Cayuco and Euro Crises: Changing EU Governance of Migration Policy?

Carmen Pestano
Department of Political Science
Hofstra University
cpestano1@pride.hofstra.edu
Abstract:

The *cayuco* crisis of the Canary Islands and the euro crisis exemplify how situations of crises in individual European countries can effect how various levels of government, supranational, national, regional and local, can shape the governance of migration policy. With the creation of common EU border and migration policies, scholars question what impact the EU has on member states and their governance of migration policy to fulfill both EU and national rules. Although some scholars argue that member states have lost control over their national borders in favor of the EU (Hooghe and Marks, 25; 2001), the *cayuco* crisis shows an empowerment rather than a weakening of the Spanish national government. Utilizing liberal intergovernmentalism and neo-institutionalism, I examine to what extent the EU has helped shape the governance of migration policy using both ‘soft’ governance, non-binding rules, and ‘hard’ governance, binding rules. Using ‘soft’ governance, Spain was able to request assistance from the European Border and Coast Guard Agency (Frontex), to help identify and repatriate migrants, thus enhancing Spain’s ability to govern, supporting liberal intergovernmental assumptions of strengthening states. In addition, copying the EU’s externalization of migration policy, Spain created Plan Africa, an official development aid plan to expand influence on Western African countries, and hence prevent the migrants from leaving the continent, putting an end to the *cayuco* crisis. However, the euro crisis of 2008 and the EU’s austerity measures have reduced Spain’s capacity to deal with migration. As the financial capabilities of the regional government to address immigration and integration of migrants has decreased NGOs and other private actors have filled the void of the state, hence shifting the burden of migration policy to both lower levels of government and non-state actors, supporting the assumptions of neo-institutionalism.
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The European migration crisis that began in summer of 2015 has challenged the European Union’s common external border and the tenets of the Schengen Agreement. As Europe struggles to deal with its humanitarian crisis, it seems that European leaders have applied the successful contingency model followed in the Canary Islands, Spain, during the *cayuco* crisis of 2006, when thousands of migrants poured into the tiny archipelago. This project analyzes the beginning of irregular migration to the Canary Islands, and how the EU, the national and subnational levels of government played critical roles in stopping a mass migration from sub-Saharan Africa.

The following will apply European integration theory to understand how different levels of government exerted governance over migration matters during the *cayuco* crisis, and how EU hard governance, or official treaties and regulations, and soft governance, non-binding rules, impacted policy implementation. First, this paper will analyze the concept of governance and certain models that have been used to examine the nature of European integration: neoinstitutionalism and liberal intergovernmentalism. These theories highlight the role of different levels of government in the European context, in this case applied to migration policy.

Overview of the Canary Islands’ case study

Spain has been on the frontline of African migration to Europe even prior to the current migration crisis of 2015. The Spanish Canary Islands, located off the Western coast of Africa, have been a main entranceway for migrants to enter Europe. In 1994, the first *patera*, a wooden fishing boat, arrived to the shores of the Canary Islands, which marked the opening of a new migration route, the Western African route (Castellano, 2014). At the time, the EU had approved the creation of the Schengen area, a treaty that abolished national border controls and allowed free movement of people among the signing EU countries (European Commission, 2013).

The influx of migrants entering the islands irregularly increased from 8,519 in 2004, to over 31,000 in 2006, the peak of what became known as the *cayuco* crisis (Frontex, 2006). The significant amount of irregular migrants overwhelmed the capabilities of the Spanish levels of government. The police forces of the Spanish central
government stationed in the archipelago could not identify migrants or prevent deaths at sea. Similarly, the regional government or Autonomous Community of the Canary Islands was not able to integrate migrants in the Canary community, which is their responsibility. There have been Human Rights Watch (HRW) and Amnesty International reports denouncing the living conditions of migrants in the islands, both inside and outside the detention centers for migrants (HRW, 2002; Amnesty International, 2006).

As the Canary regional government was struggling integrating the migrants, a sentiment of social discontent appeared among Spanish citizens. Irregular migrants were being released from the detention centers because of overcrowding and the impossibility of identifying them. The regional parliament of the Canary Islands asked the Spanish central government for help. Consequently, the Spanish government asked the EU for assistance in controlling the migration influx. The EU sent Frontex, the brand new European Border and Coast Guard Agency, to coordinate the actions of identification and repatriation. Frontex, through the plans of action HERA I and HERA II, coordinated the deployment of ships, aerial help and technical experts from other member states. Since Frontex lacks its own equipment and group of experts, assistance to Spain was on a voluntary basis (Frontex, 2006). The functioning of Frontex exemplifies soft governance, as it is non-binding yet it has practical effects. The other case of EU’s soft governance that shaped Spain’s migration policy came with the Tampere Accords.

An integral part of decreasing the number of African migrants arriving to the Canary Islands shores was the externalization of EU migration policy (Triandafyllidou, 2014). In 1999, the externalization of EU migration policy found strong support from the European Council and at the Tampere meeting in 1999, “partnership with the country of origin” became a major goal of the Council regarding Common Asylum and Migration Policy (European Council, 1999). The Conclusions of the Tampere meeting supported the notion of co-development between the EU and third party countries to improve conditions of underdeveloped areas that are the source of migration (European Council, 1999).

Similar to the Tampere Council Conclusions, Spain created an Official Development Aid Plan referred to as Plan Africa. Plan Africa was a development program with several home countries of migrants that included the opening of new
embassies in the continent and the promotion of trade relations with the migrants’ main countries of origin to improve their economies (Ministry of External Affairs, 2006). Therefore, Spain adopted the recommendations from the European Council Tampere meeting, EU’s soft governance.

The *cayuco* crisis exemplifies the continuous shift between soft and hard governance. First, the EU strengthened the Spanish state through soft governance with the assistance of Frontex and the recommendations laid out in the Tampere Accords. Second, the Charter of Fundamental Rights and the Schengen Agreement to which members of these agreements must comply, are examples of hard governance. However, according to the reports of Amnesty International and HRW, migrants’ rights were being violated (HRW, 2002; Amnesty International, 2006), which implies that the EU’s hard governance was not as effective.

Although the number of migrants kept decreasing, there was another crisis that affected Spain’s migration policy: the euro crisis of 2010. The European Commission executed hard governance in response to the euro crisis imposing austerity measures to certain member states to tackle rising public debts, Spain being one of them (Zapata, 2016). Austerity forced the Spanish state to reduce its funding to the regional governments, and consequently to lower levels of government. This measure could have potentially affected the situation in the Canary Islands, especially in integrating the migrants that had arrived years prior to the euro crisis, as there would be no funds to facilitate their integration into the Canary community. However, a lower level of government of the Canary Islands had addressed this issue, the *cabildos*. *Cabildos* are governing institutions from colonial times that address each island’s issues separately. They are the most effective at addressing the problem of islands being isolated from the mainland. In 2001, the *cabildo* of Tenerife had created OBITen, Tenerife’s Observatory for Migration, an institution that was first aimed to conduct research on the arrival of migrants to the islands (Zapata and Ramallo, 2015). In 2010, when the national budget to the regional governments decreased, the austerity constrained the *cabildos*. The *cabildo* of Tenerife significantly reduced its funding to OBITen, which forced the social organization to seek funding from other sources, like the University of La Laguna, in Tenerife. As a result of less money from the AC and national governments for migration
issues, OBITen expanded its duties to promoting integration and cultural diversity through numerous events and services (Zapata and Ramallo, 2015). Therefore, it was OBITen along with other non-governmental organizations, like Red Cross and Caritas, a church organization, that managed the integration of migrants in the years of the euro crisis. This situation exemplifies a system of new modes of governance, as non-state related actors shaped governance over migration matters.

The Migration Influx that led to the Cayuco Crisis

The Canary Islands, located off the Western coast of Africa, have historically been a region of migrants. Thousands of islanders migrated to the Americas looking for jobs in the New World. However, the Canary Islands had always been the beginning of the migration route, not the destination. This condition began to change in the 20th century. Since 1994, with the arrival of the first patera, until 2014, the Canary Islands have received 2,884 pateras and cayucos with 98,443 irregular migrants on board (Castellano, 2014). Pateras are small fishing wooden boats that can barely float in waters with strong currents, like the Atlantic Ocean. Cayucos are boats bigger than pateras that smugglers over crowd, very similar to today’s refugee crisis. Migrants arriving to the
Canary Islands since 1994 were escaping conditions of poverty and hunger. The Canary Islands are seen as the “rich neighbor” of the African continent and an entryway to Europe (Godenau and Zapata, 2008). Migrants get their passages from smugglers that charge very expensive fees and provide no protection. Once they put the immigrants on the boat, they are left to their own devices. The situation worsened as smugglers overloaded the boats with too many people. The migrants had to cross 60 miles by sea in an approximately weeklong journey (Triandafyllidou, 2014). The travelers faced conditions of hypothermia, dehydration, disease and overcrowding (Amnesty International, 2006; Castellano, 2014). In 2006, the number of migrants coming to the Canary Islands increased exponentially, creating a challenge not only for the regional government of the archipelago, but also the Spanish state, hence the name cayuco crisis.

The immigrants arriving to the islands until 2000 were light skinned Saharawi’s. Since there was no government in Western Sahara with whom to negotiate a repatriation agreement, these migrants stayed in the islands, but this did not create an integration problem because people of lighter skin color could be easily integrated in the Canary community. The integration problem began after the year 2000, when cayucos, larger boats, started to arrive to the Canary shores (Naranjo, 2016). The hot spot in Spain used to be located in its autonomous cities in the north of the African continent, Ceuta and Melilla. Migrants would sneak in from Morocco, hence the Spanish government built a large, high technology fence to prevent them from doing so. Therefore, the Moroccan-Spanish border became impermeable, meaning that no undocumented migrants could access Spanish territory trespassing this fence. With the impermeabilization of this area, migration routes moved south from the Spanish enclaves in northern Africa, to the Canary Islands (Godenau, 2016). Since the migration routes had changed because of closure of northern enclaves (Godenau and Zapata, 2008), people were coming from other countries like Senegal or Mauritania, which meant that they were black or darker-skinned migrants. These migrants began being released from the detention centers because of overcrowding. There started to appear a non-welcoming environment in the Canary community and there were protest marches with anti-immigration connotations. For example, protest marches in Gran Canaria aimed to bring attention to the problem that migrants could bring disease since they are not vaccinated in their countries of origin.
(Millet, 2008). There was another anti-immigration component in the city of Garachico, Tenerife, when a group of unaccompanied minors arrived to the city to settle there in a center for minors. They were victims of insults from villagers as their bus took them to the center (Millet, 2008).

In order to ease the situation, in 2001 the mayor of Las Palmas de Gran Canaria at the time, Jose Manuel Soria, from the center-right wing People’s Party (party in charge of the Spanish national government currently), sent 200 unidentified or “un-deportable” migrants, that were living on the streets, to mainland Spain (Naranjo, 2016). This became known as the “Soria doctrine.” It consisted of sending migrants living in the streets of the municipality of Las Palmas de Gran Canaria to Madrid, Spain’s capital, so they could be closer to their embassies (Abc, 2002), which would facilitate the normalization of their legal status in Spain or their travels to other European countries. The Autonomous Community of the Canary Islands began sending migrants to other ACs also to facilitate the repatriation process from other regions (Godenau and Zapata, 2008).

Initially, migrants were arriving to the Eastern islands of Fuerteventura, Lanzarote and sometimes Gran Canaria (see map #2, p. 36), in the small fishing boats pateras. By 2006 the number of migrants increased to as many as 30,000 (Frontex, 2006). Hundreds of migrants arrived to the Canary Islands’ shores every day in the much larger cayucos, carrying more passengers. The increase in migrants overwhelmed both the regional and national government’s existing infrastructure to deal with migration. The Policía Nacional, National Police, which falls under the Spanish government’s authority, was unable to intercept and process the increasing number of migrants to all seven islands. Because the Guardia Civil, Civil Guard, a police force of the Spanish state whose competency belongs to the national level, did not have the proper ships or methods to assist migrants on the high seas, there were many accidents resulting in fatalities. In 2006, approximately 1,260 migrants passed away on their journey to the Canary Islands (Godenau and Zapata, 7; 2008). The official number of deaths since the first wreck in 1997 is approximately 1,770 (Castellano, 2014), though the real number of dead or disappeared will remain unknown since bodies were lost at sea.

The National Police stationed in the Canary Islands lacked the tools or skills to identify all migrants, and as a result many undocumented migrants were released from
the centers where they were retained on the islands (Naranjo, 2016). These centers were overcrowded and lacked the resources needed to follow EU standards (Human Rights Watch, 2002). Human Rights Watch made a report on the living conditions of one of these centers in Fuerteventura and Lanzarote (HRW, 2002), the islands that carried the largest influx of migrants until the year 2005 (see table #1, p. 11). At the time, there existed no infrastructures to house the undocumented migrants, which forced the lower levels of government to adjust former port terminals in both islands. For example, the baggage claim area in Fuerteventura’s former terminal was used as the space for male migrants, with mattresses on the floor. These conditions demonstrate that these buildings were not reformed to accommodate a prolonged stay of migrants. The hygienic conditions were poor: they only had access to cold showers and there were only four toilets for 300-500 people, a ratio of 1 toilet per 70 people (HRW, 2002). Migrants had no access to doctors or lawyers. Additionally, migrants were prohibited from leaving the terminals. HRW used data in their report which included a series of interviews with migrants that had left the terminal and interviews with NGO workers providing medical assistance that had access to the terminal (HRW, 2002).

The Canary Islands as an entranceway to Europe

Just like it is happening with the current migration crisis, one of the biggest challenges in the cayuco crisis was to ensure the free movement of people in the EU, while at the same time protecting national borders from irregular migration. In 1995, a year after the first immigrants arrived to the Canary Islands in a patera, Spain instituted measures to adopt the Schengen agreement, signed in 1985, a treaty that facilitates the free movement of goods, services, money and people among signatory countries (European Commission, 2013). With the abolition of national borders, any person, regardless of their citizenship, could transit freely in Europe. Spain became part of Schengen in 1995 (Schengen Visa Info), hence the incentive for immigrants to go to Spanish territory, and later move to other European countries. In 1999, Schengen became part of EU law with the Amsterdam Treaty (Schengen, 2016), making entrance into Spain even more attractive as a geographically close gateway from Africa into Europe.
The first irregular immigrants that arrived to the Canary shore in 1994 were Saharawi. They were fleeing Western Sahara because of Morocco’s authoritarian rule that prevented Saharawi people from being an independent nation. This conflict dates back to 1975, when Spanish troops let Morocco take control over Western Sahara that had been previously under the jurisdiction of Francisco Franco’s Spain. After Franco’s death that year, this territory was completely abandoned to Morocco’s authoritarian rule. In 1976 Spain, Mauritania and Morocco signed the Madrid Accords agreeing that Spanish troops would leave Western Sahara. They were a somewhat informal agreement with Morocco in the period of transition to democracy. The Madrid Accords do not appear on the Boletín Oficial del Estado, or Official State Bulletin (Villar, 2015). The Accords were kept from the public in what seems to be an attempt to cover the abandonment or neglect of a former colony. Saharawi people were facing drought, lack of resources, and a repressive regime from Morocco’s rule. Most of them lived in mass refugee camps, with lack of hygiene, sanitization, educational opportunities, and facing other life-threatening conditions (Villar, 2015).

Migration Routes from Africa to Europe
Over time, more people have arrived illegally to the Canary Islands from different countries. Senegal, Mauritania, Mali and Gambia are their main countries of origin, and also the origins of the migration routes (Godenau and Zapata, 2008). These routes change as the human trafficking groups are discovered. The first routes were short and direct to the islands. They departed from Tarfay (Morocco), and El Aaiun (Western Sahara). Because of the closure of the Northern enclaves of Ceuta and Melilla, these routes have moved south. Longer and more dangerous routes have now replaced them. They depart from Nouadhibou (Mauritania), Saint Louis (Senegal) and Abidjan (Ivory Coast) (Godenau and Zapata, 12; 2008).

Table 1: Nationality of migrants arriving to the Canary Islands 2004-2007

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Ivory Coast</td>
<td>308</td>
<td>264</td>
<td>1,696</td>
<td>706</td>
<td>2,974</td>
</tr>
<tr>
<td>Gambia</td>
<td>1,654</td>
<td>1,228</td>
<td>3,627</td>
<td>2,245</td>
<td>8,754</td>
</tr>
<tr>
<td>Mali</td>
<td>2,830</td>
<td>1,299</td>
<td>3,418</td>
<td>1,042</td>
<td>8,589</td>
</tr>
<tr>
<td>Morocco</td>
<td>902</td>
<td>784</td>
<td>1,225</td>
<td>869</td>
<td>3,780</td>
</tr>
<tr>
<td>Senegal</td>
<td>21</td>
<td>117</td>
<td>16,215</td>
<td>2,683</td>
<td>19,036</td>
</tr>
</tbody>
</table>


Hundreds of migrants per day were arriving to the touristic beaches of the archipelago, in which residents and tourists ended up helping the authorities assisting migrants, not unlike the devastating scenes recently seen on Greek islands such as Lesbos. Before the intervention of Frontex in the migration crisis in 2006, the actions of the different levels of government were not effective. The Spanish national government lacked the needed resources to allocate to its police forces in the islands, hence not helping prevent the number of deaths in the ocean (Naranjo, 2016).
Table 2: The distribution of irregular entrances per islands

<table>
<thead>
<tr>
<th>Islands</th>
<th>2004</th>
<th>%</th>
<th>2005</th>
<th>%</th>
<th>2006</th>
<th>%</th>
<th>2007</th>
<th>%</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>La Palma</td>
<td>0</td>
<td>0</td>
<td>48</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>131</td>
<td>1.1</td>
<td>179</td>
</tr>
<tr>
<td>La Gomera</td>
<td>0</td>
<td>0</td>
<td>72</td>
<td>1.5</td>
<td>3,138</td>
<td>9.8</td>
<td>244</td>
<td>2.1</td>
<td>3,454</td>
</tr>
<tr>
<td>El Hierro</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1,891</td>
<td>5.9</td>
<td>1,262</td>
<td>10.7</td>
<td>3,153</td>
</tr>
<tr>
<td>Tenerife</td>
<td>104</td>
<td>1.2</td>
<td>637</td>
<td>13.5</td>
<td>18,275</td>
<td>57.4</td>
<td>5,813</td>
<td>49.5</td>
<td>24,829</td>
</tr>
<tr>
<td>Gran Canaria</td>
<td>535</td>
<td>6.3</td>
<td>1,399</td>
<td>29.7</td>
<td>5,464</td>
<td>17.2</td>
<td>2,965</td>
<td>25.2</td>
<td>10,363</td>
</tr>
<tr>
<td>Lanzarote</td>
<td>348</td>
<td>4.1</td>
<td>323</td>
<td>6.8</td>
<td>822</td>
<td>2.6</td>
<td>637</td>
<td>5.4</td>
<td>2,130</td>
</tr>
<tr>
<td>Fuerteventura</td>
<td>7,532</td>
<td>88.4</td>
<td>2,239</td>
<td>47.5</td>
<td>2,269</td>
<td>7.1</td>
<td>694</td>
<td>5.9</td>
<td>12,734</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>8,519</td>
<td>100</td>
<td>4,718</td>
<td>100</td>
<td>31,859</td>
<td>100</td>
<td>11,476</td>
<td>100</td>
<td>56,842</td>
</tr>
</tbody>
</table>


The table above illustrates the influx of migrants arriving to each island within the period 2004-2007. Most notably, the Western islands of La Palma, La Gomera and El Hierro did not encounter any or barely any *pateras* until the migration crisis began in 2006. This is because since 1994 the migrants were arriving or being intercepted in waters close to the Eastern islands, the closest islands to the African continent. During 2004-2005, the Eastern islands of Gran Canaria, Fuerteventura and Lanzarote were receiving the bulk of migrant boats. Fuerteventura is roughly 90 km away from the African shore, it is the fastest route; hence the magnitude of migrants coming in since 2004. The focus of migrants arriving to the Eastern islands caused a political conflict between the two provinces that will be further discussed.

When the influx of *pateras* and then *cayucos* increased, the new routes included the Western islands as well. The switch to the route of Tenerife caused the rise from just 104 migrants in 2004, to over 18,000 in 2006. Similarly, La Gomera experienced the arrival of 3,138 migrants in 2006. The islands that received the most migrants during the *cayuco* crisis were the two capitals, Tenerife and Gran Canaria. Because they are the economic and political centers of the archipelago, the intercepted migrants at high seas were taken to these ports of either one, where the local authorities and Red Cross would assist them.
Tourists assisting migrants at their arrival to the touristic beach of “La Tejita”, Tenerife.

Locals removing a *patera* from the touristic beach of La Tejita.

The wooden boats arrived to places like the municipality of Valle Gran Rey in the island of La Gomera, with 5,000 residents, or to the municipality of Valverde, in the island of El Hierro, home to just over 4,000 people (INE, 2017). Such a large amount of
immigrants arriving to these tiny cities of the Canary Islands required the assistance of various levels of government, supranational, national, regional, and local as well as non-governmental agencies, such as the Red Cross and Caritas. Red Cross operates as its American counterpart on providing humanitarian assistance on specific situations of need. On the other hand, Caritas is the official NGO from the Catholic Church. Although in theory NGOs are not affiliated with any government, the Spanish government contributes to Red Cross’ and Caritas’ funding because of their effectiveness in humanitarian duties (Godenau and López Sala, 2016; Caritas, 2012). The NGOs perform the following duties upon the arrival of irregular migrants: they provide a preliminary medical examination, legal assistance, management of detention centers for migrants, translation services and the NGOs assist with the integration of minors and migrants in situations of vulnerability (Godenau and López Sala, 2016).

Specifically, Spain and the Spanish Red Cross have reached an agreement to manage frontline humanitarian assistance. Since the influx of migrants began increasing in 2000, the Spanish government contracted Red Cross for assistance directly on the beach with Immediate Response for Emergencies teams (ERIE, the acronym in Spanish) (Godenau and López Sala, 2016). Red Cross also has access to the management of funds of the centers for migrants. In 2015, Spain and Red Cross signed new agreements: one for humanitarian and social assistance in the centers for migrants that amounts to 1.2 million euros, and another one to improve the asylum and refuge system in Spain, with financing of 13 million euros (Godenau and López Sala, 2016). In this way, Caritas and the Red Cross have become important non-governmental actors in the governance and implementation of migration policy. As a member of the EU, the EU, Spain, regional, and local governments all have some competencies in migration policy, as well as NGOs. Thus, migration policy must take into account the EU level of government as well as lower levels and non-governmental actors.

**Governance of Migration Policy**

EU integration theorists differ on what role the EU plays in shaping the governance of migration policy. Depending on the policy sectors, the EU supranational level of government may or may not exert effective governance. Because of the Schengen
Agreement, the EU does play a role in shaping migration policy, but it is unclear how the EU may impact the governance of the policy. Specifically, on migration matters, the cayuco crisis of the Canary Islands illustrates how dealing with great influxes of migrants in the Canary community shaped governance of migration across all levels of government, including that of the EU.

Neoinstitutionalism and liberal intergovernmentalism are two of the prominent competing theories of European integration. These two opposing perspectives aim to study integration and how governance and sovereignty are impacted with regional integration. Neoinstitutionalism recognizes the EU as an independent institution that holds power, while liberal intergovernmentalism presents member states as the main actors in European integration. According to Caviedes (2017), specifically migration policy in the EU tends to arise from an intergovernmental approach, in which the Council, which represents member states, defends states’ individual preferences on migration matters, suggesting that member states are the main actors. The case study of the Spanish cayuco crisis exemplifies the role of member states as the most relevant actors regarding migration governance in the EU.

Neoinstitutionalists and intergovernmentalists have raised the question over the role of governance in the context of EU integration. Graziano and Halpern (2006) utilize the concept of governance as an organizing tool to follow the allocation of power or competencies within the context of the EU. Governance determines the capacity of actors to influence and obtain outcomes of their preference. Therefore, looking at governance will lead to the understanding of where power lies in the EU (Graziano and Halpern, 5; 2016).

The intended outcome of intervention in the cayuco crisis was to stop irregular migrants from reaching the islands, and Spain achieved it. Using its own resources plus help from certain EU agencies such as Frontex, the irregular migration route was shut down. Therefore, Spain’s outcome of preference was achieved. Some scholars suggest that the EU uses both soft and hard governance to promote integration (Graziano and Halpern, 2006). Soft governance consists of “rules of conduct which in principle have no legally binding force, but which nevertheless might have practical effects” (Synder, 1993). Though there are slightly different definitions, scholars agree on its aspect of
being non-binding (Trubek, Cottrell and Nance, 2005). Soft governance is frequently used as an extension of hard governance, which consists of official treaties and regulations (Trubek, Cottrell and Nance, 2005). For instance, the Charter of Fundamental Rights of the European Union represents hard governance. Its significance is that all member states must comply and are legally bound. In addition to soft and hard governance, neo-institutionalists assert that the EU creates a system of new governance. Bevir (2008) applies the term new governance to issues of public policy, to matters that he defines as all actions of government. In this context, new governance encompasses all the actions “performed by agents of the state rather than directly by the state” (Bevir, 2008). The definition implies that there are several actors that participate in the policymaking process, and that the state does not hold the leading role any longer; instead, it is supranational, subnational and non-state related actors who legislate and implement laws (Bevir, 2008). This new governance approach understands the EU as a regulatory state, or a state that “relies on extensive delegation of powers to independent institutions: regulatory agencies or commissions, but also the judiciary” (Majone, 1999:1). In the cayuco crisis many levels of government and non-state actors participated: EU’s agency Frontex, regional, insular and local levels of government, and Red Cross, Caritas and other NGOs to assist with the rescue and integration of migrants.

Neo-institutionalism and intergovernmentalism both conceptualize the allocation of power within the EU to different actors. Neo-institutional scholars argue that the EU is a political system with identifiable executive, legislative, and judicial features of its own (Rosamond, 2000). This understanding of the EU goes further than simple integration; it is more than just an international organization of countries. In this way, the EU is seen as a political entity that encompasses all the institutions and political processes that scholars study in the larger field of political science (Rosamond, 2000). Therefore, all existing levels of government (national, regional, and local) share power with the European level of government (supranational). This is known as the concept of multilevel governance (MLG) as the EU adds a new supranational institution with which national governments have to share authority with, in addition to subnational actors. Hooghe and Marks (2001) define multilevel government as the “polity creating process in which authority and policy-making influence are shared across multiple levels of government-subnational,
national, and supranational” (2). The definition implies that there are several actors that participate in the policymaking process, and that the state does not hold the leading role any longer; instead, it is subnational and other state-related actors who legislate and implement laws (Bevir, 2008). The actors would be either governmental, like the EU or lower levels of government, or private, like NGOs, such as Red Cross and Caritas. According to Hooghe and Marks (2001), the European Union is a single, independent political system that shares competencies with national governments and other levels of government with which member states share authority, challenging the autonomy of individual member states. Although this approach still recognizes the important role of the state, it suggests that, because of European integration, the state is weakened in three important ways.

Firstly, European integration implies that European institutions such as the Court of Justice of the European Union, the European Commission and the European Parliament influence and legislate independently from their member states. Hooghe and Marks (2001) argue that these institutions share power with other actors at different levels, assuming that the state no longer monopolizes power. European-level institutions, like the ones mentioned previously, must be analyzed as separate actors that compete with, rather than derive from, national governments (Hooghe and Marks, 2001).

Secondly, member states lose power when collective decision-making takes place. Except with the accession of new members that requires unanimity, national governments often see their interests outvoted (Hooghe and Marks, 2001). Lastly, Hooghe and Marks (2001) point out that subnational actors, such as regional governments, relate to supranational governments and vice versa without the intervention of the national government. Because policy-making takes place at supranational and subnational arenas, subnational interests are represented beyond the state. In conclusion, Hooghe and Marks’ MLG definition rejects the hierarchy model of top-level administration with the state as the main actor (2011).

Several scholars have interpreted MLG structures in the European Union differently. A definition that is closer to the MLG model that took place in Spain with the cayuco crisis states that coordination does not necessarily exist among different levels of government (Scholten, 2013). Jon Pierre and Guy Peters (2005) argue that although the
role of the state is slightly more relaxed, national governments remain as strong actors whose role can gain more power back in specific situations (p. 81). An example of specific situations would be periods of crisis, in which supranational institutions do not have sufficient mechanisms of law enforcement and subnational actors lack the resources needed to face a conflict. This case applies to the Spanish *cayuco* crisis, as Spain, with the help of the EU, was able to govern migration policy better. The Spanish government, with Frontex’s help, was responsible for controlling the European border and sorting out the legal status of irregular migrants that arrived to the Canary Islands. Börzel and Heard-Lauréote (2009) claim that it is the public actors at the different levels of government who legislate and implement EU policies, not necessarily the EU institutions themselves (p. 139), as was the case in the archipelago. The Spanish national government implemented EU standards and regulations on border control, but did not fully comply with EU rules protecting the rights of migrants. This idea implies that the EU lacks the mechanisms of enforcement on lower levels of government. In moments of crisis, the central role of the state regarding enforcement is enhanced. The *cayuco* crisis demonstrated the lack of EU governance regarding migration, highlighting the central role of the state and the auxiliary role of the EU.

**Protocol of action before the EU’s intervention**

Since 1994 and prior to the *cayuco* crisis, when there were only a few nationals from Western Sahara coming to the archipelago, various levels of government dealt with different aspects of migration policy, but the supranational or EU level did not participate until 2006. The EU did not step in to stop irregular migration until the Spanish executive requested help to manage migration within the borders of the Canary Islands. Hence, before 2006 the national government was in charge of border control, rescue at sea, identification and repatriation. It was the Spanish Guardia Civil, along with the Red Cross, which rescued migrants at sea, and there was a protocol to follow when they found them. First, if they were seen in Mauritanian or Moroccan waters, they were taken back to those countries. If the patrols found them in high seas, the Guardia Civil would rescue them and bring them to the port of either one of the two main islands: port of Los Cristianos in Tenerife, or port of Arguineguín in Gran Canaria (Godenau and Zapata, 10;
Once they were on land, Red Cross provided them with first aid if needed, food, blankets and a preliminary medical examination. The healthy migrants were then sent to the police station, where the National Police would identify them. Recording their nationality is crucial for the repatriation process, and age can mark a difference, as minors are not eligible for repatriation and have to stay in the islands. The National Police also had the task of informing the migrants about their rights and the possible process of return to their home countries (Agencia Estatal Boletín Oficial del Estado, 2000).

Migrants can only spend up to 72 hours in the police station (Agencia Estatal Boletín Oficial del Estado, 2000). When this period has expired and the Policía Nacional has identified them, the migrants are sent to a detention center for migrants, Centro de internamiento de extranjeros (CIE). There are three permanent CIEs in the Canary Islands: one in Barranco Seco, Gran Canaria, with capacity to host 168 people; one in Guacimeta, Lanzarote, for 200 people; and another one in the province of Santa Cruz de Tenerife, at Hoya Fría, that can host up to 238 migrants. The national government adapted additional buildings to become temporary CIEs: an abandoned terminal in Fuerteventura that could host 1,100 migrants and a former prison in Tenerife (Global Detention Project). However, because of the great influx of migrants coming in 2006 the national government had to refurbish pre-existent structures and create new ones to assist and house the migrants. The government created the CETIs, centers for the temporary stay of migrants (Godenau and Zapata, 2008). They were temporary structures next to police stations in the different islands. These facilities have been criticized as very few organizations have access to the inside (Godenau and Zapata, 2008). The Spanish Red Cross, through an agreement with the Spanish government, has access to CIEs, which extends its duty further than assisting the migrants at the airport: the NGO has gained competencies to provide legal advice to asylum seekers, social assistance and translation services for migrants at CIEs. The agreement includes public funds to Red Cross to assist migrants directly where they arrive (mainly on the beach in the case of the Canary Islands), social assistance and assistance at shelters (Godenau and López Sala, 2016). Migrants can spend up to 40 days at the CIEs until they sort out their legal status in Spain (BOE, 2000). Within this period of time, they have to qualify to become some sort of
refugee or asylum seekers, or else they will be sent back to their countries of origin when the 40 days are over. They are put in contact with attorneys to help them apply for asylum and possibly reunite with their families, through the process called family reunification (BOE, 2000). If the nationality of a migrant is not clear, or if Spain has no repatriation agreement with the country, the migrants will be released from the detention centers and become the municipality’s responsibility.

The specific protocol of action changes upon the arrival of unaccompanied minors. The Autonomous Community (AC) has the legal responsibility of placing and integrating the minors after their identification. The unaccompanied minors become the AC’s responsibility (Asín Cabrera, 2007). They are under the jurisdiction of the regional department of protection of minors. Most of the unaccompanied minors remain in the islands as well because of the complexities associated with the repatriation process or displacement of unaccompanied minors to another AC (Asín Cabrera, 2007).

One of the biggest challenges for the Spanish authorities was recording the nationality and ages of the migrants. As the number of migrants increased, the regional government asked the Spanish state for assistance. However, as the Spanish national government was unable to deal with the influx of migrants as well, it requested the European Union’s help. On May 21st of the same year, in the midst of the cayuco crisis, the Canary (regional) Parliament asked the Spanish government to "armor the coast" and called for an emergency fund from the European Union. The next day, the Vice-President of the Spanish executive, María Teresa Fernández de la Vega, traveled to Brussels to ask for help in controlling illegal immigration and securing Spain’s southern border (El Mundo, 2006).

The Spanish national government’s request for assistance also refutes Hooghe and Marks’ assumptions: in this case, the subnational level of government, the regional level, did not relate to the supranational level, the European Commission, independently; rather, the regional government asked the national government for help, which then transmitted the message to the European arena. This situation exemplifies the top-level administration model with the national state as the main actor. The chain of EU-Spain-lower levels of government was followed, as the subnational level of government did not
contact the EU directly; it requested help from the Spanish national government that later transmitted the request to the EU.

In response to Spain’s request, the EU sent Frontex. Frontex, the European Border and Coast Guard agency, is the institution that assures European norms on immigration and border management are being followed according to standards of Integrated Border Management and the Charter of Fundamental Rights of the EU. It was created in 2004 as an attempt to protect Europe’s external borders, since borders within European countries had been eliminated with the Schengen area (Council of the European Union, 2004).

Frontex performs the following tasks: It monitors migratory flows and carries out risk analysis on all aspects of Integrated Border Management; it coordinates and organizes joint operations and rapid border interventions to assist member states at their external borders; provides support in the detection, interrogation, identification and fingerprinting of migrants; supports development of technical standards for equipment; helps member states comply to repatriation duties; and it develops and implements information systems that allow quick and reliable information exchanges about border management, illegal immigration and repatriations (European Union, 2004).

The Impact of Frontex on the Cayuco Crisis with the challenge of a maritime border

The migration policy model the Canary Islands had followed until 2006 experienced a change with the intervention of Frontex. Instead of focusing on rescuing the migrants, the European Union sent officials to cooperate with Spanish authorities, specifically with the Policía Nacional, on identification and repatriation of migrants (Frontex, 2006). By preventing the arrival of migrants to the islands, they were preventing the integration challenge in the Canary society with which the Autonomous Community was struggling. The national authorities, with EU assistance, were preventing the migrants from arriving to the islands or from entering Spanish seas altogether.

The European agency Frontex lacks its own border guards and equipment. The way it works is by relying on European member states to deploy experts and equipment, such as vessels, helicopters, and other equipment, and additional devices as means of identification in the Canary Islands (Frontex, 2015). Frontex develops plans of action and conducts research by creating a workforce with officials from member states that
exchange ideas in an informal setting, what is called the Open Method of Coordination, (OMC) (Graziano and Halpern, 4; 2016; Godenau, 2016). The goal of using OMC is to define common objectives and cognitive principles rather than achieving harmonization (Dehoussse, 2015). OMC is a way of new governance because it gave room to several public or private actors to be part of the policy implementation process regarding border control in the Canary Islands (Dehoussse, 2015).

In order to secure their borders, member states of Schengen follow the Integrated Border Management (IBM) approach. The EU defines IBM as “National and international coordination and cooperation among all the relevant authorities and agencies involved in border security and trade facilitation to establish effective, efficient and coordinated border management, in order to reach the objective of open, but well controlled and secure borders”. IBM highlights the use of modern technology in preventing sea border surveillance. It also includes the implementation of agreements with countries of origin, which is a strategy of externalization of border control.

These control practices are extended and shared among European countries through EUROSUR. The European Border Surveillance System EUROSUR “enhances border surveillance, with the main purpose of preventing unauthorized border crossings, to counter cross-border criminality and to support measures to be taken against persons who have crossed the border illegally (European Commission, 2008). The EU also promotes this initiative also as a resource to save lives at sea.

The European Parliament passed two plans of action for the Canary Islands, HERA I & HERA II, signed in 2006, to assist Spain on securing the border. HERA I consisted of the assistance for surveillance duties in high seas and identification of migrants. It began on July 17th when European countries sent nine experts to the Canary Islands to help Spanish authorities identify migrants that had arrived to the islands illegally. Assistance came from Italy, France, Germany and Portugal. They were later joined by a second and third group of experts. Experts that came in with the second group on August 17th came from Italy, the UK, Germany, Portugal and the Netherlands. The third group of experts was sent to the islands on September 19th with eleven professionals from the Netherlands, France, Italy, Portugal and Norway (Frontex, 2006).
HERA I was expanded with the creation of HERA II, with the goal of improving sea surveillance tasks performed by the Spanish national authorities. Beginning on August 11th of 2006, HERA II included several member states sending ships, helicopters, and other material assistance, in order to stop the *pateras or cayucos* from arriving to the islands. The total cost of this plan of action was 3.5 million euros (Frontex, 2006). A Portuguese vessel, an Italian vessel, an Italian aircraft and a Finnish aircraft, along with the Spanish vessels and helicopters, completed the task of reducing deaths at sea and preventing migrants from leaving African waters (Frontex, 2006).

Frontex’s intervention meant a significant change in a short amount of time. These two contingency actions were successful because they accomplished the European Union goal of securing its most southern border from irregular immigration. The Policía Nacional, working with experts from other countries and using more advanced equipment, managed to identify all of 18,987 migrants that arrived to the island between July 17 2006 and December 10 2006 (Frontex, 2006). In addition, HERA I and II, using the information obtained in the interviews process, facilitated the detention of several smugglers in sub-Saharan Africa, and hence the decrease of more potential irregular migrants (Frontex, 2006). These plans of action were a great example of governance sharing between different levels of government, as the Spanish national government worked along with assistance from other EU member states via Frontex in controlling the border and identifying migrants, the regional level dealt with minors and Cabildos, along with local governments, completed integration duties with fewer migrants. Because of the lower number of migrants that were staying in the islands, lower levels of government were able to address the integration of migrants, which is their competency.

**Frontex as EU’s soft governance**

Although the EU’s agency Frontex, through HERA I and HERA II, assisted Spain on identification and interception duties in the high seas, the supranational institution did not acquire more competencies on migration matters. Technically, since Frontex lacks its own equipment and workers (Frontex, 2016), help came from other member volunteering states, not the EU itself. However, not all countries wanted to aid Spain (Monar, 2007); the EU created Frontex’s plan of action on a voluntary basis. Some EU member states,
particularly Germany and the Netherlands, were reluctant to assisting the Canary Islands. They blamed the Spanish government because they had regularized the situation of 600,000 Moroccan irregular migrants in 2006 (Monar, 2007).1

On the contrary, countries also affected by irregular migration supported the assistance to Spain, like Italy (Monar, 2007). Since Frontex’s workforce is on a voluntary basis, the Spanish national government remained as the most important actor and in charge of securing its own border, even though it is also the EU’s border with Africa. Frontex develops plans of action among several member states and conducts research by creating a workforce with officials from member states that exchange ideas in an informal setting or ‘soft’ governance (Dirk Godenau and Ana López Sala, 2016; Graziano and Halpern, 2016). The Spanish central government relied on other member states sending vessels, helicopters and professionals to stop the migration influx (European Union, 2006). The goal of voluntary coordination is to define common objectives and cognitive principles rather than achieving harmonization. Frontex’s intervention and the cooperation of technical experts across several member states was a way for ‘soft’ governance to allow several public and private actors to be part of the policymaking and implementation process regarding border control and management and care of migrants in the Canary Islands, in part facilitating an end to the crisis.

Spain did not turn control over to the EU; the EU assisted Spain providing resources to combat irregular migration. Therefore, the cayuco crisis empowered the Spanish national government’s capabilities to combat irregular migration and secure its national borders, thus furthering the national level’s governance achieving its preferences and goals. In conclusion, Hooghe and Marks’ theory on MLG does not fully help explain the actions taken in the cayuco crisis except in highlighting the role of subnational actors, the AC.

Liberal intergovernmentalism and the Spanish state as the main actor

The political theory that describes best the EU’s role in migration policy in the case of the cayuco crisis is liberal intergovernmentalism. Liberal intergovernmentalism

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1 Spain has been receiving Moroccan migrants since the beginning of the last century because of its proximity to the African country and historical ties.
emphasizes the power of national governments over the EU. Moravcsik (2001) argues that liberal intergovernmentalism is not exactly a theory of integration, but a theory of states’ bargaining. It implies that member states remain the most important actors in the European context. The national government is the most important actor in the policy-making process (Moravcsik, 1994), the one whose governance is more effective. Intergovernmentalists look at the EU as an international organization like the UN: they lack power of taxation, of enforcement, and membership is voluntary (Reinalda and Verbeek, 2004).

Thus, in the intergovernmental framework states preserve their sovereignty in the process of European integration. This assumption implies that the progressive convergence of standards and increase of EU powers that came with subsequent treaties do not affect the sovereignty of member-states. However, it does not mean that member states do not get involved in European integration; rather, intergovernmental theory suggests that member states participate in the European integration process, but they manage to not give up their sovereignty (Reinalda and Verbeek, 2004). States may also have an interest in sharing or giving up some a limited amount of sovereignty with the EU in order to achieve a further goal or obtain benefits (Reinalda and Verbeek, 2004). Governments cooperate to find common solutions for common problems. Moreover, some scholars argue that state sovereignty within the EU actually expands (Moravcsik, 2001), which implies that European integration empowers member-states. The EU is perceived as a supranational actor to assist member-states when situations of need arise. The political union is not forced upon national governments; rather, countries negotiate common policies, hence the bargaining aspect of intergovernmental theory. Although the EU facilitates communication and cooperation among member-states, member-states can decide on what policies they do or do not participate. The case study of the cayuco crisis exemplifies intergovernmental theory, as the Spanish national government remained the most important actor in dealing with migration matters. Spain exerted control over migration matters and brought EU’s assistance in while managing to keep its competencies. The EU’s intervention with Frontex empowered the capabilities of the Spanish state, what liberal intergovernmentalist theory identifies as the EU working as an agency of the Spanish national government. Therefore, the cayuco crisis did not change
the power distribution within the EU; it kept border control and migrant identification as a competency of the Spanish state. Frontex’s role was simply to aid a member state.

**The progressive convergence of European policies: Europeanization**

According to neo-institutionalists, European policies are converging (Caviedes, 2004). In EU studies there have emerged many theories that study the degree to which EU policy shapes national policy, or whether the EU facilitates the integration of member states or not. The result of the convergence process is called Europeanization. Europeanization is a term that emerged from the progressive merging of European standards and policies, and EU scholars argue that it can be found almost everywhere to at least a certain degree (Radaelli, 2000). It reflects the impact of European policies on national policies and vice versa. Scholars have defined Europeanization differently. Lawton (1999) defines it as the transfer of state sovereignty to the EU level. Börzel (1999) instead focuses on what happens once power has been given to Brussels, this is, after Lawton’s transfer of state sovereignty. Börzel defines it as “a process by which domestic policy areas become increasingly subject to European policy-making.” Claudio Radaelli (2000) defines Europeanization as

“Process of a) construction, b) diffusion and c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, “ways of doing things” and share beliefs and norms which are first defines and consolidated in the making of EU decisions and then incorporated in the logic of domestic discourse, identities, political structures and public policies” (4).

Radaelli’s definition includes the distinction between formal and informal rules that can be thought of as hard and soft governance respectively. Therefore, the EU pushes towards integration using a combination of both hard and soft governance.

An example of Europeanization through hard governance is the creation and expansion of the Schengen zone. The Schengen zone abolishes all internal borders among signatory countries (European Commission, 2013). The EU created the Schengen area in 1985 with originally five members: Belgium, Germany, France, Luxembourg and the
Netherlands. Since then, it has expanded to 26: Austria, Belgium, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Portugal, Sweden and within the European Union, as well as Iceland, Liechtenstein, Norway and Switzerland. Any citizen of any of the participating countries can travel freely through the Schengen area, as if it was the extension of their own country. However, not all EU Countries are part of this treaty. Bulgaria, Croatia, Cyprus, Ireland, Romania, and the United Kingdom are not members either by choice or they have not met the criteria (European Commission, 2013). These countries not part of Schengen still maintain their own border policies.

With the abolition of border controls, states gave away sovereignty to the EU, but they received a greater good in exchange. The EU implemented the Schengen Information System (SIS). It is a large-scale information system through which police, immigration, judicial and other authorities can introduce and revise alerts with descriptions of missing persons, persons or objects related to criminal offenses and third-country nationals who are not allowed to enter or remain in the Schengen area. This system is regularly updated (European Commission, 2013). All countries part of Schengen are legally bound to the abolition of border controls and the contribution to SIS to fight crime and irregular migration.

In order to address and balance the milestones of freedom, security and justice under the creation of the Schengen area, the European Council held a meeting in Tampere, Finland, in 1999. At this time, the influx of irregular migrants to the Canary Islands was just becoming regular. The goal of the Tampere meeting was to ensure the freedoms established in the Amsterdam Treaty could be enjoyed in conditions of security of justice (European Council, 1999). In order to accomplish that target, the European Council recommended member states work towards developing a comprehensive approach addressing the issue of irregular migration within the countries of origin. The Council suggested the creation of partnerships with third countries, promoting “co-development” to fight poverty, improve living conditions in general and support the consolidation of democracy and human rights.

The Tampere Accords combine the fight against irregular migration and those who facilitate it, and the recognition of asylum and the need for surveillance as a way to
create an open and secure EU. In order to do so, the European Council recommended cooperation among member states on technology transfer and exchange programs, as was the case in the cayuco crisis. Frontex’s intervention was an example of soft governance, as assistance to Spain was rooted on a voluntary basis with the transfer of vessels, helicopters, and other equipment. The development of SIVE and border control is another situation of soft governance, as Spain adopted the recommended comprehensive approach using the remote detection of vessels.

In order to stop the migrants before their arrival to Spanish soil or before their entrance on Spanish waters, the Spanish national government contracted several companies to construct, extend and maintain border facilities for over 60 million euros between the period 2005-2015 (Godenau and López Sala, 2016). These companies were construction and security companies, like Dragados, Securitas and Ferrovial. They created and developed SIVE, the External Surveillance Integrated System, a system of remote detection of vessels. SIVE cost 232 million euros for the period 2000-2008, and because of its success it has been exported to other countries like Portugal, Romania and even non-European countries (Godenau and López Sala, 2016). These contracts also exemplify new governance, as the Spanish government contracted both private and public enterprises to build the security system, thus relying on non-state actors to solve the crisis.

The Tampere European Council invited member states to “contribute within their respective competencies” (European Council, 1999). Tampere’s aspect of recommendation, not European law, makes it soft governance from the European Union. Although Spain was not forced to adapt these measures, it continued adhering to the recommendations of the Tampere Council with the creation of Plan Africa. Plan Africa was Spain’s attempt to stop irregular migration from Western Africa by combating poverty and supporting countries of origin that were in the process of democratization.

**Plan Africa: Spain’s adoption of EU externalization of migration policy**

Plan Africa, Spain’s specific policy to fight irregular migration, went beyond border control. Before the EU stepped in, a significant amount of unidentified and also identified migrants stayed in the islands because there were neither efficient identification
systems nor repatriation mechanisms with several countries of origin. This is because Spain, as a member state of the European Union, cannot sign trade treaties with other countries. However, it is possible to sign different accords that can legally have the same effect as a treaty, like business investments or development aid.

The Spanish government took action by creating an Official Development Aid (OAD) plan called Plan of Action for Africa, which consisted of the opening of new embassies in the continent and the promotion of trade relations with the migrants’ main countries of origin to stop the action of the smugglers. Approved for the period 2006-2008 and then extended to 2009-2012, this plan meant an increase of Spanish influence in specific African countries. The goal of this plan was to improve the living conditions of sub-Saharan African citizens in order to prevent them from migrating to the Canary Islands. It turned Spain into the main investor in Africa. The development plan was framed on the Millennium Declaration (Plan Africa, 2006) with the goal of achieving the Millennium Development Goals (MDGs), eight goals and several targets to combat poverty (United Nations, 2002).

Plan Africa consisted of the increase of Spanish influence in the African continent. From sending police forces for assistance on peace processes to increasing investments in different industries, Plan Africa’s long-term goal was to reduce irregular African migration to Spain by improving the quality of life in the immigrants’ countries of origin. The plan was based around seven objectives: contributing to the consolidation of democracy; fighting against poverty; promoting cooperation to regulate migration flows; participating in the development of an EU’s strategy towards Africa; strengthening economic exchanges and encourage investment, especially in relation to energy security and hydrocarbons; encouraging cultural cooperation; and increasing the institutional presence of Spain (Plan Africa, 2009).

Focusing on one country, Mauritania’s outcome with the Plan Africa is particularly remarkable because of its success. The goal was to stop irregular migration, and it was achieved. Five members of the Spanish National Police and another group of twenty five Spanish Civil Guard workers travelled to Mauritania to partner up with a group of Mauritanian state policemen. The Spanish state contributed to the increased power of the Mauritanian’s national police with the incorporation of two thirty meters-
long vessels, two fifteen meters-long ones and a helicopter (Peregil, 2015). All these measures had the goal of preventing migrants from departing the Mauritanian coast and/or stopping them at Mauritanian seas. Therefore, irregular migrants would be stopped before entering the Schengen zone and the EU.

Spain also invested over 150 millions euros in Mauritania, following different business plans, like one of fish distribution to rural areas. Another decisive factor for the success of Plan Africa in Mauritania was the approval of a law that punished smuggling with up to 5 years in jail (Peregil, 2015). Additionally, the national government created the Plan conjunto de actuación en material de inmigración entre la Administración General del Estado y la Comunidad Autónoma de Canarias, or the Joint Plan of Action on Migration Matters between the National Government and the Autonomous Community of the Canary Islands. It consisted of expenditures of 188.2 million euros for 2005-2007 (Godenau and Zapata, 2008; Agencia Estatal Boletín Oficial del Estado, 2006), the period when the greatest influx of migrants were arriving to the islands. The investment addressed maritime rescue, first aid to migrants, and the fight against irregular migration in general (Agencia Estatal Boletín Oficial del Estado, 2006). Both Plan Africa and Plan Conjunto demonstrate how Spain, copying the EUs externalization of migration policy, addressed the situation of the cayuco crisis using official treaties with countries of origin in Western Africa and the regional government of the Canary Islands.

Although some scholars argue that member states have lost control over their national borders in favor of the EU (Hooghe and Marks, 25; 2001), the cayuco crisis shows an empowerment rather than a weakening of the Spanish national government. Without giving away competencies, Spain managed to bring in EU’s agency Frontex, European Border and Coast Guard Agency, to help identify and repatriate migrants, thus enhancing Spain’s ability to govern. In addition, Spain created Plan Africa and Plan Conjunto.

The EU and Common Asylum Policy: Hard Governance

Although the agreements reached in the Tampere Council were non-binding, or soft governance, this first expansion of freedoms was the base for the Common European Asylum Policy, which represents EU hard governance. The Tampere meeting was first to
address the creation of a Common European Asylum System. Eventually, the European Council finalized the Common European Asylum System (CEAS). It is the framework that regulates EU standards on migration (FRA and ECHR, 2014). It is based on the Geneva Convention of 1951 that had been established following WWII and the increasing influx of migrants after the destruction of the war. The rights of migrants are laid out in the European Convention of Human Rights (ECHR), a EU treaty to protect rights and freedoms on European soil. It consists on the legally binding treaty to enforce respect of human rights. Therefore, it is hard governance coming from the EU or supranational level of government. It evolved from being soft governance with the Tampere European Council meeting, to hard governance. The ECHR encourages that the lower levels of government must comply and enforce the articles of the Convention, what is known among EU scholars as the principle of subsidiarity. The European level of government only takes over the state’s role as a last resource.

The EU definition for irregular migrants is “those who have entered or remained in a state without authorization or legal justification” or being more specific “third-country national who does not fulfill, or no longer fulfills, the conditions of entry laid out in Article 5 of the Schengen Borders Code or other conditions for entry, stay or residence in that Member State” (FRA and ECHR, 2014: 48). These concepts emerged as a combination of national and international law. Differently, asylum seekers are “applicants for international protection” (FRA and ECHR, 2014: 43). It implies that they cannot return safely to their country of origin.

Under the EU Return Directive of 2008, those third-country nationals who have entered illegally cannot live in limbo, they have to either legalize their status in Europe or return to their countries of origin (FRA and ECHR, 2014). Spanish law is more specific on the details: irregular migrants must legalize their status or return to their home countries within a period of 40 days. The legal document that lays out the status, rights and duties of migrants in Spain is called Ley de Extranjería, or Spanish Aliens Act (BOE).

Spanish Alien’s Act establishes the framework for the treatment of irregular migrants in the Canary Islands. It is the text that regulates the rights and duties of foreigners in Spain and contains principles that seek to promote legal immigration, with the goal of restricting to a minimum the entry of irregular migrants. It offers opportunities to immigrants established in Spanish territory in irregular conditions to normalize their situation. As a general rule, the Aliens Act establishes the recognition of the rights established in the Spanish Constitution, international treaties interpreted in accordance with the Universal Declaration of Human Rights, and other existing treaties on citizens' rights (Agencia Estatal Boletín Oficial del Estado, 2000). Thus, although one could argue the CEAS has shaped Spain’s policy on immigration the Spanish Alien’s Act also demonstrates certain rules the Spanish state has put into place to establish Spanish rules and norms of immigration that the EU cannot shape with ‘hard’ governance.

EU and Spanish law provide the framework within which the Spanish state should treat and process migrants. In this way, one might assume that EU ‘hard’ governance is at work holding Spain accountable for the appropriate treatment of migrants. However, hard governance from the EU is not enough to keep Spain accountable.

**Amnesty International Report**

According to a report of Amnesty International in 2006, the rights of irregular immigrants were being violated in Spanish soil (Amnesty International, 2006). This report denounces the Spanish state for falling short in policy implementation; Spain was not complying with EU law on the Charter of Fundamental Rights. First, migrants are not informed about their situation once they arrive to the police station. They are not informed about the process of return, nor they are asked if they are in a situation of risk in their home countries. As an example, out of 6,908 people that arrived to Tenerife in January-June 2006, only 9 of them applied for asylum (Amnesty International, 2006). Many of them do not know that they can apply for political asylum claiming persecution because of racial or ethnic discrimination, war, homophobia and similar circumstances that certainly are a reality in their countries of origin. Therefore, most of them are defined as economic migrants, when it might not always be the case (Yassine, 2006). Second, there is also a language barrier. They have access to translators of French and English;
however, those are not their mother tongues. Most of them speak Wolof, which makes it very difficult for them to understand their rights (Amnesty International, 2006).

Amnesty International (2006) also identified that there were not enough resources dedicated to identify the refugees and to facilitate their right to seek asylum. It is a challenge for local authorities to guess their nationalities, since they might identify themselves more with a tribe or ethnicity that does not necessarily correspond with the geographic location of a recognized state or government authority. Most of them are identified as Senegalese. The Spanish authorities have an interest in identifying them as nationals of countries with which the Spanish government has treaties of repatriation, such as Senegal. Furthermore, they are not put in contact with attorneys as soon as they arrive at the center for migrants. Many report that they only met their attorneys on the day of the trial, and once again they were not granted a translator (Amnesty International, 2006).

There are three centers for migrants, or detention centers, in the Canary Islands, and the regional authorities set up another building to contend with the great influx of migrants both before and after the cayuco crisis of 2006 (Global Detention Project). These are the controversial Centros de internamiento de extranjeros (CIEs). Once the migrants arrived to the centers, they had to give up their cell phones, according to Amnesty International (2006). They had the option of using a public phone to call their relatives or acquaintances, but they had to pay for it (Amnesty International, 2006). Amnesty International (2006) highlights the important role of Red Cross and Caritas.

Amnesty International’s report on the living conditions of irregular migrants in Spain illustrates the violation of European law by the Spanish national government. The Spanish government is not implementing the European Charter of Fundamental Rights nor the Common Asylum system. These violations signify a break from the convergence process on common policies regarding migration, as Europeanization would suggest. Thus, although the EU using ‘hard’ governance set up parameters within which migrants must be treated, the Spanish government did not fully comply, but rather worked within their means or willingness to deal with the migrant crisis irrespective of meeting EU requirements. In this way although ‘hard’ governance is technically present, there is a lack of enforcement of EU law. Frontex was able to assist with capturing and processing
migrants, but the care of migrants was left to the state and non-state actors such as the Spanish Red Cross and Caritas (a church sponsored organization). The Red Cross and Caritas took the lead in assisting migrants and providing health and social intervention, and yet certain migrant rights were still not fully protected, demonstrating a failure of EU ‘hard’ governance.

In general, the cayuco crisis illustrates how the EU lacks the coercive tools to exert direct authority over lower levels of government (Dehousse, 2015), the state remains as the most powerful actor when exerting effective governance. Spain was able to achieve its preferences, lessening migration, thus strengthening the states governance over migration supporting a more liberal-intergovernmentalist perspective as it relates to EU migration policy. Instead, EU soft governance, adopting the externalization of migration control with Plan Africa, Spain controlled and dramatically decreased the migration influx. Additionally, the coordinated actions of the Spanish national government, Frontex and NGOs like Red Cross and Caritas helped solve the cayuco crisis. Utilizing these institutions and implementing these actions, irregular entries to the archipelago decreased from 31,000 in 2006 to two thirds less in 2007, progressively decreasing each year to reach a low of 200 irregular entries in 2010, when a new crisis hit (Frontex, 2016).

One Crisis Averted, Another Arrives: The Euro Crisis

The euro crisis of 2008 was the second crucial moment that shaped governance over migration matters in Spain. The euro crisis hit Spain particularly hard as the housing bubble burst, unemployment hit around 25%, regional governments found themselves swimming in debt and the banking industry needed a bailout. With many euro countries, the EU Commission imposed new deficit targets of 5.3 % of GDP output for the year that were to be implemented by 2010 (BBC, 2012), a hard governance measure from the EU. By the year 2010, the economic crisis had hit Spain and public debt rose steeply, forcing the government to adopt austerity measures to tackle debt. In 2009, the Spanish Ministry of Employment and Immigration allocated 444 million euros to policies associated with migration, distributed in three big areas: immigration, integration of migrants and emigration (Ministerio de Trabajo e Inmigración, 2008). However, the following year,
when the economic crisis fully hit Spain, this number was reduced to 323 million (Ministerio de Empleo y Seguridad Social, 2009), explicitly because of EU imposed austerity. This austerity measure meant a cut of over 100 million euros less to be allocated to the 17 autonomous communities for migration and integration matters.

For 2011, the total spending of the Spanish government decreased by 7.9% (Gobierno de España, 2011). The budget cuts of specific Ministries averaged 17% (Gobierno de España, 2011). The EU forced Spain to implement austerity measures to decrease the public debt. As part of Spain’s compliance with EU austerity pressures, Spain began to decrease its budget. As a consequence, the central government’s budget distribution to the Autonomous Communities decreased too. The Spanish government stopped sending funds to the regional government to deal with immigration and integration matters to the archipelago (Zapata, 2016). Although the influx of irregular migrants at the time of the euro crisis had been controlled already, the budget cuts affected the capabilities of the regional government to facilitate the integration of migrants, which had arrived during the cayuco crisis and were still in the Canary Islands.

Although with the cayuco crisis the archipelago was in a precarious situation as the increasing influx of undocumented migrants overwhelmed its capabilities, the Spanish state was not able to assist without EU assistance. The great influx of migrants raised a reoccurring question over power distribution between the national and regional governments. The conflict over governance has an historical explanation with the decentralization of the Spanish state. The decentralization of the Spanish state dates back to 1978, after the peaceful transition from Franco’s centralized almost 40 years of dictatorship. In 1978, the new Constitution introduced the decentralization of the Spanish state, as it included the recognition of regions as one of its main foundations. There are three regions in Spain that have had historical legal claims to autonomy: Catalonia, Basque Country and Galicia. For the new democracy, the writers of the constitution decided to move away from Franco’s centralized system and to address regional sentiments. In order to nullify the complaints of the historic three regions, they created a framework that recognizes 17 Autonomous Communities (AACC) and 2 autonomous cities. The Constitution established three different levels of autonomy, with only the three historic regions at the highest level. However, eventually all other regions were able to
apply to reach the highest level of autonomy, resulting in the transformation of Spain into a quasi-federal state (Nogueira, 1992).

The Distribution of Competencies among the Lower Levels of Government in Spain

The creation of autonomous communities aimed to address historic realities of a diverse country and disperse nationalistic claims of specific regions. Unlike in the US, where states give up power to the central government, Spain’s administrative power comes from the central government, that later allocates it to lower levels of government, the Autonomous Communities. The Canary Islands reached their unique status of autonomy in 1982 (Congreso de los Diputados, 2011). It recognized their competencies in matters as relevant to the islands as tourism, maritime transport, education, social security, roads, ports, territory distribution, and other social issues (Estatuto de Autonomía, Título II, Artículo 30). The division of competencies regarding immigration is laid out in the Estatuto de Autonomía or Autonomy Statute, which is the basic law of all Autonomous Communities and is mutually agreed upon with the Spanish national government. There is a constant push-pull relation between the regional and central governments, mainly regarding the governance of each level of government. To exemplify this recurring conflict, there have been over 60 cases brought to the Constitutional Tribunal since the installation of democracy in 1978 to 2011 about the distribution of competencies between the national and the regional government (Estatuto de Autonomía, Título II, Artículo 30; Molina, 2011). In general, the AC brings most cases to the Tribunal in order to obtain more competencies that at the time belong to the central government.
Each AC is divided in provinces. Unlike the other Spanish archipelago of the Balearic Islands, that only has one province, there are two provinces in the Canary Islands: the province of Santa Cruz de Tenerife, that comprises the islands of La Palma, La Gomera, El Hierro and Tenerife; and the province of Las Palmas de Gran Canaria, with the islands of Fuerteventura, Lanzarote and Gran Canaria. There emerged a conflict over capital location between the two most populated islands, Tenerife and Gran Canaria, what was called the “pleito insular”, or the insular conflict. This division dates back to the XIX century, when the capital of the islands was San Cristóbal de La Laguna, in Tenerife. The insular conflict is relevant because previous to the cayuco crisis, there were complaints over how the Eastern province of Las Palmas did not receive any help from the other province of Santa Cruz de Tenerife nor the AC. The Eastern islands were receiving the bulk of migrants but the AC only stepped in when the crisis extended to the province of Santa Cruz de Tenerife (Naranjo, 2016), as pateras and cayucos began to arrive to the Western islands of La Gomera, La Palma, Tenerife and even the tiny El Hierro. The province of Las Palmas de Gran Canaria perceived the AC’s following intervention as a discriminatory measure.

The Unique Subnational Level of Government in the Canary Islands: Cabildos

Within the AC of the Canary Islands there is a unique lower level of government called cabildos. This level of government emerged following the conquest of the islands during late XV century and early XVI century, when Spaniards migrated to the archipelago. Because of their remote location, the Canary Islands required a more direct governance system and adopted the cabildos. A cabildo is a governing body used in Spain’s colonial territories in Latin America. They were useful tools to continue Spanish dominance in overseas territories. The Spanish crown also created a cabildo for each one of the seven islands to deal with each island’s issues separately. The Spanish national government and the Canary regional government have never decided to end the colonial legacy of cabildos because they represent an effective service for dealing directly with matters that affect each individual island, and because they are the most effective at addressing the problem of insularity. Insularity is the condition of islands being isolated from the continent. Therefore, the cabildos represent specific institutions that turn out to
be more effective than the national or regional level of government when situations of crisis arise. Most lower levels of government do not have their own sources of funds through taxation, but rather receive most funds with national government transfers. The cabildos receive funding from the Autonomous Community, but there is a unique aspect to cabildos: they have their own financial resources due to port and fossil fuels taxes (Agencia Estatal Boletín Oficial del Estado, 2015). The Spanish national government is not the only institution to address the problem of insularity of the Canary Islands. The European Union also recognizes the peculiarity of the archipelago, as they are one of the nine European Outermost regions, which means that they receive funds and have special taxing advantages.

During the euro crisis of 2010, Tenerife was the island that was still receiving hundreds of migrants (see table), which meant that the austerity measures from the EU could potentially affect the island. Nevertheless, the cabildo of Tenerife had previously created an institution that was later useful when the euro crisis hit. This institution was the Observatorio de la Inmigración de Tenerife (OBITen), Tenerife’s Observatory for Migration. Jointly funded by the cabildo and the University of La Laguna in Tenerife, OBITen emerged as an attempt to deepen the knowledge, and consequently expand the capabilities to react to migration influxes to the Canary Islands, specifically Tenerife (Zapata and Ramallo). Besides documenting regular as well as irregular entrances to the islands, OBITen also works with Canary communities, for instance organizing social events to bring together migrants and locals. This institution promotes integration and cultural diversity through various activities, services and resources. Although in its first years OBITen’s duty was merely for conducting research, it changed when the austerity measures reduce the budget allocated to the autonomous community. With the euro crisis, the cabildo of Tenerife reduced its funding to OBITen, which forced the institution to seek funds from other public institutions such as the University of la Laguna, and continued their research duty, expanding it to integration services (Fundación General Universidad de la Laguna, 2016).

As a result of OBITen’s expansion in integration services they developed a plan of action Juntos en la misma dirección, Together in the same direction (Zapata and Ramallo). Juntos en la misma dirección focuses on promoting relations between public
agencies, migrants and the communities they have settled in the islands. Through this program, OBITen manages diversity through an intercultural focus (Zapata and Ramallo). Thanks to this approach, the island of Tenerife has become a member of the Network of Intercultural Cities, a network promoted by the Council of Europe (2015). An intercultural city has been defined as a city that “has people with different nationality, origin, language or religion/belief; the city actively combats discrimination and adapts its governance, institutions and services to the needs of a diverse population (Council of Europe, 2015: 2). This rating takes into account education services, welcoming, governance, conflict resolution, business, labor market, media, and other topics related to the every-day life of migrants. Tenerife rates 39th among the 75 European cities sample (Council of Europe, 2015).

Migrants arriving to the Canary Islands between 2006-2016

Although the influx of migrants has been decreasing steadily since 2006, the work of OBITen will become key for the anticipation of migration influxes to the Canary Islands. Upon the beginning of a new migration crisis in summer 2015, the European Union has warned about the possibility of former migration routes to the Canary Islands
to be re-open, this time for Middle Eastern migrants (Plasencia, 2016). As shown in the
graphic above, there has been a slight increase on irregular entrances to the Canary
Islands in 2015 and 2016. As Spain has not fully recovered from the period of financial
instability, the shift of routes will challenge its surveillance and border control abilities.
The Spanish national government has to secure, once again, EU’s most southern border.

Conclusion

The cayuco and the euro crisis have shaped EU governance over migration policy.
These crises demonstrate the EU’s shaping of migration policy using both hard and soft
governance. During the cayuco crisis, EU’s soft governance in the form of Frontex’s
requested intervention and the externalization of migration policy, adopted from EU
practices first espoused in the Tampere Council in 1999, helped shape the response to the
stark increase in migrants coming to the Canary Islands’ shores. Spain was able to stop
migration at its point of origin, which was its governance goal. Thus, in accordance with
liberal intergovernmentalism and its assertion of the central nature of the state, Spain’s
governance ability was strengthened, and the national government was the main actor
shaping the implementation of the policy and achieved its goal of decreasing irregular
migration from Africa.

On the other hand, for the euro crisis, the EU asserted hard governance resulting
in shifting the governance of migration policy away from the state to other actors,
following the implications of new modes of governance and neo-institutionalist
assumptions. During the euro crisis the EU was able to utilize ‘hard’ governance with
austerity. Spain’s budgets were reduced accordingly since 2009 and the Ministry of
Employment and Social Security has been significantly reduced, thus decreasing the
resources and capabilities of the national and subsequently Autonomous Community
governments to address migration, including the integration of migrants. As Spain found
its budgetary abilities constrained, and less money was sent to the Canary Islands, NGOs
such as the Red Cross, Caritas and OBITen filled the void to implement migration policy.

Similarly to the cayuco crisis of 2006, the current migration crisis that began in
the summer of 2015 has been contained with the externalization of migration control. The
EU’s current policy consists of addressing the problem of migration from the origin of
Migration routes. Similar to Spain’s policy from 2006 and onward, the EU continues to promote political relations with African countries. The creation of an abstract maritime border with the assistance of other member states in the waters of the Canary Islands has pushed African migrants to find another routes through the Mediterranean Sea. Some scholars argue that 2006 marked the beginning of a new migration era from Southern/Western Africa to Northern Africa (Triandafyllidou, 2014).

Frontex again has been brought in to help migrants at sea and to secure Europe’s maritime borders and the agreement regarding migrants with Turkey is similar to Plan Africa, attempting to implement an externalization of migration policy, without the capability of dealing directly with the country of origin, Syria. The current crisis, however, is a more peculiar case since the countries of origin are unstable, weak or non-existent states. There are civil wars in Iraq and Syria, and political chaos in countries like Afghanistan or Libya. Therefore, there are no legitimate governments with whom to negotiate repatriation agreements or development plans. Turkey has taken the role of country of origin. Although, the EU has attempted to implement quotas and institute ‘hard’ governance in the current migrant crisis, the EU has failed, as member states act as the main actors shaping implementation of migration policy.

The cayuco and euro crises demonstrate that the EU’s response to each crisis can have very different effects upon migration policy and how the EU can shape governance. In the cayuco crisis, the Spanish state’s ability to stave off migration, which was the state’s goal, was achieved, supporting the assumptions of liberal intergovernmentalism, whereas, the EU’s austerity measures, implemented as a solution to the euro crisis, has weakened the Spanish state’s ability to deal with migration and shifted governance to non-state actors, supporting the assumptions of neo-institutionalism. How we understand European integration and how the EU may shape migration policy needs to take into account not just EU migration policy per se, but other policies that may have unintended consequences for Europe’s struggle with mass migration.
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