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Human Rights at the Border: European-Union—Moroccan Relations in the Wake of the 2013 Migratory Policy

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Human Rights at the Border:
European-Union—Moroccan Relations in the Wake of the 2013 Migratory Policy

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Fall 2015

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Abstract

Morocco's border with the Spanish enclaves of Ceuta and Melilla has brought the country into direct relations with the European Union (EU) on the issues of border control and migration. In response to the growing human rights violations towards migrants and refugees enumerated in the Conseil Nationale des Droits de l'Homme's (CNDH) 2013 report, King Muhammad VI passed a migratory policy that emphasized preservation of human rights within Morocco's borders. This study examines the effects of Morocco's relationship with the EU on the implementation of the human-rights aspects of Morocco's 2013 migratory policy. Using the semi-structured interview approach, I will speak with migration scholars and activists to determine the nature of Morocco's relationship with the EU to gain an understanding of the reality migrants and refugees face, especially in Northern Morocco. Through comparison of these narratives with the official partnerships and policies implemented between Morocco and the EU, this study seeks to determine whether the ongoing human rights violations near the Moroccan-Spanish borders are the result of pressure from the EU, a failure of the 2013 migratory policy, or a mixture of both phenomena. The lack of awareness about the new policy among individuals at the border in combination with increasing pressure from the EU due to the ongoing Mediterranean crisis are both massive obstacles to the implementation of the 2013 law. Though these factors contribute to the ongoing human rights violations, this study examines the possibility of human rights existing at any border.

Research Question: Does Morocco's relationship with the European Union prevent the full realization of Morocco's human-rights based migratory policy?

Key Words: International Law & Relations; Law; Peace & Social Justice

Introduction

Morocco's "international commitments" to the EU date back to March 1, 2000 when the Association Agreement which "constitutes the legal framework for relations between the EU and Morocco" came into effect.¹ In 2005, Morocco signed the European Neighborhood Policy (ENP) which progressed the Association Agreement and committed both signatories to "principles of the market economy, free trade, sustainable development, reduction of poverty, and the institution of social, political, and legal reforms."² The EU had also passed the European Security Strategy in 2003 which prioritized a "ring of well governed countries to the East of the EU and on the borders of the Mediterranean with whom we can enjoy close and cooperative relations" to combat "terrorism, proliferation of weapons of mass destruction, regional conflicts, state failure, and organized crime." This report stated that security is necessary for development, without which conflict is born and "turbulence and migratory movements" from the regions affected are inevitable.³

Morocco's tensions with Spain over the Spanish enclaves, Ceuta and Melilla, located in Morocco's north, began when Spanish forces took up arms at the enclaves' frontiers in 1957.⁴ Though this particular incident was a direct result of tensions related to Morocco's independence, securitization at the borders between Morocco and the enclaves continued to increase in later decades. Since independence, thousands of migrants passed through Morocco in an attempt to cross the fence into Ceuta or Melilla because those who reach the Spanish territories are brought

¹ "European Neighborhood and Partnership Instrument: Morocco, Strategy Paper 2007-2013," *European Union External Action*, 2013.

² "European Neighborhood Policy," *European External Action Service*, 2004.

³ "A Secure Europe in a Better World," *European External Action Service*, December 12, 2003. 4.

⁴ Special to The New York Times. (1957, Dec 13). Moroccans Note Tension in North, *New York Times (1923-Current File)*.

to the Spanish mainland for interviews with immigration officials.⁵ Two individuals died when hundreds of sub-Saharan migrants attempted to cross the double razor-fence at Melilla in August 2005. One month later, 12 were injured when 70 migrants attempted to cross into Melilla.⁶ On September 29, 2005, hundreds of migrants from Sub-Saharan African countries tried to cross the razor-fence that separated Ceuta and Morocco; a phenomenon that injured close to 100 individuals and killed four. At the time, the Moroccan and Spanish governments were engaged in a summit on immigration in Seville. Each government denied the use of unnecessary force against the migrants though news sources reported that two migrants suffered gunshot wounds that corresponded with bullets from Moroccan security forces.⁷ Following the events at the border, the Spanish government sent 500 troops to Ceuta and Melilla as a precaution against further crossings.⁸ Beginning in 2005 and continuing into 2006, Spain committed to increasing the heights of the inner fences to 18 feet; double that of the outer fences.⁹

In 1985, five European countries signed an agreement on the gradual removal of border checks between member states in the European Community. Ten years later this agreement was realized as the Schengen Area which removed internal border controls, promoted judicial and police cooperation, and set common policies on external borders, illegal immigration, visa arrangement for third-party nationals, asylum, and illegal immigration.¹⁰ The conditions for joining the Schengen Area included taking “responsibility for controlling the external borders on behalf of the other Schengen states,” “efficiently cooperat[ing] with law enforcement agencies in

⁵ Smith, C. (2005, Nov 05). Spain's african enclaves are migrants' portals to europe. *New York Times (1923-Current File)*

⁶ (2005, Sep 22). Spain reinforces enclave borders. *BBC*, accessed December 1, 2015.

⁷ Ibid.

⁸ Ibid.

⁹ Smith, C. (2005, Nov 05). Spain's african enclaves are migrants' portals to europe. *New York Times (1923-Current File)*

¹⁰ Schengen area. In *The Concise Oxford Dictionary of Politics*. : Oxford University Press.

other Schengen states in order to maintain a high level of security once border controls between Schengen countries are abolished.”¹¹ As the *New York Times* wrote, “once the migrants arrive [in Ceuta] they can take advantage of the fact that borders have been virtually erased in the European Union.”¹²

On June 7, 2013, Morocco and the EU signed a Joint Declaration Establishing a Mobility Partnership between the Kingdom of Morocco and the European Union and its Member States. This partnership dealt specifically with migration and aimed to strengthen the relationship between the two parties to more effectively manage the northward flow of individuals from Morocco. While the report included initiatives to streamline consular and legal services, raise awareness about human trafficking, institute integration support networks, and assist in voluntary return, the joint partnership did not include measures to stem violence at the borders. Those attempting to cross the border to Spain through Ceuta and Melilla were not protected from police brutality under this partnership. There were no provisions for real cooperation between the two parties; rather, each party committed to working on reforms within its own borders.¹³

In July 2013, the Moroccan organization Conseil Nationale des Droits de l’Homme (CNDH) published a report on the violation of human rights in Morocco. This report, published in partnership with the International Organization for Migration (IOM) and the *Délegation interministerielle aux droits de l’Homme* (DIDH), called for authorities, social actors, and state partners of Morocco to create a new migration policy that protects human rights.¹⁴ CNDH

¹¹ "Schengen Area." European Commission. November 13, 2015.

¹² McLean, R. (2005, Sep 30). 5 killed in mass attempt to cross from morocco to spanish enclave. *New York Times* (1923-Current File)

¹³ *Joint Declaration Establishing a Mobility Partnership between the Kingdom of Morocco and the European Union and Its Member States*. Rep. no. 6139/13. European Commission, 7 June 2013.

¹⁴ *Thematic Report on the Situation of Migrants and Refugees I Morocco: Foreigners and Human Rights in Morocco: For a Radically New Asylum and Migration Policy*. Rep. Conseil National Des Droits De L’Homme, July 2013.

criticized the “ad-hoc” nature of previous Moroccan migratory policies and labeled the 2007 policy that granted the United Nations High Commissioner for Refugees (UNHCR) license to review and grant asylum applications a “policy of control of illegal emigration . . . evidenced by the numbers of arrests and the statements of satisfaction from European countries.” In addition to categorizing individuals of concern—refugees and asylum seekers, foreigners in irregular administrative status, trafficked persons, and documented migrants—the report proposed initiatives like integration networks, access to justice for trafficked persons, granting of residency documents, sensitivity and cultural training for personnel working with migrants, trade union campaigns “to encourage membership of migrant workers” and a ban on violence against undocumented migrants.¹⁵

On September 10, 2013, in concurrence with the CNDH report, King Muhammad VI held a working session in Casablanca “to discuss the issue of immigration . . . with a view to devising a new comprehensive migration policy.”¹⁶ He acknowledged that Morocco was no longer a transit country and that the need had arisen to “regularize the situation of people in terms of residence and the activities they perform, as well as legal immigrants of other nationalities, including sub-Saharan immigrants.” While denying that there is a “systematic use” of police violence against illegal immigrants, the King noted that the rights of migrants must be respected. He called for a “Royal Initiative” to protect human rights in accordance with the Constitution, the rule of law, and “Morocco’s international commitments.” The reforms would include granting residency, certain social services, and the right to work to refugees (as determined by the UNHCR).¹⁷ On December 9, 2013, notably after the announcement of the new migratory policy, Morocco acceded to

¹⁵ *Thematic Report*, CNDH.

¹⁶ “HM the King chairs in Casablanca working session on immigration in Morocco, King’s Office,” *Agence Marocaine de Presse*, September 10, 2013.

¹⁷ *Ibid.*

“advanced status” in the ENP.¹⁸ Following Morocco’s accession, the EU and Morocco agreed to work together to combat illegal human trafficking, respect human rights of migrants, and to offer applicable individuals asylum under principles laid out in the 1951 Geneva Convention and the 1967 protocol.¹⁹ The ENP manifests itself most visibly in Northern Morocco, where processes to institute a Deep and Comprehensive Free Trade Area (DCFTAs)—like the EU’s agreement with Ukraine, Georgia, and Moldova—are underway.²⁰ Hundreds of millions of euros are poured into “development projects” in the *Rif* region, which sees the highest number of inhabitants migrate from Morocco. Presently, of members in the ENP, Morocco receives the greatest funding, which may range from €728 million to €890 million in the 2014-2017 period.²¹

Human Rights Watch (HRW) issued a report in February 2014 that showed that Moroccan security forces continue to use violence against migrants expelled from Melilla.²² The international human rights organization noted that Spain was doing nothing to stop the abuses. HRW called on Spain to stop “summary returns to Morocco” until Morocco demonstrated that migrants are no longer at risk of beatings and other abuses within its borders. When HRW interviewed those living in camps in Nador and Oujda, it discovered that few individuals living there would qualify for the “exceptional” regularization procedure in 2014 that would allow certain undocumented migrants to apply for a one-year renewable residency.²³ HRW reported that security forces in Nador rounded up migrants and sent them on buses to locations thousands of kilometers away from the border. The migrants who were not forcibly removed were threatened with the use of force as a means of

¹⁸ “European Neighborhood and Partnership Instrument: Morocco, Strategy Paper 2007-2013,” *European Union External Action*, 2013.

¹⁹ *Ibid.*

²⁰ 2013 Annual Operational Report: Neighborhood Investment Facility,” *European Commission*, 2013, 5.

²¹ “ENP and Enlargement Negotiations,” *European Commission*, 2014.

²² “Morocco: Abuse of Sub-Saharan Migrants,” *Human Rights Watch*, February 10, 2014.

²³ *Ibid.*

coercing them to walk to Algeria—a violation of *non-refoulement*. In August 2014²⁴ and February 2015,²⁵ government forces burned down migrant camps at the base of Mount Gurugu and expelled people to the south. A representative of Asticude, an activist organization in Nador, who had originally expressed hope upon hearing the new migratory policy, declared that the country cannot “have this contradiction between the laws and the practice.”²⁶

The following study addresses the nature of Morocco’s relationship with the EU and explores the effects of this relationship on the full realization of Morocco’s human-rights based migratory policy. Using the semi-structured interview approach, I will speak with migration scholars and activists to analyze the nature of Morocco’s relationship with the EU and to gain an understanding of the reality migrants and refugees face at Morocco’s northern borders. Through comparison of these narratives with the official partnerships and policies implemented between Morocco and the EU, this study will determine whether the ongoing human rights violations near the Moroccan-Spanish borders are the result of pressure from the EU, a failure of the 2013 migratory policy, or a mixture of both phenomena.

²⁴ “Moroccan authorities raid camp of migrants waiting to cross into Spain,” *The Guardian*, August 21, 2014.

²⁵ “Morocco destroys migrant camps near border with Spanish Enclave,” *The Guardian*, February 11, 2015.

²⁶ Schemm, Paul “Migrants scattered by Morocco’s new immigration policy,” Paul Schemm, *Yahoo*, February 18, 2015.

Literature Review

In this literature review, I intend to present the two dominant arguments about Moroccan-EU relations, the limitations of the 2013 migratory policy, and the published reports about the human rights violations at the Moroccan-Spanish border. The first school of thought on Moroccan-EU relations argues that Morocco is passively subject to the EU's externalization of borders. The second school of thought argues that Morocco holds negotiating power in deals made with the EU and only carries out the sections of EU policy that are in its best interests. As the 2013 migratory policy is so recent, the literature published so far on the policy cannot make concrete conclusions. The last section of the literature review focuses on the Doctors without Borders (DWB) and Human Rights Watch (HRW) reports that present the abuses migrants face at the Moroccan-Spanish border. The scholarship and reports that follow will lay a foundation for the analysis of the Moroccan-EU international migratory policy's effect on the 2013 migratory policy.

I. Morocco: Subject to European Union's Externalization of Borders

Michael Collyer argues that the EU attempt to increase border security changed borders from static lines to “processes, continually in flux” which “spatialized” state authority to create transnational spaces.²⁷ He states that since the 1990s, migration policies have sought to institutionalize the “growing inequalities of access to mobility.”²⁸ As the EU sought to stop irregular migration to its member states, a system of “remote” controls began to proliferate. These measures included visa controls, airport liaison officers, and carrier sanctions. He observes that

²⁷ Collyer, M., & King, R. (2015). Producing transnational space: International migration and the extra-territorial reach of state power. *Progress in Human Geography*, 39(2), 187.

²⁸ Collyer, Michael. *In Between Places: Trans-Saharan Migrants in Morocco and the Fragmented Journey to Europe*. University of Sussex Press, 2007.

Morocco's 02-03 law, which criminalized undocumented residence within Morocco's borders, actually contained many of the provisions that the Moroccan government had rejected in the EU's 1999 Moroccan Action Plan. The 02-03 law gave the Moroccan police force and army greater power to stop clandestine migration. Unsurprisingly, following law 02-03, relations between Spain and Morocco immediately improved and migration controls between Morocco and Spain increased. Collyer argues that major migration control operations undertaken by Moroccan security forces often correspond to official meetings between Moroccan and European officials.²⁹ Collyer's argument that the externalization of EU border controls has led to a crackdown on migrants in Morocco can be used to support the hypothesis that Morocco's 2013 migratory policy cannot be fully implemented if the EU continues to have a strong presence in Morocco.

Although written in 2006, Hein de Haas' argument in "Trans-Saharan Migration to North Africa and the EU: Historical Roots and Current Trends" that the EU's security-based approach to migration is detrimental to the protection of human rights holds true today.³⁰ He argues that pressure to curb irregular immigration from southern EU-member states on Morocco and other North African states had several unintended and counterproductive effects: the increase in human rights violations in North Africa due to heavy internal policing led many migrants who had intended to stay in North Africa to leave for Europe; the increased externalization of EU borders prompted a diversification of sea routes; and the proliferation of professional smuggling routes.³¹ Haas argues that the EU's policymakers do not understand that North African states hesitate to sign externalization policies because they do not want to be viewed as destination countries; the "transit" states only comply with the EU's "fight against illegal immigration" as a way to bargain

²⁹ Collyer, *In Between Places*.

³⁰ Haas, Hein De. *Trans-saharan Migration to North Africa and the EU Historical Roots and Current Trends*. Washington, D.C: Migration Policy Institute, Migration Information Source, 2006. 10.

³¹ *Ibid.* 11-15.

for benefits like development project funds.³² While he goes on to state that North African states are unwilling to act as “Europe’s policemen,” Haas seems to support the argument that Morocco, and its bordering countries, do not have the ability to act as equal negotiators in EU migratory policy discussions.

Stefan Lehne, a visiting scholar at Carnegie Europe, criticized the ENP in his paper “Time to Reset the European Neighborhood Policy.” Written in 2014, the paper outlines the major problems with the ENP and calls for the policy’s immediate revision. Lehne explains that though the ENP was constructed in parallel with the “EU’s enlargement experience,” membership in the ENP does not guarantee accession to the EU.³³ Though the policy was intended to bring structural democratic reforms to Europe’s neighbors, the ENP’s “instruments are ill-suited for the rapid change that characterizes much of the EU’s neighborhood today.” Perhaps most importantly, he criticizes the EU’s hypocrisy in its bilateral relationships, writing that while the EU “insists on conditionality in its relationships,” it “applies those conditions inconsistently and infrequently.”³⁴ Though the ENP’s array of problems encompass a wide range of issues, Lehne suggests that the most effective change ENP policymakers can make is to increase the flexibility of ENP-instruments. The diversity of Europe’s neighbors and the need for regional solutions over bilateral ones necessitates an innovative policy toolbox. Though Lehne’s analysis focuses on the economic and political aspects of the ENP’s failures, his critique of the ENP’s inconsistencies and inability to adapt bolster our understanding of the EU’s role in Morocco over the past few years.

³² Haas, *Trans-Saharan Migration*, 13.

³³ Lehne, Stefan. “Time to Reset the European Neighborhood Policy.” Carnegie Europe. February 4, 2014.

³⁴ *Ibid.*

II. Morocco: Challenger to EU Policy

In *Migration from the Middle East and North Africa to Europe: Past Developments, Current Status, and Future Potentials*, Michael Bommès discusses the inevitability that all member states of the European Union will be in need of labor in the future and explores the argument that the Middle East and North Africa are the “ideal demographic match” for Europe.³⁵ The primary section in this text relevant to the understanding of the relationship between EU border security and Morocco’s domestic migration policy is the discussion of “boundary build-up.” “Boundary build-up” describes the tendency EU member states had to call for greater border security following the 2011 Arab Spring. The ambiguity of the distinction between external and internal security and the contradictions EU security policy poses to the neo-liberal market is also discussed.³⁶ While the text is primarily economic in nature, Bommès’ conclusion that the EU is reliant upon migration from the south supports the argument that it would benefit the EU to re-visit its external border controls to complement Morocco’s domestic migration policy.

In “Differentiation and Policy Convergence against Long Odds: Lessons from Implementing EU Migration Policy in Morocco,” Daniel Wunderlich analyzes the effects of the EU’s external migration policy in Morocco.³⁷ While this essay was written in 2010, Wunderlich’s commentary on the EU’s wish to “shape the complex set of borders of inclusion and exclusion to the state territory of Southern and Eastern Mediterranean countries (SEMC), to their communities of belonging and labour markets” is applicable to analyzing the EU-Moroccan relationship to this

³⁵ Bommès, Michael. *Migration from the Middle East and North Africa to Europe: Past Developments, Current Status and Future Potentials*. Amsterdam University Press, 2014.

³⁶ Ibid.

³⁷ Wunderlich, Daniel, “Differentiation and Policy Convergence against Long Odds: Lessons from Implementing EU Migration Policy in Morocco, *Mediterranean Politics*, 2010, 15:2, 249-272.

day.³⁸ There is a paradox between the SEMC's unwillingness to converge with the EU on migration control and the bloc's unease "about turning into countries of immigration." Domestic policies and EU policies converge due to bilateral relations of individual member and non-member states, intra-EU coordination problems, and "EU dependence on actors in SEMC to implement its policy objectives." He describes the evolution of the current Moroccan-Spanish relationship which began in 2003 when King Mohamed VI refused to cooperate with Spain until the EU Commission made "considerable concessions to its Moroccan counterparts."³⁹ This paper also analyzes border control and funding and explains that the Moroccan migration policy agenda is governed by international repression and the EU's national development program. Interestingly enough, the head of the Directorate for Migration and Border Surveillance noted that Morocco has accepted its role as "Gendarme of Europe" largely because the country seeks to stem increased sub-Saharan migration. According to him, European externalization of border management was "not an illogical approach" as "we must be given the financial and logistic resources to fulfil *our* ambitions."⁴⁰ This perspective on the Moroccan-EU relationship as one where Morocco benefits from its role as "Policeman of Europe" provides a counterargument for the popular theory that the relationship between the two parties has a large power and agenda imbalance.

Another essay that challenges the dominance of the theory that the North holds the most power in the North-South relationship is Nora el-Qadim's "Postcolonial challenges to migration control: French-Moroccan cooperation practices on forced returns."⁴¹ This essay focuses on two major instruments of international cooperation on migration controls: "the posting of immigration

³⁸ Wunderlich, *Differentiation and Policy Convergence*.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ El-Qadim, Nora "Postcolonial challenges to migration control: French-Moroccan cooperation practices on forced returns," *Security Dialogue*, 2014, Vol. 45(3), 242-261.

liaison officers and the statistical evaluation of cooperation.”⁴² El-Qadim writes from the perspective of state actors in the “countries of origin,” a category to which Morocco belongs. She notes that destination countries view “deportation as a way to fix the failings of their border control and to reinstate the control of the state over the territory.” She echoes Collyer and Haas when she argues that Morocco’s delegation as a transit country by the EU is more the result of tightened visa requirements than undocumented migration. She also writes about Morocco’s resistance to sign a readmission agreement with the EU despite the military, economic, and historical imbalance between the two parties. She focuses on the “instalment” of a French liaison officer in Morocco who coordinates both countries’ police departments in the migration field and on the use of statistics to “evaluate the cooperation of Moroccan authorities in deportation policies.” Her work shows that Moroccan mid-level actors, typically portrayed to be pawns in a “dominated state,” can “develop effective counter-discourses to resist the demands of a ‘dominant’ state.”⁴³ El-Qadim’s essay elaborates on the work of Moroccan bureaucrats in the field of migration and provides the insight that EU policy might not be as easy to implement in Morocco as dominant theories make it out to be.

III. The 2013 Moroccan Migratory Policy

Abdeslam Amakhtari, the president of Asticude, examines the limitations and current realities of Morocco’s 2013 migratory policy while addressing its sustainability, shortcomings, and the internal conflicts and external pressures that affect its implementation in his thesis “La gestion de l’immigration subsaharienne au Maroc: limites des lois et perspectives de la nouvelle

⁴² El-Qadim, *Post-colonial Challenges*, 245-252.

⁴³ *Ibid.* 242-261.

politique migratoire.”⁴⁴ While he spends much of his thesis detailing Morocco’s decades-long entanglement with migration flows in Africa, the crux of his thesis lies in his discussion of Morocco’s various migration policies and the way these policies incorporated the protection of human rights. He states that a successful migration management policy has to do more than satisfy the state; it must respect and protect the fundamental rights of migrants.⁴⁵ In one section of the thesis, Amakhtari writes about the externalization of EU borders and writes the primary European method of enforcing border control in its neighboring states is through the signing of readmission agreements. A readmission agreement with the EU would oblige Morocco to readmit those who were arrested on EU territory after crossing from Morocco, though many of those arrested had merely traveled through Morocco and were not Moroccan nationals.⁴⁶ Amakhtari’s thesis supports the arguments found in el-Qadim’s essay that Morocco does not passively execute EU policies and rules. The country actively participates in negotiations with the EU and rejects the conventions—the readmission agreements specifically—leading to the implementation of migratory policies which threaten Morocco’s autonomy. He examines the interplay between international agreements and Morocco’s 2013 migratory policy, which he states had a limited impact on migrants in Nador due to the lack of awareness about the policy in the region and the fear many migrants felt that the new policy was a way for the security forces to send them back to their countries of origin.

⁴⁴ Amakhtari, Abdeslam. *La Gestion De L’immigration Subsaharienne Au Maroc: Limites Des Lois Et Perspectives De La Nouvelle Politique Migratoire*. Rabat: International University of Rabat, 2015.

⁴⁵ Ibid, 58.

⁴⁶ Ibid, 30.

IV. Human Rights Abuses at the Border

Prior to the CNDH report, Doctors without Borders (DWB)/Medecins sans Frontieres (MSF) published a report in March 2013 that denounced the continuous violence and abuse migrants face near Nador and Oujda.⁴⁷ The report stated that the broadening of the EU's border externalization policy in the past decade had "trapped" many sub-Saharan migrants in Morocco. When this report was published, Morocco's 02-03 law relating to the "Entry and Stay of Foreigners in Morocco, Emigration, and Irregular Emigration" was still in force. This law criminalized stay in Morocco without official documentation and led to "social violence, discrimination, stigmatization, and marginalization" directed towards the migrant population.⁴⁸ Without documentation, migrants were unable to work, find accommodation, and receive a public education. They lacked basic resources and lived in camps in the forests near the borders. At the time data was collected, half of the interviewees had lived in Morocco for more than six months, a quarter for six months to one year, a fifth between one and five years, and seven percent for more than five years. The report concluded that the longer migrants stayed in Morocco, the more vulnerable they became not only to violence but to physical and psychological disorders. This report, in concurrence with the CNDH report introduced in the "Background" section, contributed to the formation of Morocco's 2013 migratory policy.

In February 2014, Human Rights Watch issued a report titled "Abused and Expelled" which reported severe human rights violations of migrants living near Oujda, on the Algerian border, and Nador, on the Spanish border.⁴⁹ While the report's data was collected before the

⁴⁷ "Violence, Vulnerability, and Migration: Trapped at the Gates of Europe." Doctors Without Borders. March 1, 2013.

⁴⁸ *Ibid.* 21.

⁴⁹ "Abused and Expelled." Human Rights Watch. February 10, 2014.

implementation of the 2013 migratory policy, most of the human rights abuses at these cities were ongoing even a year after this report's publication. HRW reported that Moroccan police had raided the camps migrants set up near the borders and confiscated possessions, beat migrants (including the children), and violated *non-refoulement* by expelling many to Algeria. The organization interviewed 67 sub-Saharan migrants and concluded that Moroccan Auxiliary Forces and the Spanish *Guardia Civil* used excessive force against those trying to enter Melilla. The report called on Moroccan government to ameliorate the situation for migrants as entailed in the 2013 policy and urged the Spanish government to stop the arbitrary expulsion of migrants from Melilla. HRW "asks the European Commission to investigate and monitor Morocco's treatment of migrants" and to ensure that "Morocco is in accordance with the European Union and international human rights standards."⁵⁰ Ironically, HRW asked the European Commission to monitor Morocco to ensure that the country does not abuse human rights standards, yet Spain, a member of the European Union, also took part in the human rights violations at the border. Though published almost two years ago, the human rights violations enumerated in this report continue in Nador and Oujda; an indication that the "human-rights" emphasis of the 2013 migratory policy has failed.

While published reports indicate that Morocco's 2013 migratory policy has not ameliorated human rights at the border, HRW's August 2014 report, "Spain: Halt Summary Pushbacks to Morocco," shows that even if Morocco stemmed human rights violations on its side of the border, Spain would still perpetuate violence against migrants.⁵¹ During the week of August 11, 2014, close to 1,300 migrants attempted to cross the six-meter fence separating Morocco and Melilla. Video footage taken of the events shows Spanish *Guardia Civil* officers beating migrants who had

⁵⁰ "Abused and Expelled." Human Rights Watch.

⁵¹ "Spain: Halt Summary Pushbacks to Morocco." Human Rights Watch. August 18, 2014. Accessed November 16, 2015.

already crossed into Spanish territory. Spain's own immigration policy states that any individual who enters Spain without permission must be escorted to a National Police Station for identification and to begin deportation procedures. Every individual is entitled to a translator and to a lawyer. The video, however, shows Spanish officers sending many migrants directly back to Morocco without any legal recourse.⁵² The perpetration of violence by Spanish border officers displays the difficulty at ameliorating the human rights situation at the Moroccan border and the challenges in reconciling Morocco's domestic commitment to human rights for foreigners with growing EU pressure at the borders.

⁵² "Spain: Halt Summary Pushbacks," Human Rights Watch.

Methods and Methodology

As I seek to understand the relationship between the EU and Morocco, and how this relationship, and the agreements that resulted from it, affect the implementation of Moroccan domestic policy, I will be doing primarily qualitative and content based research. My qualitative research will be made up of a series of semi-structured interviews with migration academics and activists who work firsthand with those affected by the international migratory policy between Morocco and the EU. I chose this method of data collection because while there were clear questions I needed answers to, I also wanted to allow the interviews to have some flexibility. My content based research will be conducted through reading and analyzing reports issued by the European Commission and by the Moroccan government. I will also track the development of partnerships and initiatives between the EU and Morocco.

I conducted my research primarily in Rabat for three weeks in November 2015. I chose to stay in Rabat because most major international organizations and scholars are based out of the capital. I had originally wanted to interview individuals at the Ministry of Moroccans Living Abroad and the Ministry of Migration as well as individuals at the European Union Delegation. I had intended these interviews to capture the official rhetoric of the Moroccan government and the EU towards their relationship with each other as well as towards the ongoing human rights violations at the Moroccan-Spanish border. It quickly became clear that getting into contact and conducting an interview with these individuals was not going to be possible. While I emailed all my contacts at these two ministries and tried calling them in following weeks, I received no response. I also tried (to no avail) emailing the European Union Delegation as well as emailing individuals who had worked on various EU-funded projects in Morocco through contacts that Philippe Staatsen of the EU gave me. All government organizations are largely bureaucratic but I suspect it was the subject matter—human rights violations at the border—that also played a role

in the lack of response. While I was disappointed, the lack of interviews with government officials was not detrimental to the project's purpose. Any information I would have received from either party would have been filtered through its respective institution and would not differ greatly from the *communiqués*, partnerships, and policies each party published.

I chose all of my participants because of their professional experience and knowledge of EU-Moroccan relations. During my literature review, I came across two major schools of thought in regards to the relationship between Morocco and the EU. The first theory states that Morocco acts as the “gendarme” of the EU and holds little power in the relationship between the two parties. The second theory states that Morocco is an active participant in relations between the two parties and holds an advantage in negotiations. Much of the scholarly literature and policies I have read about Moroccan-EU relations seem to support the first theory. I wanted to diversify my research and gain an understanding of the second school of thought which has gained popularity in past years. The SIT Migration program had assigned a few articles written by Professor Mehdi Alioua a scholar who writes extensively about migration in Morocco and about Morocco's autonomy in dealing with the EU; a stance that places his work firmly in the second school of thought. My academic director, Dr. Souad Eddouada, and adviser, Dr. Zakaria Rhani, recommended that I get into contact with him and he graciously invited me to his office at L'Université Internationale de Rabat for an interview. Dr. Anitta Kynsilehto, a scholar of human rights and issues of mobility in the Mediterranean, had spoken to our class during our trip to Nador in September about the issues that Ceuta and Melilla present to Moroccan migratory policy. I received her contact information from Dr. Eddouada and conducted a structured interview through email. While this was not the ideal way to conduct an interview, geography and busy schedules combined with a time difference made this method the only way of having an interview.

For my interviews with activists, I contacted the United Nations High Commissioner for Refugees (UNHCR) and Asticude, an organization in Nador that works extensively with migrants and refugees. The UNHCR was extremely welcoming to my program when we visited in September and I received with the same openness and helpfulness from the organization when I went for an interview in November. I had read about Asticude during my literature review, as the organization was cited in many articles about the human rights violations at the base of Mount Gurugu. While I originally thought visiting the organization was out of the realm of possibility, Dr. Eddouada met Asticude's president, Abdeslam Amakhtari while in Nador and put us into contact. Due to the welcoming nature of Asticude, I was able to visit Nador and spend a few days with the organization. As Asticude worked directly with migrants who live in camps near the border with Melilla and has seen the effect of the harsh security policy implemented by both Moroccan and Spanish security forces, I was extremely happy to have the opportunity to talk to activists Mr. Amakhtari and Mr. Hicham Arroud while there.

As my research question is policy-based, I reviewed all of the Moroccan-EU partnerships as well as Morocco's 2013 migratory policy before the interviews. This project is not attempting to gather perceptions of the relationship between the two parties but seeks to understand the realities behind the relationship. I had to prepare informed questions from which the scholars and activists could build their answers. It was only after becoming fully comfortable with the workings of the ENP and the Joint Partnership for Mobility in the Mediterranean that I could write informed questions in order to get the most out of my interviews. I went into my interviews with a set of themes, ranging from "what do you think about Morocco's new migratory policy?" to "what are the changes you have seen in border security since 2013?"

I left time and space for the conversation to develop organically because I knew that new questions would arise as I heard the respondents' answers. I followed Joseph C. Hermanowicz's strategies of "converse, listen, find all that your date [interviewee] finds important, and probe." I felt that I came away with more information from the interviews that began with a simple conversation from which the questions sprung organically than from the interviews that were more structured. A slight difficulty I came across in the semi-structured interviews was language comprehension. I have working proficiency in French and am able to fully understand and take part in normal conversations. Conducting an interview in another language is a wholly different matter, however, as it was necessary for me to learn many French policy terms related to migration before I entered the interview. It was more difficult for me to ask follow-up questions during the interviews conducted in French. Though each participant allowed me to record the interview on my phone, leaving me free to engage fully in the interview, it took more effort to comprehend the interviews in French. I do not think I captured all of the nuances and details that those who spoke in French included in their responses while I felt that I could glean more information from the interviews in English because I was able to comprehend the responses fully and ask more questions. Each participant signed a consent form in whichever language he or she felt most comfortable in after I explained that I was a student writing a final research project.

To avoid a single story, I tried to look at the issue from all angles. It is easy to restrict policy to the pages of a report of the boardroom of a ministry of international organization though policy is intended to affect people on the ground. I also kept in mind that the answers each participant gave do not frame the question in its entirety. After I had transcribed the interviews, I analyzed the responses in the broader field of Moroccan-EU partnerships and the 2013 migratory policy in order to compare the reality to the policy. Though I cannot draw a broad conclusion about the

relationship between Morocco and the EU through a few interviews with academics and activists and through policy analysis, I can begin to outline the fundamental problems this relationship poses for the full implementation of the 2013 migratory policy.

I think my position as a 21-year old American student studying in Rabat for the semester helped more than it hindered me. All of my participants were academics or activists and thus were doing me an immense favor by meeting with me and agreeing to be interviewed. I think my being a student with an interest in migration helped me because all of the people I interviewed are extremely passionate about their work and were excited to share the work they do. I am very grateful for the opportunity to talk with these scholars and activists and I hope that in attempting to answer my research question in this paper, all of their work can be seen.

Findings

I. Legal Agreements between Morocco and the EU

The main legal agreements governing relations between the EU and Morocco are the ENP and the 2013 Joint Mobility Partnership. According to the European Commission's 2003 communique, the growth of the EU to 25 countries necessitated "drawing closer to the 385 million inhabitants of the countries who will find themselves on the external land and sea border, namely Russia, the Western NIS, and the Southern Mediterranean."⁵³ The communique lay out conditions for entering the ENP, including the demonstration of "shared values and effective implementation of political, economic and institutional reforms," and promised that all countries that followed these guidelines would "be offered the prospect of a stake in the EU's Internal Market and further integration . . . to promote the free movement of – persons, goods, services and capital." The ENP states that these "shared values" include a respect for human rights as codified by the EU Charter and the Universal Declaration of Human Rights (UDHR). Morocco is mentioned in two major sections—trade and migration—of the original ENP. Migration—specifically curbing illegal immigration—is a key objective of the ENP and "concluding readmission agreements with all the neighbors, starting with Morocco" is stated as a prerequisite to this goal.⁵⁴

While the ENP's stated goal is an enlargement of the surrounding area that exhibits European values, the pattern that the policy's reforms have taken in the past few years indicate that the ENP's foundation is primarily security-based. The ENP's first major reform was in May 2011, shortly after the onset of rebellions in Tunisia and Egypt and civil war in Libya and Syria. Titled "A New

⁵³ "Wider Europe--Neighborhood: A New Framework for Relations with Our Eastern and Southern Neighbors." European Commission. 2003. Accessed December 4, 2015.

⁵⁴ Ibid.

Response to a Changing Neighborhood,” the paper acknowledged that the general nature of the ENP did not allow for differentiated relationships with each neighbor state to develop and that “greater support” must be given to the south and east to foster “inclusive economic development,” “deep democracy,” and “consistent regional initiatives in areas such as trade, energy, transport or migration and mobility.”⁵⁵ This version of the ENP introduced the foundation for the 2013 Joint Mobility Partnership⁵⁶ in its section on migration and pledged to “develop a mutually beneficial approach where . . . well-managed legal migration, capacity-building on border management, asylum and effective law-enforcement co-operation go hand in hand.” This section called the “promotion and respect of migrants’ rights an integral part of the approach.”

The second major reform of the ENP came in November 2015, five days after the Paris attacks. Terrorism and the refugee crisis were named as the two main reasons for the need for an upheaval of the ENP. It claimed that “Europe’s own interdependence with its neighbors” had become a security risk for the continent, and while the policy clearly tried to avoid reactionary rhetoric, it was unquestionably clear that the main focus of the new ENP is Europe’s security. The ENP stated that “intensified cooperation with our neighbors is needed in these areas [security-sector reform, conflict prevention, counter-terrorism and anti-radicalization policies].” Though Morocco, one of the EU’s highest acceded members, benefits from EU funding, cooperation with the EU will eventually reach a point where Morocco has little to gain. Morocco is not guaranteed accession to the EU though the ENP’s logic may seem to imply that by following certain conditions, a neighbor state will be brought closer and closer into the European sphere.⁵⁷

⁵⁵ “A New Response to a Changing Neighborhood.” European Commission. May 25, 2011.

⁵⁶ Detailed in the “Background” section.

⁵⁷ Lehne, “Time to Reset the European Neighborhood Policy.”

Dr. Mehdi Alioua at the International University of Rabat spoke candidly about Morocco's relationship with the EU and expressed that Morocco held more power in the relationship than is generally thought. When asked about the general characteristic of relations between the two parties, he first clarified that though the EU exists in theory, in reality it is not able to negotiate because of its fragmented nature. The EU is not the "United States of Europe"—each member is part of an economic zone but there is no political exterior.⁵⁸ Though the EU imposed this relationship on Morocco, he argued, Morocco is well aware that the EU does not politically function as a unit. He referenced France's unwillingness this summer to admit migrants and adhere to EU-quotas to display how individual member states can have wildly different agendas than the larger union of which they are part.

Dr. Alioua also explained that the Schengen Area necessitated stronger security at the EU's frontiers and created fluid borders that promoted injustices in neighboring countries. Member states demanded greater external security after its introduction. The term "Schengen Area" is misleading, however, because there is no "Schengen visa"; rather, there is a French visa or a German visa that allows nationals of these countries to travel throughout the Schengen Area without border checks. According to Dr. Alioua, the absence of a "Schengen visa" means that there is truly no European policy on immigration—the policy on EU immigration is just "pour le décor."⁵⁹ "Fortress Europe"—the heavy hand Europe exercises in deciding who to let into its borders—creates injustices and is contradictory to the rights of man. The stronger security at the borders engenders numerous human rights violations and frustrations in simply determining where

⁵⁸ Alioua, Mehdi. Interview by Anashua Dutta. Semi-Structured. International University of Rabat, November 17, 2015.

⁵⁹ Ibid.

the border with Europe is located. He asks “where is the border? In Spain? In Melilla? In Morocco?”⁶⁰

While Morocco’s relationship with the EU generally revolves around finances, neither scholars nor activists seemed convinced that Morocco engaged in relations with the EU solely for money. Dr. Alioua called the relationship “strategic” as money from the EU helped Morocco solidify its position as one of the most advanced countries in its region.⁶¹ Dr. Anitta Kynsilehto stated that though there are “direct economic gains” for Morocco, perhaps the “wider gains in terms of Morocco’s reputation as a reliable partner” that translate into indirect economic gains are more important.⁶² Commenting on the EU’s side of the relationship, Hicham Arroud, a civil society activist at Asticude, said he believed that pressure from the EU on Morocco mostly fell in the political, and not the economic sphere. Arroud argued that though the EU could alter its funding to Morocco in order to promote a certain outcome, the more common way that the EU goes about its pressure tactics is through revisions in the rhetoric of the ENP.⁶³

II. EU-financed Projects

The projects related to migration that the EU funds in Morocco are divided into six major domains: the promotion of the integration of migrants in Morocco; asylum; fight against trafficking; promotion of migration as a means towards development; awareness about the risks of migration; and return and reintegration into country of origin.⁶⁴ Each domain includes several

⁶⁰ Alioua, Interview.

⁶¹ Alioua, Interview.

⁶² Kynsilehto, Anitta. Interview by Anashua Dutta. Structured. Email, November 26, 2015.

⁶³ Arroud, Hicham. Interview by Anashua Dutta. Semi-Structured. Asticude, November 23, 2015.

⁶⁴ “Projets Finances Par L’Union Europeene Au Maroc dans le Domaine de la Migration,” *UNHCR Rabat*, July 2015, Accessed November 25, 2015.

projects that are implemented in Morocco through the EU's partnerships with various Moroccan government ministries and NGOs. The mission of each project only gives a partial sense of the EU's motivations in funding migration-related projects in the Morocco. In order to fully understand the EU's intentions, the relative importance it places on each project—in this case measured by the amount of funding each project receives—must be taken into account.

The two domains that receive the greatest funding, by far, are “promotion of the integration of migrants in Morocco” and “promotion of migration as a means towards development.”⁶⁵ Projects in the former domain for the 2015-2019 period include medical coverage for regularized migrants (€2 million); insertion of migrant children into Moroccan schools (€2 million); medical and psychological care for 1,500 vulnerable female migrants including pregnant women, women with babies, and victims of violence (€1.4 million); pathways to integration for 1,500 migrants including professional training towards employment or self-employment (€3 million); and technical assistance to le Ministère Chargé des Marocains Résidant à l'Étranger et des Affaires de la Migration (€1.6 million).⁶⁶ Whereas millions of euros are allocated to these projects that seek to socially, medically, and professionally integrate migrants into Moroccan society, only €40,000 was spent on a 2014-2015 project called “improvement of the state of health, living conditions, and dignity of the most vulnerable sub-Saharan immigrants in Nador province.”⁶⁷ It does not come as a surprise that the EU views funding migration-related projects in Nador, which poses a direct threat to Melilla, as a low priority compared to projects that would incentivize migrants to stay in Morocco. The “migrant rights in action,” a 2014 multi-country project scheduled to end in 2017, has a budget of €10.5 million though currently, the EU has budgeted that Moroccan actors of civil

⁶⁵ “Projets Finances Par L'Union Europeene,” *UNHCR Rabat*, 1, 3-6.

⁶⁶ *Ibid.* 1.

⁶⁷ *Ibid.* 2.

society will receive three grants of €100,000 to protect victims of trafficking and migrant domestic workers.⁶⁸

The domain that focuses on promoting migration as a means of development receives even greater funding from the EU for eight projects which range from improving cooperation between Moroccan and EU officials to creating opportunities for migrants to contribute to Morocco's economic development through agricultural work.⁶⁹ The most funding (€5 million) under this domain for the 2014-2017 period is allocated to a project promoting communication and the exchange of expertise between Moroccan and EU officials. While the description of this project states that a main goal is to distribute expertise of the EU member states in response to the need of Moroccan institutions, an interview with Arroud brought to light the lack of expertise that EU-member states have in the domain of migration. When asked about the pressure that the EU places on Morocco, he stated that a huge problem with the EU was that it has no real unique strategy towards migration. In his experience working with migrants and refugees in Nador, he has observed that while the EU will change its migratory policy from time to time depending on the situation, it has no sustainable or comprehensive vision.⁷⁰ His comment that Spain and Morocco are able to negotiate bilateral conventions on migration despite EU migratory policy was the main critique of the EU that emerged in many interviews. The EU is made up of many states, each with different interests due to geography, economics, and domestic policy, and does not have control over the bilateral conventions each member-state makes with southern or eastern neighbors—even if these bilateral conventions are contrary to the multilateral conventions the EU negotiates.

⁶⁸ Ibid. 2.

⁶⁹ The amount of funding Morocco receives from the EU for the promotion of migration as a means towards development is not exactly known as the numbers given by the EU are not specific to Morocco. Most projects in this domain are implemented in more than one country and encompass several members to the south and east of the EU (members of the ENP).

⁷⁰ Arroud, Interview.

There is no doubt that on paper, the EU-funded projects in the domain of migration emphasize the rights of migrants, asylum-seekers, and refugees. What is also clear, however, is that the funding allocated for projects that involve migrants integrating into EU-member states or for projects that focus on human rights for migrants at the border is negligent if it exists at all. Projects emphasize local integration, support for Moroccan institutions which work with migrants, and the creation of a network of information among the EU's southern neighbors that will allow all concerned states to be better informed about the current state of migration in the Mediterranean region. Morocco's main border with the EU is in Nador yet the province is only mentioned once in the list of 25 projects. The sole project concerning Nador received one of the lowest budgets of any project on the list. This table of EU-funded projects does not include EU-funding of Morocco's border security at Ceuta and Melilla though the EU does directly contribute to this aspect of Morocco's budget. Arroud noted that at the end of 2014, Morocco, financially backed by the EU, began construction of a higher border between Melilla and Nador.⁷¹ None of the EU projects in the domain of migration inherently stand in contradiction to the 2013 migratory policy. The projects' dismissal of the ongoing human rights violations at the border—to which migration owes its existence—speaks volumes about the EU's concern with the realities at its borders.

III. The 2013 Migratory Policy—Hopes and Realities

Asticude President Abdeslam Amakhtari, said that the activist community felt hopeful after the passing of the 2013 migratory policy.⁷² The exceptional one-year regularization policy and the emphasis on human-rights that characterized the policy were welcome news to Amakhtari, whose organization sees firsthand the injustices migrants and refugees face at Morocco's border with

⁷¹ Arroud, Interview

⁷² Amakhtari, Interview.

Melilla. While the 2013 migratory policy seemed to address the many human-rights issues Morocco had been criticized for in the past, the implementation of this policy has not made great improvements in the field of human rights.

The 2005 events at Ceuta and Melilla are often pointed to as the beginning of the heavy securitization of the Moroccan borders. When asked if he had seen a change in Moroccan border security since 2013, Arroud stated that while Morocco's new migratory policy had little effect on the border security, the 2005 migrant crossings catalyzed a movement to increase the heights of the three fences that separate Morocco and the Spanish enclaves.⁷³ Amakhtari also noted that both the Moroccan and Spanish authorities must take responsibility for the way they acted against the migrants in 2005, comparing the violent crackdown to a military operation. He stated from that point on, Spanish authorities have responded to these crossings with force while Morocco has committed to building taller and taller barriers.⁷⁴ Anthony Berginc at the UNHCR echoed Amakhtari's sentiments when speaking about the EU's security-based answer to migration. The events at Ceuta and Melilla that prompted the construction of three different fences separating Spain and Morocco hardened the possibility for people to cross the border, prompting a shift in migration routes from Morocco to Spain to Libya to Greece/Italy. The security-measures at the border includes Spanish and Moroccan guards at the fences and the Moroccan Royal Navy that intercepts migrants on *pateras* every day.⁷⁵

Arroud, who has worked with many individuals who qualified for residence under the 2013 migratory policy, expressed dismay with the policy's implementation. He stated that though the policy seemed progressive at the onset, the execution of the operation began with strict conditions.

⁷³ Arroud, Interview.

⁷⁴ Amakhtari, Interview.

⁷⁵ Berginc, Anthony. Interview by Anashua Dutta. Semi-Structured. UNHCR Rabat, November 25, 2015.

Most migrants enter the country after walking thousands of kilometers and usually have no identification documents with them. Some lose their papers because of the journey while others purposely leave their papers in their country of origin in an attempt to complicate repatriation if they are caught. Arroud stated that while most come to Morocco thinking of going to Europe, the heavy security at the border and the strict maritime control in the Mediterranean necessitates staying in Morocco. While the residence policy would technically have a tangible effect on the lives of the many migrants living in the forests of Mt. Gurugu, many for years and years, Arroud explained that neither the residence aspect nor the human rights aspect of the policy were well instituted in Nador. Buses still come to Nador once to twice a day to round up migrants and send them to cities—Fez, Meknes, Casablanca, Rabat, Marrakesh—far away from the border. Police forces find migrants in the street and arrest them. According to Arroud, “even for someone who wants to go grocery shopping for his family, he can anytime be arrested or kicked out to cities 600 to 1,000 kilometers away and then must look for money to get back to his family. We would like to know what respect of human rights means if people can’t walk normally in the streets.”⁷⁶

Dr. Kynsilehto observes that “there seems to be a regime applied in the border areas, which includes the implementation of the 2014 regularization campaign. Applicants from Nador seem to have been more likely to receive a negative answer as the authorities seem to think the only reason for a migrant to stay in Nador is to try to cross to Spain.”⁷⁷ When asked if she has seen a change in border security since the implementation of the 2013 policy, she said that the only security measures that have slightly altered are the deportations or dispersals of migrants which are “now directed towards internal areas of the country rather than to the Algerian border.”⁷⁸ She states that

⁷⁶ Arroud, Interview.

⁷⁷ Kynsilehto, Interview.

⁷⁸ Kynsilehto, Interview.

in past years, even before 2013, there have been concerted efforts made to keep migrants as far away from the borders as possible.

Amakhtari, Arroud, and Dr. Alioua denounced the February 2015 breakup of migrant camps at Mt. Gurugu as a clear violation of the 2013 migratory policy and of the UDHR. Article 13 of the UDHR states that “everyone has the right to freedom of movement and residence within the borders of each State.”⁷⁹ Individuals have the right to leave their country and seek residence in another one and should never be robbed of this right just because they do not have identification. Amakhtari criticized the Moroccan government for its order to carry out the displacement of migrants in February, saying that there was no legal jurisprudence for this action and that the Moroccan government had violated every right the migrants possessed.⁸⁰

Lack of awareness and fear were the two main factors activists at Asticude and the UNHCR named as contributing to the failings of the 2013 migratory policy. When the regularization policy began in January 2014, Arroud reported that only four migrants asked for regularization in the first three months. Asticude discovered that many migrants did not trust the operation as they did not see any change in the way the authorities treated them. The police continued to put them on buses to different cities and continued to use brutality as a tactic to maintain order. Many were afraid that the policy was a ploy to send them back to their countries of origin. Those who were willing to talk to authorities often could not because of communication issues. These people lived thousands of kilometers away from where the policy was issued and unsurprisingly, were not informed about their rights.⁸¹ Berginc shared that the UNHCR has a similar problem when trying to inform migrants entering through Oujda about their rights as asylum seekers or potential

⁷⁹ “The Universal Declaration of Human Rights,” *The United Nations*, 1948. 4.

⁸⁰ Amakhtari.

⁸¹ Arroud, Interview.

refugees. As the border with Algeria is officially closed and before 2013, no international organizations were allowed in that area, the UNHCR has no presence in the north. Yet, 90% of people who come to the UNHCR office in Rabat enter Morocco through Oujda. The UNHCR has partners in Oujda that must subtly refer asylum seekers or potential refugees to the UNHCR, though it would be far more effective to establish a UNHCR branch in the north to inform individuals of their rights.⁸² To combat the lack of awareness in Nador, Asticude began a campaign of information in the forests to educate migrants about their rights to residence and their rights to be treated with respect. This campaign had great success—404 migrants from Nador were successfully regularized by December 2014.⁸³ Though the residence aspect of the policy was ameliorated by the campaign of awareness, the events of February 2015 indicate that brutality against migrants persisted.

IV. Human Rights and the EU

Though there is no debate about existence of massive human rights violations at Morocco's border with Melilla, there are different theories about the motivations behind the violence. Alioua stated that human rights violations at the border are not a uniquely Moroccan phenomenon. States never support the irregular migration of people at the borders. To use his example, France does not close its borders to please the British. In a powerful statement, Alioua concluded that "there are no human rights at the borders." He conceded that though Morocco has made efforts to better the lives of migrants following 2013, the country is more sensitive to migration control because of its geographical location and because it does not possess the infrastructure that European countries possess to process irregular migrants. When asked if relations between Morocco and the EU changed

⁸² Berginc, Interview.

⁸³ Arroud, Interview.

post-migratory policy, Alioua said it was too early to tell though he believes that the policy gives Morocco greater leverage in readmission negotiations. As he had stated previously, the Moroccan government knows that all negotiations with the “EU” are technically with Madrid, Paris, and Rome, and not with Brussels.⁸⁴

Activists in Nador took a harsher view of the EU when they were asked the same questions. Arroud stated that pressure from the EU, and especially Spain, on Morocco has been ongoing, especially given the security-threats the EU feels it is under. Post-2013, the EU has been making a greater push to incentivize Morocco to sign a readmission agreement, which would make Morocco responsible for readmitting any individual who had passed through its territory before reaching EU territory. The latest talks, Arroud shared, have revolved around the EU’s desire to build migrant camps—similar to the current camps in Slovenia, Serbia, Greece, and Hungary—in Morocco. Several EU members, including representatives from the border agency FRONTEX, met with civil society activists last summer to negotiate a new migratory policy. Arroud said no amount of convincing could persuade the EU to change its original stance: migrants must live on the south side of the Mediterranean.⁸⁵

Amakhtari said that though the EU’s policies shallowly revolve around the rights of man, its primary goal will always be the externalization of its borders. He adds that the EU’s primary method of widening its borders is through the signing of development conventions with third-party “origin” countries. He notes that no matter how much pressure the EU places on Morocco to play the role of “policeman,” Morocco still has autonomy in negotiations and has not displayed any hesitance in pushing back against the EU’s border expansion. He concluded the interview saying that the EU’s primary objective is to externalize its border control while closing its eyes to the violations of the

⁸⁴ Alioua, Interview.

⁸⁵ Arroud, Interview.

rights of man that occur because of its expanding power.⁸⁶ Kynsilehto's statement about the effect of the Moroccan-EU international agreements on the 2013 migratory policy takes on a similar tone. While the two policies are not contradictory in "the sense that the cooperation between Morocco and the EU includes different dimensions and the EU has sought to ameliorate reception capacities (with emphasis on legal reform but also indirectly for example by financing international humanitarian organisations that work in Morocco)," Europe's externalization of borders cannot truly match "the spirit of the 2013 migratory policy."⁸⁷

Though there is greater security at the borders with the Spanish enclaves, the UNHCR reported that the fences erected at Ceuta and Melilla did not change the number of people who came to their office. This may partially have to do with the fact that those who want to cross would not come to the UNHCR because they are not interested in seeking asylum in Morocco. Those who want to leave Morocco do not want to leave a sign of their presence in Morocco, though the UNHCR does not give anyone the information of those who come to their office. Berginc states that while the border has become increasingly more difficult to cross, there are still smuggling networks that individuals use to travel to Europe. Morocco has a unique problem because of the geopolitical challenges the Spanish enclaves pose to the country's autonomy and security.⁸⁸ Since they are the closest ways to reach Europe for many people, there will continue to be a proliferation of increasingly dangerous and subversive ways to cross the border. All those interviewed said that despite the human rights violations and the heightened border security, migrants and refugees in Morocco continue to have hope about their ability to move and make better lives for themselves.

⁸⁶ Amakhtari, Interview.

⁸⁷ Kynsilehto, Interview.

⁸⁸ Berginc, Interview.

Analysis

While those interviewed held different interpretations of Morocco's relationship with the EU, there was a consensus that the human rights abuses at the border were direct violations of the 2013 migratory policy. The question now is how much of the abuse of individuals at the border stems from a purely Moroccan directive and how much of the abuse is a result of the EU intervention in Morocco? There is, for obvious reasons, no EU policy in Morocco that stands in contradiction to the human-rights aspect of the 2013 migratory policy. Rather, the ENP and the Joint Mobility Partnership emphasize the rights of migrants and commit the EU to working with Morocco on structural reforms in the field of migration. Many of the migration-related projects that the EU funds in Morocco are intended to improve the social, psychological, and economic well-being of refugees, migrants, and asylum-seekers in Morocco. These policies are extremely vague and contain little information about how these "structural reforms" will be made and about how the EU will work with Morocco to combat irregular migration. While the EU programs do not contain any directives that explicitly violate human rights, the increased border securitization in the years following 2005 and the blatant focus on programs that would keep individuals as far away as possible from the European border send a clear message that Europe, as Arroud said, believes migrants must stay on the south side of the Mediterranean.⁸⁹

Despite the EU's relative size and power, Morocco clearly possesses power in negotiations with Europe, most evidently displayed by the ongoing negotiations about the readmission agreement. Readmission agreements—one of the main tools the EU uses to combat irregular immigration—are at the crux of the EU's negotiations with its neighbors. Most recently, Turkey and the EU signed a

⁸⁹ Arroud, Interview.

readmission agreement that committed the EU to sending €3 billion in aid to Turkey in exchange for Turkey implementing even stricter border and sea controls. The aid package is also intended to be used to improve the lives of refugees in Turkey; very similar to the migration programs the EU has in Morocco.⁹⁰ The EU has also pledged to lift visa requirements for Turkish citizens by October 2016 and begin re-negotiating Turkey's accession to the EU.⁹¹ There have been many criticisms of Turkey's readmission deal with the EU—namely because this deal revolves around the hundreds of thousands of refugees in Turkey but takes only the interests of Turkey and the EU into account.⁹² While the human-rights aspects of the deal have been called into question, Turkey's status as an equal player in EU-negotiations has not been. Morocco is currently in the same negotiations with the EU and is pushing for the same visa clause that the Turkey-EU deal contained. Nora el-Qadim said that Morocco had entered the topic of visa facilitation into talks long before the EU and that the country is firm in its stance that visa-facilitation should be negotiated in parallel to, and not as a condition for, the readmission agreement.⁹³ Morocco's insistence on making a deal on its terms—one that will never include the building of migrant camps within its borders—dismantles the idea that the EU has insuperable bargaining power in agreements made with Morocco and brings the human rights violations at the Moroccan borders into a new light.

Heavy securitization plays a direct role in the violent breakup of migrants' camps near Melilla but lack of awareness about the 2013 migratory policy and its provisions for migrants also prevented the policy's full realization. The policy, passed as an emergency measure in Rabat, would mean the most for those individuals living in the forests in Nador, but the government's failure to support

⁹⁰ "Europe Has a Deal with Turkey, but Migrants Will Keep Coming." *The Economist*. November 30, 2015

⁹¹ *Ibid.*

⁹² Serdaroglu, Ozan. "The EU-Turkey Summit: A Possible Turning Point - with Major Pitfalls." *Middle East Eye*. December 2, 2015

⁹³ Chaudier, Julie. "Accord De Réadmission : Une Bonne Affaire Pour Le Maroc ?" *Accord De Réadmission : Une Bonne Affaire Pour Le Maroc ?* November 23, 2015.

campaigns of awareness in the north left many of those eligible for the policy unaware of their rights. This lack of awareness, ameliorated by the work of Asticude and partner organizations of the UNHCR, also allowed security forces at the border to continue using violence as a tactic to maintain order. Migrants did not see a physical change in the way they were treated—a major failure of the 2013 policy.

It could be argued that the violence at the borders is worsened by the EU's presence there. Morocco is truly in a unique geopolitical situation at the exit site from Africa and the entrance point to Europe. Morocco has a vested interest in following the EU's border-directives as its reputation in the EU would then increase and the country would be given the means to fulfill its own interests. This potential motivation is epitomized by a quotation from Morocco's Directorate for Migration and Border Surveillance found in Wunderlich's text. He stated that Morocco had accepted its role as "Gendarme of Europe" because in fulfilling this role, Morocco was given the "financial and logistic resources" to address its own goals.⁹⁴ Separate from the EU's wishes, however, Morocco seeks to exert its power by controlling its borders. It is not just agreements with the EU that have led to the increase in human rights violations in the north. Borders are the way states determine where they exert their authority. As Max Weber famously wrote in his essay "Politics as a Vocation," the definition of a state is "a human community that (successfully) claims the monopoly of the legitimate use of physical force within a territory."⁹⁵ There are very few countries, if any, where human rights violations do not exist at the border. To write this is not to excuse the events that occur every day near the Moroccan-Spanish border but to acknowledge that Morocco is not alone in its struggle to compromise human rights with state authority.

⁹⁴ Wunderlich, *Differentiation and Policy Convergence*.

⁹⁵ Weber, Max. *Politics as a Vocation*. Philadelphia: Fortress Press, 1965. 1.

Conclusion

The EU's presence at the Moroccan border and the agreements made between the two parties hold Morocco accountable for regulating its borders, more so than if the EU did not have a heavy presence there. It is likely that the directives issued by the Moroccan government to break up migrant camps and to regularly expel migrants from Nador to far away cities were made in consideration of agreements with the EU. It would be fallacious and a discredit to the power of the Moroccan government to conclude that the EU is behind all of Morocco's decisions regarding the migrants and refugees that live within its borders. It is in Morocco's best interests to cooperate with EU policy in order to further its own agenda just as it is in its best political interests to monitor its borders in order to maintain regional hegemony.

The lack of awareness about the 2013 policy among migrants at the border combined with increasing pressure from the EU due to the ongoing Mediterranean crisis pose massive obstacles to the implementation of the 2013 law. Neither factor, however, is the primary reason that the policy will never be fully implemented. The 2013 migratory policy cannot be fully realized because respect for human rights very rarely extends to state borders. Despite the rhetoric of the policy, respecting human rights and monitoring migration are two entities that are often at odds. Even if the EU did not have a heavy presence in Morocco, these human rights violations at the border would continue. The only difference would be that these violations might not be as widely publicized. Every day we see examples of how human beings are treated when they try to exercise their right to mobility. We see police in riot-gear throwing stones or using tear gas to stop the movement of refugees; we see migrants thrown to the ground; we see crowds of people screaming at those who have just entered their borders to go back where they came from. Morocco's relationship with the EU might hinder

the implementation of the 2013 migratory policy, but the very existence of borders dictates that the human-rights aspect of the policy can never fully be realized.

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