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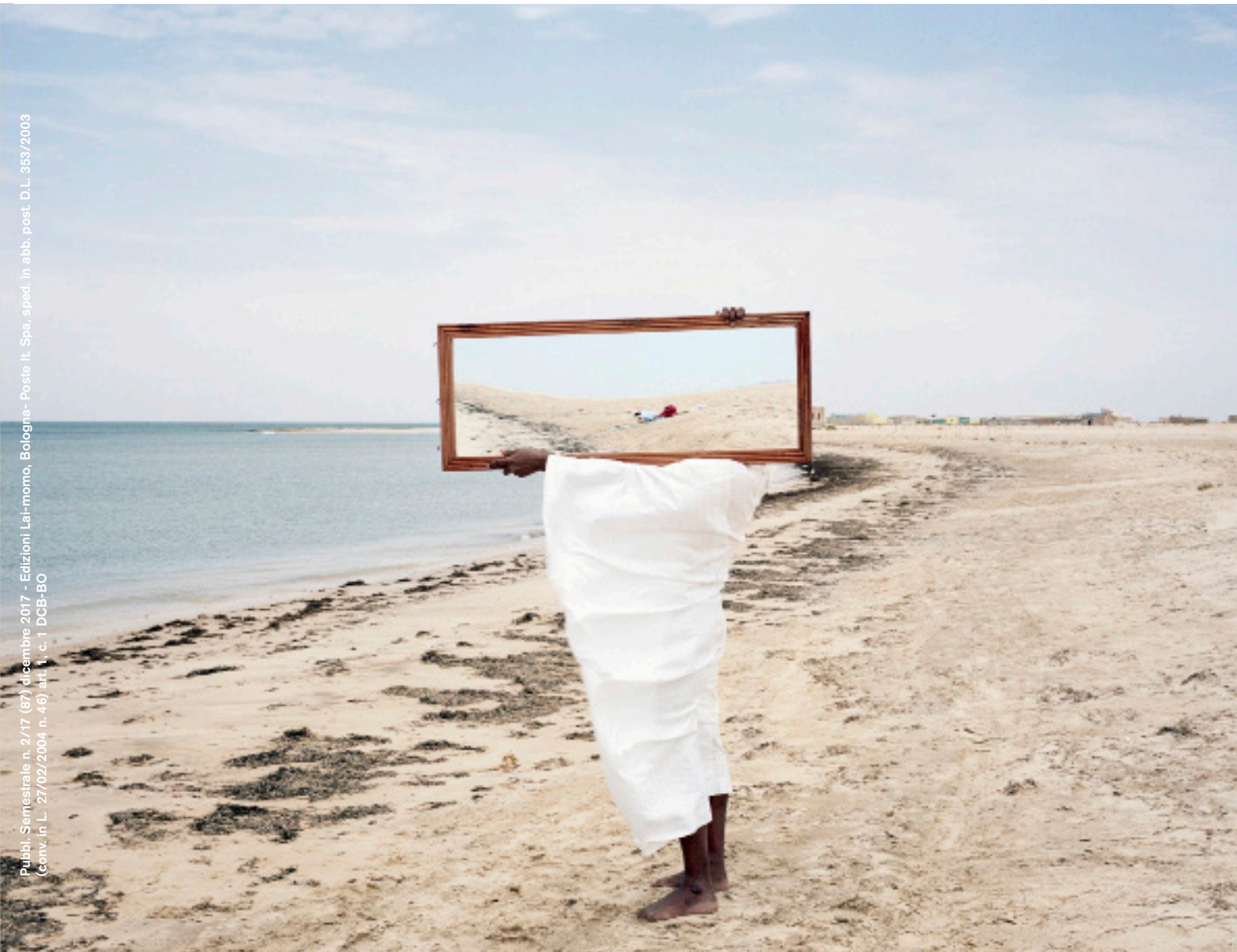
n. 87 | L'Africa si racconta. Dal *griot* all'*influencer* digitale



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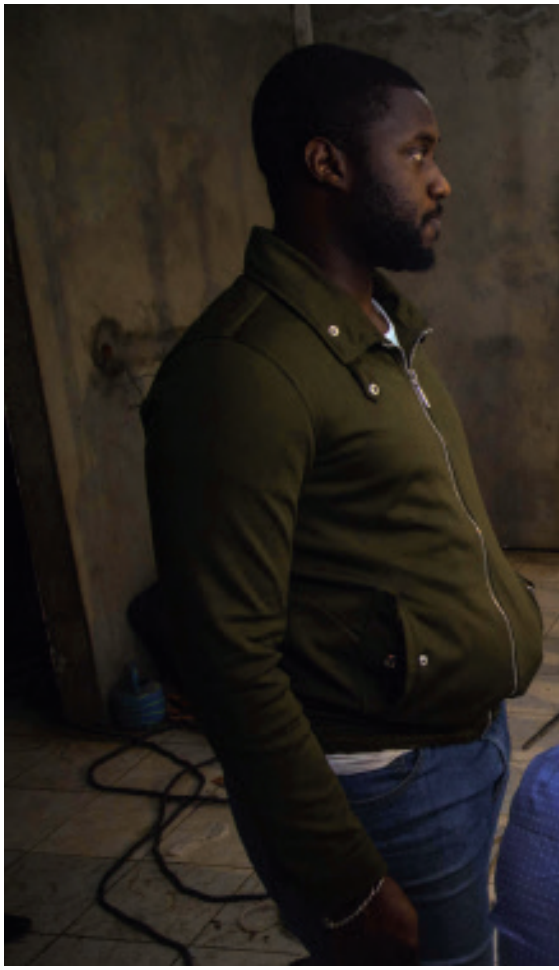
Dawit L. Petros, *Untitled (Prologue II)*, The Stranger's Notebook, 2016 © Courtesy of the artist and Tiwani Contemporary, London

Indice

n.87



Editoriale

Dossier: L'Africa si racconta. Dal *griot* all'*influencer* digitale

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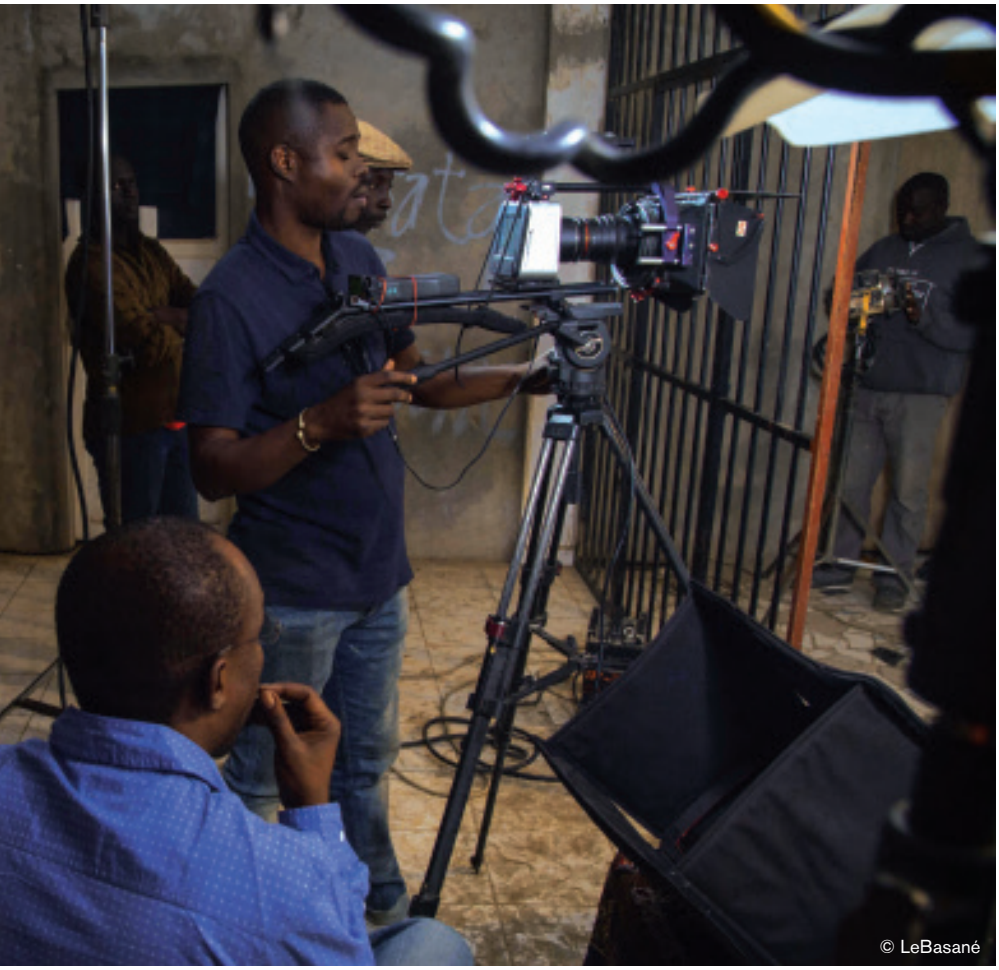
Immigrazione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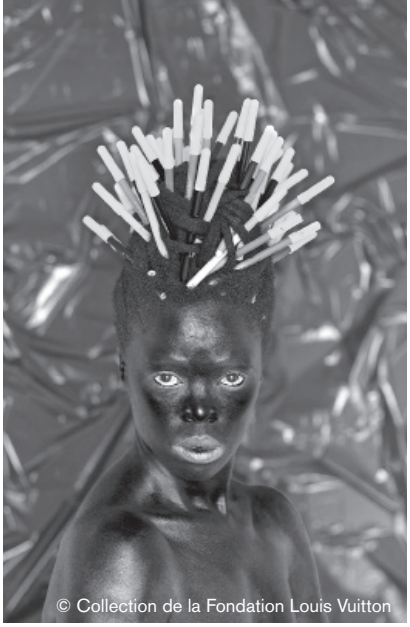
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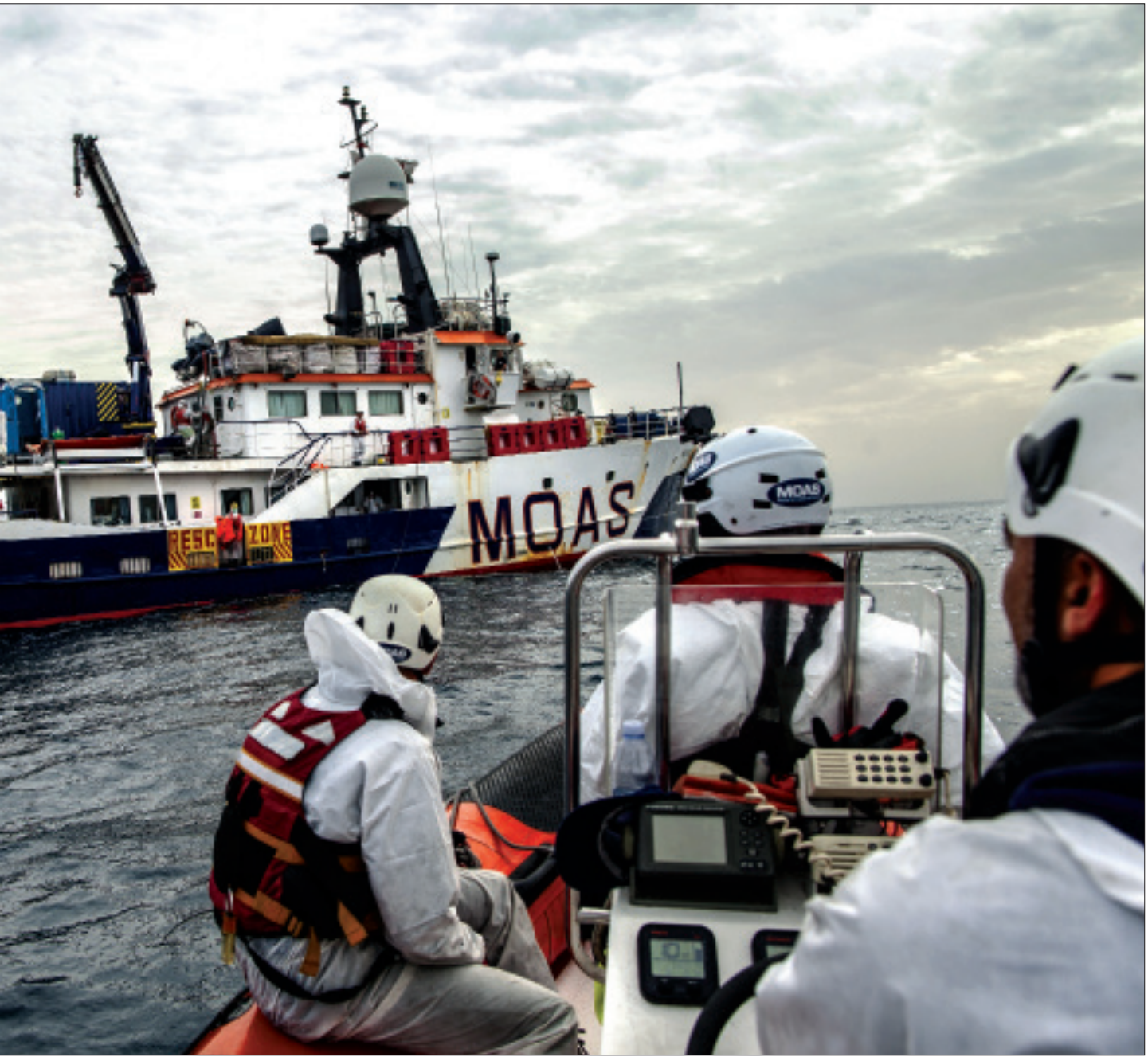
Deconstructing Europe's Permanent Migrants Crisis: a Critical Look at the EU Governance of the Border in the Mediterranean and North Africa

by Giacomo Orsini

To deter, detect, detain and deport: European policies to manage and control third-country-nationals' cross-border mobility and residence have become increasingly restrictive and securitized. But does this strategy really work?

In the 1990s, policies to manage and control third country nationals' cross-border mobility and residence in Europe became a major security concerns (Huysmans 2000). As the EU expanded, rules on third-country nationals' mobility to and into Europe harmonized. Here, border functions multiplied and disposed beyond and within Europe (Cuttitta 2007). Neighbouring countries such as Morocco or Libya started getting involved in border and migration management on behalf of the EU, while at the same time, more restrictive policies were designed and implemented to further limit unauthorized residence in Europe - like the opening of hundreds of migrants' detention centres (Welch and Shuster 2005).

As described in the first section of this paper, a complex governance system was developed to control and limit the access of unwanted third-country nationals: a multi layered apparatus which primarily serves four functions. First, it "deters" undocumented individuals from leaving their countries as it increases the actual and perceived costs of unauthorized migration. Second, when deterrence does not work, enhanced border surveillance and control aims at increasing the opportunities of "detecting" those who are crossing unauthorized. Third, reception and



Malta 2016. On board the Phoenix. © UNHCR

detention centres are established to "detain" unwanted migrants and thus limit their mobility so that, fourthly, they could be eventually "deported" back to their country of origin.

Yet, as discussed in the second section of this work, such multiplication and de-territorialisation of border functions does little to actually control and limit irregular migration in Europe. Rather, "securitized" border and migration management works to disproportionally increase the dangers of migrating irregularly, while enhancing societal anxieties related to migration. Empirically, this paper elaborates on the existing literature and primary data collected by the author during a series of fieldwork studies conducted in some of the core locations of Europe's border and migration regimes.[1]

The Multiplication of Border Functions: to "Deter", "Detect", "Detain" and "Deport"

Contrary to what happened up until the mid-twentieth century - when many countries set schemes and policies to attract workers from abroad - in the last

quarter of the century migrants started to be perceived by affluent societies as a threat which needed to be kept outside the national borders (Ibrahim 2005). National governments started introducing restrictive policies to limit, control, and govern the entrance of third-country nationals. A transformation which, in the 1990s, turned migration into a major security concern – a process known as the "securitization" of migration (Huysmans 2000).

Almost paradoxically, in Europe such shift developed in parallel to the opening of internal borders and the integration of migration policies across the EU (Van Houtum and Pijpers 2007). With the signing of the Schengen agreement in 1985, European member states approved the dismantling of internal borders. Yet, such liberalization of international mobility had to take place while simultaneously demarcating an external edge of the new European borderless space. As such, the space of free movement of people expanded into an integrated system developed inside the frame of a common immigration and asylum policy which is shared today by 26 European countries (Warwick and Anderson 2008).

Accordingly, internal national boundaries progressively disappeared and an external one needed to be established. After «the opening of the internal borders of the EU, the political and policy attention shifted (...) to the protection of the external borders of the EU» (Van Houtum 2010, p. 960). In practice, such an external border was, to some degree, delocalized both inside as well as outside the territory of the EU. Within a wider project aiming at regulating the access of non-EU citizens to the Schengen space, this new European border and migration regime was fragmented and multiplied into several territorial as well as non-territorial border functions (Mezzadra 2004). A complex set of policies aiming to deter, detect, detain, and deport unauthorized third country nationals.

To "deter" - the primary strategy to stop unauthorized migration is that of preventing unwanted people from deciding to migrate. A function which is commonly understood as deterrence. To achieve such a goal, a wide range of instruments operate inside and outside of Europe, as well as along its external border, to increase the actual and perceived costs of migrating unauthorized. Beginning in the 1990s a broad range of projects were financed and organized by both single member states and Communitarian institutions in non-EU neighbouring countries such as for instance Libya, Tunisia or Morocco. Thanks to the signing of a series of bilateral agreements, Europe externalized policies to control and repress unauthorized migration in exchange for development programs, financial aid, and other geostrategic stakes (Boswell 2003).

These new cooperation schemes work to deter migrants at different stages of their journeys, before they even start thinking about leaving their countries. For instance, the imposition of new and more restrictive visa regimes - a *sine qua non* condition to become a Schengen member state – has made it much harder for many non-EU citizens to enter Europe legally (Neumayer 2006). When Spain joined the EU in the late 1980s, the Spanish government had to introduce the *Ley Orgánica de Externajeria* in 1985 to regulate foreigners' status in, and access to, Spain. As such, Moroccan citizens who could travel freely to Spain suddenly had to apply for visas to legally cross the Gibraltar Strait or enter the Spanish enclaves of Melilla and Ceuta (Orsini and Schiavon 2009).

Yet, other policies were concurrently put into place to make it harder for unauthorized individuals to reach Europe. As part of the Schengen *aquis*, in 1993 new sanctions were introduced to punish private carriers responsible for transporting undocumented third country nationals to Europe. Here, the responsibility to control individual authorizations to travel and enter Europe was extended to private carriers, further restricting the number of available options to enter Europe legally (Scholten 2015). The combination of these and other externalized policies aimed at establishing a sort of buffer zone surrounding Europe to keep unwanted individuals away (Browing and Joenniemi 2008). At the same time, the external border of the EU was established and reinforced.

To "detect" – when coinciding with the outer boundary of the Schengen space of free movement of people, old national borders were upgraded as new border technologies were developed and installed there to increase surveillance and control (Orsini 2016).

A "new" boundary was thus established which separated Europe from the East and the South - a line descending from Finland to Cyprus, passing through Gibraltar to then move down to reach and surround the Canary Islands (Tsianos and Karakayali 2010). Given the nature of the Schengen space of free movement of people, once a third-country national gains the right to reside even in the most isolated and marginal spot of this area, s/he gains the right to circulate within the whole EU (Black 1996). Consequently, surveillance and control activities which were previously carried out at the borders of every Schengen member state came to accumulate along the external boundary. Peripheral EU member states transformed into the gates through which to access the entire Schengen territory (Carling and Hernández-Carretero 2011).

As a consequence, undocumented border crossings started concentrating on limited, remote and more accessible portions of the external EU boundary (De Haas 2008). There, radars, drones, helicopters, Navy and Coastguard boats, walls and fences were installed to increase control and surveillance on land and sea (Orsini 2016; Barrero and de Witte 2007). In 2004, the European Agency for the Management of Operational Cooperation at the External Borders of member states – FRONTEX – was created (Spijkerboer 2007). The purpose of this agency was to coordinate EU member states' joint operations to patrol the external border of the EU. A set of functions which have been expanded since the agency transformed into the European Border and Coast Guard (Carrera and Den Hertog 2016).

However, despite deterrence and detection, unauthorized third-country nationals keep entering Europe and establish themselves there. If caught by authorities, they will most likely be detained.

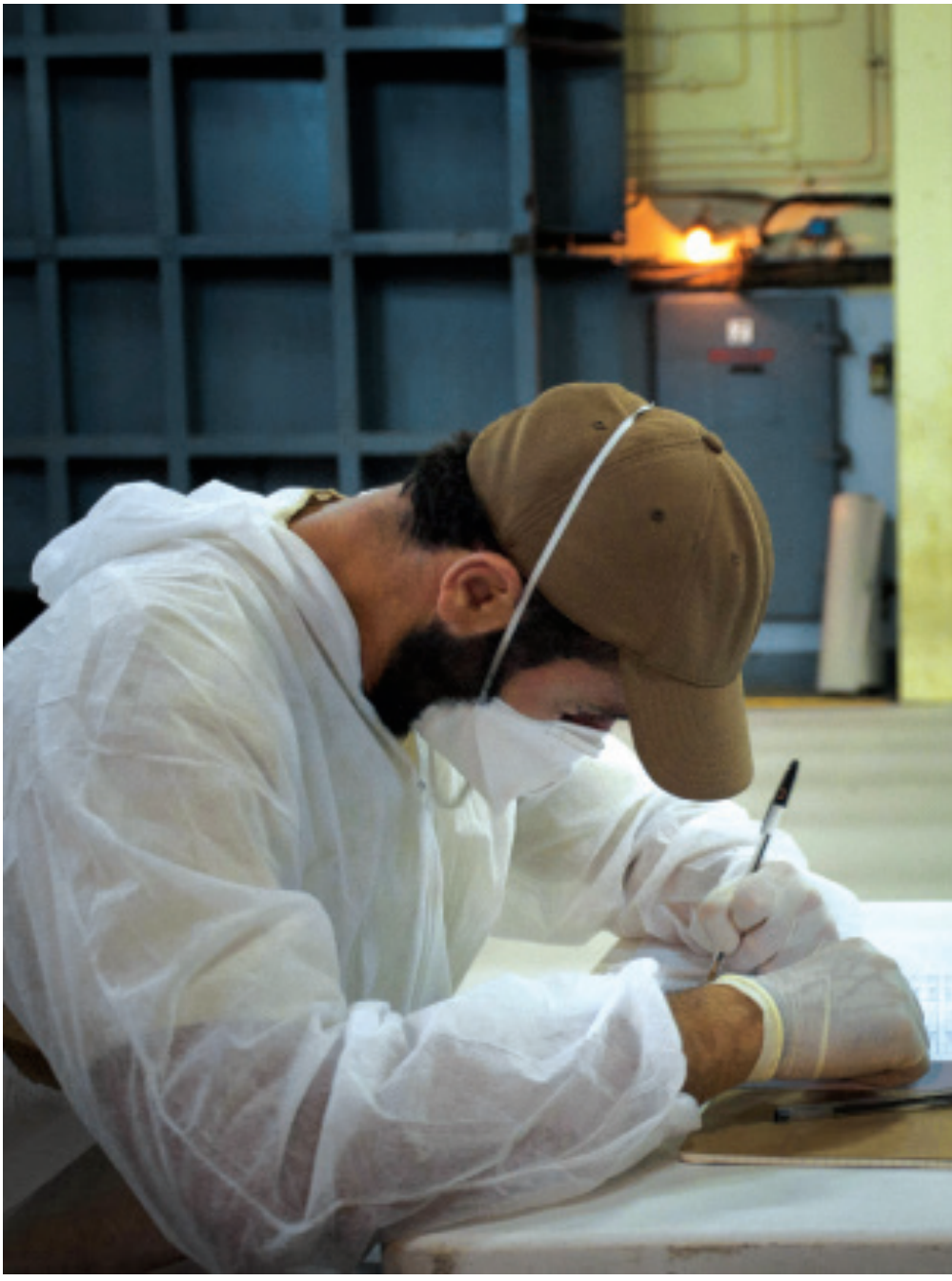
To "detain" – over the last few decades, numerous migrants' detention facilities opened all over Europe (Mountz *et al.* 2012). Officially, detention aims at identifying the apprehended migrants and assessing their right to remain in the country. Although aliens'

Decostruire la permanente crisi dei migranti in Europa: uno sguardo critico alla gestione dei confini nel Mediterraneo e in Nord Africa

Dagli anni '90, le politiche europee di gestione e controllo della mobilità dei cittadini di Paesi terzi sono diventate sempre più restrittive. Mentre i confini interni dell'Europa andavano via via scomparendo, una complessa serie di barriere veniva istituita per scoraggiare (*to deter*) l'ingresso dei migranti non-Europei, rilevare (*to detect*) gli attraversamenti non autorizzati dei confini esterni dell'UE, detenere (*to detain*) chi giunto illegalmente, e infine eventualmente espellere (*to deport*) i migranti nei Paesi d'origine.
La strategia primaria è, dunque, quella di dissuadere le persone dall'intraprendere il percorso migratorio aumentando i costi sia reali che percepiti della migrazione. Per esempio, la firma di accordi bilaterali ha permesso all'Europa di esternalizzare le politiche di repressione della migrazione non autorizzata a Paesi limitrofi, in cambio di programmi di sviluppo o aiuto finanziario. Per quanto riguarda il controllo degli accessi, mentre nuove tecnologie sono state sviluppate per potenziare la sorveglianza dei confini, nel 2004 è nata l'agenzia FRONTEX per coordinare le operazioni di pattugliamento delle frontiere esterne dell'area Schengen. Allo stesso tempo, con i Paesi periferici che diventavano punti d'ingresso all'intera Europa, centri di detenzione per migranti venivano istituiti in tutto il continente. Detenzione che spesso termina con un ordine di espulsione o la deportazione fisica del migrante non autorizzato, previa la stipula di costosi accordi bilaterali tra l'UE, o uno Stato membro, e il Paese d'origine del migrante.
Nonostante il tempo e le risorse investite nell'organizzare questo complesso sistema di controllo e repressione, nessuna di queste politiche sembra aver prodotto alcun risultato. Mentre la scarsa efficacia della *deterrence* è confermata dai numeri degli arrivi irregolari in Europa – che sono aumentati durante gli anni – le evidenze empiriche dimostrano come nessun confine possa essere effettivamente messo in sicurezza – ancor meno quello europeo, che si estende per migliaia di chilometri. Per quanto riguarda la *detention*, la permanenza forzata e prolungata nei centri di detenzione può danneggiare la salute psicologica e fisica del migrante, aumentando i costi economici, umani e sociali anche per la società ospitante - come osservato a Malta e Lampedusa. Ciò diventa ancor più rilevante alla luce dello scarso successo delle politiche di espulsione dei migranti irregolari, dovuto non solo agli alti costi politici e finanziari degli accordi con i Paesi d'origine, ma anche alla complessità delle operazioni di identificazione e trasferimento dei migranti stessi.
A seguito dello sviluppo di questo pacchetto di politiche repressive, il viaggio dei migranti non autorizzati è diventato sicuramente più pericoloso e costoso, generando una sorta di emergenza permanente ai confini d'Europa. Una crisi le cui immagini aumentano la domanda politica e pubblica di misure ancor più repressive. Una sorta di circolo vizioso che potrà far poco per fermare coloro che cercano di raggiungere l'Europa irregolarmente. Si tratta infatti spesso di persone che, in fuga da calamità naturali, guerre, instabilità politica, non hanno nulla da perdere.

detention started in some European countries regardless of European integration - *e.g.* the first migrants' detention facilities opened in the United Kingdom in the 1970s (Silverman and Hajela 2011) - the detention of unauthorized migrants was introduced in most member states as they joined Schengen (Byrne *et al.* 2002).
As EU member states such as France or Germany had no legislative framework regulating the detention of unauthorized migrants until the 2000s, border countries such as Italy and Spain had to open migrants' detention centres in their territories in the 1990s. For instance, the first migrants' detention facility on the island of Lampedusa opened in 1998 as Italy joined Schengen (De Genova and Peutz 2010). In general, the standards of detention vary significantly amongst member states, for example, the maximum period of detention is 18 months in Italy, or of 45 days in France (Welch and Schuster 2005). Yet, two directives of the European Commission of 2003 and 2008 on return and reception conditions, defined the categories of those who can be detained thus harmonising and normalising such practice; making migrants' detention an official prerogative of the EU (EC 2014).
Regardless of the length of custody, detention aims to constrain undocumented migrants' mobility while their legal status is assessed and they can eventually be deported back to their country of origin (Tsianos and Karakayali 2010). To "deport" - deportation is meant to remove unauthorized migrants from the territory of the EU and return them to the country of origin. This policy is based on a series of bilateral or multilateral agreements signed between the EU or

single member states, and third countries - as done for instance by Spain with Morocco, or by Italy with Tunisia and Libya (Broeders and Engbersen 2007).
Legally speaking, return policies were not harmonized until 2010 when the directive 2008/115 of the European Commission entered into force (Acosta Arcarazo and Geddes 2013). According to Communitarian standards, forced return must be executed for all those individuals that have no right to reside within the EU (EC 2017). Besides forced return policies based on coercion, voluntary return policies are also one of the instruments promoted by the EU. Here coercion is replaced with economic incentives provided for the returnees once they return to their countries of origin (Nieuwenhuys and Pécoud 2007). While a few non-EU countries have signed readmission agreements with the EU, most agreements have been signed by single EU member states. Meaning that, not all European countries have return schemes in place with the same countries, as this sort of agreements proved very costly under many perspectives (Adepoju *et al.* 2010).



A Critical Assessment of the EU Governance of Migration and Borders
Despite the many costly management strategies implemented by the EU and its member states for more than two decades, no significant decrease of unauthorized migrants has been recorded in Europe. In 2008 about 1.8 million non-EU citizens migrated to Europe, which increased to 2.7 million people in 2015 (Eurostat 2011; Eurostat 2017). Over about the same time, unauthorized border crossings also increased from 104,000 in 2009, to 140,000 in 2011 and 283,000 in 2014 (EP 2015). At the same time, the management of new arrivals does not seem to have improved. Rather, more than two decades of restrictive and "securitized" migration and border policies have made migrants' journeys more dangerous, and their lives more precarious. In 2016 almost 4,000 people died in the Mediterranean, attempting illegally to reach the shores of Europe (ESI 2017). In 1993, only 93 deaths were recorded along the entire European external border: a number which increased to over 1,000 in 2003 (Spijkerboer 2007). While increasing thus the risks of undocumented border crossing, restrictive policies also generate a sort of permanent emergency along Europe's border which exacerbate societal anxieties related to migration – further increasing the public demand for "securitized" measures (Orsini 2016).
For instance, there is little evidence to demonstrate the effectiveness of deterrence: in spite of the great economic and political efforts made by the EU, there has been no reduction of unauthorized border crossings (Eurostat 2017; Heisbourg 2015). Significant changes in the numbers of apprehensions at the border is a result of a multitude of other factors. Among others, wars generate sudden increases of unauthorized crossings, as demonstrated

Italy 2014, boat people. Registration of one of the 1,171 rescued on June 28. © UNHCR

both during and immediately after the 2011 conflict in Libya (Cuttitta 2014). Rather, what deterrence seems to do is to push undocumented people to cross less patrolled territories, which are often the more dangerous ones. Evidence confirms that deterrence increases the human and financial costs of unauthorized border crossing, together with that of border control and surveillance. For instance, following the extremely expensive 2016 EU-Turkey Joint Action Plan (Carrera *et al.* 2016), the number of Syrians crossing into Italy by the much more dangerous Central Mediterranean Route increased.[2]

If it is certainly not proved that deterrence does anything to limit the number of unauthorized arrivals in Europe, also enhanced detection at the border seems to do very little to stop undocumented migrants. In spite of the investments made along the external border of the EU, it is very hard to determine whether there has been any significant improvement in apprehending people trying to cross illegally. Based on the existing empiric and the evidence collected in the field, it seems clear that no border technology can stop unauthorized border crossing. Nor does enhanced surveillance really contribute to increasing the number of apprehensions. As noted by Bigo (in Anderson and Bort 1998) almost two decades ago, borders do little more than provide the illusion of control.

The iconic border island of Lampedusa constitutes one of the EU's core foci in the fight against illegal immigration. Yet, despite the deployment of up to date and extremely expensive surveillance technologies to gain control over migration across the Sicilian Channel, there remain plenty of alternatives to reach Sicily from North Africa undetected. After all, maritime rescuing operations require significant time and human, technical and financial resources to be successfully carried out. Considering the average traffic on the Sicilian Channel, while officials are busy rescuing one boat others are most likely crossing elsewhere. A situation which was brought to my attention also by Spanish border guards operating in the much smaller area of the Strait of Gibraltar. Second, besides the overcrowded wrecks which we are used to see crossing the Mediterranean, there are plenty of other options to cross a maritime border. Captains of leisure, fishing or commercial vessels can easily hide small groups of unauthorized migrants to land them safely in Europe in exchange for substantial financial rewards (Orsini 2016).

If maritime borders are impossible to secure, things are no easier on dry land. According to what I observed in Melilla, not even a fortified and hyper-controlled six-meters-high triple fence like the one installed on the border with Morocco can ensure complete closure. The tiny and detached city came under the scrutiny of European politics and

media in the early 2000s, when hundreds of Sub-Saharan Africans entered it on mass by jumping over the fences (Barrero and De Witte 2007). Nevertheless, in 2008 – thus, at the height of the crisis – Melilla migrants centre hosted mainly Algerians, Chinese nationals, Bangladeshi and Pakistanis.[3] Sub-Saharan Africans constituted just a minority of the inmates. Asked about the presence of so many different ethnic groups, the centre's director confirmed that was the usual situation. As officials admit, to enter Melilla, all you need is a forged document or to cheat a border guard. Contrary to deterrence and detection, detention seems to be a much more successful policy. After all, detainees are, by definition, immobile and can thus be easily controlled by authorities (Gill 2016). What remains however unclear is how immobilising unauthorized migrants, improves security in Europe. It was only with the opening of detention centres that what was a tolerated administrative record – *i.e.* undocumented/unauthorized migration – became *de facto* a crime. Thus, since detained migrants are not criminals it is hard to argue that, if free, they will be more prone than nationals to commit a crime. There is then no reason to think that, by detaining them, crime will decrease. Yet, this extremely expensive policy (Doty and Wheatley 2013) implies a series of societal costs. As observed in Malta and Lampedusa, detention can prove extremely detrimental for the psychological health of migrants (Hodes 2010). This, in turn, implies further financial and social costs for the host society to assist detainees once released – if not already during detention. With administrative detention that can last up to a maximum of eighteen months, incarceration can easily turn into excessive mental stress (Steel *et al*. 2005).

At least, however, detaining unauthorized migrants will facilitate deportation. After all, undocumented individuals previously free to circulate are now detained and thus controllable. However, the very low percentage of detained unauthorized migrants that are actually deported makes migrants' detention even more controversial. Less than 40% of ordered deportations of unauthorized third-country nationals are enforced in Europe (Eurostat 2017). Repatriation implies very high financial and human costs (EP 2010; Trauner and Kruse 2008). Difficulties in obtaining the permissions to repatriate an unauthorized individual generate, first, from the very fact that undocumented migrants do not have an ID or a passport. Consequently, when the migrant's own country is not willing or able to collaborate, identification can become a very complex business. Even when identification is not a great deal, deportation implies the existence of extremely costly repatriation agreements (Ellermann 2008).

Conclusions

This critical look at Europe's border and migration management strategies has shed light on the many contradictions structuring such complex governance system. As discussed here, this policy collection has clearly failed to reduce the number of unauthorized individuals entering and/or residing in the EU.

Instead, this repressive model has made migrants' journeys more dangerous, with the thousands of people drowning in the Mediterranean being a daily reminder of the human costs of these policies (Spijkerboer 2007). People who decide to undertake such risky journeys to escape social, economic and political risk, are unlikely to be deterred from doing so as they are most likely leaving something worst behind – such as, for instance, prolonged conflicts, or natural disaster (Fargues and Bonfanti, 2014).

Yet, despite the clear lack of success, "securitized" solutions continue to attract political and societal support in response to those almost chronic crises that they generate. In fact, it is a pointless vicious circle, where the implementation of "securitized" policies generates the demand for more "securitized" options.

NOTES

1 - Since 2008 Giacomo Orsini has been conducting fieldwork studies in the Spanish enclave of Melilla and Morocco, in Malta, Kaliningrad, Lampedusa and Fuerteventura. In the field he collected data on the functioning of EU border and migration policies, and analysed migrants and asylum seekers' strategies to cope with them.

2 - The analysis of available data on apprehensions as they are collected by FRONTEX shows as decreases in detected crossings in one section of the border, normally correspond to increases in other sections of it (FRONTEX 2017).

3 - Data was shared with the author by the centre's director.

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