

Learning from the Canaries: Lessons from the “Cayucos” Crisis

DESPERATE MIGRATION SERIES NO. 1

WALTER KEMP



Cover Photo: Migrants being rescued off the Canary Islands, 2006. Red Cross.

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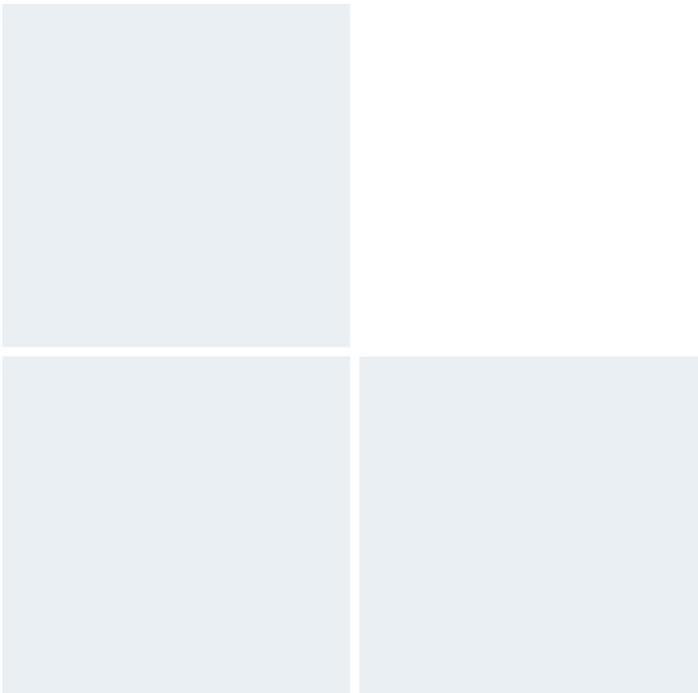
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Executive Summary

Ten years ago, thousands of people risked their lives in wooden boats called *cayucos* to reach Spain's Canary Islands. This sudden influx of tens of thousands of desperate migrants and refugees overwhelmed the islands and created a humanitarian crisis for Spain and the European Union. But a decade later, very few are heading to the Canaries.

What triggered the refugee crisis in the Canary Islands in 2006? What was the response? Why are almost no migrants and refugees heading to the Canary Islands today? And what lessons can be learned for other parts of the world?

The crisis was triggered by a combination of factors pushing people from West Africa and the Maghreb and pulling them to the Canary Islands. Pull factors included Spain's surging economy, its decision to "regularize" many migrants the previous year, and tightened security around other routes to Europe. Push factors included political instability, lack of economic opportunity, and overfishing. Moreover, wide availability of *cayucos* and poor control of the maritime border helped enable migration. As a result, more than 30,000 people arrived in the Canary Islands by *cayuco* in 2006; around 6,000 died in the attempt.

The first challenge was to process the "irregular" migrants. The Spanish government took a whole-of-government approach, ensuring cooperation between national and local authorities, as well as with civil society, lawyers, the UN, and other European governments. The second challenge was to try to save lives at sea. European governments cooperated to intercept and rescue boats, and efforts to curb illegal migration involved coordination among countries of origin, transit, and destination. The Spanish government also turned the crisis into an opportunity to enhance relations with the countries of West Africa and the Maghreb through development assistance and law enforcement partnerships.

Although the *cayucos* crisis differs from other migration crises in Europe—the Canaries are islands, most of the countries of origin were not

failed states, and most of those arriving were migrants rather than refugees—a number of lessons from this experience could be transferable:

- Involvement of the whole government, effective leadership, and coordination among all stakeholders are necessary to develop an effective long-term approach.
- Pursuing a coherent regional strategy can help address the push and pull factors at the root of the crisis and ensure the problem is not simply displaced elsewhere.
- Saving lives should take precedence over border management.
- If migrants are to be pushed back to their point of departure, there must be mechanisms to ensure respect for their rights.

Introduction

Every year, thousands of people come to Spain's Canary Islands¹ off the coast of northwest Africa for holidays in the sun. Ten years ago, thousands of people made a different kind of journey—risking their lives in wooden boats called *cayucos* to reach this outermost region of Europe from Africa. The sudden influx of tens of thousands of desperate migrants and refugees overwhelmed the islands and created a humanitarian crisis for Spain and the European Union. A decade later, despite an unprecedented number of refugees and migrants on the move around the world, very few are heading for the Canary Islands.

This case raises a number of questions: What triggered the refugee crisis in the Canary Islands in 2006? What was the response? Why are almost no migrants and refugees heading to the Canary Islands today? And what lessons can be learned for other parts of the world?

This paper is part of the International Peace Institute's (IPI) "Desperate Migration" project. It is based on observations from a roundtable held in Casa Africa in Las Palmas, Gran Canaria, on May 28, 2015, as well as questionnaires and interviews with practitioners who responded to the crisis on the Canary Islands in 2006.

¹ The Canary Islands, also referred to as the Canaries, are an archipelago located approximately 100 kilometers off the coast of Morocco. The archipelago is made up of seven main islands (Tenerife, Fuerteventura, Gran Canaria, Lanzarote, La Palma, La Gomera, and El Hierro), as well as some small ones. The islands constitute one of Spain's seventeen autonomous communities.

Origins of the Crisis

PUSH, PULL, AND ENABLING FACTORS

A number of factors contributed to the sudden increase of people on the move from West Africa and the Maghreb to the Canary Islands in 2006. These can be generally characterized as pull factors, push factors, and enabling factors.

Among the pull factors was Spain's surging economy, led by a real estate boom. This was in stark contrast to the countries of West Africa. For example, in 2005, the difference in per capita income between Spain and Senegal was 15:1, between Spain and Mali was 25:1, and between Spain and Guinea was 30:1. The average Spaniard earned in two weeks what someone in Mali or Guinea would earn in a year. Indeed, most migrants who made it to the Canary Islands cited economic opportunities as the motivation for making the journey.²

Another pull factor was a decision by the Spanish government in 2005 to "regularize" a large number of "irregular" migrants. This provided hope to others that, if they could somehow get into the country, they too would eventually be allowed to stay. Moreover, thanks to the spread of mobile phones and the Internet, it became easier to send news back home about a better life in Europe. This created an example that others sought to follow.

The shortest ways to Europe were via the Spanish enclaves of Ceuta and Melilla in Morocco, across the Strait of Gibraltar, or west to the Canary Islands. In late 2005, Spain and Morocco tightened security around the enclaves after hundreds of people rushed the fence, and patrols were stepped up off the southern coast of Spain. As a result, the route of least resistance became the Canary Islands, just over 100 kilometers off the coast of Mauritania.

Push factors included political instability in some countries of West Africa and the Maghreb (including a coup d'état in Mauritania, a power struggle in Guinea-Bissau, civil war in Côte d'Ivoire, and tensions between the Moroccan government and the POLISARIO independence movement in Western Sahara), as well as low economic development, rampant corruption, weak

Figure 1. Map of the Canary Islands and region



institutions, and a demographic bulge that created a large pool of unemployed and disaffected youth. Furthermore, it is estimated that in 2006, at least 1 million people from around West Africa and the Maghreb (particularly Algeria, Mali, Morocco, and Senegal) had moved into Mauritania looking for better opportunities.³ With few prospects at home, young people looked abroad. But there were few regular ways of entering the European Union.

Another push factor was the high level of foreign illegal fishing. With few coast guard resources, the countries of West Africa and the Maghreb were not able to ward off foreign trawlers (mostly from the EU and China). Due to the resulting overfishing, local fish stocks collapsed in 2005, for example in Senegal. This left a large pool of angry and unemployed fishermen with a fleet of unused boats.

These wooden canoe-shaped boats, known as

² Information from questionnaires from staff of UNHCR and the Spanish Red Cross.

³ Ibid.

cayucos and often colorfully painted, were a major factor enabling the movement of people from West Africa and the Maghreb to Europe. Fishermen were able to sell them to traffickers with a return much higher than the opportunity cost of not fishing for several months. Another enabling factor was the wider availability of cheap GPS navigation, which made it easier for fishermen, or smugglers, to navigate on open water. Furthermore, there was a large and poorly controlled maritime border between northwest Africa and the Canary Islands. An increase in criminal activity in the region, involving the trafficking of drugs and weapons, also made it easier for networks to smuggle people.

DESPERATE MIGRANTS

As a result of these and other factors, in 2006 a growing number of people—mostly young men—started to make their way to the Canary Islands in *cayucos* or smaller vessels called *pateras*.⁴ The wooden boats, which usually carried a crew of around eight, were packed to the gunnels with between sixty and eighty people. It is estimated that refugees and migrants paid between 400 and 700 euros for the crossing. The journey—usually setting off from the shores of Mauritania, Morocco, or Senegal—lasted between twenty-four and forty-eight hours. Many of the boats had neither a proper captain nor sufficient drinking water. It is estimated that in 2006 around 6,000 people died while attempting the crossing.

The lucky passengers usually reached the coast of Tenerife or Gran Canaria. First dozens, then hundreds arrived on the island’s popular beaches; by the summer of 2006, it was thousands. Indeed, whereas 4,718 people reached the Canary Islands irregularly in 2005, in 2006 the number jumped to 31,859 in 515 boats.⁵ Almost half (16,237) came from Senegal, while other major countries of origin included Gambia (3,633), Morocco (3,423), Côte d’Ivoire (1,698), Guinea-Bissau (1,448), and Mauritania (1,237). Most were young men (average age twenty-five) fleeing poverty and looking for a brighter future. A few were escaping war and persecution.

Local aid agencies and the Red Cross were the first responders. They tried to provide basic

humanitarian assistance. For example, in 2006 the Red Cross, which was present on all the main islands, attended to 4,238 people, most of whom were suffering from dehydration and hypothermia. Many also suffered from trauma. As the number of refugees and migrants increased—along with the number of dead bodies washing up on the shore—it soon became apparent that the situation was deteriorating into a humanitarian disaster. According to a member of a local non-governmental organization (NGO) who witnessed the crisis, “We felt overwhelmed. You have to understand that hundreds of people were arriving every day. We had no idea how this started, or when it would end. It was like a tide of humanity.” The islanders turned to help from the mainland.

Responding to the Crisis

PROCESSING THE “IRREGULARS”

The Spanish authorities quickly realized that the number of people on the move was a challenge that deserved to be treated as an affair of state. They took a whole-of-government approach and mobilized the necessary economic resources, all in coordination with the autonomous authorities of the Canary Islands. The autonomous authorities established a rescue coordination center, and regular meetings were held among all relevant stakeholders. They also reached out to international partners like the International Organization for Migration.

The first challenge was to deal with the large number of new arrivals: Where were they from? Were they refugees or migrants? What should be done with them?

When boats were intercepted at sea, they were rescued by the patrol boats of the Spanish Guardia Civil officers. When they were intercepted on shore, the “irregulars” were handed over to national police officers, given first aid, and taken to police stations to be fingerprinted. Then they were taken to internment or reception centers (special centers were created for unaccompanied minors).⁶ According to Spanish law, they had to be taken to a judge within forty-eight hours and could only be held for up to forty days, but the caseload became

⁴ The first *patera* arrived in 1995, and several hundred irregular migrants arrived in 1999.

⁵ Data from the Ministry of the Interior of Spain.

⁶ At the time, there were three internment centers in the Canaries: Barranco Seco in Las Palmas, Hoya Fría in Tenerife, and El Matorral in Fuerteventura.

so heavy that some were detained for months. As the centers filled up, conditions deteriorated, the authorities started using other facilities (like restaurants, parking lots, sports centers, and dock facilities) and the military was called in to build an additional camp in Gran Canaria and renovate disused military installations in Tenerife to serve as camps.

Initially, there was criticism from legal aid providers and human rights advocates that the detainees were not being given sufficient protection or information about their rights. There were also complaints about insufficient legal aid and interpretation, mistakes about country of origin, minors wrongly identified as adults, and confusion between asylum and immigration procedures.⁷

However, thanks in large part to the ombudsman of the Canary Islands, the Spanish Commission for Refugee Aid (CEAR), and other civil society actors, cooperation improved among civil society, lawyers, and the local government. Access was granted to the detention centers, legal aid was made more readily available, and the system for establishing country of origin was improved with the assistance of embassy staff from the countries of transit and origin. Assistance also came from expert teams from France, Germany, Italy, Portugal, the Netherlands, Norway, and the United Kingdom, which were sent to the Canary Islands under an operation coordinated by Frontex called Hera I.⁸

An advisory body, the Canaries Immigration Forum, worked with civil society, the government, and the media to strengthen the sense of solidarity and assuage fears about what the media, at the outset, described as an “invasion.” In particular, the forum published a “Decalogue for Inclusive and Non-Xenophobic Communication,” which helped to promote tolerance and more responsible reporting.

The UN High Commissioner for Refugees (UNHCR), which did not have an office on the islands, also got involved because of the mixed

flows of refugees and migrants. Thanks to its intervention, international protection leaflets were distributed to all new arrivals, and UNHCR worked closely with CEAR to make detainees more aware of their rights. It is worth noting that in Tenerife alone, 251 foreign nationals submitted applications for asylum in 2007, compared with just 9 the year before.

That said, most of the foreign nationals did not fulfill the legal requirements for entry and residence in Spain, since they were considered migrants rather than refugees. Therefore, the Spanish authorities initiated forced return or expulsion procedures.⁹ Since Spain has readmission agreements with most countries of West Africa and the Maghreb, irregular migrants arriving from those countries (including Algeria, Guinea-Bissau, Mauritania, and Nigeria) were sent back via air shuttles. The Spanish authorities made a point of highly publicizing these returns in order to discourage other potential migrants from coming. The readmission agreements contained clauses requiring these countries to respect the human rights of returned migrants, but it is difficult to judge to what extent these clauses were faithfully applied. It is also not clear what happened to nationals from third countries who were sent back, for example, to Mauritania. Migrants who could not be expelled were sent to the Spanish mainland, albeit with an expulsion order that barred them from working.

An exception was made for unaccompanied minors (under the age of eighteen). In 2006 alone, 1,062 unaccompanied minors (almost all male) were registered and allowed to stay.¹⁰ A further 880 were allowed to stay in 2007, and 866 in 2008 (roughly one-tenth of all the irregular arrivals in the Canary Islands that year). More than half of all unaccompanied minors came from Senegal, and around a third from Mali.¹¹ Special centers were created for many of these children around the Canary Islands, although many were moved to the mainland.

⁷ Interviews in Las Palmas, May 28, 2015, and information from questionnaires.

⁸ The full title of Frontex, which was launched in 2004, is the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.

⁹ Amnesty International, “Spain: The Southern Border. The State Turns Its Back on the Human Rights of Refugees and Migrants,” June 2005.

¹⁰ Data from the Ministry of the Interior of Spain.

¹¹ Data from the Spanish Red Cross.

RESCUES AND INTERCEPTIONS AT SEA

The second challenge was to try to save lives at sea. Initially, there was a debate about whether improved search and rescue would act as a pull factor that would encourage more boat people to risk the journey. It was decided that the highest priority—from both a legal¹² and a moral perspective—should be to save lives. (A similar debate took place in Italy in 2014, which led to the creation of the successful Mare Nostrum search-and-rescue operation.)

As a result, the Spanish Coast Guard and Guardia Civil were substantially reinforced. Their operations were facilitated by an Integrated System of External Vigilance (SIVE). Installed between 1999 and 2004, the SIVE is comprised of fixed and mobile sensors. These sensors provide early warning, predict boats' estimated time of arrival, and even predict the number of people on board. On the basis of this information, an interception or rescue unit can be deployed. Operations were run out of the Canary Islands Regional Coordination Center (with headquarters in Las Palmas).

Spain also appealed to other EU countries for help in the spirit of shared responsibility. Support was provided through a Frontex-coordinated operation called Hera II. It involved assets from Italy (one vessel and one aircraft), Portugal (one vessel), and Finland (one aircraft). Together with Spanish boats and planes, they patrolled the coastal areas of Cape Verde, Mauritania, Senegal, and the Canary Islands between August 11 and December 15, 2006. Bilateral agreements were also reached between Spain and Mauritania (Operation Cabo Blanco) and Spain and Senegal (Operation Gorée), which enabled Spanish vessels to patrol these countries' territorial waters. These operations led to increased rescue at sea, but also increased interceptions, since the main aim of the operation was to detect vessels departing from Africa toward the Canary Islands and divert them back to their point of departure. It is not clear if people on the intercepted vessels were interviewed to determine whether they wanted to apply for asylum or to distinguish between refugees and migrants.

This was followed by Operation Seahorse Atlantico—from December 2006 to December 2008—to fight smuggling of migrants off the coast of northwest Africa. This project, funded by the European Commission and led by Spain's Guardia Civil, was designed to improve coordination among countries of origin, transit, and destination.¹³ It included capacity building, joint patrols, information exchange, and development of a network (which eventually led to the creation of the Seahorse Network and the establishment of Seahorse Coordination Centers). A similar operation for curbing illegal migration between Mediterranean countries was launched in 2013.

LEADERSHIP AND COOPERATION

Although the authorities of the Canary Islands and the Spanish government were caught off guard by the large influx of migrants and refugees in 2006, they adapted quickly. An ad hoc and reactive response was soon replaced by a more coordinated and proactive strategy.

At the local level, the island officials held frequent roundtables to engage all relevant stakeholders, including humanitarian organizations, maritime rescue officials, civil society, and lawyers. After a few preliminary glitches, the mood was described as constructive and cooperative.

When the scale of the problem became apparent, the national government became active. Prime Minister José Luis Rodríguez Zapatero took leadership and pursued a whole-of-government approach that engaged all relevant ministries (Labor and Social Affairs, Interior, and Foreign Affairs and Cooperation), along with regional and local governments (particularly the administration of the Canary Islands) and civil society. It is worth noting that, already in 2003, the government had passed responsibility for refugees and migrants from the Ministry of the Interior to the Ministry of Labor and Social Affairs. This reflected the government's view that this was more than a law enforcement issue.

The government showed openness to working with relevant humanitarian partners, like the Red

12 Under the International Convention on Maritime Search and Rescue (1979), Spain is responsible for providing search and rescue off the coast of West Africa. Furthermore, Article 98 of the 1982 UN Convention on the Law of the Sea says that "every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or passengers: a) to render assistance to any person found at sea in danger of being lost; [and] b) to proceed with all possible speed to rescue the persons in distress, if informed of their need of assistance, in so far as such action may reasonably be expected of him."

13 Participants included Belgium, Cape Verde, France, Germany, Mauritania, Morocco, Portugal, and Spain.

Cross and UNHCR. As discussed above, it reached out to the European Union for assistance, including for increased capacity (through operations Hera and Seahorse), and it worked closely with the countries of West Africa and the Maghreb.

STRATEGIC PARTNERSHIP: THE AFRICA PLAN

Indeed, the Spanish government turned the crisis into an opportunity to enhance relations with the countries of West Africa and the Maghreb. In 2006 it launched an ambitious and far-reaching Africa Plan. As Miguel Moratinos, then Spain's minister of foreign affairs and cooperation, noted in the introduction of the plan, "Africa, so close to our hearts and our shores, has never been more present in the daily lives of the Spanish people."¹⁴ Africa presented both a threat, in terms of a major upsurge in cocaine trafficking and the smuggling of migrants through West Africa, and an opportunity, in terms of the potential for closer trade ties and stronger cooperation between Spain and Africa.

The 2006–2008 Africa Plan was launched in the spring of 2006 after an active period of shuttle diplomacy over several months, during which Moratinos and other senior officials (particularly Secretary of State for Foreign Affairs Bernardino León) visited almost every country in West Africa several times in order to create "a genuine climate of trust and partnership."¹⁵ Among its priorities, the plan sought to double Spain's overseas development assistance from an average of 0.23 percent in 2004 to 0.5 percent in 2008. This was designed in large part to improve the socioeconomic conditions of sub-Saharan African countries vulnerable to migration (particularly to Spain). Furthermore, joint development projects were initiated under the plan. For example, a center for youth training was established in Morocco, while two centers for adult training were established in Mali and Senegal. Efforts were also made to enable seasonal employment, for example in the agricultural sector, and to lower barriers to other forms of regular employment.

The plan also called for reinforcement of Spain's institutional presence in West Africa, which

resulted in the opening of new embassies in Cape Verde and Mali and the upgrading of embassies in Cameroon, Côte d'Ivoire, Ghana, Nigeria, and Senegal. Furthermore, Spanish diplomats were posted to West African countries without Spanish embassies, including the Gambia, Guinea, Guinea-Bissau, Liberia, Niger, and Sierra Leone, to improve information sharing on the migration issue.

Spanish officials also worked to change the mindset of the leaders of West Africa who felt that the migration issue was Europe's problem, not Africa's. Indeed, the exodus of young, unemployed youth released social pressures at home and generated remittances. Spanish authorities explained that many of those attempting to make the crossing were dying, and that the proliferation of migrant (and drug) smugglers was spreading a cancer of crime that could destabilize West Africa. Failure to act now would lead to greater problems later on.¹⁶

A major priority was to work with the affected African countries to adequately regulate migratory flows, combat human trafficking, and repatriate illegal migrants. This included building the capacity of law enforcement in the countries of West Africa, providing equipment to enhance border management, sharing information on smuggling and suspicious maritime activities, and concluding readmission agreements. Agreements were even made to station Spanish Guardia Civil personnel in coastal regions of West Africa and the Maghreb to carry out joint patrols and gather information. These arrangements continue today. Furthermore, liaison officers from West Africa and the Maghreb are stationed at the Frontex office in Las Palmas.

Multilateral cooperation was also enhanced, for example with the Economic Community of West African States (ECOWAS) and the African Union, on issues of migration, trafficking, and, more generally, enhanced regional cooperation to fight drugs and crime. The Rabat Process, launched in July 2006 at the first Euro-African Conference on Migration and Development, was also an invaluable mechanism for promoting dialogue and cooperation to address the challenge of irregular

¹⁴ Government of Spain, *Africa Plan 2006–2008*, p. 6.

¹⁵ Government of Spain, *Africa Plan 2006–2008*, p. 72.

¹⁶ Interview with Bernardino León, April 2016.

migration from West Africa and the Maghreb to Europe.

Civil society actors in Spain worked with their counterparts in the countries of origin to spread the word on the dangers of the crossing. Information campaigns (including sobering images) were carried out in communities susceptible to irregular migration to highlight the risks of the journey and manage expectations about the limited opportunities for staying in Spain. In particular, efforts were made to support and mobilize women in Senegal who had lost sons or husbands at sea and get them to explain their tragedy to others as a warning of the dangers of the crossing.

This mobilization of women was important, since it appears that sending unaccompanied minors to the Canary Islands was based on family decisions and was a well-prepared process that involved significant mobilization of resources. Like a Darwinian survival of the fittest, the boys and young men encouraged to attempt the crossing were regarded as having the best chance of succeeding, finding a job, and sending home remittances to cover the cost of the trip and support the family. Furthermore, family members and smugglers seem to have been aware that unaccompanied minors would not be sent home.¹⁷ Expectations were high for these youths, which often caused psychological problems when they were subsequently unable to find work and send money back home.

Lessons Learned

A number of lessons can be drawn from the experience of the Canary Islands in dealing with the *cayucos* crisis, including:

- The need for a whole-of-government approach;
- The priority of saving lives (and having sufficient assets to do so);
- The importance of early warning and information exchange;
- The need to understand the socioeconomic push and pull factors that drive people to risk their lives and to implement programs and projects designed to reduce vulnerability to these factors;
- The need to facilitate legal immigration and create training and job opportunities—in a structured and predictable way—for aspiring migrant workers;
- The need for a regional solution to prevent “solving” the problem in one country yet displacing it to another;
- The need for approaching such challenges with a sense of shared responsibility, in this case manifested by cooperation among the various regions of Spain and between Spain and the countries of West Africa and the Maghreb, as well as with partner EU states;
- The need for reception centers to cope with a massive influx of refugees and migrants and for a process for explaining to people on the move their rights (particularly the right to seek asylum);
- The need to establish a formal mechanism to identify persons in need of international protection;
- The urgency of dealing with people with special needs, as well as unaccompanied minors (including by providing psychological support);
- The potential effectiveness of return agreements, but the need to ensure that such agreements protect the rights of returnees to avoid violating the principle of non-refoulement;
- The merits of cooperation among countries of origin, transit, and destination on humanitarian assistance, development programs, reduction of barriers to regular migration, and law enforcement; and
- The benefits of a regional strategy (e.g., Plan Africa) to put the issue of migration and displacement in a broader and longer-term context.

THE “EXTERNALIZATION” OF BORDER MANAGEMENT

One lesson worth highlighting is that the approach used by Spain to respond to the *cayucos* crisis in the Canary Islands has sometimes been described as the “externalization” of border management. This policy, which has been practiced in Australia and the European Union, uses various methods to transfer migration management beyond national

¹⁷ Information from the Directorate General for the Protection of Minors and Family, Government of the Canary Islands.

borders—in other words, to make it someone else’s problem. But by working with the countries of West Africa and the Maghreb (including on intelligence sharing, interception and diversion of boats, joint land patrols, and readmission agreements), Spain—and in some cases Frontex—not only managed to keep refugees and migrants away from its shores (and the external borders of Europe) but also helped other states to enhance their border management. This has arguably enhanced the sovereignty of both the transit/origin and the destination countries. This proved quite effective, as evidenced by the significant drop in refugees and migrants reaching the Canary Islands since 2008.

But it is worth recalling that, pursuant to Article 14 of the Universal Declaration of Human Rights, people have the right not only to asylum but also to seek asylum. Therefore, if a country tries to push back those trying to reach its shores, it must not do so at the expense of those seeking, and entitled to, protection. Human rights cannot be sacrificed for the sake of security. As one critic has observed, externalizing border management “transfers migration policy to other countries and it is symptomatic of the insidious process by which immigration policy and practice become invisible. This makes the advocacy task of civil society organizations more difficult and it diminishes the accountability of governments.” Moreover, he points out, “It dramatically increases the vulnerability of those most in need of protection, as refugees and migrants are compelled to seek more and more dangerous routes in order to gain entry and make their claims.”¹⁸

In this regard, it is worth noting that a case was brought against Italy at the European Court of Human Rights in 2009 by two dozen Eritrean and Somali nationals who were among 200 people picked up by the Italian coastguard off the coast of Lampedusa, transferred to Italian military vessels, and returned to Libya (pursuant to a bilateral agreement between Italy and Libya). In making their case to the court, the applicants alleged that, during the voyage, the Italian authorities did not inform them of their real destination and took no

steps to identify them. According to the court, “Returning migrants to Libya without examining their case exposed them to a risk of ill-treatment and amounted to collective expulsion.”¹⁹ States therefore need to ensure that the practice of pushback at sea does not violate the non-refoulement principle.

Furthermore, countries that want to externalize border management should concurrently promote externalization of protection. As part of cooperation agreements, states seeking to limit the number of refugees and migrants reaching their shores should work with countries of transit and destination on effective protection measures (including respect for human rights) upstream. Outsourcing the problem to another country—especially one with less capacity—is unfair to either the country involved or the people affected.

TRANSFERABILITY OF THE CANARIES EXPERIENCE

A number of lessons from the experience of dealing with the *cayucos* crisis in the Canary Islands have been listed above. Are there any good practices that could be applied elsewhere?

It is important to note that the Canaries are islands, and therefore the situation was in some respects more self-contained than situations elsewhere. That said, the challenge for maritime security was significant because of the long and relatively uncontrolled coastline on the African side.

Another important observation is that most countries of West Africa and the Maghreb (with the possible exception of Guinea-Bissau) were not failed states. It was possible for Spain to form partnerships with them and to have readmission agreements that would enable return of the migrants.

It should also be born in mind that most of the people desperately trying to get to the Canary Islands were migrants rather than refugees (unlike most people fleeing Syria). This highlights a prejudice built in to the current international protection regime, which tends toward protection of those fleeing conflict but rejection of those trying

18 Quoted in Roger Zetter, “The Problem of Externalising the EU’s Borders,” in *Shifting Borders: Externalising Migrant Vulnerabilities and Rights*, Red Cross EU Office, 2013. For a report that focuses on this issue in the specific context of Spain, see Spanish Commission for Refugee Aid (CEAR), “The Externalization of Borders: Migration Control and the Right to Asylum,” 2013.

19 See the case of *Hirsi Jamaa and Others v. Italy*, application no. 27765/09 (Council of Europe: European Court of Human Rights, February 23, 2012).

to escape poverty. This is a complex and controversial issue beyond the scope of this paper.²⁰ That said, the example of the *cayucos* crisis shows the need for reducing barriers to regular migration and creating viable alternatives to having people risk (and sometimes lose) their lives for the sake of a better future.

Operation Seahorse in the Mediterranean shows that the maritime security experience is transferable, although it should be stressed that the Frontex-coordinated operation is a border management process rather than a search-and-rescue one. As Spain's response to the *cayucos* crisis showed, the priority should be to save lives.

Much more could be done to emulate Spain's decision to pursue a coherent regional strategy, for example between countries on the north and south shores of the Mediterranean. Like Spain's Africa Plan, this could include a comprehensive package of development, trade, capacity building, humanitarian aid, and law enforcement cooperation. This would have wide-ranging benefits well beyond the issue of migration, such as in dealing with some of the push and pull factors that fuel desperate migration, reducing inequality, creating opportunities at home, strengthening national institutions, and enhancing networks to combat violent extremism and organized crime.²¹ The *cayucos* case

also shows the need for effective regional information sharing on migration and refugee flows; otherwise, the problem will simply be displaced somewhere else.

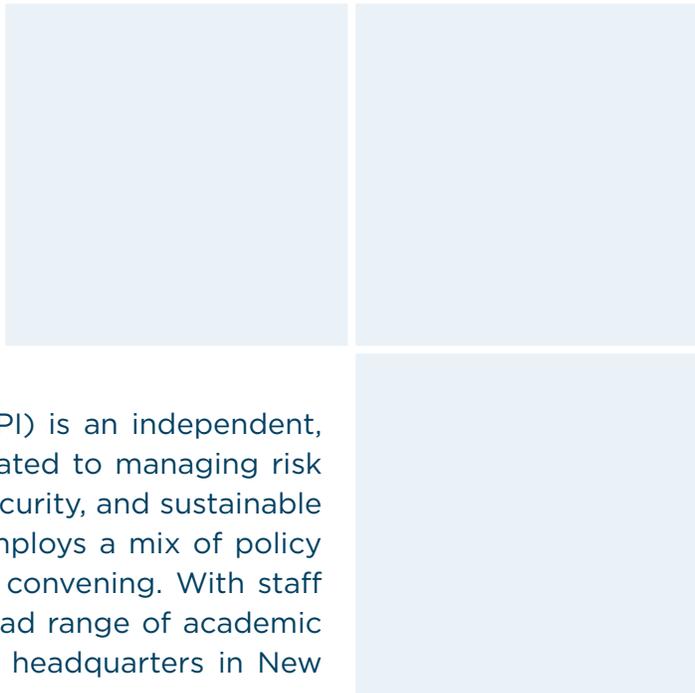
A cautionary note is the lesson (described above) that, if migrants and refugees are to be pushed back to their point of departure, mechanisms must be in place to ensure respect for their rights. As the UN Protocol against the Smuggling of Migrants makes clear, migrants, including asylum seekers, may not be deprived of the right to protection, including asylum, or to assistance. These rights must not be compromised by state measures to combat illegal trafficking in human beings, especially in the context of maritime rescue.²²

Perhaps the most significant lesson to be emulated is the need for a whole-of-government approach, effective leadership, and coordination among all stakeholders. This was certainly the approach adopted in responding to the *cayucos* crisis. Within less than a year, a small cluster of islands that was overwhelmed by a major humanitarian crisis managed to pull together, address the most immediate needs of people in distress, and then form effective partnerships with countries of the EU and West Africa and the Maghreb to put in place measures that, ten years later, continue to work effectively.

20 See Independent Commission on Multilateralism, "Forced Displacement, Refugees, and Migration," Discussion Paper, November 2015, available at www.icm2016.org/new-discussion-paper-forced-displacement-refugees-and-migration.

21 See also "Forward Defence: What Other Europeans Can Learn from Spanish Efforts to Limit Illegal Migration," *The Economist*, October 17, 2015.

22 UN General Assembly, *Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime*, November 15, 2000, Art. 16.



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