Border Agency for Security in Europe

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Abstract

The best borders are bridges rather than barriers. Borders define peoples, their lifestyles, destinies, rights and duties. Even today vestiges of the Roman Limes define the Roman Empire, that culture, at its greatest extent. By nature, borders range from the coolest thousand miles between Norway and Sweden to that piece of tropical string between Ethiopia and Somalia. Europeans may bestride borders by crossing the line of tiles through Baarle (in both Belgium and the Netherlands), the metal strip through the Eurode Business Center, Herzogenrath (in both Germany and the Netherlands), or zipline from Spain to Portugal "in less than a minute." Bridges welcome tourists and trade, promote cross-cultural co-operation and the easy movement of people. Barriers prevent illegal entry, terrorism, disease, sedition and other criminal activity. Clearly a strong agency is required to manage these contrasts in the task descriptions. Sadly, terrorist attacks in Paris and Brussels remind us of the need for improvement in the border management of Europe. This chapter considers the major problem areas which arise at national borders in Europe and illustrates recent examples of the key pre-terrorist troubles that have arisen and the solutions so far embraced. Review of present border management provides a number of options employed for current border management and leads to consideration of other options which might be introduced. A detailed analysis of border management practices, their implementation and success, identifies the realities of border management particularly when facing security issues. This leads to consideration of how to enhance current border security through new strategy and 21st century capacity building. So begins identification of the new needs for the European Union in the context of European Union thinking and activity directly related to border management. There is particular urgency for the European Union to put in place an effective border agency. An agency which recognizes the need for "mending-time" so that we continue to "beat the boundaries" but tuned in to modern time.

Keywords: The European Union, borders, refugees and migrants, agency and security.

Introduction

"They of those marches, shall be a wall sufficient to defend Our inland from the pilfering borderers." (Shakespeare, 1599)

Around 1750 BC Hammurabi, then Ruler of Babylon, wrote letters (simply written on small slabs of wet clay, many collected now in the British Museum) securing his sovereignty and, for example, ordering his tax collectors to collect "raiment which are due" from citizens abroad (King, 1900). Here we see tax collection as but one of the reasons for enforcing the security of borders. Then even today we can see vestiges of the "Roman *Limes*" (UNESCO, 2016) the borders that defined the Roman Empire and that culture, at its greatest extent. Here perhaps, or earlier, we begin to encounter the interplay of language and communication and the high context nature of words like the mid-14th century (Etymology Dictionary, 2016) words "bord" or "bordure" which came to replace the older English word Marches. Border is a word with multiple possible meanings, including "the decorative strip around the hem of a dress," "the strip of ground for planting flowers and shrubs," and "coming close to a condition (e.g. "bordering on excitement"). So, even in the context of English Law (see Exhibit 1) the word has a multitude of homonyms.

By nature, borders are considered divisions "between cultures, languages and political and confessional systems" (Boromova et al, 2015). They can be seen along the coolest thousand miles between Norway and Sweden to that piece of tropical string between Ethiopia and Somalia (Boredpanda, 2016) and the Haskell Library, the library without books on the border between the United States and Canada (Berman, 2016). In Europe too Europeans may bestride unnatural borders when crossing the line of tiles through Baarle (in both Belgium and the Netherlands), the metal strip through the Eurode Business Center, Herzogenrath (in both Germany and the Netherlands), and even travel in time from one side of the Greenwich Meridian Line to the other (Facebook, 2016).

Legal (England) meanings of Borders.

What is a border?

A border is a division between different areas or communities.

Where do you find borders?

- Between nations, states, districts, parishes, villages.
- Between groups, races, religions, skills, position in local governance, in a garden,
- In language, characters, dialects, accents

What indicates a border?

There can be:

- a physical barrier; (e.g. a fence or wall; a step, a gate, a curtain, a door, clothing)
- a visual aid, e.g. a sign (no entry, no right turn, women only), a line on the ground, a line of trees, a spotlight's light,
- a uniform, e.g. a soldier on guard, a divers suit,
- a community understanding, e.g. the entry to sacred ground., a grave yard, a mosque, a school playground.
- a difference in looks; the edge of a hotplate, a change in colour,
- pre-existing legal precedent (e.g. on land rights).

Importance of Borders:

- Make clear where one area ends and another begins.
- Strengths community cohesion.
- Keeps the unwelcome from entry into forbidden areas.
- Enables communities to decide who can be admitted.

Source: HH Lord Parmoor (2016) Current English legal context. Also see www.thelandmagazine.org.uk and search for 'a short history of enclosure in Britain'

Exhibit 1: Nature of Legal Borders

Bridges welcome tourists and trade, promote cross-cultural co-operation and the easy movement of people. Barriers prevent illegal entry, terrorism, sedition and other criminal activity. We hear that: "A nation that cannot control its borders is not a Nation" (Reagan, 1981) and yet we live in times when borders are porous not only to immigration, but also to a variety of global intrusions including disease, currency manipulation, tax avoidance and other cultural invasion.

So today it is perhaps ironic to find that the strength of national consciousness, which brought the "winds of change" (Macmillan, 1960) to Africa to defeat an era of colonialism, is being repeated in Europe to escape the idea of "ever closer Union" (Treaty of Rome, 1957). Recent terrorist attacks in Paris and Brussels (The Guardian, 2016) and the current Migration crisis has presented the European Union bureaucracy with "their greatest challenge since the debt crisis" (Park, 2015). Prime Minister David Cameron's target, an exemption for Britain from the commitment to "ever closer union" (The Economist, 2016) reflects growing anxiety that the European Court of Justice "has undermined the ability of the UK intelligence agencies to monitor terrorist suspects" (Shipman, 2016) and that Europe's "porous borders are an open door to extremists" (The Daily Telegraph, 2014). The "unelected apparatchiks" (Williams-Grut, 2016) in Brussels are no longer seen to honor even the basic democratic demand for safety from the citizens of Europe.

Sadly, current events remind us of an urgent need for improvement in the border management of Europe. Clearly a new, much stronger form of Border Agency is now required to satisfy the legitimate demands of those who are legal residents of the European Community. Indeed, the European Union is said at last (December, 2015): "to take its largest step in European integration" with the creation of a European Border Agency (Koronakis, 2015). Let Brussels remember that: "actions are more precious than words" (Pym, 1628).

This chapter is therefore written to focus on the major problem area, the porosity of borders, which is to be found within the national borders and particularly along the international borders of Europe. First the key concepts of border security are considered. Then there is an analysis of current border management practices, their implementation and their success, and how nations face security concerns. This brings consideration of the new needs for European Union Security.

Key Concepts: Border

Consider the problems associated with the etymology, with the multiple meanings, with the multiplicity of concepts when mention is made of the word "border." There is no clearly defined meaning to the concept. Like Berkeley's doctrine: "all general ideas are nothing but particular ones, annexed to a certain term, which gives them a more extensive significance, and makes them recall upon occasion other individuals, which are similar to them" (Russell, 1945). In this way we are familiar with the way a common word like "border" or "cat" may be "just as unreal" as the generally accepted conventional concept of "border" or "cat" (Russell, 1945). This then, as with any problem, is the place to start. We need to understand the nature of the problem of border control before effective controls can be put in place.

We encounter this absence of a real meaning for "border" in common law. Exhibit 1 identifies the English common Law consideration of the word border and shows how a court begins the process of the journey from abstract concept to the particular facts of an individual case. Here we might note, for example, how the word border may include regions or areas: "which straddle a boundary or are adjacent to a boundary" (Boromova, 2003). US Borders around the Gulf of Mexico, for example, include more than: "2,000 miles of coastal waters" (US Customs, 2016). These maritime borders may be interpreted to include any place within the 12-mile nautical limit (UN, 1982) or the 200-mile nautical limit (UN LOST, 2016) subject necessarily to the limits of the continental shelf. Today such offshore borders are in every day dispute from the South China Sea (Reuters, 2011) to the Arctic Ocean (CBC News, 2014).

Reflect also on current examples of border porosity beyond the vexed questions relating to immigration. Over the past 15 years Exhibit 2 identifies diseases that have crossed borders to create pandemics and recognize the vulnerability of borders to atmospheric activity. Outbreaks of disease have been characterized by their: "vast geographic spread" (MSF, 2015).

2002 - present S.	ARS (Severe Acute Respiratory Syndrome)	From China		
2003 – present	H5N1 pandemic influenza (bird flu)	From Asia		
2009 - 2010	H1N1 pandemic influenza (swine flu)	From Mexico		
2012 – present	MERS (Middle East Respiratory Syndrome)	Middle East		
2013 - 2015	Ebola virus	West Africa		
2015 – present	Zika virus	West Africa		
Others - present	Others - present include: Chikungunya, cholera, hepatitis, influenza,			
	malaria, measles, poliomyelitis			
<u>Source:</u> Sharma S (2016) Hindustan Times, New Delhi available at				
http://www.hindustantimes.com/health-and-fitness/why-we-should-fear-zika/story-				
p9e4x6UGAqSkJ7SVHiBnPI.html				

Exhibit 2: Cross-border Pandemics

And we should not forget the plant invasions that subject to niche (MacDougall et al, 2009) can interact with native species and those that can dominate over local native species. Examples are shown in Exhibit 3. These "biosecurity issues are of increasing economic and ecological significance" (Horrill, 2016).

r1	Invasive species	Native to
Examples		
Pre Ice Age	Rhododendron (Strandja Nature Park)	Bulgaria
1850	Japanese knotweed (monkey weed, elephant ears)	Japan
1910	Dutch Elm Disease (first noted in Europe)	Europe
1940s	Eurasian Water-milfoil	Eurasia

"Approximately 50,000 non-native plant and animal species have been introduced to the United States. At least half that number are plants, which can cause more than \$34 billion a year in damage to the environment, forestry, agriculture, industry, recreation, and human health." **Source:** Ohio Invasive Plants Council at http://www.oipc.info/invasive-plants-of-ohio.html

Exhibit 3: Cross-border Invasive Species

Financial guru Warren Buffet has said that: "natural disasters have a greater economic impact than terrorism" (Amadeo, 2016). Natural disasters impact the cost of

insurance and can contribute to slow growth for the countries involved. Once again the need for border security is important.

2015:	Locations include	
Earthquake	Chile Nepal, Hindu Kush, Indonesia, Bothnia, California	
Flood	Brazil, Indonesia, Baluchistan, Louisiana, Dubai, India	
Heat wave	India, July 2015 hottest month ever	
Storms	Desmond (UK), Komen (India), Melor (Philippines), Patricia (Mexico)	
Drought	Ethiopia, California,	
Pollution	Beijing,	
Wildfires	California, Australia	
Source: MSN Weather website available at http://www.msn.com/en-us/weather/topstories/		
climate-change -is-ruining-some-of-the-best-aspects-of-los-angeles/ss-BBpWe9f#image=2		

Exhibit 4: Cross-border Natural Disaster Impact

Key Concepts: Border Management

Having considered the risks associated with managing borders we can now begin to review the stakeholders who may be involved:

- Key Government Agencies: These will include Police, Armed Forces, Customs, Immigration, and other Ministries (e.g. Treasury for currency and tax; Agriculture for animal quarantine, Finance and Industry for trade, Security services for intelligence).
- Transportation Companies (Airlines, Trains, Automobiles, Ferries).
- Local Authorities (where the borders are located)
- Regional Authorities
- Corporations,
- Individuals.

What then are the organizations in Europe that are set-up for border management? The short, clear, simple answer is that: "the EU lacks a credible migration policy" (Redwood, 2016). Experts confirm that: "it could be years" before effective cross-

border security can be implemented (Foster, 2016). Continually delayed approval of the proposed Europe-wide PNR (Passenger Name Record) legislation is proof of this likely delay.

In the context of border security, terrorism and migration are inextricably intertwined as confirmed by the access provided to terrorists in New York (FAIR, 2011), Paris and Brussels (Sciolino, 2016). In December 2015 The European Commission announced that the Commission: "adopted a package of measures to step up the fight against terrorism" (EU Commission, 2015) The package was to contain two main elements:

- A Directive on terrorism (EU Directive, 2015) and
- An Action Plan.

The new plan was to update the 2002 *Decision on Combating Terrorism* and the review of the 2002 plan in 2008. Frans Timmerman, EU Commission first Vice-President noted the need for "a common criminal justice response" and "cooperation at the EU level with third countries." Yet this Easter 2016 we are reading that the: "Turks had deported el-Bakraoui, (suicide bomber at Brussels airport lounge March 2016) a known terrorist and criminal" (Coughlin, 2016) back to Belgium where, although he had broken his parole, (Sky News, 2016) no appropriate police action was taken, and so he was free to undertake terrorist bombings. So much for a common criminal justice response and cooperation with third countries.

The lack of a credible EU migration policy is further confirmed by the former MI6 (UK Intelligence Agency) head Sir Richard Dearlove, quoted by the BBC (BBC News, 2016), who said: "EU-based security bodies were of 'little consequence' and that leaving the EU could boost Britain's security". Michael Hayden, former CIA Director also noted that the EU: "gets in the way" of security services and remarked that the European Union is not: "a natural contributor to national security" (Reuters, 2016).

In the absence of any EU policy the responsibility for ensuring internal security is first and foremost with the member states (EU Directive, 2015). Thus effective EU border management is in the hands of the police forces of the 28 nations that make up the European Union. As Brussels 2016 has confirmed, this policy has proved to be a disaster. The reason is not hard to discover. In Belgium, as elsewhere in the EU, national law enforcement is conducted on both regional and local levels with any potential for integrated service constrained by jurisdictional considerations which can take time for the leadership to be determined, and budget. There is no federal (Europe-wide) organization mechanism which operates.

So there is no EU organization to take charge when borders are threatened. "There is virtually no legal path to Europe for refugees" (Popp, 2014), and this has been confirmed as Europe is presently: "overwhelmed by immigrants" (Geyer, 2015).

When Security considerations are taken into account there is also room for assistance to be provided via NATO whose work includes: "improving awareness of the threat (of terrorism), developing capabilities to prepare and respond, and enhancing engagement" (NATO, 2016). Then there is also a European Defense Agency (EDA, 2016) whose mission includes supporting: "the Member States in their effort to improve European defense capabilities."

Further, in Europe the OSCE, the Organization for Security and Co-operation in Europe, has also been set up: "to enhance border security while facilitating legitimate travel and commerce" (OSCEb, 2016). This organization: "has 57 participating States that span the globe" (OSCEs, 2016). It also has a Forum for Security Co-Operation specifically: "to increase military security and stability in Europe," covering: "fundamental politico-military agreements," and, supposedly it: "develops norms and provides practical assistance." These are the words, there is no evidence of action. It is quite apparent to the least attentive observer that the much be-medaled array of so many pompous programs to protect our borders in Europe are "obsolete" and, as Donald Trump had correctly noted: "is extremely expensive" (Haines, 2016). Certainly, during the current Immigration crisis in Europe, the EU, NATO, and OSCE seem so carefully to have avoided any leadership role.

And then there is the Schengen Zone, whereby a traveler within the 26 members of the Schengen Agreement needs only a single visa (Schengen, 2016) to travel within the Schengen Area (France Diplomatie, 2016). The Schengen free movement is a visa area that includes three countries outside the European Union (Iceland, Norway and Switzerland) but does not provide free movement to Ireland or the United Kingdom. Recently, lack of trust in the Schengen visa system was expressed by the reimposition of border controls by Austria, Denmark, France, Germany, Norway and Sweden (Traynor, 2016: BBC News, 2016; The Economist, 2015).

Never in the field of European Security have so many resources been provided for so much security, securing so little safety, for so many. No surprise then that the European Public are coming to question how the European Union's bureaucratic structure: "has fostered a culture of decrepit ministerial elites" (Anderson 2013)

whose sheer incompetence makes the EU's "most remarkable feature" that anything for the benefit of the people ever gets done at all.

Current Border Management Practices

There are five global megatrends which combine: "to obliterate virtual borders and make physical borders more vulnerable than they have ever been" (PricewaterhouseCoopers, 2015). These trends are demographic and social changes; shifts in economic power; rapid urbanization; climate change and resource scarcity; and revolutionary technological breakthroughs. These megatrends incorporate recognition that to keep up with these changes, PricewaterhouseCoopers recommends border management needs:

- Innovative technology:
- Effective Integration and co-operation:
- Coherent processes
- Agile Organizational capacity

Innovative Technology:

The framework for providing visas necessarily incorporates many classifications of visas, appropriate background checks, and includes appropriate socio-economic indicators and bilateral arrangements for removals (US Visas, 2016). As in the United States and the United Kingdom (UK Visas, 2016) visa processing times depend on where a visa applicant is coming from. Data has been collected from multiple points to provide screening against watch lists, profiling of visitors for risk and therefore efficient deployment of resources in order to target potential criminals and terrorists. Some democracies resort to profiling, others take the practice for granted because of the additional security profiling provides (Pfeffer, 2010). Besides Big Data collection nations are rapidly moving beyond traditional passports to biometric passports and identification based on individual characteristics rather than places of origin. Rapid DNA instruments have been approved for use by the US Federal Bureau of Investigation (FBI, 2016), As technology develops we may expect more advanced biometrics which might combine (say) facial characteristics with rapid DNA analysis and this might even be built into a subcutaneous unit for frequent travelers.

We are already seeing the deployment of drones for border monitoring (Constantini, 2012) and an increasing use of infrared and heat sensing equipment. High-tech cameras and specialized radar and satellite coverage are also becoming more widely available. There is also the increasing use of non-invasive inspection technology

(Dexcowin, 2013). We should also be aware of the availability of classified equipment which is being used for security purposes (Bonazzo, 2016).

A wide range of X-ray scanning, electronic imaging, explosive detection and related systems are already available and in use for border security at airport arrival and other border security posts. These may in future be found at border crossing points as well as other ports of entry.

Effective Integration and co-operation:

From July 1, 2015, the Department of Immigration and Border Protection and the Australian Customs and Border protection were consolidated into a single Department of Immigration and Border Protection (Australian Government, 2016). In the US and the UK there has been a similar consolidation of all related security services under the US Department of Homeland Security and the UK Visas and Immigration respectively (UKBA, 2016). The integration of the border management functions is still a work-in-progress. The foiling of the Al Qaida plot to place an underwear bomber on a US bound airliner highlights: "the only sure way to stop terrorism: a multilayered approach led by good intelligence" (Stone, 2012).

Coherent processes:

PricewaterhouseCoopers (2015) identified three key functions of a coherent process model for a border agency:

- Strategy evaluation and governance: clear identification with a strategic plan designed to develop key capabilities, identify changes needed in management, monitor performance indicators, and ensuring the cooperation among departments which will maintain proactive security measures.
- Operational Processes: Planning, investigation, big data analysis, and a process for the continuous improvement of preventative techniques. Operational units in action with allies and on location will need the latest available technology. Techniques such as risk-scoring (Snelling,2014) are becoming viable, they can employ analytics and complex algorithms so that the blanket approach (checking every traveler) can be replaced by reduced border controls so that we may expect to see the check in process expedited and at the same time made more secure.
- Enabling functions: Procurement (and appropriate finance) for the latest technical equipment, logistics appropriate to supporting border security units, secure communications and appropriate legal support.

Recognition that Border security is a complex activity which is tasked "with reconciling the apparently contradictory tasks of facilitating entry and preventing threats" (PricewaterhouseCoopers, 2015).

Agile Organizational capacity:

Border Management policy and practice in Europe may be seen to be reactive. To be a proactive agile organization, a fully merged structure wherein all border functions are performed by a single delivery agency is needed. Among countries studied, Canada is the only true example of a fully merged structure, while the United States and the United Kingdom have merged line border management functions and appear to have in place classified arrangements to prepare for terrorism and criminal activity and are moving towards the effective single agency model.



Exhibit 5: Border Agency Structures

Agency for Security in Europe

The European Security Strategy (ESS) adopted by the European Council in 2003 provided "the conceptual framework" for a Common Security and Defense policy (Europa, 2013). A Review in 2008: "confirmed the validity" of the need for a common Agency for Security and expressed: "the need to be more capable, more coherent, and more active" in providing security against terrorism (ISS, 2009). The Review also noted that: "conflict prevention must prevail over conflict management. Yet we have seen that the responsibility for security still remains in the hands of the 27 member states and is as a result lacks coherence. "Attempts at creating a stable and secure European continent have so far failed" (Fitzgerald 2015). What has so far been revealed this Spring 2016 is the "shocking incompetence" of Europe exposing "catastrophic deficiencies in European Security Policy" (Deutsche Welle, 2016). The Brussels Attacks: "Underscore the Vulnerability of an Open European Society" (Nossiter, 2016). It is time now to catch up with the 2003 framework, the 2008 review, research and actions taken in New Zealand, the United States, and the United

Kingdom, and time for the European Union to establish a single agency responsible for European Union border Security. The initial agency needs to concentrate on the Continental Border Security with a plan to absorb shore border security agencies within the foreseeable future.

Conclusion

The purpose of this paper was to consider the idea of a Border Agency for Europe. This purpose has built on previous studies and current research which confirms the need for a single Agency for Border Control for Europe. Europe must now move, politically, economically, and socially to a coherent Border Control Agency so that we, the people of Europe, may live within a safe and secure environment.

Afterword

When I was in primary school, on Ascension Day each year, we took part in the ancient tradition of "beating the bounds" around our local parish. "The custom goes back to the Anglo Saxon period at least" (Brasenose, 2016). We would walk round and beat the stones that marked the parish boundary wall, observing how boundaries were protected before land registry technology took over. We rehearsed the need for a "mending wall" (Frost, 1915). We in a small way recognized the need for "mending-time," a need perhaps more precious than ever today. We, in Europe now most urgently need a single European Border Agency to "beat the boundaries" but tuned in to the technology and analytics of our modern time. We want to say again "Good fences make good neighbours."

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