

## The Externalisation of Migration and Asylum Policies: The Nouadhibou Detention Centre

The outsourcing of immigration and asylum policies by European countries, such as Spain in the case of the Nouadhibou centre in Mauritania, dangerously threatens migrants' basic human rights.

### Spanish Commission for Refugee Aid (CEAR) as a member of 'Platform 2015 and More'

The European Union has been working towards a common policy regarding immigration and asylum; a process that has intensified over the last few years. In 2008, the EU approved two legal instruments (the Return Directive and the European Pact on Immigration and Asylum) with concerning implications for migrants: the criminalisation of irregular immigrants, the violation of migrants' rights, and the imposition of further obstacles for asylum-seekers and refugees. Moreover, various European countries have launched serious reforms in a similar direction through national legislation. Spain is currently in the process of enacting a new asylum law and preparing a restrictive reform of its immigration laws, at the request of the Spanish Government in both cases. In addition, significant efforts are being made to adopt policies that externalise migration control by making bordering countries east and south of the EU responsible for the containment of migrants trying to reach Europe.

In 2006, 31,678 migrants from Africa and Asia arrived in canoes on the shores of the Canary Islands, a phenomenon that triggered exaggerated media coverage and a disproportionate reaction by some political actors. Since then, the EU and the Spanish Government have intensified the presence of Frontex and signed repatriation agreements for migrants from some African countries (e.g., Senegal, Mauritania, among others). These agreements provide for joint patrols of the western African coastline by the police bodies of African countries and the Spanish Civil Guard (Spanish Gendarmerie). These measures have had an important impact: in 2008, only 9,181 individuals arrived at the Canary Islands, and between January and April of 2009, arrivals dropped by 50 per cent from the previous year, falling from 2,784 to 1,472, according to the Spanish Interior Ministry.

### Mauritania: The case of Nouadhibou

However, externalisation policies, as successful as they may seem to some European governments determined to close international borders, violate the rights of refugees and migrants. As an example, we will look at the Nouadhibou detention centre

in Mauritania. The centre was built in March 2006 by members of the Spanish Army and funded by the Spanish Agency for International Development Cooperation (AECID). At the request of the Spanish Ministry of Foreign Affairs and Cooperation, the Spanish Commission for Refugee Aid (CEAR) carried out an evaluation of the site in October 2008.

Mauritania is not only one of the main transit countries for migrants on their way to Europe, but also a country of immigration and refuge, which is home to around 300,000 foreign workers, among whom between 10,000 and 40,000 live in the town of Nouadhibou. These foreign workers mainly occupy positions in the informal economy (local trade, agriculture, hospitality, construction, domestic work, and so forth). Although Mauritania has ratified numerous international human rights instruments of the UN, Organisation of African Union (OAU) and ILO, it does not have a normative framework for meeting the commitments made under these instruments. Attempts to migrate to a third country are not considered a criminal or administrative offence in Mauritania. There are no formal procedures or administrative regulations applying to detainees and no possibility for appeal before administrative or judicial authorities. Moreover, the right to legal aid and an interpreter is not upheld.

The Mauritanian authorities acknowledge the inadequacies of the laws and procedures governing migrants/asylum seekers, as pointed out by the CEAR delegation. They argue, however, that the situation will improve with the passing of the new regulatory migration law. However, instability resulting from the coup d'état of 6 August 2008 has delayed the implementation of these measures and the passing of the new law.

### An old school becomes a jail

The CEAR delegation was able to confirm these inadequacies upon observing the Nouadhibou detention centre's facilities and interviewing government employees, migrants and social organisations. The centre is located near the heart of Nouadhibou, a city of around 120,000 inhabitants, in an old school in which the classrooms have been turned into cells. A quick look at the centre reveals deteriorating facilities due to lack of maintenance and, according to some of the individuals interviewed, theft of some of the equipment provided by the Spanish Army to renovate

the building. The Mauritanian officials in attendance displayed a striking lack of responsibility for the situation, although they admitted that the minimum requirements were not met and that it is necessary to move towards a more humanitarian approach to the treatment of migrants. They also pointed out clearly and emphatically that they perform their jobs at the express request of the Spanish Government. This situation leaves the Mauritanian officials at the mercy of the future decisions of the Spanish Government.

Due to the small and enclosed cells in the detention centre, the migrants lie in cots all day, enduring substandard and unhealthy conditions. The Mauritanian Red Crescent provides medical care. The centre has a small and very basic clinic for first aid, and, if a migrant needs to be hospitalised, the Red Crescent accompanies them and pays their expenses, as there is no provision for medical coverage in this country. The centre also provides a mobile phone to allow migrants to make at least one phone call to their families. None of the detainees interviewed had received legal assistance or the services of an interpreter during their detention. Some individuals complained about maltreatment at the Mauritanian police station.

Detainees do not perform any type of activity and are kept from walking or doing exercise in the courtyard; they are only allowed to walk the fifty or sixty metres to the latrine, with a police escort. This strict control is due to the fear that they might escape as a consequence of the poor conditions. Information received from various sources puts the average stay at between 3 to 15 days, except in extraordinary cases. The authorities point out that repatriation takes place as expeditiously as possible.

It is important to note that only five of the detainees interviewed acknowledged that they had been intercepted when attempting to cross into the Canary Islands. Eight others claimed they had been arrested in Nouadhibou while they were working, in most cases in the fishing industry, or while doing daily activities; they denied secretly seeking to immigrate to the Canary Islands.

According to the information collected, migrants are not informed of when, how or under what circumstances their transfer will take place. Many migrants interviewed expressed concern about how they would reach their place of origin after being left at the

border. Some stated that they might have to travel more than a thousand kilometres without resources (money, transport, food, drink). The general opinion among migrants, authorities and social organisations is that most of the migrants, once expelled, try to re-enter Mauritania.

### International protection process paralysed

Mauritania has only had a formalised asylum procedure since 2005. The law stipulates that applications must be submitted to the Interior Ministry by the applicant himself or by the United Nations High Commission for Refugees (UNHCR). Applicants must be given a temporary residence permit, which can be renewed after three months; this status gives them the right to work and to use social services. Applications are reported to the National Advisory Commission on Refugees, which examines the cases and sends its opinion to the Interior Ministry for the final decision on recognition of the status of refugee.

An individual recognised as a refugee has the right to receive the same treatment as citizens in matters such as access to health services, employment, social security and education. If the request for asylum is rejected, there is no provision for appeal. However, these laws have not yet been put into practice and, given that the National Advisory Commission on Refugees still does not function with regularity, the task of reviewing applications for asylum devolves to the UNHCR. According to data from Amnesty International, there are currently 950 refugees in Mauritania under the protection of the High Commissioner. In March 2008, refugee status had only been confirmed in 38 out of 80 cases transferred from the UNHCR to the Interior Ministry. The institutional instability during 2008 paralysed the process.

In addition, there is neither a protocol nor an organised process for gaining access to detained migrants or to facilitate their access to information regarding the status of their application. This situation is in violation of the principle of devolution, which prevents the repatriation of migrants who are in danger of suffering reprisals in their state of origin. Organisations that defend refugees as well as the National Association for the Fight against Poverty (ALPD), one of UNHCR's local counterparts, should have special authorisation to enter detention centres to meet with migrants, detect asylum cases and offer assistance.

After analysing the situation of the detention centre, the inadequacy of its facilities, the conditions under which those who are subject to deportation to Senegal and Mali are kept, and the absence of a legal structure in Mauritania to monitor the centre's operation, CEAR's report called for the Mauritanian authorities to proceed with the immediate closure of the centre. Moreover, in accordance with this measure, both the Spanish Government and the EU, in conjunction with Frontex, should immediately suspend cooperation in migration matters that in any

way lead to the detention of immigrants under conditions such as described in Mauritania.

### Conclusions

As reflected in CEAR's report, the current situation for migrants in Mauritania is very similar to the situation before the establishment of the centre in respect to the absence of basic rights and legal guarantees. There is great scope for improvement in the laws pertaining to migrants in Mauritania and their implementation, and in relation to the training of officials.

CEAR maintains a critical stance towards the outsourcing of immigration and asylum policies by the EU, and by Spain in particular, because it erodes basic rights and the rule of law and shifts the responsibility for migration control to third countries, most of which have not developed sufficient control mechanisms with respect to fundamental human rights in areas such as legal assistance, access to asylum procedures, the right to judicial review of administrative decisions or the period of detention.

Finally, there can be no long-term migration management without addressing the real causes of impoverishment and the absence of prospects of the affected populations; focusing the response to migration on border controls and containment diverts migration flows, strengthens the mafias that profit from migrants' suffering and generates resentment, which may have incalculable consequences. ■