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Transnational Organized Crime

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Mobility and *Border* CONTROLS

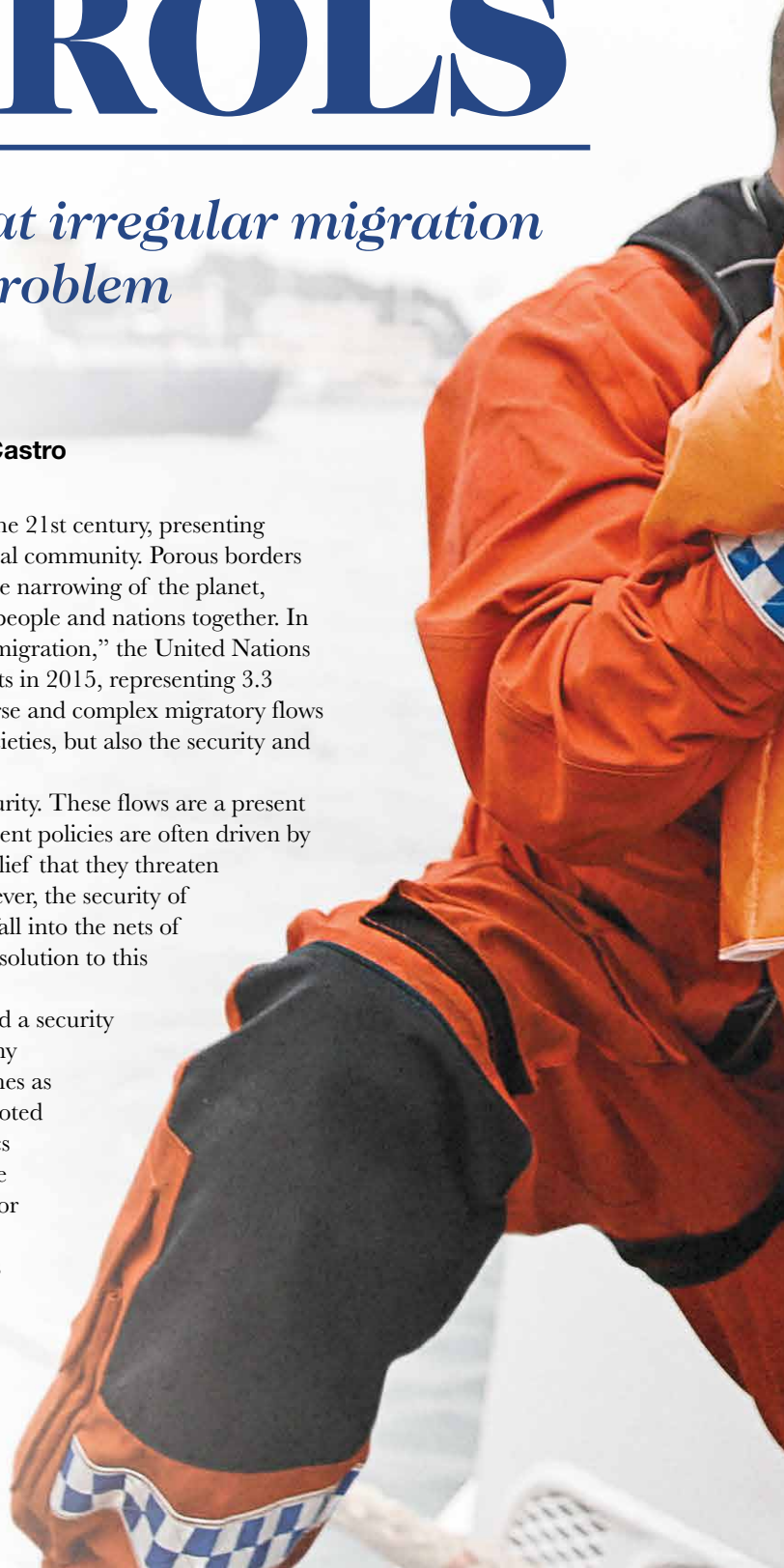
The EU and the U.S. treat irregular migration as a national security problem

By **Susana de Sousa Ferreira** and **Dr. Andrés de Castro**

Human mobility is one of the main features of the 21st century, presenting challenges and opportunities to the international community. Porous borders and constant technological evolution lead to the narrowing of the planet, breaking down physical barriers and bringing people and nations together. In turn, borders assume a prominent role. In today's "age of migration," the United Nations estimated that there were 244 million international migrants in 2015, representing 3.3 percent of the world population. Today's increasingly diverse and complex migratory flows not only raise questions about the security of states and societies, but also the security and safety of the migrants themselves.

Irregular migration is often perceived in terms of insecurity. These flows are a present reality and a future trend. Irregular immigration management policies are often driven by misperceptions about large flows of immigrants and the belief that they threaten the state and the state's sovereignty, as well as society. However, the security of these immigrants is often endangered, because they easily fall into the nets of organized crime or human trafficking networks. The main solution to this human drama remains restriction of entry.

International migration has not traditionally represented a security threat to Western society, despite its recent inclusion in many theoretical, academic and practical governmental approaches as a coexistent category with terrorism, Yannis A. Stivachtis noted in her 2008 article "International Migration and the Politics of Identity and Security." It is within this framework, where discourses and practices connect migrations and terrorism or where migrants are portrayed as a threat, that states have increasingly adopted deterrence strategies to keep migrants away as part of border management policies. But how far are states willing to go in the name of border security? With this question in mind, we will analyze border management in the European Union and the United States to assess how it is increasingly used to manage irregular migrations.





A child refugee rescued at sea is helped off a Frontex patrol vessel at the Port of Mytilene, Greece, in March 2016. REUTERS



AFP/GETTY IMAGES

Macedonian police protect themselves from stones thrown by migrants and refugees during clashes at the Greek-Macedonian border in April 2016. The border crossing is a flashpoint where more than 11,200 people have been stranded after Balkan states closed off the migrant route in mid-February.

Irregular migration and smuggling networks

Over the past few decades, irregular migration has emerged as a distinctive element of international migratory flows. This complex phenomenon is a chief dilemma in today's world. Furthermore, trafficking and smuggling networks encourage a substantial proportion of irregular flows, threatening migrants' security, rights and dignity.

The existence of few safe channels for people to reach a host country and a higher state capacity for border management has made crossing borders more difficult and has led to a black market that provides unscrupulous services to irregular migrants, offering a broad range of facilitation services, including transportation, accommodation and fraudulent documents. These activities are highly profitable and often involve third parties that assist irregular immigrants in exchange for money. Mexican "coyotes" are an example of human smugglers.

On the other hand, human trafficking involves labor exploitation, including sexual exploitation and other kinds of human rights violations.

In both cases, migrants who are smuggled or trafficked are vulnerable to abuse. Even those who are smuggled — and aware of their contract with an organized crime network — are often raped, deprived of food and water, and abandoned.

This practice is demonstrated during the current international migratory crisis. Criminal

networks are increasingly adapting their facilitation services to the needs of refugees and migrants, taking advantage of their desperation and vulnerability. According to Europol, 90 percent of migrants traveling to the EU in 2015 resorted to smuggling networks. The EU responded by starting the European Union Naval Force Mediterranean (EUNAVFOR MED) to dismantle these networks in Libya.

Nevertheless, migrants have tried to bypass these expensive services by creating their own social media networks and feeding them with updated information on routes, transportation and accommodations. Such sharing of information has always been present on irregular migratory routes, although technology has made it more global since physical presence is no longer needed to have access to information from people we do not know. However, irregular immigrant social media networks are often discovered by security services, exposing routes and other information and making the choice of a human smuggler less risky than coordinating travel through sharing of information.

Yet, if the EU does not open new safe channels for legal migration and safe asylum-seeking procedures, migrants and asylum seekers in search of a better life will continue to risk their lives at the hands of smugglers. Thus, joint action within the framework of the EU is needed, specifically on the modification of the

Dublin Rules on Asylum procedures and the creation of new and improved common structures.

Mobility management in a borderless world

Borders have undergone significant changes over the past few decades, namely moving from a geographic framework to a more fluid one. It is within this dynamic concept that states design and adopt border management strategies.

The concept of sovereignty is extremely important in border management. Delimitation of territory and control of borders allow for the construction of the state itself, thus establishing its sovereignty. Today, with increasing transborder processes that present challenges, border management has become an essential feature of state security.

Security is at the core of a state's approach to border management. Today's borders are increasingly a social construct resulting from a state's own perceptions of security threats, in which immigration and terrorism are often inter-linked or where irregular migration is portrayed as a threat to national security.

Migration experts Randall Hansen and Demetrios Papademetriou co-authored a book in 2013 that identified the main challenges to border security and the primary transnational threats that an appropriate border management strategy should address, which are: terrorism, asylum, human trafficking and smuggling, irregular migration, and drug trafficking. These threats are often interlinked, making it difficult to assess each separately.

David Newman, in a 2006 article published in *Progress for Human Geography*, describes the "bordering process" in today's border management activities that take place beyond state lines. Through an externalization of the border, in which the border security of one state is intimately related to that of other states, nations aim to better safeguard their own borders. Furthermore, externalization of borders suggests the need to find integrated management strategies within regions.

Effective border management must take into account legitimate trade and mobility of goods, capital and people, while addressing illicit transnational movements. On one hand, it has to ensure that whatever or whoever crosses the border complies with the country's laws and regulations; on the other hand, it must detect illegal movements. Modern border management is based on the rules of "exception" and "deterrence" through the application of exceptional measures of "characterization and contention." This is clearly the case when dealing with human mobility through the use of databases, risk profiling and visa policy, among others, as instruments of characterization and contention.

It is interesting to recognize that human mobility, particularly irregular migration, is one of the main dimensions of today's border management strategies, while, at the same time, border management has become one of the main dimensions of Western states' immigration policies. It is this interplay between border management and immigration policies that defines policies on both sides of the Atlantic.

Management policies in Europe and the U.S.

Irregular flows along the southern border of the EU are a concern for governments, particularly those in Mediterranean countries that have become major gateways into the bloc. Flows from North Africa, mostly originating in Sub-Saharan Africa but increasingly in the Middle East — as a consequence of the political and social instability of these regions — are mainly due to the growing imbalances between the two shores of the Mediterranean and instability in this region and nearby areas. The short distance between the opposing coastlines fuels migrant flows and contributes to making political, social and economic differences even more visible.



A female passenger scans her fingerprints as part of the Smart Border management system implemented at the airport in Frankfurt/Main, Germany, in June 2015. The EU Commission has launched a pilot project for checking non-EU citizens at the Frankfurt airport to help expedite border checks. EPA

The more a border needs to be secured, the more it projects the differences between the two countries it divides. Take the example of Morocco and Spain, the first with \$3,092 per capita gross domestic product (GDP) and the second with \$29,863 per capita GDP. The sea and land border separates drastically different realities.

Given that fact, surveillance and border control instruments play an increasingly vital role in preventing irregular migrants from crossing the border. This is one of the vectors of European immigration policy in which these instruments have played an important role by detecting and identifying citizens. Among the solutions to these new transnational challenges, we would like to highlight international cooperation with organizations such as Frontex (the EU's border control agency), Europol (the European police office), Eurojust (the EU agency that deals with judicial cooperation in criminal matters) and the United Nations Office on Drugs and Crime.

At first glance, the rationalization of efforts regarding maritime surveillance and control of the EU's external borders involves several internal security bodies, in their various specialties. Strengthening the role of European agencies, such as Frontex or Europol, provides a comprehensive

approach to irregular immigration, both internally and externally. The complexity of political and juridical factors that interact between the EU and its member states must be analyzed and developed to guarantee a more effective system and the protection of rights for all citizens.

Every year thousands of people risk their lives crossing the Strait of Gibraltar, the Ionian Sea and the waters near Sicily attempting to enter Europe. News reports portray the Mediterranean as the main gateway of irregular migration, but airports actually are the chief entryways for “overstays.” This term refers to people who decide to stay after their visas have expired. Inequality is also present in both types of irregular migration. Those holding a passport that allows either an automatic or a nonautomatic tourist visa have the easier option of entering the Schengen Area by landing at airports. Others clearly do not have such an option due to the administrative decision that denies certain nationalities a visa of any kind, for legal entry, to avoid the “risk” of irregular stay.

Over the past few decades, the Mediterranean has become a graveyard for many who have sought a safe haven in Europe or simply a better life. Nevertheless, the phenomenon reached its highest level in 2015. According to the International Organization for Migration, 3,771 people lost their lives in 2015 crossing the Mediterranean, making it the most dangerous route into Europe. To deal with these migrants, the EU is focusing on border security.

The image of “Fortress Europe” is meant to describe a policy that limits entry into Europe by strengthening controls at its external borders. The new European Border Surveillance System allows real-time monitoring of the EU’s external borders through radar, optical sensors and other technological capacities and intensifies cooperation between the European authorities responsible for border control. Furthermore, European databases, such as the Schengen Information System, Visa Information System and the EU’s fingerprint database, Eurodac, read biometric indicators by creating different categories of individuals who are more or less controlled, depending on their profile. However, the unregulated use of these tools can turn them into mechanisms of exclusion and create the image of a Europe that controls immigrants to exclude them from its territory.

The EU and the U.S. differ in their approaches. On one hand, the U.S. has traditionally been more concerned about the protection of individual rights, protecting visitors from harm by the state. Thus, critics say that the biometric technology applied at borders focuses on ensuring noninvasiveness, which is represented by the use of machines that do not, allegedly, intrude upon privacy. The U.S. and Canadian systems’ focus on individual rights leads to the use of machines instead of people to check entry into those countries. Hence, the U.S. has implemented the use of full body scanners by the Transportation Security Administration.

On the other hand, EU discussions tend to take a wider approach focused on the collective rights of the citizenry, following Europe’s legal and political traditions. Even though Europe considers the right to private life under Article 7 of the EU Charter of Fundamental Rights, the focus is on the

challenge of large-scale databases and their global impact. This raises the question of who is targeted by the Justice and Home Affairs databases and how they can affect the most vulnerable travelers, such as undocumented immigrants, asylum seekers and many others, a 2012 study published by the Center for European Policy Studies stated. In that sense, protection from discrimination is focused on the individual as he relates to a wider community.

Main approaches to border management

The land border between the U.S. and Mexico is what many deem a war zone. Over 18,500 agents patrol the U.S. southern border. Their priority mission is “preventing terrorists and terrorists’ weapons, including weapons of mass destruction, from entering the United States,” according to the U.S. Customs and Border Protection website. This mission highlights the increasing association between immigration and terrorism. Their strategy of “prevention through deterrence” uses the most innovative security and surveillance technologies: cameras, sensors and drones, among others. Also, those who choose to venture into the unfenced sections have to cross deserts also known in some places as “death row.”

Under the administration of President Bill Clinton, the U.S. launched several border security operations to increase the level of control at the Mexican border: Operation Blockade between El Paso, Texas, and Ciudad Juárez, Chihuahua; one year later, Operation Gatekeeper between Tijuana, Baja California, and the suburbs of San Diego, California, (construction of the first border wall between the two cities); in the same year, Operation Safeguard, between the two Nogales, in Sonora and Arizona; and in 1997, Operation Rio Grande between Laredo, Texas, and Nuevo Laredo, Tamaulipas.

After 9/11, the U.S. viewed technology as a solution to block transnational threats from entering the country. It was then that the U.S. began requiring a biometric passport for entry. Soon after that, fingerprinting became a regular practice for foreigners carrying a nondiplomatic passport while entering the country.

In recent years, Smart Border technology was put into service for U.S. citizens, Canadians and citizens of countries under the Visa Waiver Program who have entered the country at least once since they complied with Electronic System for Travel Authorization regulations.

In Europe’s case, the Maastricht Treaty and the Schengen Agreement were reinforced by the creation in 2004 of Frontex — the agency that coordinates border security among all EU members regardless of their adherence to Schengen.

Strengthening of the fences protecting the Spanish cities of Ceuta and Melilla in North Africa sparked concern related to the fortification of the border that divides two very different societies. A picture of Sub-Saharan immigrants entangled in the fence while golfers enjoyed their sport is a perfect example of this difference.

In 2015, efforts by EU member states proved inadequate to face developing security risks to the EU, migrants and refugees. Thus, the EUNAVFOR MED operation was launched



EPA

within the framework of the Common Security and Defence Policy (CSDP). As a result, we are witnessing several layers of border management in Europe:

- Regular airport document checks
- Border patrols in the context of the European External Border Surveillance System
- Frontex missions: Triton and Poseidon
- CSDP missions: EUNAVFOR MED
- Cooperation agreements

Interestingly enough, the EU talks mostly about an “externalization” of the border through increasing cooperation with third-party countries and deterrence in countries of origin or transit, while the U.S. advocates both a “deterritorialization” of the border and extending the border to inland regions for those who have succeeded in entering the U.S., as well as an externalization in partnership with neighboring countries.

Conclusion

In short, border controls have generally been strengthened on both sides of the Atlantic. In the U.S. case, it consists of externalizing borders, intended to guarantee security by maintaining preclearance facilities in some of its allies’ territories. Aruba, the Bahamas, Bermuda, Canada and Ireland (an EU member) have allowed the U.S. to establish what amounts to security outposts that include U.S. Customs and Border Protection agents checking documents and goods in foreign airports. This is an exception to the territorial

principle of Public International Law, in which borders and legal jurisdictions remained inseparable. Conversely, there are numerous agreements signed by Mexico and the U.S. that include detailed cooperation to prevent various threats from entering each country.

The EU’s case certainly reflects deep internal differences, although it also tends to externalize borders. This is already happening through various cooperation programs with third-party countries and recently, in a closer connection with asylum and migration, with the construction of an EU-funded project in Morocco and Tunisia. Jordan is also participating because of its role as a transit country for migrants, mainly from neighboring Syria.

All of the above is taking place in response to the intensification of irregular migration flows. In both cases, the strategy of deterring irregular immigration is essentially based on new international agreements and the use of new technologies to reinforce surveillance and control of external borders.

In a globalized world where distances are narrowing and the exchange of goods, services and people is intensifying, social inequalities and economic disparities are aggravated, endangering the security and livelihood of people. While we speak of human rights and dignity, many territories, including the EU and the U.S., reinforce their borders and create systems of exclusion to deal with this so-called threat. Is the security argument strong enough to justify countless violations of basic human rights? □

Italian Rear Adm. Enrico Credendino, left, commander of the European Union Naval Force Mediterranean, and Gen. Mikhail Kostarakos, chief of general staff of the Greek Armed Forces, brief the media in Brussels in December 2015 about combating trafficking and smuggling of migrants in the Mediterranean Sea.