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CHANGING BORDERS, RETHINKING SOVEREIGNTY: TOWARDS A RIGHT TO MIGRATE¹

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In Memory of Angel Chueca

The intervention of European Union border authorities in countries of Africa, Asia and Eastern Europe has shown how the European state “border” has been displaced from its national moorings and externalized across the territories of neighboring states. Our research examines the outsourcing of the southern European Union border, focusing on the case of Spain and its relationship with Morocco and countries of Western Africa. In this paper we describe the development and implementation of this strategy of migration management, signaling implications of *border externalization* from the point of geopolitics and legality, including a suggestive call to reclaim the legal tradition of the Right to Migrate.

Keywords: border externalization, routes management, international cooperation, bordering, territory, jurisdiction.

Introduction

The scandal caused by the deaths on the border of Ceuta on February 6, 2014, the on-going series of border crossings there and the tragic capsizing of migrants’ boats (particularly of Syrian refugees) en route to *Lampedusa* echo

¹ Acknowledgements: This paper is dedicated to the recently deceased Dr. Angel Chueca, a Professor of International Law at the Law School of Zaragoza, with whom we were in correspondence at the time of his death (July 25th, 2013). Professor Chueca was a leading figure in theorizing law, borders and sovereignty and – at the time of his death – we were working on a joint interview paper with him. We have drawn on these interviews and his work in this paper.

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the earlier fence jump of Ceuta and Melilla and boat disasters in the Canary Islands in 2005. News about “massive jumps”, as on the actions of the Spanish and Moroccan security forces in 2005 accelerated the process of re-thinking European border policies and practices, giving rise to new political programs and authorities. This relocation is characterized by migration management strategy that not only focuses on the frontier line, but in the places of origin and transit of migratory routes. European territorial governance and EU border policy have thus re-emerged in recent years as one of the most pressing areas of public policy.

At the heart of these changing border dynamics and border architectures is the question of territorial sovereignty. Around this question, different disciplines have constructed distinct lines of argument. As scholars from the field of Geography (and Anthropology), we have been intrigued by the absence of legal theory in discussions of this emerging border regime, particularly with the ways in which notions of sovereignty have been deployed in and beyond the field of international law. It was with this lacuna in mind that we began our collaboration with Professor Angel Chueca from Zaragoza. Chueca passed away in July 25th, 2013. At that time we were in the process of discussing with him the commonalities and differences between our disciplinary perspectives. In this paper, we explore how his perspectives from international law and ours from geography/anthropology influence the way we each understand border and migration management and its effects on broader notions of sovereignty, and state politics/practice. This paper is structured in four main thematic parts: 1) Changing Borders; 2) Rethinking Sovereignty; 3) Reworking International Relations; and 4) Reclaiming a Right to Migrate.

Changing Borders

As walls around the world increase in number and become thicker, taller and more highly securitized borders, they challenge naïve myths about borderless globalization⁵. This process points to a re-assertion of the state and its linkage to territory through border walling. We certainly recognize the increasing militarization and fierce consequences of such border lines, particularly when these lines are walled. But here we focus instead on other emerging and parallel strategies that supplement walling, hardening strategies of enclosure and control. This is the *externalization of borders* as a new kind of migration management strategy that not only focuses on the frontier line, but in the places of origin and transit of migratory routes. It is characterized by two border practices: first, to “outsource” or subcontract border responsibilities to third countries and secondly, interventions are developed by the receiving states of migration

⁵ CHUECA, Ángel. Globalización y construcción de muros entre Estados.

in third countries where it is perceived that migration flows originate or transit. Elsewhere we have described the process of border externalization as the spatial and institutional *stretching* of the domains of migration control beyond sovereign territories, suggesting how this fluctuating geography of borders is redefining our understanding of territoriality and changing long-standing practices of sovereignty⁶.

The insufficiency of border control at the borderline, particularly since 2005, led governments to act in ‘third states’: mainly, transit and origin countries, and it is these actions that make us think about the relationship among concepts like territory, border, and sovereignty. This approach of external action is known as “Border Externalization” and is a complementary strategy designed to enact further control of movement beyond the border. It has been put forward by recent European approaches, mainly the *Global Approach to Migration*, especially its strategy of *Migration Routes Management*; and carried out by many actors on the ground. These actors include the EU commission, EU member-states, non-EU countries, non-state actors such as the think tank ICMPD, and inter-governmental police bodies such as FRONTEX. Our own research focuses on how the European border is being *stretched* by these actors and processes and their consequences.

These policies and architectures are being developed and deployed on Europe’s Eastern and Southern borders. Our research examines focuses on the Southern border of the European Union, and particularly on the seminal role of Spain and its relationship with Morocco and countries in West Africa. Since the adoption of the policy of Global Approach to Migration in 2005, the performances of “management” and “security” border territories have moved away from conventional state boundaries. What in official terms is called the “External Dimension” of European border policy can usefully be seen as a process of territorial, administrative and institutional *fractalization*. This entails an expansion of mixed immigration controls in this case, Civil Guard in collaboration with Moroccan security forces, Mauritania, Senegalese – multiple territories outside the state interested in controlling migration flows. Such joint patrols and operations established transnational channels shared monitoring and ongoing communication with the aim of making interceptions anywhere itineraries fluctuating intra-African mobility.

In short, a major change in the concept and practice of the frontier: in addition to a line in the sand drawn by walls of high technology, a traveling reticular system is established with the aim of identifying and classifying mobilities. These emerging border practices have important implications for where, how and who

⁶ CASAS CORTES, Maribel; COBARRUBIAS, Sebastian; PICKLES, John. Stretching Borders Beyond Sovereign Territories? Mapping EU and Spain’s Border Externalization Policies.

exercises the border, which in turn have consequences for the ways in which the resulting matrix of institutions that deal with migration control are creating a proliferation of overlapping jurisdictions and re-articulations of border territories.

The policies of border externalization at the edge of those member states forming the outer limit of the Union and the mechanisms of migration control within the origin countries of Africa, the Middle East, and Eurasia are paralleled in destination countries in Europe as EU border policies and institutions also multiply within the territories of the member states. Here, the border is no longer the 'edge' and limit of political sovereignty, and border and migration policy is not a secondary political issue. The border, where it is, how it includes and excludes, and how it defines people is central to defining the present and in ways that are changing quickly in important ways.

Rethinking Sovereignty

As these bordering practices are changing concepts of sovereignty are being transformed, particularly in the conjuncture of Europeanization of member state borders and the externalization of border policies in third countries. In legal terms, following Chueca (interview 2012), border control has historically been a matter of internal competence of territorial states. Today three new elements have changed the nature of such state authority:

1. The regulation of this matter by the EU, particularly through the "Schengen Borders Code" (2006) and the "Visa Code" (2009).
2. EU international agreements (so-called "readmission agreements") that establish a network of agreements covering Asia (agreements with Pakistan and Sri Lanka, for example) to Africa (agreements with Tunisia, Cape Verde, etc.), and Eastern Europe (agreements with states in the Caucasus, Russia, Ukraine).
3. The creation in 2004 of the European Agency for the Management of Operational Cooperation at the External Borders or FRONTEX.

Together these elements represent a radical change of perspective, as authority and competency shifts from the state perspective to the perspective of the European Union, albeit in terms of a Union of States. That is, national state authority is quickly being *Europeanized*, and national state actors are increasingly exercising state jurisdiction and authority through multilateral agreements and cooperation.

Over the past seven to eight years, the Spanish *Guardia Civil* has been at the forefront of efforts by Spanish and other EU member states to reconfigure border control and policing projects on Europe's southern borders⁷. For instance,

⁷ The first comprehensive border surveillance system in Europe was inaugurated in 2003. Several

the *Seahorse Operations* are a series of transnational police coordination projects focused on detecting and stopping irregular migration from West African countries⁸. Coordinated by Spain and including the participation of numerous African and European states as well as EU institutions such as FRONTEX (especially through the better known HERA operations), these operations suggest a shifting spatial approach toward the management of borders and a distinct spatial strategy in the attempts to channel and manage human mobility.

These multinational police operations act in states designated by the EU and member states as “origin” and “transit” countries where migration flows are either initiating or crossing on their way to “destination” countries⁹. Seahorse and West Sahel constitute an advanced implementation case for the EU border management strategy called *migration routes management*. In the process, new institutions and new configurations of border management are shifting the traditional relationship between state power and territory¹⁰.

For example, *Operation Seahorse* was devised and implemented explicitly as a regional prototype for border externalization and the outsourcing of border control and migration management to the EU’s North African neighbors and neighbors-of-neighbors. As a prototype it is conceived as a policy program that can be rolled-out across the Euro-Mediterranean, extending EU institutions and actors across the region in ways that integrate and harmonize member state and neighboring state practices. New iterations of *Operation Seahorse* are already being ‘rolled out’ on the West African coast, new projects such as *Project West Sahel* are being expanded for inland Sahelian borders, and *Operation Seahorse Mediterraneo* is currently being planned for extension to the central Mediterranean.

In the process, what is meant by the border is being rethought and its spatial extent reworked. For Ryan¹¹ border externalization implies following mobility beyond state territory where:

coastal border zones in Southern Spain as well as sea waters of the Gibraltar Straits were constantly and simultaneously under radar and other surveillance means, centralized in control and command offices led by the Guardia Civil. This EU funded program is called SIVE (Integrated System of External Surveillance) and continues operating with successful results. This information is based on the history and overview of the concrete functioning of border controls found in the internal evaluation by the GC in a publication entitled *SIVE: Five Years Monitoring the Border*, published in 2008 and funded by the Spanish Ministry of Interior.

⁸ CASAS CORTES, Maribel; COBARRUBIAS, Sebastian; PICKLES, John. ‘Good Neighbors make Good Fences’: Operation Seahorse and the Implementations of the EU Strategy of Migration Routes Management in North and West Africa.

⁹ *Destination countries* are normally assumed to be in the European Union. (For discussions on the problematic uses of terms such as “origin-transit and destination” see ALIOUA, Mehdi. La migration transnationale - logique individuelle dans l’espace national: l’exemple des migrants subsahariens à l’épreuve de l’externalisation de la gestion des flux migratoires au Maroc).

¹⁰ Van HOUTUM, Henk. Human Blacklisting: the global apartheid of the EU’s external border regime; CUTTITTA, Paolo. Puntos y Líneas: Una topografía de las Fronteras en el espacio global.

¹¹ RYAN, Bernard. Extraterritorial Immigration Controls: What Role for Legal Guarantees?, p. 3.

The immigration control systems of developed states are today frequently characterized by strategies of 'extraterritorialisation'. This has involved the rejection of the model whereby admission decisions are taken at ports and border crossing points, while the policing of irregular migration takes place either at the borders or within the territory. Developed states now increasingly treat that model as anachronistic, and seek instead to take immigration control action – both decision-making and enforcement – prior to an individual's arrival on their territory. In some cases, indeed, the objective appears to be that as much immigration control activity as possible should take place elsewhere, either on the territory of other states, or in international waters, where the presumption is that states lack jurisdiction.

In this way what Bialasiewicz¹² has referred to as the *off-shoring* and *out-sourcing* of border work reformulates the spaces, jurisdictions, and authorities traditionally associated with migration control and border management, creating new extra-territorial institutions, policies, and practices. For Hyndman¹³ this is borderwork-at-a-distance creates new forms of border practice and management that extend beyond the current framework of laws and precedent. Indeed, given the international reach of joint operations and police collaboration, the legal and institutional foundations for the emerging programs remain unclear even to their participants, particularly as operational border control and foreign policing increasingly requires near-permanent basing of forces in other countries. For example, the legal consequences and underwriting regulations and laws that allow Spanish and other EU police forces to regularly patrol and interdict boats in West African territorial waters and engage in inland Sahelian operations have yet to be clarified.

Such jurisdictional ambiguities are not new; they are at the root of the legal autonomy of national embassies in foreign countries, or the permission given by national authorities for foreign forces to intervene in local conflicts, or the legal determinations derived to manage condominium territories¹⁴. But, as legal scholars have pointed out, these new border joint jurisdictions pose serious questions about the status of international law and responsibility¹⁵.

¹² BIALASIEWICZ, Luiza. *Off-shoring and Out-sourcing the Borders of EUrope: Libya and EU Border Work in the Mediterranean*.

¹³ HYNDMAN, Jennifer. *The Geopolitics of Migration and Mobility*, p. 246.

¹⁴ In international law a condominium is a political territory over which two or more sovereign states have agreed upon sovereignty, but without dividing the territory into national zones. Perhaps the most famous condominium is Pheasant Island in the River Bidassoa which is a condominium of France and Spain. More recently, Brcko has emerged as a condominium district of Republika Srpska and the Federation of Bosnia and Herzegovia.

¹⁵ NESSEL, Lori A. *Externalized Borders and the Invisible Refugee*. RYAN, Bernard; MITSILEGAS, Valsamis (eds.). *Extraterritorial Immigration Control. Legal Challenges*. TAYLOR NICHOLSON, Eleanor. *Cutting Off the Flow: Extraterritorial Controls to Prevent Migration*.

The legal treatment of this extra-territorial action is based on the consent of the non-EU Member States: these non-European states agree for agents from some EU Member States (Civil Guard in the Spanish case) and FRONTEX to act in their respective territories. Thus, formally, this treatment respects Public International Law, provided that consent is freely and validly expressed. But from the point of view of International Relations, the perspective is very different in the case of the states of Northern and Central Africa: migration relations between the EU and these states are in practice designed by the EU, because we are dealing with states highly dependent on the EU at the level of exports, immigration and investments. This dependence is essential in understanding the phenomenon in concrete terms, beyond formal agreements.

According to Chueca (interview 2013), the consent of the territorial state to agents of other states (including police and military) to operate on their territory is not new, historically speaking. The underlying problem is whether consent is valid, the process is not flawed, and agreement is not forced. It is also necessary that the provision of consent has legal standing in domestic and international law. As a general rule, according to international law, it can be argued that a state agent placed at the disposal of another state (with appropriate consent) accords responsibility to that receiving state, not the agent of the first state.

Contemporary externalization processes may be complicating these established understandings of territorial sovereignty. But to understand this we must add a second principle: where a state does not have effective control over its own territory or population – that is, where the partner state is only nominally (or formally) sovereign (such as failed or broken states) the external actors may have to act independently. Thus, in the case of readmission of nationals, the state is assumed to be an independent and responsible authority. But, in the case of readmission of foreigners and stateless persons where the authorities of the territorial state have failed to exercise sufficient control over immigration or its territory, there is a violation of a known principle of public international law; the principle of effectiveness: That is, a state must effectively control its territory and effectively exercise territorial sovereignty.

Reworking International Relations

After the Ceuta and Melilla fence jumps of 2005 Moroccan police cooperation and repression led to a displacement of migratory flows towards the Atlantic. Potential migrants to the EU contracted with small fishing vessels (“*cayucos*” in Spanish) from Mauritania and Senegal to cross to the Canary Islands, a much longer and more dangerous route than that from Northern Morocco¹⁶.

¹⁶ LUTTERBECK, Derek. Coping with Europe’s Boat People. Trends and Policy Dilemmas in Controlling

Spanish and EU internal affairs officials responded with joint operations on the West African coast to interdict and interrupt these flows¹⁷, while certain governments in Europe and West Africa held negotiations to work out broad strategies for cooperation in migration management (*Guardia Civil* interview February 2012, Spanish Interior Ministry interview March 2012). In 2006 Spain launched “Plan Africa” during which a dozen new agreements were written with different West African countries, some of which established the first official diplomatic relations with individual countries for many years¹⁸.

The first Plan Africa (2006-2008) resulted in a flurry of diplomatic activity that initiated or deepened diplomatic and legal relations with at least nine West African countries. Azkona and Sagastagoitia¹⁹ suggest that many of the official agreements signed under the Plan Africa framework – while relevant to migration – were not agreements that stipulated the legal conditions under which Seahorse activities could be carried out (joint patrols, police training, operations in national territory, and the disembarking of migrants in transit to Spain while in African territory).

The legal agreements that allowed for the development of Seahorse were more informal agreements called *Memorandums of Understanding* (MOU’s). The flexibility of MoU’s allows them to be adopted more quickly than other diplomatic agreements. But, what is the legal status of external border management and interdiction practices carried out under the auspices of such MOU’s?

The use of MoU’s is paralleled by the normalizing of ad hoc decision-making and the multiplication of actors who are able to make international working agreements, often – at least initially – without the need for formal political authorization. It was the flexible and informal character of these agreements (MoU’s) that facilitated the complex operations developed under Seahorse, while at the same time maintaining a low profile and less controversial public face to the programs than would have been possible under international treaties. According to Seron *et alii*²⁰ “The MOU’s are less formal but not less important

the EU’s Mediterranean Borders; EUROPEAN MIGRATION NETWORK (EMN). *Medidas Prácticas para la Reducción de la Inmigración Irregular: España*.

¹⁷ *Ibidem*.

¹⁸ “While the first Plan Africa was in effect, 2006-2008, Spain developed intense activity, signing twelve new agreements with West African States. Six of them are cooperation agreements in migration matters, known as “new generation agreements (ANG in Spanish). Although they comprise diverse aspects of migration, their focus is, in practice, migratory control. On top of those ANG’s three agreements were signed regarding some concrete aspect of migratory policy and another three agreements on development cooperation” (AZKONA, Nerea; SAGASTAGOITIA, Jon. *Políticas de Control Migratorio y de Cooperación Desarrollo entre España y África Occidental durante la Ejecución del primer Plan África*, p. 54 - authors’ translation).

¹⁹ *Ibidem*.

²⁰ SERON, Gema; JOLIVEL, Audrey; MARTIN de VIDALES, Maria Serrano; GAZQUEZ, José Luis. *Coherencias de Políticas Españolas hacia África: Migraciones*.

[than more formal agreements] in practice. [...] The Memorandums are more flexible, less mediatized and less transparent". Asin Cabrera²¹ has described how these MOU's are concluded "generally despite and without, the obligatory and constitutionally necessary parliamentary permissions and official publications". MOU's furthermore, "are instruments that do not generate obligations in international law beyond political commitments on mutual cooperation matters between the signing countries²².

Yet current international law does not differentiate between treaties and agreements; because the art. 2 a) of the Vienna Convention of 1969 on the Law of Treaties states: "Treaty is an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation". From a legal point of view it is crucial whether participants to these agreements: 1) accept their validity; 2) assume international obligations; and 3) are subject to public international law. When these three conditions are met, at least nominally, the treaty or international agreement has legal effect.

For an official in the Spanish Interior Ministry, agreement on a MOU:

allows a Spanish police officer acting in that third country to work as if he were in Spain. *It is a ceding of sovereignty...* this is most advanced in Mauritania and Senegal...the quality of the intervention and its characteristics depend on the agreements reached with each country, the more aspects that there has been consensus on the better the collaboration and the more effective the control of flows (Spain Interior Ministry interview March 2012, our emphasis).

For the moment, this ability to operate in a third state's territory over a long period of time seems to be unique to Spain: "Spain is the first and only [EU] country thus far that has achieved this operational level with and within third countries... [particularly relating to] agreements to avoid or stop departure" (Spain Interior Ministry interview March 2012). Though other EU member states have developed advanced border cooperation arrangements with third countries, the legal ability for their security forces to act in the territories of a third state over a period of years is not yet as developed²³. In the view of the *Guardia*

²¹ ASIN CABRERA, María A. Los acuerdos bilaterales suscritos por España en material migratoria con países del continente africano: especial consideración de la readmisión de inmigrantes en situación irregular.

²² EMN, *op. cit.*, p. 40.

²³ Italy has developed intensive cooperation with Libyan authorities for example, though with limited operability in Libyan territory. Important border training missions have occurred between Italy, Libya and other neighbouring states (Niger and Algeria in particular) through the ACROSS SAHARA I & II programs as well as the Sahara-MED program, (EuropeAid. *Migration and Asylum programme. Thematic Programme on cooperation with Third Countries in the Areas of Migration and Asylum: Overview of projects funded 2007-2008*. EuropeAid. AENEAS programme. *Programme for financial*

Civil, it is precisely the ability to act in third country's territory and the ability to intercept and disembark migrants in those countries that has been the recipe to success of the Seahorse Project:

Our qualitative leap has been going to the countries of origin. Interceptions in the territorial waters of the origin and transit country: the struggle is in the country of origin. Intercepted immigrants are disembarked in the country Mauritania, Senegal, etc., this has a 'total dissuasive effect' and *this* is the reason for Seahorse's success (*Guardia Civil* interview February 2012).

Besides its effectiveness, these agreements might appear at first sight to be in *violation of sovereign law*. However, state membership in an international organization cedes varying degrees of sovereignty to the international organization as treaty agreements are signed. Despite public opposition to European operations in certain West-African countries, and despite their unusual nature, such operations are nominally within the framework of international law. But such nominal legality has emerged without public debate or ratification whether by parliamentary approval of both participating states or by public debate of the issues involved.

Reclaiming a Right to Mobility

In this paper our main concern has focused on the legality of border externalization practices and how the question of externalizing migration control to third countries – in its current form – falls within the framework of international law. In this context, border externalization brings about *unconventional but legal relationships between states*. As border externalization becomes stabilized among the EU, its member states, and partner state institutions, a series of ad-hoc, informal but still legal practices on the part of states are generalizing with regards to migration policy. This series of flexible institutional arrangements gives rise to novel sets of geographies and state/to/state relationships²⁴.

Nonetheless, such border externalization policies remain problematic in three ways. (i) In terms of their *application*, border externalization policies are, besides their basis in legal agreements, dependent on the formal consent among nominally independent countries operating bilaterally. But central to this agreement is the principle of *parity* and how it is implemented in practice given the post-colonial relationships in an international scenario of dependencies,

and technical assistance for third countries in the area of migration and asylum: Overview of projects funded 2004-2006) though these have been of limited duration. These arrangements were obtained under the former Libyan regime though it appears that these arrangements are being re-negotiated with the new authorities.

²⁴ GEORGI, Fabian. For the Benefit of Some: The International Organization for Migration and its Global Migration Management; GEIGER, Martin; PECOUD, Antoine. International Organizations and the Politics of Migration.

such as uneven trade relations or development funds dependent on border cooperation. (ii) In terms of the *consequences* of border externalization policies, their humanitarian effects include a growing vulnerability of migrants and the exacerbating of abuse for those migrating for both political and economic reasons. Legal scholars and international NGOs have been particularly concerned with this issue and specifically how asylum rights and the principle of *non-refoulement* have been put into question. And (iii) in terms of the *logic* behind current forms of migration management, externalization is part of a border regime that is restrictive, unsustainable and limited in its understanding of human mobility²⁵.

Instead of trying to “humanize” borders and denounce human rights abuses and increasing deaths, Chueca proposed to question the logic of borders based on an antiquated notion of the nation-state and its ability to define who enters, leaves and with what rights. His proposal is to rescue the notion of *Ius Migrandi* or the Right to Migrate²⁶. Chueca’s exploration of the *Ius Migrandi* follows a long historical and juridical development of the freedom of movement for peoples, centering on debates since the 16th century. These debates culminated on the approval of an international protocol by the League of Nations on the Right of Movement and Residence. Chueca and Navarro²⁷ frame these legal traditions within the responsibilities of current human rights agreements and in this way, attempt to create a legal framework where the *Ius Migrandi*, can be conceived or imagined outside the sovereign and territorial understanding of a state: leading to a broader notion of citizenship and claiming the fulfillment of the Right to Migrate.

Conclusions

Given the changing nature of border practices by the proliferation of state-to-state cooperation on migratory policies, performances of territorial sovereignty are shifting towards redefined geographies of international relations. While these unusual yet legal practices of statecraft are unfolding, concomitantly, these geopolitical transformations require an updated charter of rights to mobility. The proposal of *Ius Migrandi*, a historically grounded juridical notion, might be a powerful tool for empowering current pro-migration scholarly work and social movements’ demands for *freedom of movement* as legitimate and practical politics.

²⁵ For a further elaboration on the restrictive nature of current border regimes see critical migration scholars such as BIGO, Didier. *Security and Immigration: Toward a Critique of the Governmentality of Unease*. PECOUD, Antoine; de GUCHTENEIRE, Paul. *Migration without Borders: Essays on the Free Movement of People*; Van HOUTUM, *op. cit.*; RYAN, MITSILEGAS, *op. cit.*; MEZZADRA, Sandro; NEILSON, Brett. *Border as Method, or, the Multiplication of Labor*.

²⁶ CHUECA, Ángel. *Ius Migrandi y el Derecho Humano al Desarrollo*; CHUECA, Ángel. *El Ius Migrandi en el derecho internacional de las migraciones*. See also PECOUD, GUCHTENEIRE, *op. cit.*

²⁷ CHUECA, Ángel; NAVARRO, Pascual. *El Novísimo derecho humano de las personas a migrar*. CHUECA, Ángel; NAVARRO, Pascual. *Contenido y Límites del “Ius Migrandi”*.

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Resumo

Mudando as fronteiras, repensando a soberania: para um direito de migrar

A intervenção das autoridades fronteiriças da União Europeia em países da África, da Ásia e do Leste Europeu tem mostrado como a “fronteira” do estado Europeu tem se exteriorizado de suas delimitações nacionais e se exteriorizado aos territórios dos estados vizinhos. Nossa pesquisa examina a terceirização da fronteira sul da União Europeia, com enfoque no caso da Espanha e de seu relacionamento com o Marrocos e os países do oeste africano. Neste trabalho, descrevemos o desenvolvimento e a implementação dessa estratégia de gerenciamento da migração, sinalizando as implicações da exteriorização de fronteira do ponto de vista geopolítico e jurídico, incluindo uma recomendação de se recuperar a tradição legal do Direito de Migrar.

Palavras-chave: *externalização da fronteira, gerenciamento das rotas, cooperação internacional, limítrofe, território, jurisdição.*

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