PAPER

A left-wing response to the asylum crisis and migration policy

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Sept 2015

I.   Introduction

The measures set out in this text aim to outline the key points of a forward-thinking European asylum and immigration policy. They are based on the universality of rights, which requires us to consider the interests of the populations from the North, the South and of migrants or immigrants. Although a number of these measures are in response to a social and humanitarian crisis and as such should be implemented as soon as possible, they should ideally be part of a wider, sustainable strategy.

II.   Current situation

Between January 1 and September 1 2015, over 350,000 people attempted to reach Europe by the Mediterranean (compared to 219,000 in the whole of 2014). This is the largest wave of immigration Europe has experienced since World War II. Coming mainly from countries wracked with war, political instability or persecution[1], the majority are eligible for the status of refugee[2] according to the definitions of the Geneva Convention. The points where migration occurs have changed as anti-migration measures have been strengthened.

This clamp down has led to an increase in risks for migrants, and therefore to an exponential increase in the number of fatal shipwrecks, across the central Mediterranean corridor linking Turkey and Libya to Italy in particular. Since 2000, almost 28,000 deaths have been recorded in the seas around Europe[3]. On September 1 2015, 2,642 deaths at sea had been recorded in 2015 (compared to 3,500 in 2014)[4]. In 2014, deaths in the Mediterranean represented 75% of the total number of migrants who died on their journey worldwide.

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[1]   The highest number come from Syria, followed by Afghanistan and Eritrea.

[2]   See the glossary for the underlined terms

[3]   Vanderstappen, Céline, *"L' Agenda européen en matière de migration à la lumière des droits humains"*, June 2015, cncd.be

[4]   International Organization for Migration, September 1 2015

III. Migration and asylum policy in the EU

Since the end of official immigration during the 1970s, migration policies in Western European countries make a distinction between asylum seekers and "economic migrants". Asylum seekers are those who apply for individual protection due to the risks of living in their own country. Economic migrants, if we exclude the cases of high-qualified "selective" migrants, generally suffer from a lack of clear regularisation criteria, forcing them to illegality. They are often forcibly expulsed, after detention that can last as long as 18 months (limit set by the European Returns directive of 2008). Over 400 detention centres have been recorded across the European Union. European countries regularly organise joint operations which, often under the guise of closing down rings of people traffickers, actually consist of mass round-ups of undocumented immigrants, like the *Mos Maiorum* operation in 2014. It is estimated that €11.3 billion have been spent on the forced expulsion of millions of people from the European Union (EU) since 2000.

Simultaneously, the creation of the Schengen area of free movement in the EU in 1995 was accompanied by a significant clampdown on external borders, costing an estimated €1.6 billion since 2000[5]. It has been coordinated by the agency Frontex since 2005, with an ever-increasing budget (€142, 606, 000 in 2015). The agency is regularly criticised for the legal grey area that surrounds its operations, with particular reference to the absence of division of responsibilities if fundamental human rights are violated.

NGOs and the UNHCR frequent speak out against the impact this besieged fortress approach has on the awareness of the need to protect refugees, and more generally on the respect of the overall rights of migrants. These numerous restrictions have made the right to asylum a mechanism for managing migration flows. At EU level, the Dublin II regulation restricts seeking asylum in more than one EU country, and states refugees can be sent back to the first country where their request was made, putting Southern European countries under disproportionate pressure. In 2014, the EU received 626,700 asylum seekers, split very unevenly among member states, which each has its own process for asylum seekers.

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5   themigrantsfiles.com

IV. Responses in Europe to the humanitarian crisis

The devastating human toll of the increased number of shipwrecks has not brought about any fundamental changes in the approach of European leaders who have, to differing degrees, taken a "securitisation"[6] approach to the issue of immigration, leading to security and military responses wholly unsuited to the humanitarian situation. Some have taken cynicism to the extent of criticising the sea rescue operations carried out, on the pretext that they encourage migrants to come to the EU. To this end, in the absence of European solidarity, the Italian operation *Mare Nostrum*, which rescued over 150,000 shipwrecked migrants between October 2013 and November 2014, has had to cease operating, replaced by *Operation Triton*, coordinated by Frontex, which is not as ambitious and focuses on surveillance.

The European Council of 23 April 2015, called after the most deadly shipwreck (causing 900 deaths) ever recorded at the borders of Europe, did not meet expectations either. It focused on human trafficking to relieve the EU of even more of its responsibilities; tripled the Frontex budget without changing its mandate which does not allow proactive rescue operations[7]; strengthened cooperation between the countries of departure or transit countries, at the risk of endangering refugees' need for protection even more… In short, it maintains the illusion that it is possible to put an end to the massacre in the Mediterranean without breaking with the besieged fortress mentality.

The European Commission's proposal to rectify the failures of the Dublin II joint asylum mechanism by introducing mandatory acceptance quotas was quashed by the flat refusal of a number of member states. Although the surge in the wave of refugees over the summer of 2015 has led to some encouraging measures (in particular the moratorium on expulsions to Syria introduced by Germany), there is no lasting solution in sight to put a stop to the mass drownings in the Mediterranean. The even greater number of migrants and immigrants who do not qualify for asylum are paying the price of the timid and unfair approach to the question of refugees, because the priority is accelerating the expulsion of failed applicants.

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6   In international relations theory, the term "securitisation" refers to the process by which an agent assesses an existential threat justifying exceptional measures.

7   Kingsley, Patrick, and Traynor, Ian, *"EU borders chief says saving migrants' lives 'shouldn't be priority' for patrols"*, The Guardian, 22 April 2015

V.   Recommendations

V.1. Emergency measures

V.1.1. Border management: human priority

However effective the measures that address the reasons why the migrants leave their countries of origin, they will assuredly not put an immediate and net halt to current migratory flows. It is now urgently necessary to leave behind the security mind-set that governs border control policies and replace it with an approach that respects fundamental rights. The Frontex surveillance mind-set needs to be left behind once and for all – by dissolving the agency or radically changing its mandate – and a vast sea rescue naval operation should be launched, with the clear purpose of preventing shipwrecks and carrying out sea rescues. There is also an urgent need to break with the tradition of "relocating" border controls to countries that do not respect fundamental human rights.

V.1.2. Guarantee legal access to the EU.

The bullying and military measures aimed at discouraging departures have patently failed, as migration is often the result of an instinct to survive an emergency situation that no reinforced border can stem. In addition, resorting to criminal networks of traffickers that are now in use globally is the result of ultra-restrictive migration policies. Consequently, the only way to prevent departures by sea is to provide easier access to Europe through legal channels. Deaths caused by current means of migration could be reduced drastically by mass issuance on a major scale of humanitarian visas to people fleeing conflict areas or political instability. With regard to migrants not covered by the Geneva Convention, accessible means of reaching the EU legally must be put in place quickly in collaboration with transit countries and countries of departure to discourage reliance on criminal networks. In the longer term, a discussion is needed about progressively introducing areas of free movement and establishment between the receiving country and the country of origin, and about application methods that ensure the right to movement whilst preserving the social models of the receiving country.

V.1.3. Give political asylum a meaning once more

Apart from rare exceptions, for Western countries, asylum has become an instrument for managing migratory flows. Returning meaning to this idea can only be done by re-embracing the spirit of the Geneva Convention, ensuring requests for asylum are fairly assessed on an individual basis. This must entail discarding the list of "safe countries of origin", nationals of which have almost no chance of benefiting from the right to asylum[8]. Significant measures must also be put in place to ensure refugees are received with dignity, which implies the continued presence of reception centres that can be opened in case of emergency. At the same time, the European Council must activate the "Temporary Protection" directive of 2001, as yet unused, under which refugees are granted protection by the sole condition of being from a country where there is a serious humanitarian situation.

V.1.4. Bottom-up harmonisation

Harmonisation of European asylum policies should only be done bottom up, whether it refers to reception procedures, waiting times or the rights granted to applicants. The concentration of refugees in the transit countries in Southern Europe requires urgent action to divide asylum seekers more fairly. The obligatory quota system proposed by the Commission and certain European heads of state does not tally with the reality of migratory movement. It would be better to base this division on individual preferences, whether for reasons of family reunification or job seeking, and to introduce a financial European solidarity mechanism to support the countries that receive the highest number of applications[9]. The Dublin II agreement must be revoked,

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8   This is the case of Kosovo, second on the list of the highest number of asylum seekers (15.9% on September 1 2015) after Syria, due to the dire security and economic situation there

9   Vanderstappen, Céline, *loc.cit.*

in order to "*Reverse the present logic by allowing asylum seekers to register their asylum claims in the country of their choice within the European Union*"[10], as set out by the Special Rapporteur on the human rights of migrants.

V.1.5. A migration policy based on law

Although it is essential to preserve the specific nature of the right to asylum, it is also important to ensure the fundamental rights of all migrants are respected, with an emphasis on those in an irregular situation. To this end, the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of their Families could prove a good basis for an alternative migration policy. Adopted by the United Nations General Assembly in 1990 and ratified by 47 states, none of which was an industrialised country, this text which covers each step and aspect of the migration journey is an attempt to apply the human rights enshrined in international law to issues of migration. In addition, European countries must develop clear criteria to regularise immigrants who are not recognised as refugees as soon as possible, with a view to putting an end to the legal vacuum in which millions of individuals without a legal status exist, where they are often relegated to living as an underclass (see section V.3.1).

V.1.6. Against the concept of immigration as a tool

A fundamental aspect of a progressive migration policy is preventing it from being used as an instrument to profit the economies of the receiving countries as currently advocated by the European institutions. There is certainly much to celebrate in the attitude of employers – which, needless to say, have their own agenda – in certain countries, such as Germany, which ease access to the labour market. Such an approach is, however, partly responsible

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10   Report of the Special Rapporteur on the human rights of migrants "Banking on mobility over a generation: follow-up to the regional study on the management of the external borders of the European Union and its impact on the human rights of migrants", 8 May 2015, A/HRC/29/36
      http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/092/49/PDF/G1509249.pdf?OpenElement

for "selective immigration", which causes damaging brain drain from Southern countries. An alternative approach would be to facilitate entry and exit between the receiving country and the country of origin, so that the knowledge and experience acquired can be put to use in the country of origin. With regard to highly qualified migrants (who, when they emigrate, can cause particular damage to less developed countries), financial incentives should be introduced, in partnership with the country of origin, to encourage them to return to source countries experiencing shortages.

V.2 Structural measures

V.2.1 Stop feeding regional instability

Putting an end to unbearable humanitarian situations at the root of the current wave of refugees means stopping feeding conflict around the world for strategic or economic reasons. It is no coincidence that over half of the applications for asylum submitted in the first half of 2015 come from countries where chronic instability is the direct or indirect result of Western military intervention. Instead of waging war for so-called humanitarian purposes, the European Union and its member states must use a diplomatic approach that strongly emphasises dialogue, peace and democracy. They must also provide all the support necessary for the humanitarian challenges inherent in state-building for "failed" states, whilst respecting the sovereignty of the countries in question, the will of their population and international law.

V.2.2. Development aid for the South

The fundamental right to movement must go hand-in-hand with the right not to be forced to flee misery. However, we would be wrong to view development aid policies as instruments for managing migratory flows. Not just because they do not effectively reduce immigration, but mainly because emigration itself can be a source of development for the South, by means of transfers of private money, the total of which far surpasses the aid of Western countries. This must therefore be an objective in itself, and be radically overhauled to encourage in-

dependent development that is not based on Western interests, and be designed for the long-term benefit of local economies and populations, with every effort made to try and involve the latter. Provisions that make readmitting expulsed migrants a condition for aid must be stopped immediately. Such a policy would clearly be pointless unless the predatory commercial policies of Western countries are also brought to an end, with particular regard to pressure on lowering tariffs and exploitation of the resources of developing countries.

V.3. Immigrant and refugee integration

V.3.1 Equal economic and social rights

Whether it is intentional or not, any measure that contributes to creating a two-tier labour market, with one for nationals and another for new arrivals, contributes to accentuating the phenomenon of "internal offshoring" for the benefit of profit. These policies, whether they delay refugees' permission to work, give "national preference"[11] in a labour context or deport non-nationals without a legal right of residence, force immigrants to work "at a discount". This drags down the living conditions of all wage-earners. An approach based on equal economic and social rights is the only way to preserve the social models of the receiving societies. This is why it is important to give asylum seekers work permits, together with equal rights, as soon as their case is opened. In order to prevent fragmentation of the working classes, all possible steps must be taken to help integrate new arrivals into local workers' organisations, which means the organisations themselves must take into consideration the specific demands of the new arrivals.

V.3.2. Political equality

Facilitating access to citizenship for immigrants who wish to take it is a necessary measure, but in itself does not suffice, especially for refugees who wish to return to their countries in the long term. Recognising fully equal political rights by basing them on residence criteria rather than nationality could be an enriching avenue to explore. The proposal put forward by a number of associations in favour of a European citizenship based on residence, which would give political rights to anyone able to prove several years of presence in the EU, could be an answer to the issue of equal rights. It would also bring about a change in how citizenship is viewed, basing collective belonging on a common wish to "create a society" rather than on the arbitrary criteria of nationality or birth.

V.3.3. Fighting xenophobia

Governments must assume their responsibilities when it comes to creating harmonious relations between the new arrivals and the local population, and not leave this to the voluntary sector. In addition to an implacable crackdown on racism, particularly the criminal manifestations of it, they must introduce measures to reduce social tensions and aim to change the largely negative perception of immigrants in Europe. In the context of a reception policy this entails ensuring new arrivals are not dumped in urban ghettos – a potentially explosive situation. Beyond the humanitarian and moral issues, it is important to emphasise the social cost of dividing workers. To this end, movements of the political left and workers' organisations – in countries with a strong tradition of trade unions – seem particularly well-placed to emphasise the common interests that could unite migrants and non-migrants in the fight against the neoliberal system.

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11   National preference gives jobs to natives over an equally skilled non-native.

Glossary:

Migrant: a person who voluntarily leaves his/her country of origin and is travelling to another, regardless of the reason for departure. The person becomes an immigrant when he/she is settled in another country.
Asylum seeker: a person asking to be recognised as a refugee under the Geneva Convention.

Refugee: *"A person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality or his country of habitual residence and is unable, owing to such fear, to avail himself of the protection of that country; or, owing to such fear, is unwilling to return to it."* (Art. 1 of the Geneva Convention).

"Economic" migrants: categories of migrants whose reasons for leaving are not grounded in the forms of persecution covered by the Geneva Convention. This definition is critical, as a great many situations behind the reason for departure are a complex mix.

Undocumented migrants: a category of migrants who do not have authorisation to stay in their country of residence.

Find out more:

United Nations High Commissioner for Human Rights: **ohchr.org**

United Nations High Commissioner for Refugees: **hcr.org**

Geneva Convention of 1951 on the Status of Refugees: **unhcr.fr/4b14f4a62.html** (FR) and **unhcr.org/protect/PROTECTION/3b66c2aa10.pdf** (EN)

International Convention of 1990 on the Protection of the Rights of All Migrant Workers and Members of Their Families: **ohchr.org/FR/ProfessionalInterest/Pages/CMW.aspx** (FR) and **www2.ohchr.org/english/bodies/cmw/cmw.htm** (EN)

MIGREUROP network, observatory that is critical of "Fortress Europe": **migreurop.org**

The Migrants Files, a consortium of journalists that aims to quantify the human and financial cost of "Fortress Europe": **themigrantsfiles.com**

Frontexit, a campaign for the respect of human rights at the EU's external borders: **frontexit.org**