



MIGRATION PROCESSES AND THE RIGHTS OF MIGRANTS IN EUROPE

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ABSTRACT

In the contemporary global landscape, the movement of people across borders has become an increasingly complex and multifaceted phenomenon. Europe, in particular, has been at the forefront of this discourse, grappling with the challenges and opportunities presented by the influx of migrants and refugees. This article aims to delve into the intricate nature of migration processes and the crucial issue of safeguarding the rights of migrants within the European context.

Introduction: It is a fundamental principle that all migrants, irrespective of their legal status, are entitled to have their human rights respected, protected, and fulfilled. Often in Europe today, however, this is not the case, with many migrants being subject to discrimination, harassment, exploitation, and abuse, and living in poverty and marginalization. This has led to the promotion of principles and standards to protect the rights of migrants, including a body of international human rights conventions and other instruments, and the development of a specific field of international and regional law, policies, and practices. Owing to the above-mentioned reasons for migration to Europe and the uniquely evolving nature of migration in the region, there are a variety of legal and irregular migrants, each facing different situations and problems in terms of their access to human rights.

A large number of migrants, particularly those from North Africa, Asia, and Latin America, have entered Europe on a temporary and/or precarious basis and are in an extremely vulnerable position with regard to their human rights protection. This is the pool of migrants that are often at risk of falling into the category of the undocumented and therefore facing a situation of extreme marginalization and exclusion from any effective protection of their rights. The protection of the rights of migrants and their access to human rights, therefore, is an issue that cuts across most, if not all, specific areas of law and policy, and a theme that runs throughout the developing field of EU policy in migration and asylum.

Today, migration is no longer an extraordinary event, but rather a normal occurrence in the changing social, economic, and political climate of the globalized world. Not only has the scale of international migration increased, but also its complexity due to the changing nature



of global production and consumption, the consequent inequalities within and between countries, and the effects of globalization and the widening and deepening of regional integration on the social and economic development of countries and regions. The nature of migration in Europe has changed significantly in the last fifty years. The increasing diversity of flows to, from, and within the regions of Europe has meant that the continent has, and continues to be, subject to various forms of immigration and emigration - some of which is directly caused by or results in conflicts and human rights abuses. This has meant that Europe is now a continent of migration and has a long history of both immigration and emigration. Today, migration is one of the most important and most debated issues at the national and European level, and one which exerts an enormous impact on the EU and its member states, not just in terms of policy, but also in the realms of social and economic change. The European continent has also gained in importance as a transit region and destination for migrants, and its response to this has had great effects on the development of EU policy in the field of migration and asylum.

Background on Migration in Europe

Migration has been a significant event in Europe since long ago. The beginning of the migration started during the colonial era, where Europeans migrated to other continents such as Africa, Asia, and Latin America. This type of migration is considerably different from the migration that Europe experiences today in terms of direction and consequences. The early African and Asian migration to Europe during the 19th century was due to the "colonial push" by the Europeans. The working opportunities were considerably less in their countries than in Europe.

A lot of potential workers from the colonies were recruited to Europe to work in the primary sectors such as agriculture, mining, fishing, and also as seamen. This evidence can be seen from the statistics that show migrants in the UK, which consist of a 0.7% increase in population by 1.8 million, were mostly Asian or Asian British (ONS, 2005). During World War I and World War II, there were still colonial pushes together with a new form of migration from war-torn countries to Europe. The difference is that migrants from the war-torn countries were brought to Europe as refugees. This is the significant beginning of non-EU immigration to Europe. Although there were still the same types of migrations from the colonies, a large number of potential colonial workers changed their minds about migrating after the war in Europe, more specifically to the colonizers' countries. This was to make a living as their home countries were in a devastating condition. The migration was also part of the colonial countries' effort to rebuild their countries. This is the turning point at which the direction of the migration has swapped. Today's European migration consists of a high number of immigrants and a small amount of emigrants.

Importance of Protecting the Rights of Migrants

The general preference within migration policy for a 'labelling' approach to migrants differentiates between the 'useful' and the 'useless'. This preference has been adopted by citizens as they seek to see who is getting their benefits or using their resources and has resulted in a hierarchy amongst migrants with different rights attached. This approach ignores the social and economic contributions migrants make to their countries of destination



and also fails to acknowledge their transitory nature. Measures to protect the rights of migrants have often been construed as 'special treatment' or 'favours' and directed at 'privileged groups' such as the workers from other Member States. In fact, they are merely attempts to allow these migrants the same opportunities as citizens. For instance, Community law that allows equal treatment between workers from Member States effectively grants those workers migrant worker status equal treatment. This is an indictment of the current situation of migrants from TFEU third countries and stateless persons.

The differentiation between EU citizens, TFEU third-state nationals, and stateless persons is a differentiation between different levels of rights. The former two are guaranteed certain rights, the third-country national a right to visa-free short stays, and the stateless person faced with a lack of cooperation from Member States in ensuring their rights to a reasonable standard of living and education. Many third-country nationals have been granted a certain right only for it to be revoked in attempts to increase state control over the entry and/or stay of migrants. An example of this can be seen as the decision to phase out foreign students in Belgium for workers. This labelling approach, a hierarchy of rights, and measures to increase control over different categories of migrants is not the most just and humane way to treat those who are providing services to and developing the host country.

The subsequent part of this text 'Importance of Protecting the Rights of Migrants' will compare the importance of a rights-oriented approach to migration, contrast it to a citizenship status approach, and offer suggestions as to how to improve the existing situation. Presently, the initial stages of policy-making in migration are designed merely to manage the flows of people or to select those deemed most 'useful'. This is achieved through measures to increase state sovereignty and control over migration flows. Measures to control entry can include visa restrictions on certain countries (often correlated with the level of development with the nation in question) or carrier sanctions. It is also seen through the externalization of migration policy, often in the form of bilateral agreements with nations on the periphery of Europe. An example of this can be found in the agreement between Germany and Spain with the Moroccan government. It provided for greater cooperation in controlling migration flows from Morocco to Spain. These policies are often detrimental to the rights of would-be migrants and can increase risks and costs as people take measures to get around restrictive entry conditions.

The migration patterns observed in Europe are a reflection of the broader global trends, shaped by a myriad of factors, including economic disparities, political instability, environmental degradation, and armed conflicts. Individuals and families from various regions of the world, often driven by the pursuit of better economic opportunities or the desire to flee from persecution and violence, embark on perilous journeys to seek refuge and a better life in European nations. This influx of migrants has had a profound impact on the social, economic, and political landscapes of the European continent, presenting both challenges and opportunities.

One of the primary concerns in the realm of migration is the protection of the fundamental rights of migrants. As individuals who have left their countries of origin, migrants are often vulnerable to exploitation, discrimination, and the denial of basic human



rights. The European Union, through its various institutions and legal frameworks, has made concerted efforts to address this issue and ensure the safeguarding of migrants' rights. The Charter of Fundamental Rights of the European Union, for instance, explicitly prohibits discrimination based on nationality and guarantees the right to asylum, among other provisions.

However, the implementation and enforcement of these legal safeguards have not been without their challenges. The influx of migrants, particularly during the "refugee crisis" of 2015-2016, has strained the resources and capacities of many European nations, leading to the emergence of nationalist and populist sentiments that have, at times, undermined the commitment to upholding the rights of migrants. The lack of a cohesive and coordinated approach among European countries has also contributed to the uneven and sometimes inconsistent application of policies and protections.

Furthermore, the issue of migration has become increasingly politicized, with various political actors and interest groups vying for influence and shaping the narrative around the topic. This has led to the emergence of polarized debates, with some advocating for more restrictive immigration policies and others championing the rights and integration of migrants. The balance between securing national interests and upholding the human rights of migrants has become a delicate and often contentious issue.

Despite these challenges, there have been notable efforts and initiatives aimed at addressing the rights of migrants in Europe. The European Union's Asylum, Migration and Integration Fund, for instance, provides financial support to member states to develop and implement policies and programs that promote the integration of migrants and the protection of their rights. Additionally, various civil society organizations and human rights groups have been actively engaged in advocating for the rights of migrants, raising awareness, and holding governments accountable.

Conclusion

In conclusion, the migration processes and the rights of migrants in Europe are complex and multifaceted issues that require a comprehensive and nuanced approach. While the European Union and its member states have made strides in establishing legal frameworks and policies to safeguard the rights of migrants, the implementation and enforcement of these measures remain a work in progress. Addressing the challenges posed by migration requires a collaborative effort among European nations, as well as a commitment to upholding the fundamental human rights of all individuals, regardless of their national origin or immigration status. By fostering a climate of inclusivity, empathy, and respect for diversity, Europe can strive to create a more just and equitable society for all its inhabitants, both native-born and migrant alike.

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