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The end and the beginning: the EU, Africa and the need for a new migration regime

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Abstract In the years to come, Europe will face many difficult challenges related to migration. To cope with the increased flows emanating from the African continent, present policies will have to be adapted and new ones created. The EU must pursue a course that protects the integrity of free movement, secures the external borders and enables it to work with stakeholders, both in Africa and elsewhere, to avoid an unchecked influx of migrants. The article reviews important elements of the debate that has been taking place in the EU in recent years and shows that a new basis for the European Migration and Asylum Policy is needed to ensure that it has a more realistic chance of success. It argues that there is a need for a review of EU policies on migration and asylum, and for the development of more useful tools to disentangle the complex web of interests which today is ever present in the debate on the European Migration and Asylum Policy.

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Introduction

India's folklore contains a compelling tale of three blind men who are asked to conceptualise what an elephant is like by touching it. The crux of the matter is their collective ignorance of the animal. Depending on what part of the elephant they touch, they give different answers to the question, as one by one they come forward and offer suggestions of a snake, a tree trunk and a wall.

Some elements of this story can certainly be recognised when considering the formation of EU migration policy. One might almost call it a fitting description of how the EU and its member states have repeatedly tried to articulate the concept of a Common European Asylum System (CEAS).¹

In essence, the CEAS aims to harmonise the legislative framework on asylum in the EU member states, including on issues of financial solidarity and principles for family reunification, as well as providing rules for common standards and stronger cooperation. The CEAS should not be confused with policies relating to migration that is unrelated to asylum.

One fundamental aspect of migration policies in a European context is the total inability of the states of Europe to agree on definitions and stick to them. This is true whether we are contemplating the flawed way in which a person who submits an asylum application can receive vastly different replies depending on which member state he or she applies to, the discrepancies pertaining to the return of failed asylum seekers, or the variations and irregularities in support and reception conditions, access to the labour market and family reunification. All of these examples indicate the distance between the advocated policies and the crass reality of fragmentation that faces Europe.

An excellent example of this was shown in the recently published *Standard Eurobarometer 87* (European Commission 2017c). In this survey, the question of whether respondents were in favour of 'a common European policy on migration' was put to them. The results presented in the survey show that 68% were 'in favour', 25% were 'against' and 7% were undecided (European Commission 2017c, 38). Typically this might be interpreted as quite a positive signal regarding EU citizens' attitudes towards the CEAS. But the observant reader will already have spotted the problem: the lack of qualitative components in the survey. A description of exactly what 'a common European policy on migration' might look like, what such a system would encompass and how it would work in practice was not presented to the respondents. Thus the given answers might be attached to every plan for achieving a CEAS of almost any shape, form, colour or size. The proverbial elephant has indeed entered the room.

¹ For more information, see European Commission (2017a).

The challenges of the EU, Africa and the future

Despite its failures, both recognition and appreciation should be given to all the efforts that have been made in the past regarding the development of a European Asylum and Migration policy. As the well-known scholar of international migration Betts (2009, 179) has claimed: ‘The EU is the only region in the world that has attempted to develop a common asylum and immigration policy, which includes common minimum standards on asylum, limited burden-sharing mechanisms, and an “external dimension” to asylum policy’. He states that it was the creation of a free-trade area that started the process, because this project made it an imperative that all of the states that joined adhered to the principle of standardisation regarding migration and mobility, since they would otherwise run the risk of attracting a disproportionate number of asylum applications. The idea of a Common European Asylum Policy thus has to be considered as a building block of great importance to the very structure of the EU.

If we look back over the recent history of migration in Europe, it is a commonly accepted fact that the Dublin Convention (which later became the Dublin Regulation, signed in 1990 and ratified for the first time in 1997) is the virtual starting point of the serious ambitions to create a joint framework for the processing of asylum applications in the EU. This was followed closely by the decisions of the Tampere European Council in 1999, and it has been a constant and ongoing process to harmonise the asylum procedure, with the aim of closing the existing gaps in methods, approaches, deficits and results. It is evident that everything that has happened during the more than 25 years that have passed since the Dublin Convention has its origins in the realisation that unless Europe manages to harmonise the asylum process, the political risks are considerable.

However, as the disputes about the implementation of the Dublin System also show, numerous problems have evolved as the result of attempting to harmonise policy in a world where the EU has expanded to more than twice its original size of 12 countries, and the number of asylum seekers has increased and sometimes even doubled (Connor 2016). In recent years these problems have reached a point where they threaten not only the Schengen system, but also the very fabric of the Union.

In a very well-written brief on EU policy published in 2014, *Future EU Policy Development on Immigration and Asylum: Understanding the Challenge*, researcher Elizabeth Collett of the Migration Policy Institute Europe gave a thorough and coherent account of the state of play, despite the fact that the brief was written before the crucial events of 2015 (Collett 2014). Collett (2014, 9) points to the need to bring forward solutions, underlining that any attempt to do so must have an added value: ‘the added value of having the European Union lead the policy, the added value for governments applying those rules, achieving goals they could not attain alone; and above all, the added value of the policy for affected populations (both native and foreign-born)’.

In the period of extreme turbulence and upheaval that the EU has witnessed regarding migration since the autumn of 2015, the questions regarding ‘added value’ have

certainly multiplied. Today it is obvious that it is necessary to combine several areas of EU policy to make progress in the area of migration policy reform. Foreign policy, aid and development, security, combating terrorism, and trade and the economy all have a role to play in migration. There is a need for a much more holistic approach to the subject. Viewing migration as an area that solely concerns those who primarily deal with justice and home affairs, whether in the Council, Commission or Parliament, is, by default, an antiquated view.

This is underlined by recent developments: the EU has made efforts to trim its various policies to meet the escalating threat of migration flows from the Central Mediterranean route via Libya, Chad and Niger. Europe can no longer overlook the fact that steadily increasing immigration flows from Africa are likely to present both continents with immensely more difficult challenges than the Middle East and Afghanistan, put together, have presented in recent years.

The reasons for this are rather obvious. Africa is undergoing a transition that consists of two changes of profound importance: both demographic and economic growth. In many ways the changes in migration flows should be considered a direct result of the improvement of living conditions, the lengthening of the expected life-span and the general economic development underway on the continent. In the *Global Competitiveness Report 2016–2017* (Schwab 2016), the World Economic Forum suggests that Africa's working-age population is set to surpass that of China or India by 2034 (Crotti and Mounzar 2016). The same report also suggests that with 15 million people entering the job market annually, the pressure to actually get a job is naturally going to intensify.

To this picture has to be added the positive economic development in the many countries and regions of the continent. While it is still a relatively modest change with regard to those who have actually moved into the perceived middle class,² there is no denying that these changes are making way for groups who will earn and save in the hope of further improving their living standards. For them, migration might offer an alluring opportunity.

In a compelling report from 2016 by the International Organization for Migration (IOM), the subject of migration from Africa is viewed with a particular focus on Niger (International Organisation for Migration 2016). The report focuses on the Migrant Resource and Response Mechanism programme, which was implemented in Niger with the support of the EU. In the conclusions of the report the authors draw attention to three observations: (1) the lack of economic opportunities for many migrants in West and Central Africa; (2) the risks faced by migrants during their journeys through the desert and their temporary stays in Algeria, Libya or Niger; and (3) the widespread misinformation (or lack of information) on the reality of the journeys and on living conditions in the

² Ninety per cent of Africans still fall below the earnings threshold of \$10 a day, and the proportion in the \$10–\$20 middle class (excluding very atypical South Africa) only rose from 4.4% to 6.2% between 2004 and 2014; over the same decade, the proportion defined as 'upper middle class' (earnings of \$20–\$50 a day) grew from 1.4% to 2.3% (*The Economist* 2015).

countries of temporary residence, particularly Libya. It goes on to state: ‘The number of migrants assisted in 2016 was the highest number recorded in 3 years, and represented a significant increase relative to numbers of migrants arriving in IOM transit centres in 2014 (2127) and 2015 (1388)’ (International Organisation for Migration 2016, 25). The total number in the five IOM transit centres in Niger in 2016 was close to 6,300 (International Organisation for Migration 2016, 25).

Without a doubt these observations and facts are evidence of the many challenges awaiting the EU in the years to come. As the population increases at a steady pace in Africa, and the economic improvements lead to the expansion of the group with enough money and motivation to risk the perils of a journey to Europe across the Mediterranean, there are strong reasons to believe that Europe will have to deal with significantly more migrants than before. While it is true that a lot of migration does occur between states in the developing world and that this will continue to grow, the bulk of the increase in numbers of potential migrants is more likely to affect Europe than any other geographical region close to Africa.

Towards new ways and means

In 2015, amidst the ongoing crisis of influx and confusion along the external borders of the EU, one of the rapidly evolving themes was the concept of internal relocation, paired with resettlement, and the impact this had on the solidarity between member states. In essence, the relocation mechanism aims to distribute arriving asylum seekers among the member states, while resettlement forms the basis of the worldwide concept of protection, which has been developed under the auspices of the UN High Commissioner for Refugees.

Mentioned by the Commission in several reports and the subject of lengthy discussions spanning several years, relocation is a concept of intense political debate (European Commission 2017b). During my time in office, it was certainly the most hotly debated topic at the meetings of the Justice and Home Affairs Council, as the states of Southern Europe demanded the relocation of asylum seekers to other member states, and the improvement or even abolition of the Dublin System. The idea of resettlement from abroad to individual member states, whereby states pledge in advance to accept the direct transfer of refugees from camps to their territories following an assessment process to establish any protection needs, was seldom discussed as a conceivable alternative.

The statements made by German Chancellor Angela Merkel show some of the ambiguity felt by European politicians in relation to the concept of solidarity. Chancellor Merkel has clearly stated that though she deplores the current state of affairs, she is not prepared to use the big stick of withholding EU funds from member states who fail to comply with the relocation targets (*Frankfurter Allgemeine* 2017). At the same time she has shown her own commitment, as well as Germany’s, by repeatedly stating that ‘The situation of the summer of 2015 must never be repeated’ (*Der Spiegel* 2016, author’s

own translation). Reducing the level of conflict between the member states is, of course, necessary. However, if the CEAS is to be saved from a continuously calamitous process, it is time to more closely analyse the root causes of the problem and look for additional remedies.

The end of relocation: the beginning of a new discussion regarding resettlement

In December 2016 the European Council of Foreign Relations published a commentary titled ‘The EU’s Migration Policy in Africa: Five Ways Forward’ (Toaldo and Barana 2016). Among the proposals outlined was the idea of ‘work[ing] towards processing asylum requests in third countries’. The idea was floated of using EU liaison officers working within certain African states to enable the EU to ‘scale up direct processing of asylum requests in third countries’ (Toaldo and Barana 2016). The article was written following the meeting of European and African leaders in Valetta, Malta, in November 2015. This meeting to some extent changed the narrative on EU–Africa migration and is viewed by many as the starting point for a more intense dialogue between the two continents on the subject of migration, where resettlement could, for the first time, play a crucial role.

If the EU was to truly embark on making the externalisation of the asylum process a top priority, it would be a step towards untying the knot of conflict that has so far restricted progress. But this means that member states will have to give and take. It would also mean a Herculean effort would need to be made to convince all the parliaments of the EU and the European Parliament of the feasibility of such a move.

Yet, the strength of the case for replacing the idea of relocation is clear to every onlooker: as a concept for addressing the difficulties of migration it is failing, simply because it does not offer the stakeholders, that is, the member states, viable instruments of control. Relocation is simply more akin to an assembly line or a distribution chain than a mechanism that gives the participating states any guarantees on the numbers that they take on, bar the protection of the external borders. Resettlement, on the other hand, provided that it is based on common agreements between the member states and the countries of origin, and is funded in a proper manner, is a different matter.

The introduction of a resettlement policy would enable requests for asylum to be made in limited numbers outside the EU; safe zones, with reception and accommodation centres, and resettlement programmes could be developed in third states and, when possible, in countries of origin. It would also mean that the EU could offer safety and humanitarian assistance as close as possible to the asylum seekers’ places of origin in third countries. The meeting in Paris at the end of August 2017 between African leaders and President Macron and Chancellor Merkel could be perceived as the start of a new way forward along these lines (Vinocur et al. 2017).

Resettlement would, of course, also call for a different approach towards the regime of protection. While the concept of protection as envisaged in law and practice has been that any person turning up at the border of Europe has the right to ask for asylum and be granted a way to establish their claims, the changes described previously in this article would make it imperative that an externalised process is created to offer asylum within the territory of any member state of the EU. Not only would this reduce the prospects for human smugglers, but it would signal the end of the senseless drownings in the Mediterranean Sea, and the beginning of a more humane and effective approach to the granting of asylum within EU territory.

Conclusion

The EU has to recognise the challenges inherent both within its physical borders and in the developments taking place in the countries of origin for potential migrants. The time has passed for the older paradigms for how to offer protection, process asylum applications in a fair and justifiable way, and prevent human smugglers from carrying out their activities to the EU's detriment. The need to protect people from persecution will always remain. But the practical measures of securing the route to protection have to be disentangled from migration based upon improving living standards.

To this end, it is time for the leaders of the EU to call forward new groups of ministers, state secretaries and diplomats, wise women and men, who should be given a strong, clear and, yes, bold mandate to outline a new future for European Migration Asylum Policy. From the perspective of 5 or 10 years from now, such a process might prove to be just as decisive as the meeting of the European Council in Tampere in 1999, which started the process of creating a Common European Asylum System.

It will not be easy, because one of the fundamental obstacles for the entities responsible to overcome will be the lack of trust in each other, something that has become all too common of late. But as another proverb, this time Chinese, tells us: 'A journey of a thousand miles begins with a single step.'

We had better start on that journey as soon as possible.

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