Off-shoring and out-sourcing the borders of EUrope: Libya and EU border work in the Mediterranean

Bialasiewicz, L.

[Link to publication](#)

Off-shoring and Out-sourcing the Borders of EUrope: Libya and EU Border Work in the Mediterranean

Luiza Bialasiewicz [a]

[a] Department of European Studies, University of Amsterdam, The
Netherlands
Version of record first published: 08 Nov 2012.

PLEASE SCROLL DOWN FOR ARTICLE

Routledge
Taylor & Francis Group

Off-shoring and Out-sourcing the Borders of EUrope: Libya and EU Border Work in the Mediterranean

LUIZA BIALASIEWICZ

Department of European Studies, University of Amsterdam, The Netherlands

The article examines some of the novel ways in which the European Union carries out its 'border-work'– border-work that stretches far beyond the external borders of the current Union. It highlights, in particular, the role of EUrope's neighbours in new strategies of securitisation, drawing attention to some of the actors, sites and mechanisms that make the Union's border-work possible. The emphasis in the paper is on the Mediterranean, long the premier laboratory for creative solutions to the policing of EU borders. The discussion focuses predominantly on a difficult neighbour turned 'friend' – Libya – and its role in the EUropean archipelago of border-work.

INTRODUCTION: BORDERS BEYOND 'LINES IN THE SAND'

This paper attempts to answer, in small part at least, the call issued in the collectively authored piece entitled 'Lines in the Sand: Towards an Agenda for Critical Border Studies' published in this journal in 2009.[1] The motivation for the piece came from the strong feeling on the part of many of us that the study of borders – in political geography as well as in political science and international relations – was increasingly lagging behind the amazing sophistication and complexity of bordering practices themselves. The manifesto thus called for critical understandings able to in some way dissociate the study of borders from their traditional 'territorial trap'. Equally importantly, it also argued that the political and ethical implications of this transformation of bordering practices continue to be under-theorised. The focus of this paper is precisely on some of these political and ethical implications and, in

Address correspondence to Luiza Bialasiewicz, Department of European Studies, University of Amsterdam, Spuistraat 134, 1012 VB Amsterdam, The Netherlands. E-mail: l.a.bialasiewicz@uva.nl

particular, what these entail for the EU's self-professed geopolitical identity as a 'normative' or 'civil' power. My comments here rely in great part on the work done by a number of NGOs and volunteer organisations dedicated to exposing the workings of the EU border-regime, most notably those working with/in the MIGREUROP network. It is these organisations that have provided some of the most sustained and perceptive studies of the on-the-ground practices – and effects – of the externalisation of EUropean borders and I would like to acknowledge my debt to them.

Although the focus of this paper will be on the European Union, many of the points regarding the changing nature and function of borders could certainly be made about other parts of the world as well. The United States, for one, has been actively 'de-bordering' its borders since 9/11 and many of the border management techniques discussed here in the European context have been in place in North America for quite some time now: from a general blurring of traditional distinctions between 'external' and 'internal' security, to the 'thickening' of border defences through the creation of 'buffer zones', to the notion of 'smart borders' able to 'filter' rather than simply block out flows of people and goods, and the increasing use of military technologies for border enforcement, as well as 'layered' border inspection/policing approaches that move customs and immigration inspection activities away from the actual territorial border.[2]

Despite these similarities, I will argue that the European Union is quite unique in other ways – if only for the under (or un-)stated ways in which it carries out what Chris Rumford terms its 'border-work'[3] – border-work that stretches far beyond the external borders of the current Union. French political sociologist Zaki Laidi[4] argued some time ago that it is at EUrope's borders that we can best discern 'the distinct aesthetics of European power', where we can best perceive that which Peter Sloterdijk has called the uniquely European process of *translatio imperii*.[5] It is at/through borders that the European space is constituted and selectively 'stretched' – or, to use Sloterdijk's terms, 'translated'.[6] EUrope's borders, in all their different manifestations, are no longer merely the 'shores of politics but . . . the space of the political itself', as the 'Lines in the Sand' manifesto argued, invoking Etienne Balibar.[7]

For a political geographer, what is particularly interesting are not only the new forms that EU border-work takes, or new border-sites, but also the very peculiar 'nature of the beast', as James Sidaway has put it.[8] For it is a very difficult beast to grasp: the EU's border-work (unlike the North American case, for instance) proceeds through a fluid assemblage of functions, mechanisms, and actors; a series of loose institutional arrangements, recomposed in variable geometries 'as necessary'. Some commentators (Didier Bigo most prominently) have referred to the Union's bordering practices (and its security architecture more generally) as 'virtual', since there appears to be 'no there there'; no single institution, no single set of actors

that can be identified as the bordering 'State' (no European Department of Homeland Security in other words).[9]

Even FRONTEX, the Union's agency for external borders created in 2005 (its formal name is 'the European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the European Union'), is (on paper at least) simply a 'regulatory agency', responsible for the exchange of information and co-operation between member states on issues related to border control, the gathering of intelligence and the carrying out of 'risk analyses', and the provision, 'when necessary', of training and 'operational support'. As the most visible actor in the Union's increasingly exclusionary border-work, FRONTEX has been the target of countless protests: the re-worked FRONTEX logo (defined as the Union Deportation Agency) in Figure 1 comes from a Polish No Borders activist group that offers a different take on the Warsaw-based agency's real slogan, *Libertas, Securitas, Justitia*, here rendered as 'Slavery', 'Intolerance' and 'Injustice'. Yet FRONTEX is part of a much wider group of inter-governmental organisations engaged in formulating policies for 'managing migration' on behalf of/for the European Union, including the International Organization for Migration (IOM) and the International Centre for Migration Policy Development (ICMPD) – agencies whose work is much more invisible to the public eye, yet whose contribution to both shaping the terms of the 'illegal migration' debate, as well as the very notion of EU 'border (in)security' has been fundamental.[10] What is more, many of the instances of EU border-work that I will cite in the paper have been implemented without the formal engagement (even in a consultative capacity) of FRONTEX, relying rather on a variety of bi-lateral agreements between EU Member States and third countries that often do not have migration control as their explicit focus.

At the same time, it is also important to emphasize that border-work is not simply about the policing of migration. EUrope's border-work is, indeed, part of a broader attempt to 'secure the external', a process that has been taking place at the Union's Southern and Eastern borders for quite some time now. As numerous authors have argued, the preoccupation with 'securing the external' has driven EU relations with its immediate 'Neighbourhood' for almost a decade now.[11] One of its most visible expressions has certainly been the EU's engagement in state-making in the Balkans: in Montenegro in 2006

Unijna Agencja Deportacyjna

FRONTEX

niewolnictwo nietolerancja niesprawiedliwość

FIGURE 1 Re-fashioned FRONTEX logo (color figure available online).

(where European institutions set the conditions of the referendum that sanctioned the new state's independence from Serbia), and in Kosovo in 2008, where the EU specified the legal conditions for state-making.[12] The motivation (beyond the lofty goals of promoting democracy and peace) has been, of course, the stabilisation – and (norm)alisation – of a region that lies just too close for European comfort. The main remit of the 2,000-strong EULEX force (made up of judges, police, border guards and a variety of civil servants and administrators) that was sent in to support KFOR's military presence in the newly independent Kosovo was declaredly 'pacification and stabilisation' but also – and above all – (norm)alisation, to be read as the incorporation of this region into the (EU)ropean normative and legal/regulatory space.[13]

In this process of (norm)alisation, the question of border-control has been paramount. All through the past decade, the EU has provided specialist training to border guards in Bosnia and Croatia. So too in Kosovo, seen by the EU as a potential conduit to all sorts of illicit flows heading for European shores.[14] The Kosovo example provides a useful mirror to the political geographies of EU influence in its 'Neighbourhood' and the 'incorporation by law' through which countries are brought into Europe's orbit. Jan Zielonka has termed it 'Empire by Example': the creation of what he terms '(semi)protectorates whose sovereignty is not denied but 'creatively constrained'[15] – but we can also usefully understand such interventions as part of broader attempts on the part of the Union at the externalisation or extra-territorialisation of governance (also termed by scholars 'governance at a distance', or 'remote control' governance).[16]

The European Neighbourhood Policy, launched in 2003 with the explicit aim of fostering 'stability and peace' at the Union's external borders by creating a 'ring of friends' has, in recent years, shifted its rhetoric from that of collaboration and 'friendly' exchange to an explicitly security-led agenda, rendered in the phraseology of 'preventative security'.[17] In the past couple of years in particular, that focus has become increasingly blunt: speaking at an European Commission sponsored conference on 'Climate Change and International Security' in March 2008, then-EU foreign policy chief Javier Solana argued for

> a key role for the ENP as well as the EU-Africa Strategy and the Union's Middle East and Black Sea policies in preventative security and in countering climate change based security risks. These include the challenges posed by climate change induced migration, threats to energy security, but also the possibility of major changes in landmass leading to territorial disputes [and] political radicalisation [at Europe's borders]. In the face of uncertain and de-territorialised threats, the EU must develop new regional security scenarios.[18]

Such a shift in rhetoric – from democratisation and collaboration to securitisation – has been matched by funding flows: a 2009 report by the EU Court of Auditors uncovered that 90% of all EU aid to the Neighbourhood

partner countries of the Ukraine, Belarus and Moldova was spent on 'border management'.

EUrope's neighbours are, in other words, becoming EUrope's police-men. As Elspeth Guild noted in her study for the Observatory of the Centre for European Policy Studies,

> When the [European] Neighbourhood Policy was developed, it was inspired by an expansive spirit of inclusion of the neighbours in the benefits of the internal market including free movement of persons. By the time a process was established to develop the neighbourhood policy, the approach towards persons appears to have changed substantially. . . . the emphasis is on placing obligations on the neighbours to act as the buffer between the EU and other third countries as regards irregular migration. Exchanges of information, monitoring irregular migration flows, readmission agreements, these are the staples of the ENP in this area. The consequences of this approach are likely to be to harm the neighbours relations with their neighbours beyond the EU as our neighbours will be required to take coercive action against the nationals of their neighbours. Instead of reinforcing solidarity in the region such an approach is likely to create tensions and instability.[19]

This new – and increasingly explicit – role envisioned for EUrope's neighbours in its border-work foregrounds, once more, the need to consider the EU's bordering activities as part of a broader attempt to 'translate' the EUropean space by re-making the world beyond it. Writing about the emergence of a distinct EU 'anti-illegal immigration policy', William Walters argues, in fact, that we must locate any analysis of the EU's border-work 'squarely within the realm of geopolitics',

> embedded within the 'combat' against illegal immigration is a political imagination in which Europe is cast as a bounded, self-contained region distinct from and confronted by an external world of similarly bounded but far less well-governed political entities. Illegal immigration is at once a major symptom of this asymmetry in governance capacity, and a source of justification for Europe to involve itself in attempts to remake the world beyond it in the image of the well-governed, territorial state. In short, anti-illegal immigration activity is more than a branch of migration management. It is nothing less than state-making in a new form'.[20]

EU BORDER-WORK IN THE MEDITERRANEAN

The Mediterranean has long been the premier site for the 'translation' of the EU space and the externalisation of EUropean governance – as well as the

premier laboratory for experimenting creative solutions to the policing of EU borders. The Mediterranean has also become Europe's graveyard: there have been over 10,000 documented deaths along the EU's maritime frontiers in the past ten years – a figure that would swell further if we added those missing at sea, or those who did not even make it to the boats supposed to ferry them to their European Dream; those who died along the way, somewhere in the Niger or Algerian desert. UNITED, the European Network Against Nationalism, Racism, Fascism and in Support of Migrants and Refugees, has since 1993 been keeping a 'List of Deaths'. The List includes all reported deaths that have occurred as a consequence of European immigration policy, due to clandestine journeys to Europe, border militarisation, detention conditions and deportation procedures. On June 20 2010, International Refugee Day, their estimate stood at 13, 824, but as UNITED's press release on the day noted

> it is impossible to know the real death count and experts estimate it is likely to be three times higher. The 'List of Deaths' is compiled using news sources, reports, testimonies, artwork and documents produced by NGOs, research institutes, journalists, governmental sources, artists and film-makers among others. These 13,824 are not only statistics, each one is a human life with its own personal history, background, reasons for fear and hopes for the future. The EU failed to protect each one.[21]

The highly publicised map from 2005 in Figure 2 traces the routes taken by migrants across the African deserts. The map, produced by FRONTEX, also shows the areas of deployment of joint EU border patrols, focussed on the principal sites for the departure of vessels ferrying migrants to Europe's shores. Naturally, as patrols have intensified in recent years, the traffickers have simply re-located: crossings that a few years prior departed from the shores of Morocco and Tunisia have now moved further south, bringing ever higher risks for those attempting the journey, with the deployment of EU-led maritime patrols extending as far south as the shores of Mauritania and Senegal. Figure 3 (also produced by FRONTEX) illustrates the re-location of the principal migratory flows in the Mediterranean in 2009.[22]

Such maps powerfully illustrate to the European public both the supposed scale of these migration flows – and of the attempts to contain them. Nonetheless, this 'spectacle of militarised border enforcement' (to cite Nicholas de Genova) is just the most visible part of the story, for the EU's border-work extends far beyond the gun boats off Africa's shores.[23] The visible 'off-shoring' of EUropean migration controls has also been accompanied by the 'out-sourcing' of migration management to African states themselves. When the Lome Convention (specifying the terms of trade and aid between the EU and 77 African, Caribbean and Pacific (ACP) countries) was up for revision, the EU demanded the insertion of a clause on re-admission and re-patriation. When the new convention was signed in 2000 – now called
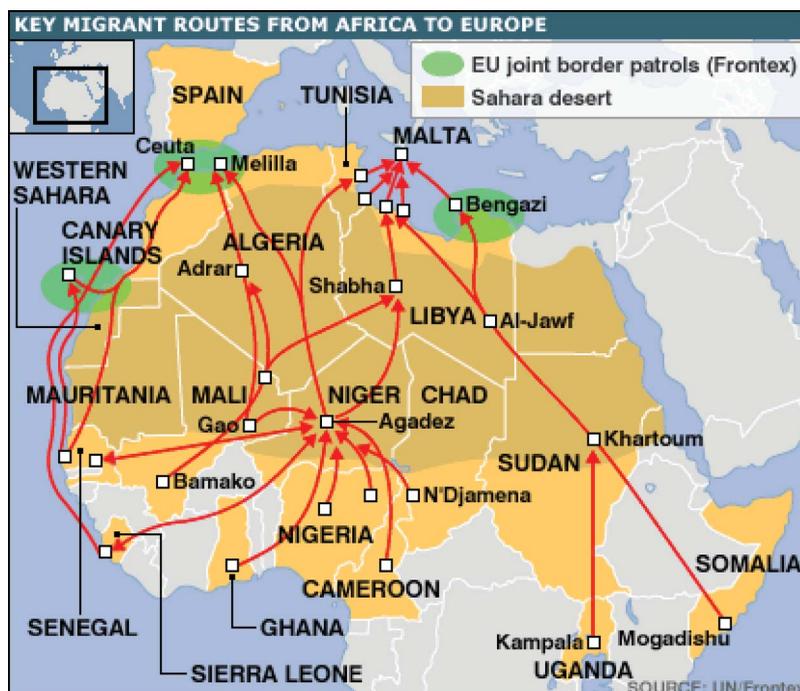
FIGURE 2 FRONTEX map with migration flows across Africa and the Mediterranean (color figure available online).

Source: FRONTEX.

the Cotonou Agreement – it required ACP states to 'accept the return and readmission of any of its nationals illegally present in EU territory' (and to pay for such return and readmission). The ACP states were also now bound to deter illegal migrants from leaving, as well as facilitating the work of European Immigration Liaison Officers (ILOs) in assessing asylum and immigration claims in situ (i.e., before would-be-migrants' departure). Although there were no explicit retaliatory clauses in the Agreement itself, a number of subsequent declarations hinted at 'measures' against countries that would refuse to cooperate in 'preventing and combating these phenomena'.

On June 22, 2010, representatives of the EU and the ACP states met to deliberate on the second revision to the Cotonou Agreement in Ouagadougou. The meeting was highly contested and while a revised Agreement was signed, the parties failed to reach consensus on revisions to Article 13 – the migration provision. In the preceding months, the EU had been pressuring ACP states to agree to changes in the existing Agreement which would make it easier for EU member states to return illegal or irregular migrants from the EU to their home countries. The ACP states resisted incorporating such a provision into the revised Agreement, requesting to deal with re-admission issues on a bi-lateral basis. Failing to reach agreement, the two
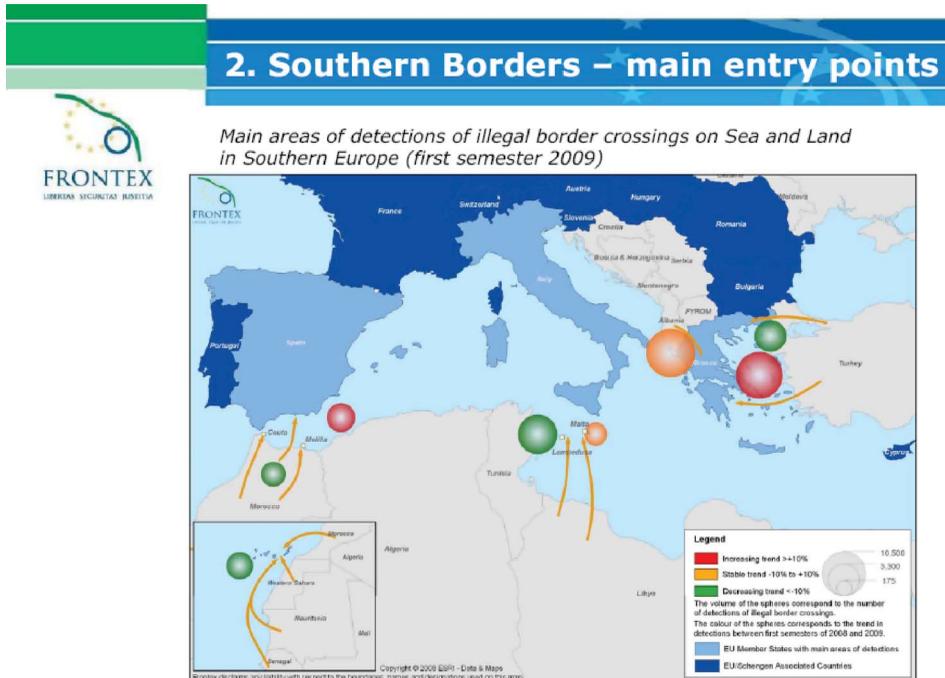
FIGURE 3 FRONTEX map showing shifts in main migratory flows (color figure available online).

Source: FRONTEX, Presentation to the European Parliament LIBE Committee, 11 Jan. 2010.

sides produced a Joint Declaration, signed in conjunction with the revised Cotonou Agreement, pledging that

> The Parties agree to strengthen and deepen their dialogue and coop-
> eration in the area of migration, building on the following three pillars
> of a comprehensive and balanced approach to migration: 1. Migration
> and Development, including issues relating to diasporas, brain drain and
> remittances; 2. Legal migration, including admission, mobility and move-
> ment of skills and services; and 3. Illegal migration, including smuggling
> and trafficking of human beings and border management, as well as
> readmission.[24]

The EU's push for the readmission clause in the Cotonou Agreement to
become self-executive and binding for all ACP countries without needing
complementary bilateral agreements had been strongly criticised not only by
representatives of the ACP states themselves but also by numerous European
NGOs and human rights organisations. CONCORD, the European NGO
Confederation for Relief and Development, in a briefing paper for European
Parliamentarians on the negotiations, warned that should the obligatory re-
admission clause go into effect, this would imply unmanageable obligations

for many countries and hence an increased risk of migrants' rights violations throughout the process of readmission. Moreover, CONCORD argued:

> in no way should EU and individual Member States' ODA [n.b. Official Development Assistance] be dependent on the signature of readmission agreements (whether bi-lateral or multi-lateral). By making development aid conditional on cooperation on border control, *the EU is turning development aid into a tool for implementing restrictive and security-driven immigration policies* which are at odds with its commitment to make migration work for development.[25]

Beyond the current question of how to manage re-admission and re-patriation, however, the original 2000 Cotonou Agreement *already* contained a number of quite revolutionary – from a political geographic *and* legal point of view – provisions detailing the role of ACP countries in migration management 'in collaboration with' (though perhaps more appropriately 'for') Europe. These included the role of ILOs (mentioned above) and the 'in situ' processing of asylum claims and visa requests.

Such proposals for the 'off-shoring' of migration management were given important impetus with proposals first advanced by the UK Home Office in early 2003 to create 'external asylum processing centres' that would, again, 'assess claims in situ', before migrants undertook their perilous journeys and that would provide 'protection in the region' for refugees and asylum seekers.[26] The Home Office proposal envisaged the establishment of 'transit processing centres' in third countries on major transit routes to the EU. Asylum seekers arriving spontaneously in the EU (or those intercepted en-route) would be sent back to such centres for 'status determination'; those whose requests were approved would be resettled within the EU or the region, while the others would be returned to their country of origin under 'new and strengthened re-admission agreements'.[27]

As Gammeltoft-Hansen notes in his discussion of these proposals, although the scheme was originally vetoed by Germany and Sweden at the June 2003 Thessaloniki European Council, it served to frame subsequent and ongoing initiatives to dissolve the traditional link between the provision of protection and asylum processing and the territory of the State undertaking these functions.[28] But, he argues, subsequent EU initiatives have adhered to a somewhat different logic than the simple 'out-sourcing' and 'off-shoring' of asylum processing imagined by the proposals for 'external processing centres':

> Rather than merely deflecting the responsibility on to third States or neglecting it altogether, current initiatives to off-shore asylum processing and outsource protection all presuppose some sort of responsibility on the part of the externalising State, ranging from the formal assertion of authority to merely providing financial assistance or compensation.[29]

Indeed, since 2003–2004, the externalisation of asylum has been seen by the EU as part of the broader externalisation of EUropean governance and (in words at least) presented as part of the projection of EUropean norms and standards into its Neighbourhood – highlighting, once more, the place of migration management in wider geopolitical strategies and 'state-making' at a distance.

Yet while – in rhetoric at least – the EU's border-work may be presented as part of a wider strategy of 'governance at a distance' and phrased in a managerial language of cooperation and partnership, stressing 'technical know-how' and 'best practice' as well as the key role of norms, standards and regulations, the on-the-ground management of migration in the Mediterranean in recent years tells a rather different story. In the remainder of the paper, I would like to focus on a country that has fulfilled this function 'for' EUrope in recent years: Libya. Libya is a particularly interesting example of the 'out-sourcing' and 'off-shoring' of EUrope's border-work for its then-government officially denied the presence of refugees on its territory, and did not recognise the very institution of asylum. My discussion here focuses largely on the period 2009–2010, with just a brief comment on the opening weeks of the 'Libyan Revolution' of Spring 2011 in the closing 'addendum' to the paper. In my conclusions, I note how EUrope's reaction to the Libyan crisis foregrounds, once again, the links between migration management and geopolitics.

DOING EUROPE'S BORDER WORK

> There are 1.5 million foreigners in Libya. . . . We don't know if they are political refugees, we just know that they are here. . . . Are we expected to give them all Libyan citizenship?
> — Abdul Ati al-Obeidi, Secretary of European Affairs at the General People's Committee for Foreign Liaison and International Cooperation, Tripoli, Libya, May 2009

> Political asylum is out of place [in Africa]. These people [n.b. African migrants] come from the forest and the desert and most of them don't even have an individual sense of self.
> — Colonel M'uammar Al-Gaddafi, on the occasion of his visit to Rome in June 2009, responding to critiques regarding Libya's treatment of refugees[30]

Following the first FRONTEX 'Technical Assistance' mission to Libya in June of 2007, in December 2007, Italy and Libya signed a series of bi-lateral agreements creating joint patrols on the Libyan coasts so Italian coast guard vessels would now be allowed to operate in Libyan waters. The agreement

also specified the provision of surveillance equipment for the monitoring Libya's land and sea borders – to be funded by the European Union. It was announced to great fanfare that Libya – on its path to 're-joining the international community' – would help 'share the burden' of migration control in the Mediterranean.

In August 2008, Italy and Libya signed The Treaty of Friendship, Partnership and Co-operation.[31] The Treaty, hailed as a historic step towards reconciliation between Italy and its ex-colony, agreed Italian compensation to Libya for its occupation of the country between 1911 and 1943 and included a 5 billion euro package for construction projects, student grants and pensions for Libyan soldiers who served with Italian forces during the Second World War. It also included, however, provisions for bilateral efforts to combat illegal migration, facilitated by the joint sea patrols already launched in December 2007. Libya agreed, among other things, to tighten control of its territorial waters and accept disembarkation on its soil of individuals intercepted at sea by Italian vessels. Italy undertook to provide 'the necessary resources', including technology, to control migrant flows through the southern borders of Libya.

In May of 2009, on the heels of an anti-immigration crusade by the Berlusconi government, the Italian parliament approved legislation that made irregular immigration illegal, punishable by a fine of up to 10,000 euro and detention. It also authorised the direct deportation of migrants through a new 'push-back' policy: from May on, migrants intercepted in international waters by Italian coast guard vessels would be ferried to Libya directly, before assessing their rights/claims to asylum.

The first incident occurred in the very first week of the implementation of this new policy: on May 6, distress calls were sent from three vessels with an estimated 230 third-country nationals on board. Italian coast guard vessels were the first to intervene, but transported the individuals directly to Tripoli, without stopping in an Italian port and without checking whether any individuals on board were in need of international protection or basic humanitarian assistance. In the last week of that same month, over 500 African migrants – some of whom had actually already *reached* Italian shores – were 'pushed back' to Libya. Further interceptions and returns occurred in the subsequent months: according to official information from the Italian Ambassador to Libya, between 6 May and 3 September 2009, over 1,000 individuals were returned to Libya, including nationals from Eritrea, Somalia and other sub-Saharan African countries. Commenting three months on, Italian Minister of the Interior Roberto Maroni referred to the scale of the returns as 'an historic achievement after one year of bi-lateral negotiations with Libya'.[32]

The United Nations High Commissioner for Refugees (UNHCR) and Italian and European human rights organisations provided a different reading. That same May, UNHCR spokesperson, Ron Redmond, expressed serious

concerns about the returns procedures, noting that Italy's new 'push-back' policy gravely undermined access to asylum for individuals potentially in need of international protection and risked violating the principle of *non-refoulement*, which prohibits the return of any person in any manner whatsoever to a situation where he or she would be at risk of torture or other serious human rights violations. The principle of *non-refoulement* is a fundamental obligation of all signatories of the 1951 Convention on the Status of Refugees which states that

> No Contracting State shall expel or return ("*refouler*") a refugee in any manner whatsoever to the frontiers of territories where his [or her] life or freedom would be threatened on account of his [or her] race, religion, nationality, membership of a particular social group or political opinion.

This obligation is also enshrined in the European Convention on Human Rights to which all EU member states are signatories.

Libya at the time was not a state party to the 1951 Convention and, moreover, did not possess a national asylum policy (as the citations at the outset of this section attest). Libyan officials, in fact, consistently denied the presence of any 'asylum-seekers' or 'refugees' in Libya.[33] During Amnesty International's fact-finding visit to Libya in May 2009, officials from the General People's Committee for Foreign Liaison and International Cooperation said that there were no refugees or asylum-seekers in Libya, 'only economic migrants'. The Director of the Misratah Detention Centre, some 200 km from Tripoli, which at the time held more than 400 Eritrean and about 50 Somali nationals, stressed to Amnesty International delegates on 20 May 2009 that there were no refugees in Misratah. As the Amnesty Report stresses, also at the highest level of the state, 'there [was] a belief that all foreign nationals in Libya are there solely for economic reasons'.[34]

Libyan authorities have been documented to regularly deport migrants directly to their countries of origin, regardless of their conditions or right to asylum. In many cases, citing lack of resources (or where states of origin have not been forthcoming with the funds or vessels/planes for repatriation), migrants have been accompanied directly to the southern border with Niger, creating a new line of business for the people smugglers who now wait to accompany migrants back across the desert. Many of the expelled migrants become stranded in places like Agadez (Niger), out of money and at the mercy of the smugglers and local officials, working in slave-like conditions to simply assure their survival; unable to reach Europe, but also unable to return home.[35] Enrica Rigo has written extensively on this phenomenon, not only in the case of Libya, noting how transnational migratory paths are increasingly also becoming what she terms 'transnational corridors of expulsion'.[36] In Libya, such mass expulsions had been ongoing: European Commission figures estimate that 43,000 and 54,000 migrants were deported

from Libya already in 2003 and 2004, respectively; in 2005, the figure reached 7,000 expelled migrants per month; in 2006 the reported annual figure was 64,330. In 2008, the Libyan authorities claimed to have expelled around one million illegal immigrants.

Those who were not deported faced the brutal conditions of Libya's detention centres, not only with no legal guarantees but where forced labour, rapes and beatings were a constant, as numerous UNHCR and Amnesty International reports have documented.[37] It is interesting, then, how Libyan officials were quick to take up the notions of 'protection in the region' and 'preventative measures' promoted by EU agencies such as FRONTEX. Between 2009 and 2010, detention facilities for suspected irregular migrants were officially re-named 'care centres', designed to 'ensure the physical integrity of irregular migrants, particularly as they expose themselves to dangerous situations, such as crossing the desert or the Mediterranean' (to cite Maha Omar Othman, Director of Consular Affairs in the Secretariat of Expatriates and Migration).[38]

Speaking with UNHCR representatives in 2010, Othman explained that in implementing Libya's policy of preventing irregular migrants from travelling further, the authorities felt it necessary to place them in temporary 'care centres' in order to identify their country of origin and repatriate them as soon as possible. The stated reason behind prolonged detention was the difficulty in identifying irregular migrants' countries of origin when they destroyed their travel documents. Enquiries by UNHCR and other NGOs have documented that individuals suspected of being irregular migrants were being held in detention for months and sometimes even years, particularly in the cases of Eritrean and Somali nationals.

FLEXING EU NORMS

Facing international criticism following the implementation of Italy's new 'push-back' policy in May of 2009, Italian Foreign Minister Franco Frattini (until that month, Vice-President of the European Commission, responsible among other things for migration policy) declared that 'it is a complex legal issue to which there is no easy answer. It is not black and white'.

The institutional (and practical) arrangements guiding the deportations and the 'out-sourcing' of the assessment of asylum claims to the Libyan authorities were, indeed, far from 'black and white'. And it is precisely in this ambiguity that they found their space of possibility – using bi-lateral agreements (and, in the case of Italy and Libya, also *informal* agreements) to circumvent existing EU legislation, while 'getting the job done'; that is, protecting EUropean shores.

The new Italian policy relied on a highly articulated interpretation – and implementation – of international legislation on migration control. The

push-back policy was to be implemented by two forces: the *Guardia di Finanza* and the Italian Navy.

> The *Guardia di Finanza* is in charge when the vessel carrying the migrants is intercepted between 12 and 24 nautical miles from the Italian coast; the Navy intervenes when such interception takes place beyond 24 nautical miles. If the vessel is intercepted in Italy's territorial waters (within 12 nautical miles from the coast) the migrants who are intercepted are brought to land, where they benefit from the legal and procedural safeguards provided under Italian and EU law as regards reception and access to asylum procedures. . . . When a vessel believed to transport migrants is sighted, the *Guardia di Finanza* or the Navy, whichever is competent, intercepts the boat and transfers the migrants onto the Italian vessel. The Coast Guard is also dispatched and coordinates rescue operations and first aid provided by medical personnel present on its vessels. Should the medical personnel deem it necessary to hospitalise any of the migrants, the Coast Guard ensures the transfer of the persons concerned to Lampedusa [n.b. where the Italian *Centro di Permanenza Temporanea* is located] The remaining migrants are returned to Libya by the Italian intercepting vessel, or transferred onto a Libyan vessel which returns the migrants to Libya.[39]

In July 2009, the Council of Europe's Committee for the Prevention of Torture sent a fact-finding mission to Italy and Libya, whose report was made public on 28 April 2010. The Committee's report noted with some surprise that

> The Italian authorities have acknowledged officially that they do not proceed with the formal identification of migrants who are intercepted at sea and pushed back. . . . The Italian Government has affirmed that no migrant has ever expressed his/her intention to apply for asylum and that, consequently, there has been no need to identify these persons and establish their nationality.[40]

The report remarked, however, that 'even if what is affirmed were to correspond to reality, it must be borne in mind that persons surviving a sea voyage are often not in a condition in which they should be expected to declare immediately their wish to apply for asylum'. What is more,

> information gathered through interviews held by the delegation would indicate that, even if a migrant were to request protection whilst aboard an Italian vessel, there is no procedure in place capable of referring him/her to a protection mechanism; nor have the competent authorities been instructed on how to identify and screen migrants. It should be noted, in this context, that intercepted migrants do not have access to linguistic or legal assistance on board the intercepting vessels, in order to express their needs. Indeed, representatives of both the Navy and the

Coast Guard with whom the delegation spoke, clearly stated that they are not responsible in any way for the identification of migrants, the provision of information on how to apply for asylum, or the treatment of asylum requests; nor have they been instructed by the Ministry of the Interior in relation to these issues.[41]

How is this possible in Italy, an EU state, bound both by the 1951 Convention as well as the European Convention of Human Rights that extends the principle of *non-refoulement* to 'all persons who may be exposed to a real risk of torture, inhuman or degrading treatment or punishment should they be returned to a particular country'? Under the terms of the ECHR, the prohibition of *refoulement* to a danger of persecution is, indeed, seen as applicable to 'any form of forcible removal, including deportation, expulsion, extradition, informal transfer or renditions, and non-admission at the border'. Moreover, the principle applies not only in respect of return to the country of origin or, in the case of a stateless person, the country of former habitual residence, but also to any other country to which removal is to be effected or any other country to which the person may subsequently be removed. EU member states are, therefore, also obliged to examine whether a relevant risk would be incurred through 'chain deportation' or indirect *refoulement*.

In recent years, the European Court of Human Rights has recognised a number of specific situations which may also give rise to an 'extraterritorial' application of ECHR obligations and EU states' responsibility in this respect. Recent rulings have noted that a state's 'extraterritorial jurisdiction' may be based, in particular, on (a) the activities of the State's diplomatic or consular agents abroad and on board craft and vessels registered in, or flying the flag of, that State; (b) the State's effective control of an area outside its national territory; or (c) the State's exercise of authority over persons or property through its agents operating on the territory of another State or in international territory/waters.[42] The 'push-back' activities of Italian sea-forces (*Guardia di Finanza*, Navy and Coast Guard) as well as those of their Libyan counterparts (using vessels donated by Italy and registered in Italy) were thus – in theory at least – covered by such obligations.

But the returns policy remained in place regardless. In June 2010, the UNHCR estimated a decrease of between 50 and 95% in summer arrivals on Italian shores compared to the same period the preceding year. The IOM has similarly estimated that there was a 90% drop in arrivals on Italian shores from over 37,000 in 2008 – before the policy went into practice – to just 4,300 in 2010. The 'job', in other words, was getting done, with Italian authorities continuing to claim that no laws were being violated. The argument of the Ministry of the Interior was that the capture and 'push-back' of migrants conformed to the UN Convention against Transnational Organized Crime, and the Protocol against the Smuggling of Migrants by Land, Sea and Air. The question, then, was not refugee flows but tackling organised

crime and people-smugglers. Indeed, the 2007 and 2009 bi-lateral treaties and 'technical protocols' signed by Libya and Italy were explicitly focussed on 'collaboration in the fight against terrorism, organised crime and irregular migration', with no mention of the regulation of asylum, or any sort of 'out-sourcing' of migration controls. This rhetorical strategy is, of course, not unique to dealings between Italy and Libya: as for a variety of anti-illegal immigration measures implemented by other European states post 9/11, the stated focus on 'terrorism' and 'organised crime' readily identifies 'bad things' that doubtless must be 'combatted'.[43]

The (willing) ambiguity that has characterised Italian-Libyan relations is mirrored in Libya's relations with international organisations such as the UNHCR, as well as with the EU itself. When the EU lifted its embargo against the country in 2004, one of the conditions was Libya's ratification of the 1951 Convention. In 2010, there were still no signs that this was forthcoming: as the citations that open this section indicate, Libyan authorities have stuck to the line that all migrants in Libya are 'economic migrants' and that the question of asylum policy is a 'European obsession'. Libya has also avoided signing a Memorandum of Understanding with UNHCR, preferring to interact with the UNHCR mission on an ad hoc basis. Indeed, although it was included in the EU/UNHCR plan to set up an EU-directed asylum system in the five Maghreb countries by 2010, the Libyans have explicitly preferred informal cooperation and have refused to officially commit to any agreement with the EU or the UNHCR.

In the years prior to 2010, an 'unofficial' UNHCR mission had provided food, health care and shelter when it has been able to do so, and has delivered certificates and letters attesting refugee status, a status which has been variably respected by the Libyan authorities. UNHCR has progressively won the right to enter detention facilities in Tripoli, and has tried to organise refugee resettlement. In April 2009, a three-year project attempting to put together an asylum system in Libya was launched after the Libyan government eventually concluded an agreement on 'mixed migration flows' with UNHCR, the Libyan NGO IOPCR (International Organisation for Peace, Care and Relief), the Italian NGO CIR (*Consiglio Italiano per i Rifugiati*) and ICMPD (International Center for Migration Policy Development). Following this agreement, UNHCR was allowed to visit several migrants' detention camps in order to identify refugees.

On 8 June 2010, however, the Libyan authorities unilaterally shut down the UNHCR office and expelled its staff of 26. All those that were in some way being assisted by the mission were left, literally, stranded. Nine thousand refugees and 3,700 asylum-seekers were registered with UNHCR in Libya at that time; the majority were Palestinians, Iraqis, Sudanese, Somalis, Eritreans, Liberians or Ethiopians.[44] The reaction to this event on the part of European institutions was surprisingly muted. The spokeswoman for Catherine Ashton, the EU's High Representative for Foreign Affairs, on the

day following the news of the mission's closure, noted: 'We are concerned about the negative impact of this decision [but] it is one more reason to engage in productive dialogue [with the Libyan authorities]'. The carefully measured response may have been linked to the fact that the Commission was at that very moment in the process of negotiating an Association Agreement with Libya in order to

> set the relations with Libya into a clear and comprehensive legal framework. It is envisaged that this agreement will establish mechanisms for political dialogue and cooperation on economic issues [including] provisions for a free trade area. The agreement is expected also to foresee close cooperation on Justice, Freedom and Security issues [including] support to border control and the fight against illegal immigration.[45]

A formal Agreement, under negotiation in late 2010, was never signed as Libya spiralled into civil war in early 2011. Nonetheless – and despite the lack of any formal provisions – EU Member States contributed in significant fashion to the securitisation of Libya's frontiers ever since the lifting of the embargo in 2004.

Beyond the 5 billion euro package pledged to Libya by Italy under the terms of the Friendship Treaty, Libya has been the recipient of millions of euro in aid and contracts both directly from EU institutions and other Member States. Italy has certainly been the key player, providing helicopters, maritime surveillance aircraft and naval patrol vessels to the Gaddafi regime, together with support for the training of pilots and operators. In October 2009, an Italian company, Selex Sistemi Integrati (a subsidiary of the part-state-owned conglomerate Finmeccanica), won the bid to construct an electronic 'security barrier' to be put into place along Libya's southern borders. This electronic 'wall' was estimated to cost 300 million euro, 50% to be financed by the EU, and 50% by the Italian state. The barrier would include a remote 'operations and monitoring centre' (presumably in Italy), on-the-ground mobile detection devices (such as truck-mounted radar and infrared scanners) but also blimp-like patrol drones.[46] Although Italian military equipment sales to Libya have accounted for over a third of all EU sales (between 2008 and 2009, 205 million euro, out of a total of 595 million in arms sales), it is certainly not the only Member State that has done a brisk business in securitising Gaddafi's Libya's land and sea borders. French sales have accounted for 143 million (mainly in aviation), but Germany (57 million) and Great Britain (53 million) have also been relevant players. Tragically, much of this equipment was in action in the early weeks of the 'Libyan Revolution' in February 2011 – albeit deployed not to protect Libya's borders but rather to violently pacify the streets of Benghazi, Tobruk and other Libyan cities.[47]

Returning to late 2010, however, it is notable how the EU's preoccupation with 'normalising' and 'legalising' relations with Libya, in particular

on questions of migration control, did not appear to extend to the potential dangers of the associated militarisation of Libya's frontiers (financed with EU money, no less). Indeed, a curious 'geographical' justification was provided in arguing for Libya's unique challenges in facing migratory flows through and from its territory – and thus its inability to conform to European standards. The conclusions of the report of the first Frontex Technical Assistance Mission to Libya put it succinctly:

> As a result of the visit to the desert southern regions of Libya, the mission members were able to appreciate both the diversity and the vastness of the desert, which bears no comparison to any geographical region in the EU. *Border control and management of such a vast and inaccessible area cannot be achieved by applying existing EU standards, and there is a clear need for a fresh approach to determine how best some form of improved control could be implemented*.[48]

What such a 'fresh' approach was to entail was never specified, so the actual practices of 'improved control' simply developed in the gaps consented by bi-lateral agreements (such as those with Italy), supported by military hardware furnished also by other Member States.

How can we relate the Libyan case to EUrope's attempts at 'rule at a distance', to its attempts to 'translate' EU spaces through the diffusion of specific norms, values, regulations, the 'Empire by Example' that Zielonka writes about?[49] Surely EUrope's 'normative power' wanes once flexible norms, flexible standards are applied – or, as in Libya, suspended altogether? In her perceptive analyses of migration and deportation flows between Libya and Italy, Rutvica Andrijasevic has argued that it is more accurate to understand the Italian push-back and deportation arrangements as 'a retraction of the right of asylum rather than its externalisation'.[50] She notes that although 'it is tempting to identify the collective expulsions [to Libya] in terms of the externalisation of asylum' and thus see them as part of the broader trend towards the de-territorialisation and 'off-shoring' and 'out-sourcing' of EU border security,

> the idea of externalisation presupposes however that asylum seekers and refugees are relocated to facilities where they are granted protection and where they can access the asylum determination process. Since the external processing centres do not yet exist and since Libya in practice has no refugee policy, Italy's expulsion of third-country nationals to Libya constitutes a *retraction* of the right to asylum rather than its *externalisation*.[51]

As I noted at the outset of the paper, much of the recent literature on EUropean migration and border policies has, quite rightly, focussed on

the increasingly 'managerial' aspects of these latter as distinct political/ geo-political technologies based within a host of calculative and administrative practices including auditing and accounting mechanisms such as 'best practice' indicators. In a recent paper focused on the work of the IOM engaging with such studies, Andrijasevic and William Walters write about how borders are increasingly constituted as a 'problem of management' and note the emergence of 'new forms of authority and expertise' in border management, in particular what they refer to as 'the constitutive work of technical norms, standards and regulations'. They also note 'particular ethicalized stylings of government', such as 'the partnership' and 'the dialogue' that dominate the EU's understandings of 'globalised' border management.[52] In his work on the European Union's Border Assistance Mission to Moldova and the Ukraine (EUBAM) (held up by the EU as a 'model' example of its new style of 'externalised' border management) Adam Levy similarly points to the powerful rhetoric of 'European standards' and 'best practice' that underpins the EUBAM's activities – and how the language of partnership masks EUropean attempts at the securitisation of its Neighbourhoods, East as well as South.[53]

The Libyan case brings to the fore a somewhat different strategy. Here, it is no longer the case (as in Moldova, for instance) of the EU 'teaching' proper migration management, with securitisation couched in the language of 'partnership' and 'best practice'. What we see, rather, is the full-scale *suspension* of presumed EUropean norms and standards. Here, we are faced with what Nick-Vaughan Williams in his work on the 'generalised biopolitical border' identifies as the production of 'a global archipelago of zones of juridico-political indistinction'[54] – 'off-shore' black holes where European norms, standards and regulations simply do not apply, legitimised through bi-lateral agreements declaredly aimed at combating readily recognisable 'evils' such as criminal networks and international terrorism.

ADDENDUM: THE 'LIBYAN REVOLUTION', THE END OF THE STORY?

The 'Libyan Revolution' in Spring 2011 threw into even starker relief many of the ambiguities that have characterised the EU's relations with the North African country and, more broadly, the Union's geopolitical role in its southern 'Neighbourhood'. Remarking upon the EU's staggering delay in responding to the massacres taking place on the streets of Libyan cities, the title of an editorial on Spanish daily *El Pais* in February 2011 said it all – 'The infamy of the Europeans' – proceeding to outline the ways in which 'Europe shrinks back in the face of the revolutions taking place on its southern shores'. In *El Pais*' words, EU Foreign Affairs Representative Catherine Ashton's much-critiqued call for 'restraint' was simply infamous:

'When a tyrant unleashes his tanks and aviation against citizens demanding his departure, and when the death toll is already in the hundreds, it is simply infamy to call for restraint'.[55] The comments on *El Pais* were echoed by other European newspapers, all noting one and the same thing: faced with the brutal killings of hundreds, perhaps thousands of people, EUrope's main concern appeared to be 'keeping the Libyans within their borders'.[56]

The reticence with which EU leaders and the governments of individual European Member States reacted to the Libyan atrocities was truly surprising. The justifications given for the delay in any form of immediate intervention – from the freezing of Libyan assets, to sanctions, to direct 'humanitarian' intervention – were focussed chiefly on the need to 'get our people out first', not an un-important concern to be sure, considering the thousands of European (and non-) citizens working in the country. But as Libyan diplomats in various European capitals began to defect, one by one, and call on the UN and the EU for decisive action, this reticence became even more surprising. Also because there were clear signals on the part of the United States that this was a 'European matter', and that it was European governments, because of their well-developed political and economic relations with Libya, that were best placed to act.

On 21 February, as Gaddafi's planes were bombing demonstrators, Franco Frattini (Italian Foreign Minister and former EU Commissioner) announced that 'we cannot give the wrong impression to appear to wish to interfere [in internal Libyan affairs]. We need to favour peaceful reconciliation'. That same day, Frattini, together with his Maltese counterpart, had argued at a meeting of European Foreign Ministers for including in the final statement of the Council on the Libyan situation a statement 'fully recognising Libya's sovereignty and its territorial integrity'.[57]

Why the concern for recognising Libya's sovereignty? The answer was given a few days later by Frattini's colleague, Defence Minister Ignazio La Russa, announcing at a news conference that the Treaty governing bilateral relations between the two states was suspended with immediate effect since it was 'no longer operational' as 'the other party was no longer able to assure full sovereign control and thus its operability'. La Russa's comments were relevant for they came just days after an official communiqué by Frattini that Italy feared a wave of between 200 and 300,000 migrants fleeing the unrest in Libya: in his words, 'a biblical exodus' ten times that of the Albanian exodus of the 1990s.

The real peril of the revolutions in North Africa, therefore, was that by undermining dictatorial regimes (of Ben Ali first, now Gaddafi) they would unleash a flood of migrants of 'apocalyptic proportions' on Europe's shores – a fear in part realised as boatloads of migrants fleeing Tunisia began appearing on the Italian island of Lampedusa the week prior. Frattini's words were echoed by European Commission officials who spoke of a possible 1.5 million migrants ready to flee the North African country. Although

the International Organisation for Migration had estimated that approximately 1.7 million foreigners were present in Libya in 2010, almost 30% of the population, responding to Frattini's and the Commission's comments, Jean-Philippe Chauvy, spokesperson for the IOM, rejected such alarmist assessments as 'irresponsible', suggesting that the EU and Italy should, rather, be concerned about the fate of these migrants within Libya.[58]

As Gaddafi's hold on power began to wane – and with the danger of a full-blown civil war sweeping the country – the ability of the Libyan state to honour its obligations in retaining its migrant masses appeared seriously compromised. And yet, just a day following Italy's official suspension of its bi-lateral agreements with Libya, in the midst of the massacres, another EU state attempted to 'push-back' unwanted migrants back to Libya. Twice, on February 23 and 24, as EU governments were desperately trying to 'get their people out', French border police at Roissy Airport tried to repatriate a Senegalese man back to Tripoli, as the validity of his residence permit was in dispute. The man had changed planes in Tripoli on his way back from a visit home and Libya was thus deemed his last place of provenance. It was only with the emergency intervention of the European Court of Human Rights that the repatriation procedures were interrupted.[59]

What sort of formal agreements regarding the 'New Libya's' participation in EU border management in the Mediterranean will be put into place is as yet unclear, but it is illustrative that the first discussions between EU representatives and the Transitional National Council in Benghazi in May 2011 focussed also on questions of border control.[60] Nevertheless, if the 'Privileged Partnership' agreements elaborated between the EU and the new Tunisian government in September 2011 are anything to go by, it is highly likely that the 'management of mobility' will continue to be a key pillar in shaping relations between the Union and the North African state.[61]

NOTES

1. N. Parker, Luiza Bialasiewicz, Sarah Bulmer, Ben Carver, Robin Durie, John Heathershaw, Henk Van Houtum, et al., 'Lines in the Sand: Towards an Agenda for Critical Border Studies', *Geopolitics* 14/3 (2009) pp. 582–587.

2. For an overview, see among others P. Andreas and T. Biersteker (eds.), *The Rebordering of North America: Integration and Exclusion in a New Security Context* (London: Routledge 2003); D. Bigo and A. Tsoukala (eds.), *Terror, Insecurity and Liberty: Illiberal Practices of Liberal Regimes after 9/11* (London: Routledge 2008); N. Vaughan-Williams, *Border Politics: The Limits of Sovereign Power* (Edinburgh: Edinburgh University Press 2009).

3. C. Rumford, *Citizens and Borderwork in Contemporary Europe* (London: Routledge 2008).

4. Z. Laïdi, *La Norme Sans la Force* (Paris: Presses de la Fondation Nationale des Sciences Politiques 2005).

5. P. Sloterdijk, *Falls Europa erwacht* (Frankfurt am Main: Suhrkamp Verlag 1994).

6. Ibid.; see also A. Somek, 'Constitutional *Erinnerungsarbeit*: Ambivalence and Translation', *German Law Journal* 6 (2005) pp. 357–370.

7. E. Balibar, 'The Borders of Europe', in P. Cheah and B. Robbins (eds.), *Cosmopolitics: Thinking and Feeling Beyond the Nation* (Minneapolis, MN: University of Minnesota Press 1998) pp. 216–233.

8. J. Sidaway, 'On the Nature of the Beast: Re-Charting Political Geographies of the European Union', *Geografiska Annaler B*, 88 (2006) pp. 1–14.

9. Bigo and Tsoukala (note 2); D. Bigo, 'The Möbius Ribbon of Internal and External Security(ies)', in M. Albert, D. Jacobson, and Y. Lapid (eds.), *Identities, Borders, Orders: Re-Thinking International Relations Theory* (London and Minneapolis: University of Minnesota Press 2001) pp. 91–116; also, D. Bigo, R. Bocco, and J.-L. Piermay (eds.), *Frontieres, marquages et disputes. Cultures et conflits* (Paris: L'Harmattan 2009).

10. See the contributions in M. Geiger and A. Pecoud (eds.), *The Politics of International Migration Management* (Basingstoke: Palgrave Macmillan 2010); for a discussion of the IOM, see R. Andrijasevic and W. Walters, 'The International Organization for Migration and the International Government of Borders', *Environment and Planning D: Society and Space* 28/6 (2010) pp. 977–999.

11. See, among others, L. Bialasiewicz et alia, 'The New Political Geographies of the European 'Neighbourhood', *Political Geography* 28 (2009), pp. 79–89; C. Browning and G. Christou, 'The Constitutive Power of Outsiders: The European Neighbourhood Policy and the Eastern Dimension', *Political Geography* 29 (2010), pp. 109–118; C. Browning and P. Joenniemi, 'Geostrategies of the European Neighbourhood Policy', *European Journal of International Relations* 14(2008), pp. 519–552; V. Kostadinova, 'The Commission, ENP and Construction of Borders' *Geopolitics* 14(2009), pp. 235–255; J. Rupnik, *Les Banlieues de l'Europe: Les politiques de voisinage de l'Union europeene* (Paris: Presses de la Fondation Nationale des Sciences Politiques 2007).

12. See L. Bialasiewicz, 'The Uncertain State(s) of Europe', *European Urban and Regional Studies* 15 (2008) pp. 71–82.

13. See T. Diez, 'Constructing the Self and Changing Others: Reconsidering 'Normative Power Europe', *Millennium: Journal of International Studies* 33 (2005) pp. 613–636.

14. See the specifications in the document 'Guidelines for Integrated Border Management in the Western Balkans', available on the EULEX website at <http://www.eulex-kosovo.eu/training/police/PoliceTraining/BORDER_BOUNDARY/DOCUMENTS>, accessed 14 July 2010.

15. J. Zielonka, *Europe as Empire: The Nature of the Enlarged European Union* (Oxford: Oxford University Press 2007).

16. See, among others, S. Lavenex, 'EU External Governance in 'Wider Europe', *Journal of European Public Policy* 11 (2004) pp. 680–700; S. Lavenex, 'Shifting Up and Out: The Foreign Policy of European Immigration Control', *West European Politics* 29 (2006) pp. 329–350; A. Zolberg, 'The Archaeology of 'Remote Control', in A. Fahrmeir, O. Faron, and P. Weil (eds.), *Migration Control in the North Atlantic World. The Evolution of State Practices in Europe and the United States from the French Revolution to the Inter-War Period* (New York: Berghahn 2003).

17. For further discussion see the special section of this journal on issue 16 (2011), including H. van Houtum and F. Boedeltje, 'Questioning the EU's Neighbourhood Geo-Politics: Introduction to a Special Section', *Geopolitics* 16 (2011) pp. 121–129.

18. 'Climate Change and International Security', Paper from the High Representative and the European Commission to the European Council, 14 March 2008, S113/08.

19. E. Guild, 'What is a Neighbour? Examining the EU Neighbourhood Policy from the Perspective of the Movement of Persons', (June 2005) available at <http://www.libertysecurity.org/article270.html>, accessed 14 July 2010.

20. W. Walters, 'Imagined Migration World: The European Union's Anti-Illegal Immigration Discourse', in M. Geiger and A. Pecoud (eds.), *The Politics of International Migration Management* (Basingstoke: Palgrave Macmillan 2010) p. 75.

21. See full details and statistics available at <http://www.unitedagainstracism.org/>, accessed 14 July 2010.

22. Most recently, FRONTEX (in collaboration with Europol and the ICMPD) has been compiling an internet-based digital 'I-Map' that seeks to map migratory movements in the Mediterranean 'in real time'; see <http://www.icmpd.org/>.

23. N. De Genova, 'Migrant Illegality and Deportability in Everyday Life', *Annual Review of Anthropology* 31 (2002) pp. 419–447. On the North American context, see also G. Rosas, 'The Thickening Borderlands: Diffused Exceptionality and 'Immigrant' Social Struggles During the War on Terror', *Cultural Dynamics* 18 (2006) pp. 335–349.

24. <http://www.acpsec.org/en/conventions/cotonou/>, accessed 14 July 2010.

25. CONCORD Cotonou Working Group Briefing Paper, 'The Revision of the Cotonou Partnership Agreement (CPA)', 2010; available at <http://www.concordeurope.org/>, accessed 14 July 2010.

26. UK Home Office, *New Vision for Refugees* (London: UK Home Office 7 March 2003). Countless scholars have written about what the notion of 'protection in the region' entails, so I will not try to unpick this highly problematic notion here. For a geographical perspective, see J. Hyndman, 'Preventive, Palliative, or Punitive? Safe spaces in Bosnia-Herzegovina, Somalia, and Sri Lanka', *Journal of Refugee Studies*, 16 (2003) pp. 167–185; J. Hyndman, 'Conflict, Citizenship, and Human Security: Geographies of Protection', in D. Cohen and E. Gilbert (eds.), *War, Citizenship, Territory* (London: Routledge 2007) pp. 241–257; also J. Hyndman and A. Mountz, 'Refuge or Refusal: Geography of Exclusion', in D. Gregory and A. Pred (eds.), *Violent Geographies* (London: Routledge 2007) pp. 77–92; in critical legal studies, C. Dauvergne, *Humanitarianism, Identity and Nation: Migration Laws of Australia and Canada* (Vancouver: University of British Columbia Press 2005); for a multi-disciplinary perspective, the edited collection by N. De Genova and N. Peutz (eds.), *The Deportation Regime: Sovereignty, Space and the Freedom of Movement* (Durham, NC: Duke University Press 2010).

27. UK Home Office (note 26) p. 20. See also the discussion in G. Noll, 'Visions of the Exceptional: Legal and Theoretical Issues Raised by Transit Processing Centres and Protection Zones', *European Journal of Migration and Law* 5 (2003) pp. 303–341.

28. T. Gammeltoft-Hansen, *Access to Asylum: International Refugee Law and the Globalization of Migration Control* (Cambridge: Cambridge University Press 2011).

29. T. Gammeltoft-Hansen, 'Outsourcing Asylum and the Advent of Protection Lite', in L. Bialasiewicz (ed.), *Europe in the World: EU Geopolitics and the Making of European Space* (Aldershot: Ashgate 2011).

30. Both quotations come from the Amnesty International Report 'Libya of Tomorrow: What Hope for Human Rights?', available at <http://www.amnesty.org/>, accessed 14 July 2010. Similar comments can be found in T. de Zulueta, 'Gaddafi Strips Off Diplomatic Fig Leaf', *The Guardian*, 11 June 2009, available at <http://www.guardian.co.uk/commentisfree/2009/jun/11/gaddafi-libya-italy>, accessed 14 July 2010.

31. See the full description in N. Ronzitti, 'Il Trattato Italia-Libia di Amicizia, Parternariato e Cooperazione', Senato della Repubblica, XVI Legislatura, Study nr.108, Jan. 2009.

32. Cited in Amnesty International (note 30).

33. See the analysis in R. Andrijasevic, 'Deported: The Right to Asylum at EU's External Border of Italy and Libya', *International Migration* 48 (2009) pp. 148–174; R. Andrijasevic, 'From Exception to Excess: Detention and Deportations across the Mediterranean Space', in N. De Genova and N. Peutz, *The Deportation Regime: Sovereignty, Space and the Freedom of Movement (Durham, NC: Duke University Press 2010).*

34. Amnesty International (note 30).

35. For a description, see F. Gatti, *Bilal: Il mio viaggio da infiltrato del mercato dei nuovi schiavi* (Milano: Rizzoli 2007); and J. Brachet, *Migrations Transsahariennes: Vers un Desert Cosmopolite et Morcele (Niger)* (Bellecome-en-Bauges: Editions du Croquant 2009).

36. E. Rigo, *Europa di confine. Trasformazioni della cittadinanza nell'Unione allargata* (Roma: Meltemi 2007).

37. See also the documentation produced by the Global Detention Project, available at <http://www.globaldetentionproject.org/countries/africa/libya/introduction.html>.

38. Cited in Amnesty International (note 30).

39. Italian Ministry of the Interior Communication, May 2009.

40. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 'Report to the Italian Government on the visit to Italy, 27–31 July 2009', available at <http://www.cpt.coe.int/documents/ita/2010-inf-14-eng.htm>, accessed 14 July 2010.

41. Ibid.

42. For a general discussion, see E. Guild, 'Jurisprudence of the ECHR: Lessons for the EU Asylum Policy', in C. Dias Urbano de Sousa and P. de Bruycke (eds.), *The Emergence of a European Asylum Policy* (Brussels: Bruylant 2004).

43. See W. Walters 'Anti-Policy and Anti-Politics: Critical Reflections on Certain Schemes to Govern Bad Things', *European Journal of Cultural Studies* 11/3 (2008) pp. 267–288.

44. On 25 June, the UNHCR was allowed to resume operations in Libya, though restricted only to its current caseload. Libya's Foreign Ministry, giving the official reasons for the mission's closure, 'accused UNHCR staff of serious misconduct, including the taking of bribes and sexual favours in exchange for the granting of refugee status to immigrants' – allegations that, according to UNHCR spokesperson Adrian Edwards 'remain unsubstantiated'. Edwards told journalists in Geneva that 'talks on the agency's future

in the country will resume shortly and that the expulsion order has not yet been formally lifted' (UNHCR communication, 25 June 2010). The Libyan authorities also claimed that UNHCR failed to comply with the country's requirement that asylum seekers should not be given refugee status, saying that nearly 9,000 refugees were registered illegally by the agency. 'No person who exists in Libya should be given refugee status whatever the reasons behind his stay', the statement reads, claiming all the supposed 'refugees' were illegal 'economic migrants' (*Tripoli Post Online*, 25 June 2010).

45. European Commission, 'Concept Note: Libya Country Strategy and National Indicative Progr-amme 2011–2013', (June 2010) available at <http://ec.europa.eu/world/enp/mid_term_review/final_concept_note_libya_en.pdf>, accessed 14 July 2010.

46. Finmeccanica Comunicato Stampa, 'SELEX Sistemi Integrati firma accordo da 300 milioni di euro con la Libia per la protezione e sicurezza dei confini', 7 Oct. 2009, available at <http://www.finmeccanica.com>, accessed 14 July 2010.

47. When Belgian-made projectiles (calibre 7.62) were found on the runway of El Beida airport attacked by Gaddafi's forces, the Belgian authorities suggested that these had originally been 'destined for the convoys protecting humanitarian aid shipments to Darfur'. For all figures on arms sales, see C. Bonini, 'Missili ed elicotteri, cosi l'Italia ha armato le milizie del rais', *La Repubblica*, 27 Feb. 2011.

48. Frontex, 'Frontex-Led EU Illegal Immigration Technical Assistance Mission to Libya', 28 May–5 June 2007, Report (emphasis added).

49. Zielonka (note 15).

50. Andrijasevic, 'From Exception to Excess' (note 33) p. 8.

51. Andrijasevic suggests that such a policy is indeed counter-productive in halting 'illegal' migra-tion, for even those who would otherwise seek asylum are forced to become 'illegal' migrants due to the effective impossibility in accessing the asylum procedures. Andrijasevic, 'Deported' (note 33) p. 159; for a discussion of the broader EU context, see Noll (note 27).

52. Andrijasevic and Walters (note 10).

53. See A. Levy, 'The EUBAM and the Remote Control Border: Managing Moldova', in L. Bialasiewicz (ed.), *Europe in the World: EU Geopolitics and the Making of European Space* (Aldershot: Ashgate 2011). This is a 'style' of governance already experimented in the Western Balkans as part of the EU's CARDS programme for Integrated Border Management, which included a series of national 'action plans', 'capacity-building measures' and the coordination and harmonisation of border control procedures and technology. As previously, see 'Guidelines' (note 14).

54. N. Vaughan-Williams, 'The Generalised Biopolitical Border? Re-Conceptualising the Limits of Sovereign Power', *Review of International Studies* 35 (2009) pp. 729–749; N. Vaughan-Williams, 'The UK Border-Security Continuum: Virtual Biopolitics and the Simulation of the Sovereign Ban', *Environment and Planning D: Society and Space* 28/6 (2010) pp. 1071–1083.

55. *El Pais,* 'La ignominia de los europeos', 23 Feb. 2011. For a longer comment, see L. Bialasiewicz, 'Borders, above all?' *Political Geography* 30/6 (2011) pp. 299–300.

56. Ibid. See also *Le Monde*, 'La fortresse Europe face au drame libyen', 26 Feb. 2011; D. Perrin, 'L'aveuglement de l'Europe a été criminel', *Liberation*, 23 Feb. 2011.

57. It had to be pointed out to Frattini (by, among others, his Belgian counterpart Steven Vanackere) that 'recognising the Libyan authorities' full sovereignty in this very moment amounted to legitimising the massacre of protesters as simply an internal political affair within which [the EU] could not interfere'. For all citations see A. Bonnani, 'L'ira della UE contro la Farnesina: Non puo difendere un dittatore', *La Repubblica*, 22 Feb. 2011.

58. IOM Press Briefing, available at <http://www.tsr.ch/info/monde/2979344-l-immigration-massive-de-la-libye-semble-improbable.html>.

59. As reported by the press release of ANAFE (Association nationale d'assistance aux frontières pour les étrangers), 'Libye: la France rapatrie ses ressortissants mais tente d'y refouler. un résident étranger', *Press release*, Feb. 25 2011.

60. See <http://www.enpi-info.eu/mainmed.php?id=26082&id_type=1&lang_id=450>, accessed 3 Nov. 2011.

61. For an overview of the EU-Tunisia Partnership Agreements see <http://enpi-info.eu/mainmed.php?id=26548&id_type=1&lang_id=469> accessed 3 Nov. 2011.