests (Houdret & Harnisch, 2018).

8. CONCLUSIONS

The European Neighbourhood Policy is the policy designed by the European Union that deals more in depth with its neighbouring countries in many fields considered of common interest. This policy, which was established in 2004 after the enlargement process that saw the external borders of the EU modified, approaches southern and eastern neighbours as partners, whose efforts to satisfy the demands made by the European Union are eventually incentivized, an offering them the long-term possibility of access to the common market. Through action plans signed between the EU and the partner country, the objectives to be accomplished are laid-out, and posterior assessments made by the Commission will provide insight on the state of the issues and whether the efforts of the partner country are enough or need to go through a reformulation.

In the case of Morocco, the European Neighbourhood Policy was welcomed as it would provide them with the opportunity of outstanding from the rest of countries and having a privileged relationship with the EU. Despite all the interests that bind both actors, one of the key areas of cooperation has been migration. The ENP was formulated in a period in which irregular migration was becoming a serious problem for the European Union, and therefore, found in this new policy a good way to tackle it whilst providing Morocco with the necessary resources to effectively reduce the threat of irregular migration. The objectives that the European Union found crucial to be accomplished by Morocco in migration are: Developing legislation that deals with refugees and asylum seekers in accordance with UN conventions; Effective management of migration flows; Prevention and fight against illegal migration; Conclude a readmission agreement with the EU; Initiate a dialogue on visa issues; Strengthening border management; Cooperation in the fight against those crimes that involve migrant smuggling and human trafficking. Of all these objectives, Morocco's efforts have been satisfactory in reducing the number of irregular migrants crossing from Morocco to the EU, strengthening border management, and the fight against human trafficking networks. Despite not being reflected in new legislation, numbers and the assessments made by the European Union show that the efforts have been satisfactory. Nevertheless, in issues such as readmission agreements the EU has failed and Morocco has not entertained the idea of readmitting third country nationals.

To answer the research question, it can be stated that the impact the ENP has had in Morocco's migration policy has been reduced. The only current law that deals with migration in Morocco is from 2003, a year before the creation of the European Neighbourhood Policy, thereby, there is no direct impact or influence on that law. The Law 02-03 has gone through a process of modernization only in 2014, but it has not translated into a new law, neither updated controversial aspects of Law 02-03 such as the criminalization of migrants. Nevertheless, the reduced impact in Morocco's migration law does not mean that there is no impact at all. The real impact has been on Morocco's approach towards migration and the fight against irregular migration. Figures back that idea, with less migrants crossing from Morocco to the EU in the years after the implementation of the ENP. Moreover, the Commission has shown in repeated occasions its satisfaction with Morocco and the efforts made to fulfil the requirements and objectives of the Action Plans, to the extent that in 2008 they granted Morocco the first advanced status for a partner country. Border management or providing asylum seekers and refugees with protection in line with UN conventions have been accomplished, and arguably been the effect of the EU's neighbourhood policy. However, the EU in the future should try to push for further developments and encourage the enactment of a Migration Law more in line with human rights and respect for migrants' dignity. Turning a blind eye in some aspects of the 02-03 Law and keep on financing migration projects in Morocco might be detrimental for the EU's international image, therefore, a real impact would come with a new migration law or a thorough reform of the current law.

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