

MIXED MIGRATION FLOWS AND GOVERNMENT RESPONSES: SOME GENERAL PATTERNS AND RECENT EUROPEAN EXPERIENCES

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In this presentation, I shall address four broad and overlapping themes concerning contemporary migration flows, with particular reference to the European Union – a region especially relevant after the 2015 political crisis of migration management. These themes are as follows:

- 1) The existence of a binary division (in the thinking of politicians and the public) between “deserving refugees” and others, within mixed migration flows. This division has historical and legal foundations, and is now **failing** as a general policy, since it does not reflect realities on the ground.
- 2) How are national government policies chosen, and why? This is not simply a matter of following international law such as the 1951 Convention: many choices are open, few are used.
- 3) The impact of irregular migrants on the labour market and society. Large stocks of irregular migrants can be viewed as a failure of governments to use suitable policies. These large stocks then require additional policies (e.g., regularizations) to address the failure of other policies.
- 4) The great importance of regional cooperation. Countries cannot act in isolation: there are major problems caused by lack of cooperation, and significant gains from good cooperation.

Theme 1: Refugees versus “others”

The historical-legal basis of the UN 1951 Convention emerged as part of the Cold War – protecting refugees only within Europe, and specifically those fleeing the Communist bloc. It should be seen, therefore, as an explicitly hostile political decision and rather less concerned with humanitarian protection. The Convention was extended in 1967 with the Bellagio Protocol to cover the entire world, insofar as countries signed up to the protocol. Nowadays, with large mixed flows, this approach entails detailed identification of those entitled to Convention status, is very time-consuming, and costly.

Today, “mixed flows” are the norm, but there is no international consensus on how to address them. The nearest is the Global Compact on Migration, although it is non-binding. It is important, therefore, to engage in exploring options.

Why should states engage in more liberal policies towards non-refugees? We can posit several reasons:

- (a) Rejected asylum-seekers often cannot be deported, so remain as irregular populations and their social exclusion may orientate them towards criminal links and criminality.
- (b) Vulnerable persons (through conditions of health, handicap, age, LGBTQ, inter alia) cannot be ignored in a decent society: they need a legal status.
- (c) A large foreign population is much more manageable when documented and known to the state. From a security perspective, unknown irregular foreign populations are a major risk:

strangely, this empirical fact is completely absent from the right-wing academic “migration and security” literature, with its emphasis on borders and exclusion of foreigners.

Theme 2: the choice of national policies

Who chooses what policies, and why? The principal actors are government and the civil service, although there are important roles for international agencies and NGOs in trying to influence policy.

Even within the European Union, there are many different approaches to managing mixed migration flows. Most governments try to minimize the state’s obligations (under UN 1951, European Court of Human Rights, and CJEU acquis), with emphases on “security issues” – which are largely nationalist-ideological. Empirical and pragmatic approaches in the past are now largely muted, with highly problematic results. Why has this happened? We can adduce several reasons:

- (a) Policy-makers are disconnected from the actual problems and their potential solutions
- (b) Instead, policy-makers focus on ideology-based “security” and the likely political impact of migration issues, during a time of economic austerity
- (c) A rigid legal framework is frequently seen as a “correct” solution for mixed flows, as opposed to flexible and pragmatic policy development.

Good practices

The following good practices are commended:

- 1) Avoiding the creation of “illegal immigrants”
 - a) by giving out longer-term permits, and trying to minimize the difficulties in renewing permits
 - b) by granting a legal status to undocumented migrants, with minimal conditions for eligibility (e.g. lack of criminal record, duration of residence, family ties, employment. Two broad options for regularization: large-scale one-off programmes, used for dealing with a massive irregular population; and (better), discreet mechanisms for continuous legalizations. Across the EU (27) over the period 1996-2007, more than 6 million persons were legalized (REGINE study, 2009).
- 2) Policies to bring immigrants (including undocumented) into education at all levels. Education and vocational skills are **central** to the integration of immigrants (along with legal status).
- 3) Policies to allow immigrants access to: open bank accounts, enter into legal employment relationships, establish small businesses, etc. Also important to facilitate formal recognition of foreign diplomas and actual work experience.

Theme 3: the impact of large irregular stocks

Large stocks of irregular immigrants can have seriously harmful impact on the labour market and on society. Here is the real “security” problem of immigration, yet the issue is largely omitted from the usually-cited security rationale. The latter focuses on “protecting our borders” and even on “stopping the invasion”.

Within society, the presence of many irregular immigrants is unsettling for the native population, may lead to linkages with petty and organized crime, and ultimately is likely to become a serious political issue. In the labour market, in all countries the impact is typically to increase the size of the

informal economy. In the recent past, this was a serious problem for Spain, Italy and Greece. Currently, it is now so in Turkey.

Good practices

- 1) More controls on large employers (sanctions/penalties) alongside incentives for small employers to employ legally.
- 2) The legalization of irregular immigrants.

Theme 4: regional cooperation

The importance of regional cooperation cannot be overstated, owing to the nature of migration flows and the knock-on effects for neighbouring countries. The European Union does not have a good record on this. The Common European Asylum System (CEAS) focused on the characteristics of national asylum systems; for coordination it relied **exclusively** on a 1990 decision (the Dublin Convention, later Regulation) that the EU country of entry should bear all responsibility for the processing of asylum seekers and for mixed flows.

The 2015 “migration crisis” led effectively to the collapse of the CEAS: Italy and especially Greece could not cope with the massive flows arriving in small islands (e.g. 10,000 in one day on the island of Lesbos). The migrants were allowed to move on (from Greece, through the Balkans) and one by one, each country (non-EU and EU) started closing its borders – leaving migrants stranded in poor weather with significant humanitarian casualties resulting.

Today, the EU has three main planks of policy addressing mixed flows in southern Europe:

- Attempts at “sealed” sea borders of Italy (from Libya) and Greece (from Turkey) using extra-legal agreements with these two countries, despite a fragmented state and violent militia in Libya and weak protection of asylum-seekers in Turkey. There are now massive problems for the very large number of immigrants, including those entitled to protection, in these two non-European countries. This is a short-term policy *that cannot survive*.
- Voluntary relocation to a few EU countries of very small numbers of the small numbers of refugees recognized by Italy and Greece. EU policy has been blocked by Hungary and others, and is not therefore a common regional policy.
- The creation of so-called “hotspots” in Italy and Greece, announced in 2015 as policy solution to the mass flows. In reality, there is no prescribed format of hotspots and no actual policy of any sort: in Italy, the camps are open and allow migrants to move freely, whereas in Greece they are closed concentration camps with appalling conditions and overcrowding – totally unacceptable by European standards. From these closed camps, rejected asylum-seekers are supposed to be returned to Turkey, in accordance with the EU-Turkey Statement of 2016. In practice, few are returned and the camps are left overcrowded with new ones being built to accommodate overflow. *Again, this is a short-term policy and cannot survive.*

Some Concluding Thoughts

The “easy” approach to mixed flows – a minimal granting of UN Convention status – is not only costly in the short term but also guaranteed to build up large problems for the future. Politically, it is very tempting for governments to adopt this short-sighted policy, and many do so.

A more liberal and inclusive approach to managing mixed flows has far more to commend it, provided that there is political consensus for its adoption. This can be achieved by linking reforms with benefits for citizens – avoiding the sense and language of “them” versus “us”. A good example of such a practice has been the creation in France, Greece and recently Turkey of *One Stop Shops*. These are local agencies of the Interior Ministry, set up to help *all residents* (whether citizen or immigrant) with filling in application forms, providing guidance for applicants, and actually formally submitting the application forms to the Ministry. These have been of great benefit to less educated citizens (including those who are illiterate) and immigrants, alike.

Overall, immigration should be seen as an opportunity for economic development – as opposed to a theoretical security risk, or the fear of increasing financial claims made on a “pie” of fixed economic resources. The economic benefits of migration apply regardless of a country’s level of economic development: the European Union needs migrants because of its demographic shift alongside labour market shortages; other regions can benefit from new cultural approaches contributing to innovation, alongside the variety of skills and experiences that most migrants have to offer.