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NORTH AFRICAN MIGRATION AND EUROPE'S CONTEXTUAL
MEDITERRANEAN BORDER IN LIGHT OF THE LAMPEDUSA
MIGRANT CRISIS OF 2011

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of the Lampedusa Migrant Crisis of 2011*

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Abstract

In the opening months of 2011 thousands of migrants arrived on the small Italian island of Lampedusa. In their responses, national governments in Europe appeared to self-interestedly close their national borders, rather than establish a common protection of the Mediterranean border to 'Fortress Europe'. Different border controls appeared in Lampedusa, the Italian peninsula and the Franco-Italian border. This paper examines this case and asks why controls arose in different times and places in Southern Europe. The border is conceptualised as a process of differentiation tied to politically contingent decision making processes in which Italian, French and European actors attempted to define the nature of the flows and the responses to take within the structural framework of the EU's border regime. The analysis illustrates the political dynamics by which migration through Europe's Southern border can be regulated and controlled in contextually contingent locations.

Keywords

Migration, borders, European integration, Fortress Europe, Italy

Introduction

Over past decades, European Union (EU) leaders have been moving closer to the establishment of a common border regime. Particularly to the south, this is associated with defining the limits of, and restricting access to, what has commonly been called 'Fortress Europe' (Geddes 2008a, Talani 2009). However, during the opening months of 2011 the fortress logic was challenged following the arrival of thousands of migrants from North Africa on the Italian island of Lampedusa. The first arrivals were kept in a temporary camp on the island and subsequently split between others on the Italian mainland before being granted temporary visas to remain on humanitarian grounds. Later arrivals were, however, given deportation orders. Meanwhile, the Italian government's response was closely observed across Europe by other Member State governments. These reacted in a protectionist and security-based manner; the Dutch Minister for Immigration and Asylum declared himself 'quite dissatisfied with Italy's surprise decision to pass on its problems' and the German Interior Minister categorically stated that 'Italy must solve its refugee problem itself' (Euractiv 12 April 2011). Perhaps the most dramatic response was the French decision to reinstate identity checks on 'North Africans' at the frontier with Italy (Carrera et al. 2011).

In response to this arrival of migrants across the Mediterranean, border controls appeared to be contentious and changing. Migrants' statuses were defined in ambiguous ways whilst the reactions from Member States endangered the 'spirit of the Schengen agreements', according to Herman van Rompuy of the European Council (Ibid.). The present paper examines this situation, asking why border controls appeared in some times and places, and not others. In doing so, the migration crisis of spring 2011 is employed as a lens through which to comprehend the complex nature of border management in the EU's multi-level polity, revealing the tensions which exist at the junction of state sovereignty, the integration of the EU and international migration in Southern Europe. Traditional conceptualisations of borders as fixed and clear territorial limits to sovereign states have led to immigration being seen as part of globalisation's challenge to the territorial integrity of nation states (Joppke 1998, Sassen 1996). However, this paper is concerned with how the development of the EU's multi-level and multi-location border regime actually provides opportunities for Member States to restate their control over their polity and territory.

The structure of the paper is as follows. The first section conceptualises borders as a process of differentiation of the status of included and excluded individuals through multi-level policies and multi-location controls. The way that these controls arise in practice will be examined through an analysis of the decision making process. The second section outlines the legal and institutional structures that constitute the regulatory and policy tools for the governance of the borders of the EU. The third section reviews the responses to the arrival of North African migrants on the island of Lampedusa during the spring of 2011. It illustrates the different ways that the European Commission and Italian and French governments attempted to define the nature of the migration flows and, consequently, the adequate response to take. These arguments also presented diverse interpretations of the EU's border control framework, which were instrumental in justifying the decisions on which migrants could or could not enter Europe. The final section puts forward some conclusions regarding the implications of these events for our understanding of the contextual nature of the EU's borders.

Conceptualising and Analysing Borders

A significant body of theory and empirical analysis has been written on the way that the current phase of globalisation, characterised by a blurring of boundaries between local, national and international levels of politics, economics and social relations, challenges many of the established ways of interpreting and understanding the state and society (see for example, Beck 2005, Castells 2000, Sassen 1996, 2008, Talani 2004, 2009, Walker 1993, 2010). Within this wider academic field, a growing literature has taken as its central concern the relationship between borders, security and state sovereignty (see for example Bigo 2005, Brunet-Jailly 2011, Elden 2009, Mau et al 2012, Parker 2009, Parker & Vaughan-Williams 2009, Rigo 2005, Rumford 2006, 2009, Vaughan-Williams 2008, 2009). This work confronts and questions the commonly-held assumption that borders constitute fixed dividing lines marking the reach of sovereign state authority over a defined territory and population, enabling people and institutions to be categorised as internal or external to the state according to their geographical position (Joppke 1998: 10, Vaughan Williams 2008: 324).

Two central insights of this field are of particular interest to this study because they outline the shifting structural framework of border controls. Firstly, the border should be reinterpreted as a site of exchange and differentiation, rather than a dividing barrier between inside and outside. An inside only has meaning if related to a definable, constitutive outside: that which is defined as internal is necessarily viewed in relation to something else which is known, but excluded as different (Vaughan Williams 2008, 2009). Also, exclusion can occur *within* countries, such as in camps where persecuted people remain physically present on a state's geographical space, but are excluded from everyday life (Ibid.). Sovereign power is not therefore understood as bounded by a state's physical space, but by its authority to construct patterns of inclusion and exclusion through deciding the status of individuals (Vaughan Williams 2009: 744). Secondly, border controls constitute part of a system that can be spatially defined in diverse ways rather than being territorially fixed and permanent. However, this does not imply that their material dimension should be ignored: borders may have been reconfigured but controls and practices of differentiation do occur in certain places and at specific times (Elden 2009). Border controls, fences, walls, lines on maps, observation posts, and even houses, walls and doors, as well as the press and mass communication about these, construct and dramatise borders as markers of physical space (Huysmans 2000, Robertson 2008, Monzini 2007). As noted by studies of 'borderlands', borders can and do have territorial dimensions that are linked to social and cultural constructions of inclusion and exclusion (for example, Diener and Hagen 2010, Konrad and Nicol 2011). Yet controls such as those for the regulation of immigration are constructed and maintained via a range of functions throughout societies involving the recognition of identity documents, granting or denial of rights to residence or employment, and so on. This engages diverse actors from immigration ministries to policemen, from local administrations to citizens and 'ordinary people' (Bigo 2005: 70, Rumford 2009: 2, see also Balibar 1998).

Borders can therefore be understood as processes of differentiation of the statuses of individuals which can be practiced through controls built up in certain locations and times according to decisions made within specific political and social contexts. This applies clearly to the multi-level polity of the EU, where a complex system of regulations and measures involves a wide range of actors in immigration control, from the European Commission to national governments and local administrations, as well as non-state lobbies and NGOs. An understanding of the shape of the EU's borders must therefore be able to disentangle the patterns of political interaction and decision making that produce them (Brunet-Jailly 2011: 1). The objective of this paper is therefore to examine the political dimension of decision making within the structural framework of border management in Southern Europe and how this has influenced where controls arise and what form they take.

The migration policy literature offers distinct views of this decision making process. On one hand, studies of securitisation have argued that restrictions to migrant entry have

arisen as part of an elite push for controlling population movements (Collyer 2006, Feldman 2012, Huysmans 2000, 2006, Huysmans and Buonfino 2008). These claim that the discursive construction of threats by political and administration leaders is an essential part of justifying the expansion of state control of migration. But in doing so, they also underestimate the diversity of actors and objectives within the decision making process that may influence outputs and outcomes in ways not focused on restricting entry (Boswell and Geddes 2011: 42-44). On the other hand, liberal realist academics have explained generally permissive entry policies as the product of the lobbying of economic interests or societal groups motivated by the same liberal values that governments are eager to emphasise (Freeman 1995, Geddes 2008a, Hollifield 1992, 2000, 2004). This may occur even when political rhetoric expresses a wish to restrict immigration, because immigration policymaking is viewed as an essentially technical process of balancing interests that is largely removed from public debate (Boswell and Geddes 2011: 43-4, see also Boswell 2007, Geddes 2008b). Yet this cannot explain why actors consistently do put immigration on the political agenda as a cause of security threats and humanitarian emergencies. Furthermore, in the specific case studied here, neither the restrictive tendencies of securitisation nor the permissive drive of interest group mobilisation alone are able to explain the dual decision to allow entry permits to Italy for some North African migrants in early 2011 whilst *simultaneously* restricting that of others from the same point of origin. This can be summarised as the liberal paradox at the heart of migration politics: whilst economic forces open state borders, political and legal ones attempt to close them (Boswell and Geddes 2011, Geddes 2008a, Hollifield 1992, 2004, Joppke 1998, Sassen 1996).

The analytical approach of this paper follows that of recent research in attempting to overcome this dichotomy between restrictive security controls or open economic borders (Boswell 2007: 76, see also Boswell 2011, Boswell and Geddes 2011, Boswell et al 2011, Brunsson 1989, Geddes 2008a, Scholten 2011). According to this approach, states are not unitary actors in decision making but composed of and linked with diverse ministries, departments, interest groups, political parties, and so on. The objective of these diverse actors is to gain legitimacy by defining the social problem at stake and proposing its most appropriate solution. However, they represent, and gain legitimacy from, different audiences. Rival claims therefore offer diverse causes and solutions according to whether they are appealing to the press, public opinion, government ministries or organised interests. They also construct problems and responses in different ways because they must balance their own objectives with the perceived and real structural opportunities for action within the legal, institutional and organisational contexts. Discrepancies can therefore arise between definitions of the problem and the implementation of responses as actors interpret their structural settings in differing ways and adopt varying logics of action, with the result that policy measures do not necessarily match the content of the dominant discourse on the issue (Brunsson 1989, Boswell and Geddes 2011: 71-5, Geddes 2008b).

Decision making is therefore a competitive process between structurally-situated, legitimacy-seeking actors. Understood in this way, the first step of the analysis is to clarify the legal and institutional context, examining the structural opportunities for responses to migratory flows. This is the subject of the following section. The second and third steps are presented together as the penultimate section of the paper. The second step will be to outline the responses to the migratory flows of 2011 in order to illustrate how different actors defined the issue but also interpreted their structural opportunities for action and suggested resolutions. The third step will assess the implementation of policy responses and their relation with the institutional context and issue definition, demonstrating how EU regulations on borders could be interpreted and implemented in varying ways according to different objectives. Consequently, rather than an undermining of the nation state by EU policy harmonisation and uncontrolled migratory flows from North Africa, in the spring of 2011 we find a reaffirmation of the idea of national borders as dividing lines between state territories and tension around who holds the power to decide on the status of arriving migrants in the EU.

The EU's Common Border Policies

The present section summarises the development of an EU migration policy field. National leaders have repeatedly criticised the weakness of Europe's border controls and blamed a lack of controls between Member States for increases in illegal immigrants and organised crime in their countries (see for example, The Guardian, 16th March 2012). The motivation for establishing common migration policies in the European Community was initially to restrict the access of third country nationals (Boswell 2003, Guiraudon 2000, Huysmans 2000, Lavenex 2006, Schierup et al. 2006). Yet as the migration policy field has grown it has adapted from this garrison or fortress function into a selective process of allowing some groups of migrants to enter whilst restricting the movement of others (Hollifield 2004). As described elsewhere, Europe has erected a tall wall with small doors in it (Geddes 2008a).

The common governance of Europe's borders has the Schengen system as its foundations (see also Boswell 2003, Lavenex 2006, Geddes 2001, 2008a). Although it was originally signed in 1985 between Belgium, the Netherlands, Luxembourg, France and Germany, the Schengen *acquis* was only incorporated into the Treaty of Amsterdam in 1997, under title IV on visas, asylum, immigration and other policies related to free movement of persons. The agreement was intended to facilitate freedom of movement between Member States whilst 'enhancing' their security (Official Journal L 239, 22/09/2000). It brought about the strengthening of security checks on non-EU citizens whilst differentiating between external (with non-EU states) and internal (between Member States) borders and controls. External borders and visa checks were harmonised (*Schengen acquis* chapter 2.2), and internal security controls were bolstered by the shared Schengen Information System (SIS) holding data on illegal or undesirable migrants (chapter 2.5), cooperation between police forces (chapter 2.3), cooperation between legal authorities (chapter 2.4), cooperation on countering drug trafficking (Com-ex (93) 14), and common rules on extradition (Com-ex (96) decl 6 rev 2).

Since 2006 this has been further developed through the Schengen Borders Code (SBC) (Regulation (EC) 562/2006), which has outlined common rules applicable to checks at external border crossings. The SBC covers the conduct of national border authorities when carrying out checks, underlining the importance of human dignity and the principle of non-discrimination (art. 6), as well as the common measures for refusal of entry to foreigners and their rights to appeal to such a decision (art. 13). It also states that third country nationals can be rejected entry if without a valid travel document, a valid visa, or 'sufficient means of subsistence' for their stay, as well as if they are included on the SIS database or perceived to be a 'threat to public policy, internal security, public health or the international relations of any of the Member States' (art. 5.1). They may however be allowed entry 'on humanitarian grounds, on the ground of national interest or because of international obligations' (art 5.4(c)). However, Member States are also given freedom for the 'temporary reintroduction' of border controls where there is 'a serious threat to public policy or internal security' but this should not amount to a systematic or discriminatory procedure (art. 23).

At the heart of the Schengen agreements there is, nevertheless, tension between the principles of subsidiarity, meaning respect by other Member States for the decision on allowing or denying migrant entry at the country of arrival, and responsibility, implying that the country of arrival cannot take decisions that would be seen to endanger the public policy or internal security of other Member States. National governments are able to act independently, restricting entry and free movement at internal borders and revoking the permission given in other Member States when this is justified as a security issue or when immigrants do not have sufficient means for subsistence. These powers have been evoked repeatedly by a range of different Member States (Carrera et al. 2011). As will be noted below, however, 'threat' and 'sufficiency' are ambiguous concepts that give space for disagreement.

In addition to these legislative provisions, the EU's border control measures have also been increasingly directed at operational activities through the Frontex agency and

cooperation with sending and transit countries (European Council, Tampere SN 200/99, 15/16 Oct 1999). Frontex was originally established in 2004 (Council Regulation 2007/2004) and its material resources are expanding, such as through the deployment of Rapid Border Intervention Teams (RABITs) of national border guards which can be sent to work in 'crisis situations' in other Member States. Frontex's research and risk assessment reports are also important tools for 'dramatising' migration issues and 'conveying images of Europe under threat' (Boswell and Geddes 2011: 124). However, the agency does not 'govern' the borders of Europe. Rather, its key tasks are surveillance of the 'external borders' of Europe, risk assessment, research and training of border guards. This is achieved through coordinating national and EU systems and responding to Member State calls for support in emergencies to 'help border authorities work together' (Frontex 2012). As will be illustrated below, the definition of migratory flows as an emergency can therefore be a route to economic and material resources. In this way, Frontex constitutes a network of connections between national and EU level material infrastructures and policy officials (Feldman 2012: 85).

Finally, although originally mentioned in a Commission communication in 1994 (Geddes 2008a: 177), the externalisation of migration controls has been an area in consistent expansion since the establishment of a High Level Working Group on the issue in 1998 (Boswell 2003, Geddes 2008a). Its focus is strongly on border management and deterrence of immigration. This 'external dimension' of EU immigration and asylum policy has been summarised by Boswell as composed of two main elements (2003). Firstly, 'externalisation' has involved classical migration control instruments such as border controls, measures to prevent undocumented migration, smuggling and trafficking, capacity-building of asylum systems and migration management in transit countries being 'exported' to sending countries and future Member States as part of the accession process, as well as the return of asylum seekers and undocumented migrants being facilitated through readmission agreements (Boswell 2003: 622). Secondly, preventive approaches have been the central vision of the Global Approach to immigration and asylum, announced by the Council in 2005, and by which development aid, the European Neighbourhood Policy and foreign policy tools were brought into a framework of preventing cross-border movement of people by 'tackling the root causes of migration' (Council of the European Union 2005). Differentiation of migrants to be included or excluded therefore no longer occurs by checks at 'external' entry points to the geographical territories of EU Member States, but at various locations outside of Europe. This has resulted in controversial agreements with countries such as Libya with a suspect human rights record and questionable government practices (Hamood 2008, Paoletti 2011).

The framework outlined here for governing the borders to the EU can thus be summarised as aiming to regulate the access of third country nationals through a combination of legislative and technical borders and controls. The multi-level nature of the EU means that competences are spread between the Commission, national governments and neighbouring third countries, as well as through the coordination of the Frontex agency. In this context, the Schengen agreement's distinction between internal and external borders is misleading. By sharing information and functions between countries, as well as moving border measures to third countries, policymakers have diversified the localities of physical controls, which are in turn supported by common identity documents, visas, and the information available on shared security databases. As will be illustrated more clearly in the case study below, the decisions on the status of arriving individuals and the measures used to confront them are formally the responsibility of the Member State of entry, but in the EU framework the internal politics of national governments are tied to dynamics in other Member States as well as those at external sites of control.

The North African Migration Crisis of 2011

The North African migrations of spring 2011 illustrate clearly in practice how entry to Europe is not simply achieved by crossing the Italian coast or landing on the island of Lampedusa. Indeed, the idea of a common Southern European border was challenged when instability of

the external dimension in Tunisia and Libya was accompanied by contention between national governments claiming the legitimacy of their decision on the status of arriving migrants.

Beginning in December 2010, a wave of protests and movements for rights and democracy swept across many countries of North Africa and the Middle East. In January 2011 the Tunisian president demitted, and in February of the same year the Egyptian president followed suit. February also saw people take to the streets in Libya, with the movement subsequently being repressed by the military, leading to an armed insurrection, a NATO intervention and ultimately military conflict. These developments have had an undeniable influence on migration flows to Europe.

However, migration flows to Italy from the southern shores of the Mediterranean were at this point nothing new. Indeed, the Mediterranean has been defined as a 'human unit', a space of trade and population movement that has existed since the nineteenth century (Collyer 2006, King 2001). In addition, during the 1990s the migrant stock of the countries of North Africa was particularly high, due to a combination of demographics and employment dynamics resulting in a large number of young adults facing insufficient labour market opportunities in their origin societies (Fargues 2004). Although the total number of arrivals to Italy by sea has fluctuated over the past decade, during the 2000s there were consistent increases in the number of arrivals on Lampedusa. By 2006 nearly all of the arrivals to Italy's coastline were to Sicily and Lampedusa, until 2010 when the route was physically blocked by policing from Italian, Libyan, and Tunisian land and sea patrols. The total number of intercepted migrant crossings fell over this period from 37,000 in 2008, to 9,600 in 2009 and under 3,000 in 2010 (OECD 2011). Similarly, Frontex's recordings of irregular migration crossings through the Central Mediterranean peaked at over 16,000 in 2008 before lowering during 2009 and 2010 (Frontex 2011a).

Political measures contributing to a decreasing of these migratory flows came as part of a wider series of bilateral treaties and conditionality agreements tied into the increasing political and economic cooperation between the EU and its southern Neighbourhood as well as the externalisation of migration controls (Paoletti 2011). The objective was clearly to restrict and control migration flows. The Barcelona Declaration of 1995 between the EU and countries in the Southern Mediterranean area proposed Euro-Mediterranean cooperation to reduce migratory pressures through vocational training and job creation and to fight against illegal immigration through readmittance procedures. Coming at a time of increasing migration from other parts of the African continent to the Maghreb, a proportion of which continues as transit migration to Europe, these countries have put themselves in the difficult situation of receiving migrants whilst also having to restrict the emigration of all individuals from their territory (Fargues 2004, Di Bartolomeo et al. 2010).

Tunisia was the first Maghreb country to ratify its association agreement with the EU, and its legal reform of 2004 implemented the Palermo Protocol against smuggling by defining sanctions against any contribution to irregular migration (Di Bartolomeo et al. 2010). A readmission agreement for undocumented migrants was also signed with the EU in 2009 (Frontex 2011b). With Libya, the Italian government had already signed a series of bilateral agreements on fighting terrorism, organised crime and illegal immigration (2000), the readmission of undocumented migrants and sea crossings (2003), and common sea patrols (2007) (Hamood 2008, Di Bartolomeo et al. 2011). In 2008 the Italian government also signed a Partnership Treaty including a sharing of border patrols and a readmission agreement as part of a five billion euro settlement of colonial memory, including the delivery in 2009 of ships to the Libyan government by the Italian *Guardia di Finanza*, at which the Italian Minister for the Interior stated that 'the fight against illegal immigration and organised crime that manages human trafficking is the primary objective for Italy and Libya' (Ministero dell'Interno 10th February 2010). Subsequent agreements with the EU have included funding to Libya for restricting access to migrants from Niger along the primary land-based migration route from sub-Saharan Africa to Benghazi, Tripoli and then Italy (Di Bartolomeo et al. 2011). This was followed in 2010 by a Memorandum of Understanding and a Migration Cooperation Agenda between the EU and Libya which offered an investment of 60 million

euros for the period of 2011-2013 to improve public services in Libya, as well as capacity building of maritime search and rescue, readmittance procedures, and measures to restrict irregular migration with Niger to the South and the EU to the North (European Commission 2010). In Libya the official explanation of the use of restrictive immigration policies involving detainment and deportation has emphasised the influence of European pressure (Paoletti 2011: 222-3). As is clear, the objective was to restrict migration flows and such measures were apparently successful with recorded irregular departures from Libya's coastline almost entirely stopping in 2010 (Frontex 2011b).

During the opening months of 2011, unrest and political change in these countries posed a challenge to this migration management. On the one hand, the removal of the Tunisian government caused a void in upholding security and readmission agreements, whilst patrols of the Tunisian coastal border stopped. On the other hand, negotiations with Libya on the Cooperation agenda were suspended from the 22nd of February, following the outbreak of military conflict (EEAS 2011). As a result of the political and military contexts, the Southern Mediterranean border control broke down. As can be seen in figure 2, this was reflected in the number of migrants from North Africa rising again from the end of 2010 onwards, and particularly by 20,000 migrants from Tunisia arriving in the 1st quarter of 2011. In January 2011 some 5,000 Tunisians arrived on Lampedusa (according to UNHCR). This was accompanied by over 13,000 Libyan migrants from February to May (Di Bartolomeo et al. 2011). By April 2011 there had been 390 crossings bringing 25,867 migrants to Italy (Ministero dell'Interno 29th March 2011), and in May it was announced that 28,000 migrants had arrived on Italian shores, amid claims that there were 300,000 (according to the Italian government) or up to 700,000 (according to the EU) still to come. Subsequently, Colonel Gaddafi threatened to send hundreds of martyrs to Europe (The Guardian, 8 July 2011) and warned of the consequences of uncontrolled emigration from his country's shores destabilising Italy's government (Corriere della Sera, 15 March 2011). This constituted the continuation of a Libyan trend of employing the expulsion of large numbers of its significant migrant stock as a foreign policy lever in international relations (Paoletti 2011).

Without controls in North Africa, attention was cast on Lampedusa. The political responses to the arrival of the migrants were contentious. At the EU level, the Commission issued a series of responses which underlined the situation of emergency being faced in Lampedusa, as well as the countries of origin in North Africa, and concentrated on ways of resolving the humanitarian necessity of the migrants and sharing the burden between Member States. The Commission's proposed resolutions emphasised the availability of formal structures and established regulations, reflecting its character as a largely technocratic actor which does not have to mobilise or conform to public opinion's expectations of behaviour. In three memos published in February (MEMO/11/98), March (MEMO/11/179), and April (MEMO/11/226), the range of legal and practical tools available to Member States was made clear. These included: financial support through a Return Fund, Integration Fund, External Borders Fund, and Refugee Fund, with the latter two making available up to 25 million euros of emergency funding; practical technical support in the form of agents for interviewing migrants, Europol agents to detect possible human trafficking, aerial and naval surveillance and possible asylum support teams to contribute to processing refugee claims; and finally, 'comprehensive EU assistance' for the promotion of political, economic and social stability in Tunisia and Libya, as well as readmission agreements and procedures with these countries in order to reduce emigration flows. Each of these memos constituted a call to coordinate the management of migratory flows through pre-existing policy measures and repeatedly affirmed the 'solidarity' between Member States and North African countries. In this way, the Commission argued that the migratory pressures of spring 2011 were to be confronted through the normal crisis resolution measures of the EU, and in accordance with the key principles of EU law. This would have given EU border, asylum and police agents the power to decide the status of and responses to migrants arriving on Lampedusa.

However, the Italian government appeared more concerned with the possible social impact of the arrivals. The migrants were framed as an invasion that the government could only resolve through *ad hoc* security measures, presenting Lampedusa as a borderland where

the country's limits were being breached. This continued a trend already seen in Italy since the 1990s, particularly from parties of the centre-right, of publicly defining immigration as a threat to public order (e.g. Barbagli 2008, Geddes 2008b, McMahon 2012, Sciortino and Colombo 2004). Restrictions to entry had therefore already been publicly projected as a legitimate response to immigration. The exceptionality of the circumstances of 2011 was articulated in February when the Minister for the Interior, Roberto Maroni, declared a humanitarian emergency whilst warning of the impending internal security threat to Europe and pleading for a 'Marshall Plan' to support the Italian response (La Stampa, 11 February 2011). Prime Minister Silvio Berlusconi subsequently promised to have the island empty of migrants within 48 hours, before nominating it for the Nobel Peace Prize and buying a house there (EU Observer, 31st March 2011). At the same time, he likened the migrants from Tunisia and Libya to a threatening human tsunami (Corriere della Sera, 9 April 2011). Unlike the European Commission's comments, the Italian Ministry of the Interior argued that the normal migration and humanitarian policies of the EU and the Italian government would be unable to resolve the crisis;

It is unthinkable that we confront the emergency coming from Tunisia with this indifference from Europe and the militant disarticulation of the rules on clandestine immigration carried out by a great part of the [Italian] magistrates. On one hand, due to our geographical position, we receive all [of the migrants], and on the other our deportations are blocked. (Sub-secretary Mantovano, Ministero dell'Interno 14th February 2011)

The key points here are the definition of the situation as an emergency of great, exceptional scale, and the inability of normal EU law and policy or the current Italian national approach to contribute to its resolution. Ad hoc measures were viewed as necessary due to the ineffectiveness of normal EU and national crisis resolution measures.

Through declaring an emergency Italian leaders looked to justify exceptional responses on humanitarian and security grounds. The definition of an emergency facilitated an appeal for economic and practical support from the EU, following the successfully granted RABIT from Frontex to the patrol of the Greek border with Turkey in 2010 (Carrera and Guild 2010). The result for the Italian government was the Frontex 'Joint Operation Hermes' beginning in late February. It also justified the prohibiting of movement of the migrants around or off the island, which caused the need for them to build makeshift tents on the hill surrounding the port of Lampedusa. In March, workers of the Italian Red Cross commented that more than 2,000 individuals were sleeping outdoors and without shelter (International Federation of Red Cross and Red Crescent Societies, 28th March 2011), whereas Amnesty International estimated the total to be 4,000 people (Amnesty International, 31st March 2011). According to Medecins sans Frontieres, each migrant was permitted 1.5 litres of water per day and every chemical toilet available was shared by 187 people, contrasting recommended standards of 20 litres of water per person and only 20 people per chemical toilet (Reliefweb, 1st April 2011). The Italian interior ministry emphasised the importance of arranging deportations to lighten the humanitarian crisis in the island camp; relocating the migrants from the island to more permanent locations would not be necessary if they were to be deported to the point of origin, but without readmission agreements in Tunisia or Libya, these deportations could not legally be organised. The migrants were in a temporary limbo, unable to leave the island until the Italian government decided on the next steps to take.

These next steps came on the 30th of March, when the government arranged for the migrants to be removed to camps, or *tendopoli*, around the Italian mainland (Ministero dell'Interno, 29th March 2011). The *tendopoli* were provided by the military and repeated previous attempts of emergency controls placing minorities away from politicians, press, judges and the general public (Sigona 2005). In terms of territory, the migrants had entered Italy but in terms of legal status they remained excluded from Italian state and society, and therefore from the EU. The makeshift camp on Lampedusa and the *tendopoli* around the peninsula are thus clear examples of an inclusive-exclusion facilitated by the public definition of the circumstances as an emergency (Vaughan-Williams 2008, 2009).

On 5th April the Italian and Tunisian governments came to an agreement over repatriation, which would, according to Mr Maroni, enable them to 'close the taps' of migration flows (Corriere della Sera, 5th April 2011). Migrants arriving after this date would be directly returned, finding the territorial and organisational borders of the Italian state closed before them at sea or the first land point of arrival. At the same time, the Italian government decided to grant temporary humanitarian visas and travel documents to the migrants who had arrived before the 5th of April, in agreement with article 20 of the Italian Single Text on Immigration (Law 286/1998) and article 5.4 of the SBC, although both law 286/1998 and the SBC are vague in the stating of the conditions and validity of these temporary protection visas. The intention was to allow Tunisians freedom of movement to relocate to other countries, coined 'flushing the tank' by the leader of the Northern League, Umberto Bossi (Corriere della Sera, 5th April 2011). Thus for those arriving before the 5th of April a humanitarian status was granted, whilst for other migrants of the same nationality from the same point of origin, but a different date of arrival, there effectively existed a separate, geographically and legally distinct border regime. These two choices of forced repatriation and humanitarian entry were nevertheless fuelled by the same objective of ensuring that the migrants did not remain in Italy, as the vivid rhetoric continued to show.

Unfortunately for migrants holding the temporary visa, the borders of the EU were, moreover, no longer to prove coterminous with the borders of Italy. Rather than accepting the validity of the humanitarian visa, other Member States accused Italian leaders of irresponsibly shifting the burden of the migrants onto them. A rejection of the visa's validity was justified by defining the migrants' presence as a threat on economic and public order grounds, and facilitated by the ambiguous terms of the Schengen Borders Code regarding 'sufficient' resources. The German Interior Minister stated that 'Italy must solve its refugee problem itself', and the Austrian Interior Minister declared that they would 'look into what extent we will recognise visas issued by Italians, especially whether we allow in people who cannot feed for themselves. This would be a feeding ground for crime that I cannot allow' (Euractiv 12 April 2011). The most visible response was that of the French government, which contested the legality of the temporary visa and reinstated border checks along the geographical frontier with Italy, rejecting migrants with insufficient financial resources and blocking a train across the border due to 'public order concerns' (Carrera et al. 2011). On the French side, free movement was restricted by physical controls. On the Italian side, migrants and protesters gathered at the town of Ventimiglia, uncertain of whether the right to free movement would be upheld.

As in Italy, the centre-right French government of Nicolas Sarkozy had already over previous years adopted a control-based approach to restricting and rejecting immigration (Marthaler 2008). Furthermore, during the period preceding the Lampedusa crisis the conservative and explicitly anti-immigrant National Front had gained in popularity and moved ahead of Sarkozy's governing Union for a People's Movement in opinion polls (Le Parisien 8th March 2011). In reply the government expelled 25,500 irregular migrants in the first three months of 2011 and passed a new immigration law in April granting greater deportation powers (Carrera et al. 2011). Indeed, in 2011 the French government was reported to have set a new record for the quantity of annual deportations (Le Figaro, 27th July 2011). This stance remained in confrontation with the North Africans: whilst the Italian humanitarian visa allowed for temporary residence in Italy, it was not accepted as granting an automatic right to free movement in France, due to the initial entry of these migrants not meeting the conditions of 'sufficient resources' in article 6 of the SBC. In this moment, the build up of political rhetoric and security actions ensured that an 'internal' EU border had become a physical, national barrier to movement between Italy and France.

The legality of these responses has been concisely assessed by Carrera et al. (2011), who argue that both the Italian and the French governments acted within the terms of European law, because the SBC allows for the granting of a temporary visa but also allows for the reinstatement of internal borders. These authors also conclude, however, that the *principles* of the law were questioned, particularly the principles of subsidiarity (the need to respect the decision of the Member State constituting the point of arrival of migrants) and

responsibility (not allowing entry of migrants which may cause tensions in other Member States). In this sense, as the Italian government flaunted its responsibility to shoulder the burden of migration flows so too did the French government reject the decisions made by the country of arrival.

As illustrated here, however, in doing so both countries evoked their authority to decide on the status of arriving migrants. This was facilitated by already existing discourses on the 'threat' of immigration, as well as the ambiguous terms of the EU's border legislation which could be interpreted and implemented in diverse ways. The definition of an emergency caused by the breaching of the border by North Africans was therefore emblematic of the way in which the declaring of a challenge to a country's territorial integrity by migration can serve to justify increasing restrictions on the flows of people and the positioning of physical border controls.

Conclusions

This paper set out to examine way that common migration controls were apparently replaced by national measures in response to North African migrant arrivals in early 2011. A traditional interpretation of borders as dividing lines between internal and external spaces and as markers of the fixed, territorial limits of sovereign states was replaced by a theoretical framework which conceptualised the border as a process of differentiation between the statuses of flows of people. This called for an analytical focus on the border as a series of controls, the spatial dimension of which is contingent on political decisions. Sovereign power rests herein on the ability to decide, through normal legislative means or ad hoc measures, on these people's status. From this framework the question was posed of why border controls do appear in some specific places and times.

Examination of the EU's border regime in the context of a declared emergency has highlighted space for discretion in the choices of national governments. In the case of arrivals from North Africa in 2011, with the disappearance of external immigration controls in Tunisia and Libya a range of distinct 'internal' control locations became relevant. The southern borders of the EU were thus located in varying places, depending on the opportunities for the EU Commission or the Member States to decide on the practical responses. In the EU, the decision on the entry or exclusion of migrants crossing the Mediterranean is initially made by the country of arrival, although this is conditioned by the interests and concerns of neighbouring Member States. With the declaration of a situation of crisis in spring 2011, however, the European Commission, Italian government and French government sought to define the issue in different ways. At the same time, the inability to deport migrants to their unstable countries of origin was replaced by their inclusive-exclusion in camps or the town of Ventimiglia, at the geographical limits of French territory. In this way, the political unrest and change in North Africa caused a temporary reorganisation of the places and methods of controls.

The case study of migrations from North Africa to Italy in early 2011 therefore offers insights into the shape and functioning of the southern borders of the EU. As noted in the introduction, the border cannot simply be defined as a fixed line between inside and outside spaces and populations. In this way, physical controls are spread geographically from Ventimiglia to Lampedusa and beyond into the African continent, whilst being linked functionally through the granting or denial of identity documents, visas and entrance permits. The Italian government's decision to grant humanitarian visas to some of the migrants and not others was emblematic of this and illustrated clearly how different mobility regimes could operate at the same time, allowing *and* denying entry to selected categories of people. The function of these controls was thus not to draw the territorial limits of states, but rather to define the status of arriving populations, showing the border's character to be one of a semi-permeable filter, rather than a solid wall around a fortress (Mau et al 2012).

In this context, borders must be understood as a relation of interdependence. Controls are not simply everywhere but found in specific locations according to the social and political

contexts in which decisions about them are made. The stability of the Schengen regime and external dimension of controls is built on consensual definitions of which migrants may or may not pass the filter. However, this consensus disappeared in the case study shown here because the multi-level and multi-spatial framework provided an opportunity structure for Member State governments to choose how to respond to immigration. The Italian decision to grant humanitarian visas that would permit the migrants to leave and the French decision to define a threat to public order from their arrival and re-establish border checks are examples of this continued discretion around the definition of the status of arriving immigrants and illustrate how rather the power to decide on entry has not been entirely taken away from Member States.

The capacity of border controls to be established in different times and places must therefore be viewed in light of the motivations and logics of decision makers in relation to the structural opportunities for discretionary action in this framework of interdependence. For representatives of the governing party in Italy, putting some immigrants in camps, returning others to Tunisia and speaking of those with humanitarian visas leaving for other Member States followed the same logic of aiming to restrict the presence of immigrants that had characterised public debate since the 1990s. Restricting access and allowing less immigrants into the country was presented as a legitimate choice whilst defining the situation as a crisis which could only be resolved by ad hoc measures delegitimised any alternative suggestions, such as those from the European Commission. In the responses of other Member States, a similar balancing act between public opinion and competing definitions of the problem and its resolution were also visible. In this way, the shape and function of border controls is therefore revealed as being tied to the intentions of inter-related actors whose motivations are not simply to limit access and control mobility, but rather to respond to and claim legitimacy from specific audiences.

In conclusion, it is misleading to suppose that migration to Southern Europe, and in particular that of the thousands of North Africans who arrived on the island of Lampedusa in 2011, has presented a challenge to the borders of the EU and its Member States. Academics have suggested that global flows of people contribute to the deterritorialisation of the state (Sassen 1996) whilst politicians have repeatedly claimed that they face an invasion or tsunami threatening their country's social stability and territorial integrity. However, the analysis presented here suggests that this is not necessarily the case, and that in situations of change and crisis the contextual reorganisation of controls against immigration can constitute an affirmation of the presence of the border in new locations.

Tables**Figure 1**

Migratory Arrivals On The Italian Coast, 2002-2010

	2002	2003	2004	2005	2006	2007	2008	2009	2010
Sicily & Lampedusa	18,225	14,017	13,594	22,824	21,400	16,585	34,540	-	-
Only Lampedusa	9,669	8,819	10,497	14,855	18,096	-	-	20,655	403
Total Italy	23,719	14,331	13,635	22,939	22,016	20,165	36,951	29,076	3,499

Source: Ministero dell'Interno

Figure 2

Detections of irregular crossings at the sea border 2009-2011

Country	2009 (4 th Quarter)	2010 (1 st Quarter)	2010 (2 nd Quarter)	2010 (3 rd Quarter)	2010 (4 th Quarter)	2011 (1 st Quarter)
Algeria	1263	253	395	768	386	230
Egypt	110	116	33	272	292	321
Morocco	229	66	88	273	213	230
Tunisia	115	34	191	416	70	20,258

Source: Frontex 2011b

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