

Migration and Border Politics in The South of United States And Spain

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A blockage situation has been created by militarization accompanied by severe internal security measures and borders in the migration corridors of the United States of America with Mexico and of Spain with Morocco as a migration policy tool for the control of irregular migration in the context of global recession. Nevertheless, instead of restraining the migratory pressure, its obligating the migrants and refugees to take more dangerous routes, increasing their vulnerability and risk of death, converting them furthermore in victims of a system that criminalizes them simply for their condition of non-citizens, with the consequent breach of their human rights.

This communication, sets out to demonstrate the results of the research carried out about the land on the north border of Mexico with the United States of America and in the south border of Spain with Morocco, within a project framework of a Doctoral thesis in the area of international migration. Its purpose is to examine and to know better the migratory dynamics caused and to establish a comparative approach between the border management model of the United States and of Spain with their southern neighbors.

So, from a historical point of view the migration policy implemented by both countries will be examined, to determinate what has been the impact of the internal and external control measures, meanwhile this vulnerability situation which migrants without documents face and people seeking asylum is present, and they are discovered or subjected to arrest and expulsion.

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1. Introduction: Migration Policy and Securitization.

The negative perception of irregular migration and the narrative of fear, have been exacerbated since the great recession of 2008, contributing to the pre-eminence of national security paradigm in the current political discourse on a world scale, over the humanitarian discourse. Consequently, securitizing rhetoric has dominated the political debate in such a way that the question of how migrations can contribute to the development of countries is being left in the background. So, abandoning the humanitarian approach in migration policy has led to the criminalization of poverty and migration (especially irregular), due to the determination of the foreigner as a potential threat to stability or public order of the nations.

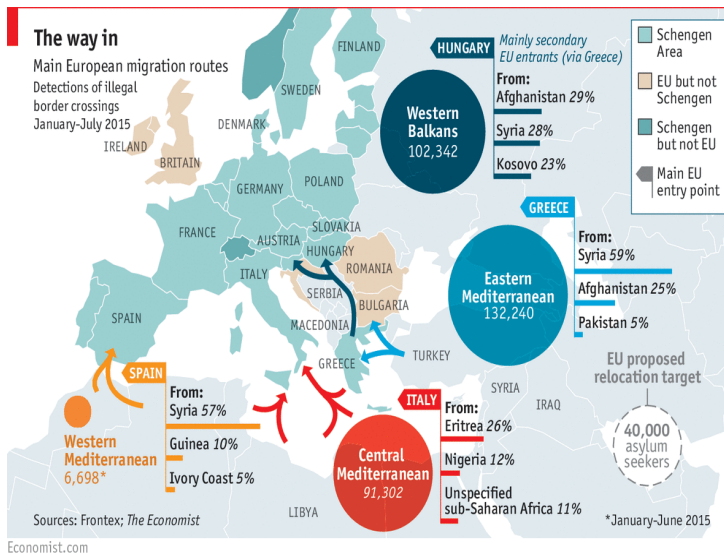
In this context, the borders that separate and establish boundaries for poverty in the United State-Mexico and Spain-Morocco migration corridors are the banner of today's political discourse in a globalised world, where the erection of walls or the implementation of legal barriers to enter and stay within their territories act as a rampart of nation-states that are weakened by external forces that transcend their sovereignty, with the purpose of restricting the mobility of migrants and refugees, who are now deemed to be a security threat on par with drug trafficking and international terrorism (Brown, 2015; Sassen, 2015; Sassen, 2001). This phenomenon has been particularly visible since the last waves of attacks perpetrated by jihadist fundamentalist groups in different countries in Middle East, Central Asia and Europe to which Western political leaders responded with the declaration of state of emergency within their territories.

Thus, the ways to exercise major control on individuals who try to cross Western borders is at the center of Western political leaders' rhetoric, recalling a situation not seen since the attacks of 9/11, which permitted the USA-Patriot Act, and shook the pillars of democracy. This regulation marked a new global tendency in migration politics and border control to the point that migration became a question of national security and its effects extended beyond US border (López-Sala, 2007; Sassen, 2007). At the same time, it contributed to the establishment of a securitization scenario, which conferred excessive power to security and intelligence forces and legalized administrative detention based on racist and xenophobe criteria to-

wards the individuals suspected for being linked to terrorist organizations.

However, the migration policies that control irregular migration by means of militarization and stringent measure for internal control and border surveillance, demonstrated not full effectiveness in meeting the objectives for which they were designed (Rodier, 2013). These measures instead of slowing down the migration pressure, created a blockade, forcing migrants and refugees to take routes more dangerous, increasing their vulnerability and death risk.

Fig 1

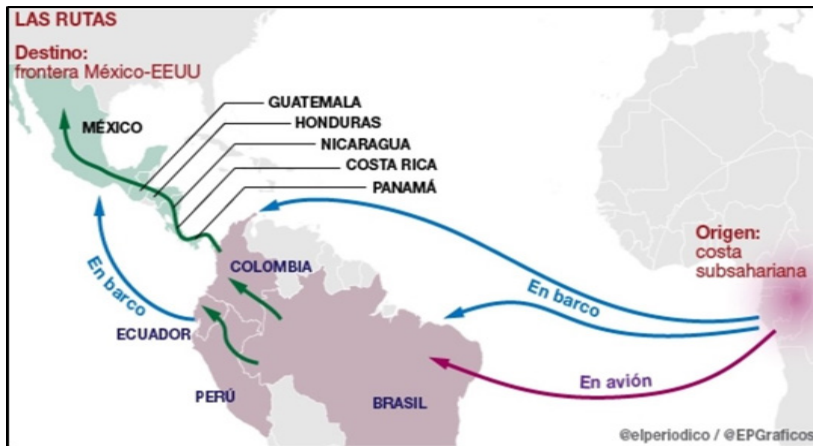


Map 1The Economist.(2015, August 29). Migration in Europe. Looking for a home. Asylum-seekers, economic migrants and residents of all stripes fret over their place. Retrieved August 29, 2016, from [https:// goo.gl/IIVMjYb](https://goo.gl/IIVMjYb)

According to UNHCR, since 2008, when approximately 42 million displaced persons and refugees were recorded, these numbers have risen to 65.3 million refugees, asylum seekers and internally displaced persons in 2015. By 2018, this number reached 68.5 million, and in 2019, 70.8 million. It was precisely in 2015 when the Syrian civil war led 4.9 million Syri-

ans to take refuge in neighbouring countries such as Turkey and Lebanon, resulting in the internal displacement of 6.6 million people. That same year, over one million people arrived in Greece, 5000 of which perished on the way. However, the European solution to what was dubbed the “refugee crisis” was the construction of new and expensive fences to stall the exodus of thousands of people, or the signature of controversial agreements, such as the one entered into with Turkey, which mandated the internment and subsequent deportation to this country of all Syrians who arrived by sea in an unlawful manner, which implied the shutdown of the Balkan route. Meanwhile, the blockade of the Turkey-Greece and Libya-Italy clandestine migration routes increased the number of irregular entries by sea in Spanish shores, taking them from the 8,162 recorded in 2015 to 22,108 persons in 2017 and 58,525 in 2018 (Ministry of the Interior; IOM, 29 January, 2019; Viúdez, 2 January, 2019).

Fig 2



Map 1 Gallardo, M. M. (2016 September 7). El Periódico. La ruta americana de los inmigrantes subsaharianos. Retrieved September 7, 2016, from <http://goo.gl/M1UxKV>

In addition, 2016 saw an atypical increase in migrants from the Asian, African and Middle East region, looking to enter the United States via different routes from Mexico and Central and South America¹. As per information

¹ Así es el nuevo fenómeno de migración hacia Estados Unidos (16 August 2016). Alto Nivel.<https://goo.gl/3BztLm>. Accessed on 17 August 2016.

² Llegan cientos de migrantes a Tijuana en busca de asilo en EU. (27 May, 2016). La Jornada.<https://goo.gl/CRafQP>. Accessed on 27 May 2016.

provided by Casa del Migrante en Tijuana (3 August, 2016), during May to July of that same year, 834 asylum seekers were recorded, all of them from 24 different countries. Likewise, that same organisation points out that another three shelters (Casa Madre Assunta, Padre Chava de los Salesianos and the two Salvation Army homes) reported similar numbers, for a total of 4,000 persons received at the time. Therefore, what started as a slow drip at the border with the arrival of a group of African (Guinea-Bissau, Ghana, Angola, Congo and South Africa) and Haitian² refugees, reached dramatic proportions. The response of the Mexican NIM to that situation was also lacking, since they decided to implement a temporary measure that consisted of issuing an exit visa so that they could freely move across the country until they were legalised or returned to their countries of origin (Sánchez, 30 August, 2016).

At the same time, these barriers participate to the construction of a collective identity increasingly closed and protected, resulting in Nation States expulsing foreigners instead of implanting means of reception (Bauman, 2011; Sassen, 2015). As proof, when Europe received in 2016 only 6 % of refugees (from which 305 are in Spain at the moment ⁱ), United States, where the number of granted asylum application is very low, sends back the refugees to Mexico or to their country of origin ⁱⁱ. This attitude only stresses their inefficiency, their violation of human rights of a particularly vulnerable group and their failure to respect their international obligations.

Furthermore, the number of spaces where migrants are deprived of freedom has been increased. Spaces like Immigration Detention Centers (CIE in Spanish), which are protected in Europe under the framework of what is known as “the Directive of Shame;” or like detention centers based on the US model of privately run prison system, that makes each year billions of dollars in profit to the benefice of large corporations in the sector and can guide migration policy towards their lucrative interests through donations. Both examples are fundamental in the industry generated around detention and deportation of undocumented migrants. It is the same industry that dictates police controls and raids to verify migration status, based on ethnic or racial profiles as a mean of restraining circulation to irregular individuals and organizing their forced return (Jarrín, Rodríguez, y De Lucas, 2012, p.3). Thus and as an application of the Secure Communities Program (recently replaced by the Priority Enforcement Program) ⁱⁱⁱ, different entities organize different ways for the deportation of numerous people

without criminal record; by air for example, through the macroflights of the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) or by land with the U.S. Department of Homeland Security Immigration and Customs Enforcement (ICE).

The purpose of this text is to show a few advances and results of the research within the framework of a Doctoral Thesis in the field of International Migration. It aims to offer more information and delve deeper into the migration dynamics surrounding the United States-Mexico and Spain-Morocco borders, to establish a comparative approach between the American and the Spanish migration management models. To this end, it will briefly touch on the migration policy of both countries from a historical perspective, in order to determine the impact of the internal and external migration control measures, while exposing the situation of vulnerability faced by undocumented immigrants and asylum seekers when detected or subjected to detention and deportation proceedings.

This work stems from the need to perform international comparative studies (Wimmer and Glick-Schiller, 2003, quoted by Ariza and Gandini, 2012, p. 498), since the systematic analysis of observations extracted from two or more macrosocial entities or from various moments in the history of a society, allows for the research of similarities and differences in relation to the causes of a specific phenomenon or process. Furthermore, it is considered to be a method that can be used to describe and explain the different conditions and results of large social units, nations, societies and cultures (Smelser, 2003, p. 645; Colino, 2007; quoted by Ariza and Gandini, 2012, p. 500). Likewise, the comparative study of the different migration control policies implemented by the United States and Spain from a historical perspective could be useful to understand how, in a globalised and interdependent world, the national security paradigm gains an increasing importance in political discourse, to the point of conditioning the displacement of people who migrate irregularly and massively.

The collection of data and information was achieved through the documentary analysis and exploitation of statistics. Several censuses were consulted and data was extracted from secondary sources (reports by international organisations, U.S. Department of Homeland Security, the Spanish Ministry of the Interior, and civil society organisations of the United States and Spain), with the goal of obtaining a quantitative knowledge of the subject

being researched. In addition, historical sources of information were used, such as newspapers and digital media (Mora, 2013, pages 32-33).

2. A brief historical journey through border control in Spain and United States.

2.1. Building walls: the militarization of the borders and its effects on migrant population.

2.1.1. Migratory control policies in the U.S.-Mexico border.

The Mexican migration flow from the Mexico-United States border (Frontera Norte in Spanish) to United States, has been in great part conditioned by the American migration policy. Since early 1900, US' agricultural sector depended on Mexican labor, hence, it organized a program called "Mexican Farm Labor", informally known as "the Bracero Program^{iv}" conceived within the framework of a temporary labor agreement signed in 1942 between the two countries. This program was a legal system to attract foreign labor and facilitated, during more than twenty years, the crossing of millions of Mexicans (with entry and exit to and from the United States). The migration was essentially circular and provided workers mainly to the US farm market (Cerruti and Massey, 2004).

However, the results were not the expected ones: the temporary condition was not fulfilled, since not all Mexican workers were returning to their country of origin. This way a type of circular migration remained, but this time made of young undocumented migrants and former braceros, favored by the existence of a "porous border" (Durand and Massey, 2003), which the police negligently controlled. Therefore in 1986, began an amnesty process in favor of millions of undocumented people in the United States through the Immigration Reform and Control Act (IRCA). This amnesty process was accompanied with, on the one hand, the establishment of a scheme to penalize employers who knowingly employed undocumented workers, and on the other hand, border surveillance strengthening. These measures combined with the amnesty process ended definitively circular migration.

The operation "Gatekeeper" put together by Clinton's administration in 1994 (which was followed by similar operations) followed the abovementioned restrictive arrangements, trying to stop the migratory flow at the Tijuana-San Diego border, in the state of Baja California. In order to do

so, a wall reinforced with three containment fences and a system of high-tech surveillance was built. But far from containing migration flows from Mexico to the United States, it diverted them towards more dangerous and less supervised areas such as the corridor Sonora-Arizona, since the border crossing of Tijuana is practically sealed. Thus, the border located in Baja California ceased to be a crossing point to become repatriation point. According to Alonso (2015), the results of the operations conducted by the Border Patrol along the southwest US border with Mexico, suggest that border enforcement has been effective in controlling undocumented migration. After the attacks of September 11, 2001, the USA Patriot Act would raise migration to a matter of national security, and shortly thereafter it would become a worldwide trend (López-Sala, 2007; Sassen, 2007). Five years later, the migrant encirclement strategy was exacerbated by the Secure Fence Act (Massey and Pren, 2013, p. 31), so it is estimated that from 1993 to 2006, the total number of migrants apprehended by the Border Patrol it exceeded 900,000 events per year, in respect of which, most were of Mexican nationality, followed by Central American citizens (Alonso, 2015, p. 166).

At the same time, the signing of the 2007 Merida Initiative between Mexico and the Central American countries to end transnational drug trafficking and arms sales networks (Benítez, 2007; Benítez, 2011, p. 189), along with the implementation of new federal laws for border control, such as the Border Security Act of 2010 (Massey and Pren, 2013, p. 31), would contribute to the worsening of this situation, by concentrating all possible material and human resources for the improvement of the security of the border region, also benefiting the arms industry and the surveillance sector (Sassen, 2006; Rodier, 2013; Tod Miller, cited by Robinson, May 4, 2014).

On the other hand, United States approved in 1996 the INA legislative reform (IIRAIRA), which marked a profound change in the system, with the implementation of “increasingly restrictive immigration policies” (Landa, May 31, 2016). Thus, new measures were taken, such as mandatory deportation or “removal”, or the impossibility to regularize those who provide false information in their immigration documents. Likewise, undocumented migrants were punished twice, indeed, not only were applied punitive measures and criminal sanctions in cases of undocumented entry into the country, but they also faced civil penalties such as detention, deportation after a hearing and automatic inadmissibility to re-enter the US within a

period of ten years, and judicial supervision was reduced in all these proceedings. But this was also a huge setback in the protection of refugees' rights, because the government could command their expulsion without needing a federal court to revise the deportation order. Additionally, with the reform, changes were introduced in Section 287 (g), authorizing the Federal Government to establish agreements with state and local law enforcement agencies to apply the immigration law enforcement, for which they would need a previous training supervised by ICE. The latter caused an extraordinary outcome; the local authorities were granted the power to arrest and the power of detention, – normally an exclusive jurisdiction of federal agencies. That is why a specific model for prisons was inaugurated, through which local law enforcement agencies could appoint prison officers to identify undocumented immigrants serving sentences, in order to deport them.

2.1.2. Migratory control policies in the Morocco–Spain border.

Since Spain joined European Union (EU) in 1986, Melilla and Ceuta became European land borders, and maritime enclaves with great geopolitical impact within the European context in terms of cross-border trade zones and as a restraint of trans-Mediterranean “not wished” migration. In the 80s the permeability of the Spanish-Moroccan border favored daily transit of people for trade reasons and allowed the displacement of migrants from Morocco (Planet, 1998) who entered Spain without need of a visa. It was then a market of circular migration with clandestine working purposes, especially in the Catalan Maresme agricultural zone (González, 2011).

But in the 90s, despite the low number of undocumented migration, an increasing flows of migration from Sub-Saharan Africa and from Maghreb starts to appear. Therefore, after the Maastricht treaty was signed in 1992 by which EC acquired a political dimension, major border control was needed, as a result of which, one of the first measure adopted was to require visas from the Moroccan citizens. This altered circulation dynamics between Morocco and Spain: from 1992 onwards, Moroccans would arrive as tourists but irregularly stay in Spain. Moreover, the nonstop flow of Sub-Saharan asylum seekers who were arriving at the land border of Ceuta and Melilla, generated overcrowded like the cases of “La Granja Agrícola” and the “Lucas Lorenzo Center” in Melilla, or the “Calamocarro Camp” in Ceuta. After several years of failing to meet the minimum conditions of

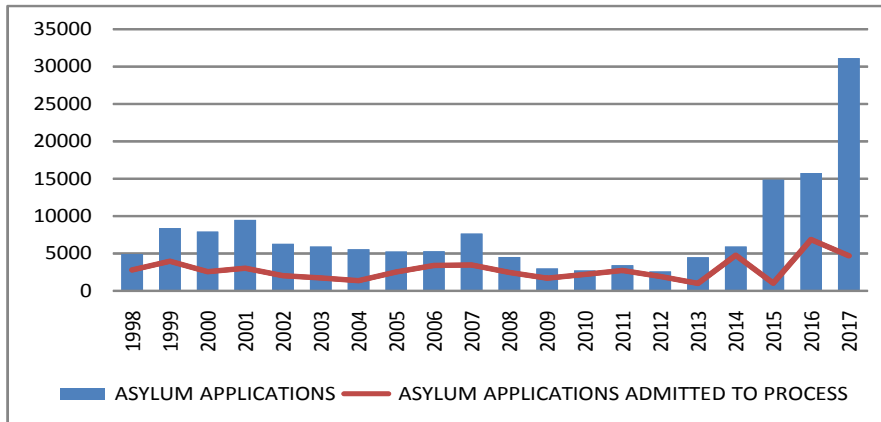
habitability they were closed and irregular migrants and applicants for international protection were transferred to Centers of Temporary Residence for Immigrants (CETI).

After the implementation of the Schengen Treaty in 1995 (signed in 1990) and of several collective crossing attempts, the militarization of the border perimeter started along with installing fences of advanced technology. With the consent of the Euro-Mediterranean Agreement of EU-Morocco Partnership, signed in February 1996 and entered into force in March 2000, Morocco became a key country concerning the fight against international terrorism and drug trafficking. However, Morocco relation to migration and the prevailing security obsession at the time, inevitably led to the reinforcement of the European external borders.

In the same vein, to slow down the arrival of “pateras”, which was the main way to reach the coasts of Andalusia from Morocco or the Canarias Islands from Western Sahara, a new immigration policy strategy was developed, that included the establishment of an Integrated External Surveillance System (SIVE) designed to intercept boats. Its implementation, along with the FRONTEX deployment of means, in charge of intercepting migrant boats trying to reach the southern borders of Europe, was very effective in discouraging Moroccan clandestine migration, but not so much in Sub-Saharan case (Haas, 2005), since the undocumented crossing massively moved to Ceuta and Melilla. This is the reason why the same Sub-Saharan migrants established unofficial camps in the Mountains of Morocco, where they wait to cross to the mainland. In such camps the migrants withstand extremely harsh living conditions and suffer constant persecution by the Moroccan authorities. Consequently, the first collective fence jumps were observed, as a result it was decided to mobilize more resources for border reinforcement that involved the setting a triple fence and early warning systems and increasing the presence of civil guards. Meanwhile, on the Moroccan side other measures with the same purpose were deployed.

Furthermore, after the establishment of the CETI in the autonomous cities, border control measures led to a constant decline in asylum applications in the recent years. According to the Spanish Commission for Refugee Aid (CEAR), the highest peak in the 2000s was 2001, with 9,490 requests. This decline was confirmed in 2008 when the protection of refugees experienced as the CEAR puts it: “an unequivocal regression” (CEAR, Report 2009, p.1), as a matter of fact, during the four years following the approval

of Asylum Act (in 2009), the CEAR registered the lowest numbers of applications since the organization started keeping a record in 1988 (CEAR, 2013, pp. 11 and 12). So, in 2009, 3,007 applications were processed and this number dropped to 2,580 in 2012.



Graphic 1 Asylum Applications and Asylum Applications admitted to process. Prepared by the author on the basis of data supplied by Ministerio del Interior of Spain and CEAR.

This decrease is also due to the delays in asylum seekers' cases (with an average duration of 2 to 5 years, when they have to be resolved within a maximum period of 6 months), the applications for international protection, and application of emergency measures such as restricting freedom of movement (Rights which the refugees are entitled to, under the Article 19 of the Spanish Constitution and under the regulations of asylum themselves).

2.2. Criminalizing the undocumented migration.

2.2.1. The immigrant detention and deportation industry in United States.

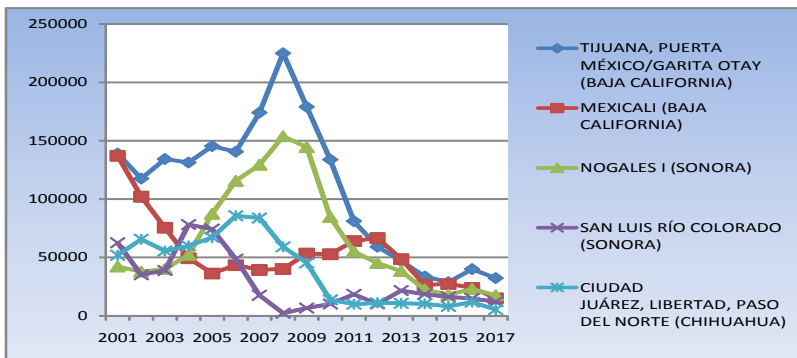
In 2001, due to the attacks of Sept. 11th, the situation got worse: the US applied severer containment measures, accompanied with a constant criminalization of migrants. The year after, the adoption of the "Patriot Act" was created by the Department of Homeland Security that carries out migration through two organisms: on the one hand the Border Patrol, respon-

sible for the enforcement of the immigration law at the border, as well as inside the country, and on the other hand the ICE, which is in charge of the Immigration and Customs Enforcement. As previously stated, the attacks of 9/11 also influenced the dynamics of migration flows: decreasing undocumented crossing (Alonso, 2015) and later, the number of Mexican immigrants' deportations rose, as a direct consequence of the application the federal immigration program "Secure Communities".

This project born in Texas Harris County in 2008, and promoted by the Obama Administration, was implemented from March of that same year, and was responsible for the ICE in collaboration with the federal, state, and local, police forces, finally spreading throughout the country. The secure Community Program's aim was to identify foreigners who had been arrested or detained in order to proceed, in certain cases, to their deportation. The ICE's reports show that from 2008 until 2011, the annual number of deportees almost reached 400,000, but it's during the fiscal year of 2012 (Obama Administration's fourth year), that the peak of 409,849 deportees was registered. From 2013 onwards, a slight decrease was observed with the number of 368.644 deportees, among which the ICE ensured 59% were convicted criminals. However, under the cover of "Secure Communities", large-scale racial raids were orchestrated as well as migrant removal. The latter were deported whether they had committed minor offenses, such as administrative infractions and misdemeanors, or had never committed any felony, resulting in numerous cases of family separation.

In addition, people apprehended for immigration purposes, are incarcerated in private detention centers, operating under poor federal supervision. The income of such centers depends directly on the number of prisoners held in their units. They have their own internal regulations, and simply fulfill the national standards of detention imposed by the Federal Government to be found in the Detention Operations Manual, but these standards are by no mean mandatory. In the absence of a legal system regulating minimum requirements to defend migrants' human rights, there is no transparency in the case of abuses. As a consequence to the program, places like Mexicali B.C. and Tijuana B.C., which are situated at two of the crossing border points, registered the largest number of repatriation during the past years. According to the Mexican National Institute of Migration (INM), from 2007 until 2011 more than 2,582,000 Mexicans were repatriated from the United States, among which 1,042,678 came from the State

of Baja California, representing 42% of the total amount of deportations. Besides, the city of Tijuana counted the largest number of repatriations, reaching its peak in 2008 (López Acle, 2012) with 224,858 repatriations for a total of 577,826. This policy also implied breaking down of thousands of families, affecting the minor children who were traumatically separated from their parents.



Graphic 2 Mexican Repatriations (2001-2017). Prepared by the author on the basis of data supplied by Annual statistical bulletins of INM.

At that time, this situation had a significant impact on the main reception areas for returnees in Mexico, such as Tijuana and Mexicali, where despite the efforts of the Mexican Federal Government to mitigate its effects with the application of the Human Re-patriation Program, they resulted in to a humanitarian problem of such magnitude that it exceeded the capacity of civil society organizations that work in coordination with the National Migration Institute. During that period, deported migrants became an extremely vulnerable group: they were harassed by the local police and drug cartels established in the cities, thus, singled out by their fellow countrymen because they were seen as criminals.

At the same time, despite Obama’s efforts to advance with the implementation of the core international human rights and with the rise of Trump to power in January of 2017, the Secure Communities program was reactivated, resuming the number of raids and detentions. In addition, border surveillance measures became stricter, centralising all resources to fulfil

the promise that he had made to his voters of erecting a wall that was larger than the one that was in place. It is clear that during his first year in office the number of repatriations dropped, since deportations decreased (though this was not the case for detentions due to migratory violations), but in 2018, 42.9% of deportees were Mexican, for a total of 203,711 repatriation events as opposed to the 167,064 of 2017, out of which 62,485 were repatriated to the State of Baja California, exceeding the 47,264 events of the previous year (SEGOB, 2018; 2017).

2.2.2. The immigrant detention and deportation industry in Spain.

This system differs from the Spanish migratory control model. Indeed, the CIE take care of the repatriation of migrants who received a deportation order for committing an administrative or criminal offense. These detention centers are non-penitentiary police-managed establishments; they depend on the Ministry of Interior, and were created on July 1st, 1985 by ministerial order, for the implementation of the Organic Law 7/1985, on Rights and Freedoms of Aliens.

In 2008, the Government of Spain carried out programs for voluntary and forced return, as a way of exercising internal control over the migrant population, while combating the high unemployment rate it suffered. In addition, as in the United States, the “qualified deportation” of foreign criminals and recidivists – who were identified as a public security threat – started being implemented at a police level in Spain, with the alleged purpose of reducing crime rates (Fernández-Bessa and Brandariz, 2016). The number of foreigners who were deported based on this concept are clearly less than those recorded in the United States, but it is, nonetheless, quite significant. The Ministry of the Interior claims that 5,564 qualified deportations were performed in 2008, increasing during the two years that followed to 7,591 and 8,196, respectively. The maximum number was reached in 2011, when 9,114 qualified deportations were performed, decreasing since the following year to 6,557 in 2014 (Ministry of the Interior, 29 May, 2015; 2014; 2013; 2010).

This has led to a migration management model that has generalised and turned into ‘business as usual’ the exceptional detention and internment of irregular migrants in the CIE, which is established for specific situations in the Immigration Law itself. As a result, police migration inspection proto-

cols have encouraged raids on foreign individuals based on ethnicity or racial profile with the purpose of forcibly returning them to their countries of origin by air or by sea, rounding them up by nationality. This freedom-curtailling measure has even been enforced in cases in which deportation did not apply, since their actual place of origin could not be determined or due to the lack of repatriation agreements with the country of origin (Jarrín, Rodríguez, and De Lucas, 2012, p. 3; Moffette and Orgaz, 19 January, 2015; SJM, 2016).

With this system, people held in the country due to simple administrative violations were massively deported, and for this purpose, the Spanish government organised macro flights in collaboration with a few private airlines (Fundación San Juan del Castillo y Pueblos Unidos, 2015), with the support of the European Border and Coast Guard Agency (FRONTEX) since 2010. Later, in 2013, “express” deportations, enforced within less than 72 hours by Police Stations became systemic with the goal of decreasing costs, exceeding the number of those performed by the CIE. According to the Ministry of the Interior, the outcome of these operations during the 2010-2014 period was the deportation by air of 26,241 migrants, which are added to the approximately 77,665 that were deported during the 2000-2009 period (Gómez, 29 September, 2008; Campaña estatal por el cierre de los CIE, 2014, p. 15; Saíz-Pardo, 21 October, 2018). Additionally, recently arrived persons with no criminal records were also being interned in the CIE and deported to their country of origin (Fundación San Juan del Castillo y Pueblos Unidos, 2015).

Although the detention of foreigners is seen as an extraordinary measure for specific cases, which must be authorized by a court for a period not exceeding 60 days, most people are detained because of simple administrative offenses and in worse conditions than in the penitentiary system itself (Foundation San Juan del Castillo and Pueblos Unidos, 2015), a situation that apparently didn't changed, despite the approval of a new Regulation^{vi} to improve the CIE. These news rules that regulate the CIE's status and their functioning in terms of social, medical and legal assistance culminated in the process of transposing the Return Directive (Candela, 2015), leading to the establishment of control mechanisms through the creation of Courts for special surveillance and granting permits to given organizations of civil society enabling them to visit the centers. Nevertheless, according to the General Council of Spanish Lawyers, these measures have not been

sufficient.

Likewise, from 2011 until 2014, the number of people admitted to a detention center and who were finally deported, decreased by 20%. Although since 2013, it seems that there was a change in the model of foreigners' deportation in Spain, since the "express returns" (performed in less than 72 hours and directly from police stations) outnumbered those made from CIE. In 2015, 30.614 expulsion procedures were initiated and 20,552 expulsion orders were issued. 6,869 of these expulsion orders were executed, and only 2,871 from the CIE.

According to the Jesuit Service for Migrants (SJM, 2016), considering that a total of 6,930 persons entered these centers, only 41.42% were expelled from the country. These figures indicate that detention is applied even when the deportation cannot be carried out, either because the country of origin couldn't be determined, or because no repatriation treaty exists. Thus, after they are released from the centers, the undocumented migrants find themselves in a "legal limbo" (Jarrin et al., 2012), giving rise to a lawless situation that lasts until their order of deportation expires and their situation can be regularized, with the risk of being rearrested.

2.3. The current situation: more repression and deaths in the borders of United States and Spain.

The great difficulties of the undocumented crossings also led to the increase migrants' deaths, disappearances and sufferings. Concerning to the northern border of Mexico, the migrants, who shared the same routes used by criminal organizations, became another commodity within the illegal flows, being subjected to the violence perpetrated by drug trafficking mafias and trafficking in persons, numerous cases of murders, deaths from abandonment of coyotes, and acts of vandalism during their migratory transit. Thus, researchers like Alonso (2015, p. 153) raise the number of death to 8,500 plus an undetermined number of missing for the 1993-2013 decade. The uncertainty of the numbers is due to the difficulty to identify the remains of the bodies, or because they are in tombs located in the United States, and not subject to claims or identification with DNA testing. The WOLA (2015) organization indicates that two of the worst recorded years were 2012 and 2013; the numbers of deaths doubled after the sudden increase of arrivals from Central America. Similarly, throughout the Mexi-

co-United States border, migrants are victims of kidnapping, extortion and vandalism, to such extent that in 2013 the Comisión Nacional de Derechos Humanos de México (CNDH) reported that 11,000 persons were affected.

That is why as the US census shows, between 2008 and 2012 the number of Mexicans who migrated to this country decreased by 57%, reaching in 2012 to 819,000, compared to 1.9 million that were reported during the period 2003-2007. Such factors added to the increase in deportations, the low birth rate in Mexico and the economic growth that this country began to experience, resulted in the 2012 Mexican net migration rate being equal to “0” (Passel, D’Vera, and González-Barrera, April 23, 2012, p. 6; IACHR-OAS, December 30, 2013, pp. 34-35). Moreover, between 2009 and 2014, about 1,000,000 Mexican nationals returned to their country of origin, compared to the 870,000 who entered the United States (González-Barrera, November 19, 2015). On the other hand, from 2016 to 2017, more than 3,000 Haitians arrived in Baja California (CNDH and El Colef, May 2018, p. 6), and as of the end of 2018, the “migrant caravans” composed of Central American citizens, whose Mass exodus overwhelmed the shelter capacity of the shelters, as more than 5,000 people arrived in the border region, reaching this humanitarian issue with dramatic dimensions. A situation that repeated in 2019, so much so that, given these new forms of human mobility, Mexico has had to request the support and intervention of the United Nations, because of the ‘closed door’ policy of United States.

Additionally, border control measures didn’t stop altogether the transit of undocumented migration in Spain. While it is true that the number of undocumented migrants who landed on the coast has been in steady decline since the peak of the “cayuco boats crisis” in 2006, in which about 32,000 people used these vessels to reach the Canary Islands, attempts are still observed, either by swimming, hidden in transport vehicles, or violating the border perimeter. Various reports of the Pro Human Rights Association of Andalusia (APDHA) reveal that if many migrants and refugees are intercepted while they try to cross borders, is also due to the repression exercised by the Moroccan and Algerian authorities.

As a consequence, a total of 11,146 people were intercepted in 2014 and from that number, 6,734 persons were identified only in the autonomous cities of Ceuta y Melilla. This is an increase of almost 50% compare to the previous year, largely due to flows passing through the Melilla border fence

(almost 2,500 people of sub-Saharan origin) and arrivals of pateras to Cadiz during the month of August (APDHA, 2015). In this regard, the Moroccan government declared having foiled a total of 80 massive fence jumps and arrested some 37,000 people in irregular situation, from which 20,000 happened at the time of attempt to entry though the fence. But in reality, they would be no more than 3,000 or 4,000 people who tried to enter about 5 or 6 times throughout the year. According to FRONTEX (2015), most migrants came from West Africa, in particular from Cameroon and Mali. Algerians and Moroccans were also reported, but especially at the maritime border. It's noteworthy to mention this year's increase in the detections of irregular entries of Syrian refugees' families, who take advantage of the daily flow of Moroccans at border crossings of Tarajal in Ceuta, and Beni Ansar in Melilla. The Syrians cross with fake passports, hidden among the crowd or in vehicles. Therefore, in March 2015, before the growth of requests for international protection, the Ministry of Interior reopened the offices for asylum and international protection at Ceuta and Melilla borders. In 2015 the number of asylum applications tripled compared to 2014: passing from 5,947 to 14,881. The most represented nationality remained Syrian, and according to UNHCR, it was in Melilla where most applications were submitted (60% of the total). However, as the CEAR, SJM, and ACNUR point out, these changes didn't favor people of sub-Saharan origin, who constitute about 70% of the asylum seekers total number, therefore they keep on using clandestine entry routes. This situation had been aggravated with the ratification of the Citizen Safety Law, giving a legal cover to enable rejection at the border without warranties or procedures, since it integrates Ceuta and Melilla's special regime through the Tenth Additional Provision of the Aliens Act. This means that from July 2015 onwards, migrants who are detected at the border perimeter of the autonomous cities while they are trying to get beyond the containment elements in groups to cross irregularly, they could be rejected to prevent their illegal entry into Spain (Acosta, 2014, pp. 28 and 29). These measures were accompanied with an integrated action in Ceuta and Melilla perimeters, which includes the cooperation with Moroccan authorities.

In Spain, since the arrival of the first patera in Tarifa in 1988, until 2014, the number of people who died is estimated at 21,105, although it is very likely that this number is lower than the actual one (APDHA, 2015, p. 16). Comparably, on February 6th of 2014, at least 15 persons of Sub-Saharan origin drawn tragically off Ceuta's coast, a similar situation than what happened in 2005 with the fences events, after which only five deaths were offi-

cially reported (Haas, 2005). Following the tragedy of February, the means of discouragement and detection were reinforced at the Ceuta border, including the installation of “anticleimbing^{vii}” meshes; a third unity of quick intervention counting 20 agents, a helicopter, and a series of complementary actions. As a result, the agency FRONTEX reports that in the second half of the year, Spain registered more detections at sea border than at land border. Hence the peak of irregular migrants the Ministry of Interior estimated at more than 1,200, recorded on the coast of Cadiz during the 11th and 12th of August 2014. Since then, the situation has worsened; in 2015 there has been an increase of 48%, (among which at least 195 deaths) in the attempts to reach Spain, with immigrants coming mostly from Guinea, Ivory Coast, and Gambia (Tyszler, APDHA Report 2016, p. 63). This rise is directly connected to the blockade on the borders of Ceuta and Melilla, which led to a significant increase in the number of attempts to cross the sea from the coast of northern Morocco, forcing migrants and refugees to take routes more and more dangerous, such as Algeria and Libya, or the one, recently reactivated, to the Canary Islands. A trend that remains constant, since unfortunately, an all-time high of 769 deaths was reached in 2018, which is 546 more than the previous year (Andalucía Acoge and Fundación PorCausa, November of 2018, p. 27).

3. Conclusions

As we have seen, and in accordance with the accusations of civil society organizations, working in the field of humanitarian assistance and protection of human rights for migrants and refugees; the implementation of repressive measures and border control in the migration currents between United States of America and Mexico, and between Spain and Morocco, contribute to worsen the condition of a group already especially vulnerable. Even though there is some progress concerning the respect of refugees’ human rights as seen in the case of Spain when they opened asylum offices, the fact is that sub-Saharan migrants are still forced to enter the country through irregular routes, while suffering harassment from Moroccan auxiliary forces to block their access to the border. To the latter we can add the practice of collective and summary deportations of people who might be entitled to receive international protection. Indeed, in these massive send-backs the characteristics of the particular situation are not individualized, nor the risk faced by each one forming the group, thus violating the principle of no return or non-refoulement.

Furthermore, the governments are detaining in centers and deporting aliens without criminal record, contradicting their own official discourse about crime prosecution. Even if in Spain some measures have been set up to control the stay of migrants in the CIE, or in US the Department of Homeland Security reviews policies and practices related to the private management process of migrant detention, the opacity of the detention centers' regulations creates uncertainty regarding the exercise of certain rights. With the implementation of the Priority for Deportation, the number of deported migrants in the United States fell in May 2016 to its lowest with a 42.4%. New raids with a deportation order in force were announced to apprehend and deport Central American refugees arrived in the country after January 1st of 2014. This is how this group composed mostly by unaccompanied minors and women whose asylum applications were rejected, were designated as a new threat to national security. That situation has been aggravated under the Trump administration's "zero-tolerance" policy, because is separating families of Mexican and Central American asylum seekers who are fleeing the violence of their countries. Also they are not usually granted this statute, when determining that their cases are not cases contemplated in the INA, as it happened during the migration crisis of 2013-2014 (still being President Obama).

Also, none of the measures we observed have prevented overcrowding border towns, as it is the case of the CETI of Melilla, where the transfers to the Peninsula were so slow during the humanitarian crisis of Syrian refugees in 2014 and 2015 that the centers were saturated. Whereas in Tijuana and Mexicali programs have been implemented for a comprehensive care of the migration phenomenon in Mexico as a country of origin, transit, destination and return of migrants and refugees. These programs act in coordination with the civil society organizations. However, they all proved to be insufficient.

In short, migrants and refugees are dehumanized and are treated as commodities in different parts of the world simply for being undocumented. This is why they are the victims, deprived of their human rights, of a system that criminalizes them because of their non-citizen status.

i Ortega, P. (2016, July 5) Spain received only half of the refugees it should have. El País. <https://goo.gl/4r9GMs>. Accessed on

28 September 2016.

ii Semple, K. (2016, September 23). Haitians, After Perilous Journey, Find Door to U.S. Abruptly Shut. The New York Times. <https://goo.gl/FS5W2g>. Accessed on 23 September 2016.

iii Priority Enforcement Program (PEP). On November 20th of 2014 President Obama announced the Executive Action that would regularize five thousand undocumented migrants and put an end to the catastrophic Secure Communities Program, giving priority to the deportation of people with serious criminal background or who represent a real danger for national security, and not anymore when they are simple suspect. The number of deported decreased in 2015: 235.413 against 315.943 in 2014. ICE. Priority Enforcement Program (PEP). On <https://www.ice.gov/pep>. Accessed on 9 June 2016.

iv “Bracero” comes from the word “brazo” in Spanish and means “arm”. By extension, “bracero” means “manual laborer.” Translation of “bracero program” would be: “manual labor program.”

v ICE (2015) Immigration Removals, FY 2015. <http://www.ice.gov/removal-statistics/>. Accessed on 26 October 2012.

vi Royal Decree 162/2014, of March 14th, which endorses the operating rules and internal system of immigration detention. <https://www.boe.es/boe/dias/2014/03/15/pdfs/BOE-A-2014-2749.pdf>. Accessed on 20 June 2016.

vii From the Spanish “antitrepá”, a term that specifically names the fences of the cities of Ceuta and Melilla.

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