

*(Original in Spanish. This is a translation)*

**Visit to Spain of Directorate General for Migration and Asylum,  
European Commission  
10 February 2015**

**ON THE FUTURE OF THE SOUTHERN BORDER  
SPAIN-MORROCO  
(Special reference to the Melilla-Nador border)**

*February 2015  
Jesuit Migrants Service (SJM) Spain*

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## **I. SITUATION ANALYSIS**

### **A. Spain and Europe cannot ignore the migration control policies of Morocco and other countries in West Africa.**

1. Migration controls to prevent entry into Europe take place on both sides of the border, both on European territory and on territory of neighbour countries. In the case of Spain, Morocco is a strategic partner and the Spanish government praises the "excellent police cooperation" between the two countries. The problem is the conditions of such collaboration, which raises serious human rights issues. Spain and Europe praise the results, i.e. reduced arrivals in Europe, but do not give due attention to the costs of these policies of "**border outsourcing**". They have transferred much of the responsibility for control of the southern border to Morocco and West Africa countries. However, morally we cannot remain aloof from the suffering caused by this controls requested and paid for by us. In turn, the countries to which Europe calls for collaboration make political use of migrants and refugees, using them to obtain from Spain and Europe benefits of their interest.

2. Meanwhile, people continue to risk their lives crossing the sea or jumping the fence to Europe, and a high number of people lose their lives in the attempt.

3. In the event that entry into Spanish territory has already occurred, there is a Spanish-Moroccan 1992 agreement on readmission of irregular migrants but it is not followed, and the European Commission is negotiating a similar agreement with Morocco on behalf of the European Union. Both put the focus on migration control and asylum and human rights are not high in the agenda.

#### **B. Marruecos: humanitarian crisis in the border and issues of human rights.**

4. *There is a now a humanitarian crisis in northern Morocco due to the increase of people "stuck" there for a long time.* This has resulted in complicated dynamics for both migrants and the local population, in a situation where Morocco ceases to be a transit country and in many occasions becomes a place of long stay. Migrants face now a situation in which, with a high probability, they will have to stay for long periods in a country where they have few rights and few possibilities of employment. Local people sometimes seem perplexed, in others react with contempt that derives even in violence and in others with solidarity. But in any case, *there is no practice and culture of multicultural coexistence in Morocco as in other European and non-European countries.*

5. ***Nador, the Guoruogou forest and the Selouane Mountains:*** Nador has in its surroundings about eighteen settlements (the six largest in the Guoruogou and twelve in Selouane) of sub-Saharan Africans who have crossed Africa in their way to Europe and use the forest to hide from the Moroccan police and wait for an opportunity to enter Europe. They wait for the opportunity to jump the fence or to swim or take a boat or zodiac to reach the Spanish coast. The best-known settlements are in Guoruogou mountains, where living conditions are most precarious. The people there have already spent all their economic resources on the journey, which can last several years, depending on the need to stop to work and get resources to pay those who accompany them or show the way through the desert, for instance.

6. Both these settlements, Guoruogou and Selouane, are organized according to nationalities or languages. *The level of anxiety experienced by the people is very high due to the harassment and violence used by the Moroccans security forces, especially in Gurugú, they enter the settlements, dismantle them, burn their blankets and their belongings and they often beat them, especially when they are rejected on the fence. Diseases and injuries (sometimes serious and even fatal) are common. They are poorly equipped to live in the forest; many only have slippers, sweatpants and no warm clothes. They only have as regular and significant aid blankets, plastic and hygienic kits systematically provided to them by the only organization working specifically in Nador in socio-health care to migrants.*

The Selouane communities are a little further away from the fence and usually have much more women and children, amongst them *trafficked women*. In Selouane they wait for boats (zodiacs) to cross the Mediterranean (Strait of Gibraltar). The vulnerability of children and women in the settlements of Selouane is a serious humanitarian situation not disclosed with the insistence and amplitude required as public opinion is focussed currently in the debate on events in the fence. The same organization mentioned before is also the only one attending systematically this area.

7. "**Forced displacements**" inside Morocco: migrants are not "abandoned" in the desert, on the border with Algeria any longer, but are trapped in a cycle of forced removals. Migrants who, in their attempt to move to Ceuta or Melilla, have been arrested by Moroccan police or persons hot-returned (returned immediately after capture at the border) by the Spanish authorities are transferred to different cities (Rabat, Fez, Casablanca ...) and there they are abandoned to their fate. They are usually left in the bus station. Quite often, migrants return to places near the border and wait there for a new opportunity to reach Europe. Many organizations working with migrants in Morocco have asked the authorities that the particular situation of each person is analysed before these forced displacement take place so as to identify cases eligible for asylum.

8. **Oujda** is a Moroccan city near the border with Algeria. The city is still perceived as a place of transit where migrants wait for an opportunity to move to other cities in Morocco and from there to Europe. From Oujda it is easy to cross the border with Algeria, where they work and are able to save some money. Oujda is still perceived by migrants as a quiet place, where the police are less hostile than in northern Morocco, although recently migrants have been evicted from all the nearby woods.

9. *Integration in Morocco is very difficult*, especially given the high unemployment rate among Moroccans. An example are the difficulties facing migrants to rent an apartment in Nador, even when he/she has its papers in order. Many landlords refuse to rent to migrants, not always motivated by racism, but also for fear of the authorities. And in many cases taxi drivers refuse to transport them. A **positive aspect of the Moroccan system** is that migrants have free access to the public health system and are in fact attended without any exclusion. However, access to drugs depends almost entirely of NGO and no psychological or legal support, especially for victims of domestic violence and/or gender violence is available (whether Moroccans or migrants).

10. Another positive issue has been the campaign for *regularizing* irregular migrants launched by the Moroccan government in October 2013 which has now finished. It has been a failure among the sub-Saharan population in Nador (only 40 people regularised) but a success in Oujda where the percentage of regularized people has been the highest in Morocco due to the large number of regularized Syrians. On the other hand, it is also positive that the Parliament is debating a new law on *asylum and refuge*, another on *migration* and another one on *trafficking*. **However, at least for now, Morocco cannot be considered a safe place for people in need of protection.**

### C. The land border between Spain and Morocco

11. *The atmosphere at the crossing point in the border is very tense*. Thousands of people cross daily walking between Morocco and Melilla, there are many controls and much goods traffic. In general, the police are kind to those with a European passport but not so much with others. The situation of "*women porters*" is terrible, they load bales of up to 80 kilos, in semi-slavery work conditions – they earn €3/4 a day for working as "pack animals".

12. **Pushbacks of migrants by Spanish security forces and the use of violence**: people who succeed to jump the fence and have just arrived to Spain are returned by force to Morocco in the act, without any administrative procedure whatsoever, completely disregarding their identity, medical situation or claim and with violence, if necessary. These so-called hot returns are notoriously outside the Spanish and EU law. Access to asylum has to be granted

even in cases of irregular entry (a.31.1 of Geneva Convention). Besides, these pushbacks damage and put at risk the lives of people. Not only legally but also morally we find these practices unacceptable. The Government has introduced a reform of the Aliens Act, now in the Senate, which permits the return on the fly to Morocco of immigrants who are intercepted jumping the border fences without warranty or condition. **It is very important that the European Commission reproves the legalization of these practices and requests the withdrawal of this amendment.**

13. *Violence at the other side of the border: Hassani Hospital in Nador:* every time that attempts to jump the fence have taken place, the hospital emergency room is full of young Sub-Saharanans with serious injuries, for instance, head injuries and broken arms or legs caused mainly by the auxiliary forces of the Moroccan army. These migrants usually return to the forest and wait for a new opportunity to enter Europe, or go to Casablanca or Rabat for support of their communities there. They don't want to stay in the city of Nador because they fear being arrested by the police on the streets and "disappear" and also because in Nador it is impossible to find accommodation for migrants as is the case in other Moroccan cities.

14. **Asylum offices at the border:** The Ministry of the Interior has at long last announced the creation of asylum offices at border crossings in Ceuta and Melilla, where potential refugees may apply for asylum, which before could only be done once in the territory. This is great news but to be effective, some *additional measures are needed:*

- *Access to the border must be possible:* Moroccan auxiliary forces now impede access to the border of people that look like migrants. As a result, none of the 400 people who have sought asylum at the border of Melilla in recent months are of Sub-Saharan origin (although those who jump the fence are young Sub-Saharanans and the UNHCR estimates that 60% are potential refugees). Almost all applications registered in this way are persons of Syrian origin. A new agreement or border surveillance cooperation between the Moroccan and the Spanish governments is necessary.
- *Asylum seekers should not be mixed with migrants in the CETI (Immigrants Temporal Stay Centre):* facilities for hosting asylum seekers need to be established in Ceuta and Melilla or better and cheaper, asylum seekers may be transferred to the peninsula where there is already in practice a system for hosting applicants of international protection (the CAR centers), which works satisfactorily.
- *Elimination of discouraging obstacles:* for years two obstacles have existed "de facto" that deter refugees from requesting asylum in Ceuta and Melilla; (1) the impossibility of going to the mainland while the case is pending, and (2) the lengthy delays until the applications, much higher than six months prescribed by law, are resolved. The result is that refugees don't want to seek asylum in Ceuta and Melilla, hoping to be transferred to the mainland and apply there or continue towards other European countries.

#### **D. Melilla**

15. The Centre for Temporary Stay of Immigrants (CETI) - Melilla depends on the Ministry of Employment and Social Security. It has a capacity for 480 people, which is overwhelmingly and repeatedly exceeded. Military tents have been used to increase capacity where people bunch together, in a situation of overcrowding. Beyond the commendable work of the

centre and NGO that work there, a very complicated situation exists. In spite of the existing overcrowding, the CETI strives to meet the basic needs of all who reside there: they get blankets, food and medical care, and can move freely around the city during the day. Cohabitation is very complicated, especially among the Syrians and the sub-Saharan population. This **recurrent overcrowding may be avoided with more transfers to the mainland, especially of persons entitled to international protection-asylum and other forms of protection or to receive humanitarian aid.** Asylum seekers, children, possible trafficking victims and sick persons should be moved quickly to the peninsula and process their asylum request or other procedures there. **This requires devoting more resources to the identification of this population in Melilla** and access to a protection procedure.

16. Asylum seekers have to be in the Melilla CETI and are not transferred to the Peninsula as quickly as would be desirable, causing enormous frustration. **Asylum seekers are not allowed to travel freely to the Peninsula. According to the law, the asylum procedure cannot exceed six months, but in practice it can last 3 years.**

17. The number of *unaccompanied minors* in Melilla has grown in recent times. Most of them are from Morocco, along with the Sub Saharans, growing by the day. The capacity of the local institutions (120 places) is inadequate for the number of children. The boys are staying in "La Purisima", a centre run by a private company, and the girls at the "Divine Infant" school run by a religious congregation, and also in the "Drop of Milk".

## II. PROPOSALS

18. On the attempt of the Spanish Government to legalize the pushback of migrants and asylum seekers in the border, the legal reform is now being debated in the Senate. **It is essential and urgent that the European Commission reproves the legalization of these practices and requests the withdrawal of this amendment** to prevent a major setback on human rights in the southern Spanish-Moroccan border and its incompatibility with the Geneva Convention of 1951 and European legislation on asylum, borders and human rights.

19. Given the serious humanitarian and human rights issues in the European southern border, **long term solutions** that respect migrant's and refugees' rights need to be discussed and found. **The responsibility for finding these solutions lies with the international community, not only with Spain.**

European Union member states must urgently act to create **more safe and legal ways for people fleeing conflict to reach Europe.** There are a range of practical and effective measures that could be put in place to ensure this as presented in the policy paper developed by Jesuit Refugee Service Europe together with six other Christian NGOs attached as Annex 1:

[http://www.ccme.be/fileadmin/filer/ccme/20\\_Areas\\_of\\_Work/01\\_Refugee\\_Protection/2014-11-20-Christian\\_Group\\_Recomm\\_for\\_safe\\_legal\\_paths\\_to\\_protection\\_final.pdf](http://www.ccme.be/fileadmin/filer/ccme/20_Areas_of_Work/01_Refugee_Protection/2014-11-20-Christian_Group_Recomm_for_safe_legal_paths_to_protection_final.pdf)

Also, it is necessary to support initiatives to establish mechanisms to ensure **protection at the borders of human life.**

20. Defend the **display of a temporary mission of international human rights observers at the borders of southern Europe** (Spain, Italy, Malta, Greece, Bulgaria), **recognized by the**

**States and having full freedom of movement** to draw up independent field reports, today these do not exist yet.

**21. Border problems cannot be resolved with a transfer of responsibilities to Morocco and West Africa** countries because of their location along migratory routes. In regard to this, we request the European Commission to:

- Ensure **support to migration policies in Morocco and other neighboring countries** with cooperation agreements with Spain and Europe, to support, both through public actors and civil society, that such policies are developed **in a framework of respect for human rights**.
- On **readmission agreements** and other cooperation agreements with third countries signed by the EU or Spain:
  - (a) To monitor that the agreements include effective guarantees of human rights of migrants and refugees and
  - (b) To oversee the implementation of these agreements to ensure that the rights of returnees are guaranteed.

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*Jesuit Migrants Service (SJM) Spain*

The **Jesuit Migrant Service Spain (SJM-Spain)** ([www.sjme.org](http://www.sjme.org)) is part of the Jesuit Social Apostolate. It is dedicated to the study of migrations, the reception and accompaniment of immigrants and to promoting an inclusive, integrated and intercultural society. The SJM works primarily in Madrid (Pueblos Unidos), Barcelona (Migra Studium), Valencia (Ceimigra), Sevilla (Volunteer Claver) and Bilbao (Centro Ellacurfa); and also in Burgos, Tudela and Valladolid.

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