

DALLA COMUNITÀ INTERNAZIONALE

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Old, new challenges to face: poverty, migration and criminality

SUMMARY: 1. Migration, categories of migrants, transit and target countries - 2. Migration related varieties of criminality - 3. Migrants as victims of criminality - 4. . How migration is handled and how should be - 5. What is the solution? What works?

1. Migration, categories of migrants, transit and target countries.

Before addressing the previously listed questions, it is helpful to approach the topic from a distance - i.e. what migration really means and what trends can be identified. The integrational troubles of people moving to the major cities already caused problems during the socialism. The crash of the value system of those moving from the countryside to a city is a known issue as well as the fact that not everybody is able to find a job, some might become unemployed, vagrant and is potentially addressable for criminality. When it comes to migrants, the problem is more acute as they not only change their place of living but have to adapt to a new culture.

Erdei and Tuka¹ distinguish among the categories of migrants and specified the ones, which appeared during the 80's of the 20th century: economic migrants who want to break out from the hopeless conditions of their own country and ecological migrants who mostly come from Africa and certain parts of South America and leave their home countries due to environmental changes which would risk their secure livelihood.

Refugee - though some may easily confuse - is not a synonym for migrant. Refugee is a person who is forced to leave the country as - due to fundamental changes in the political or institutional system - his life is at risk, and is no longer able to provide a livelihood or security.

Spring of 2011 - called the Arab Spring - was a revolutionary wave among the Arab League and in its surroundings. During the protests and civil wars in Egypt, Tunis, Libya, Sudan and in many other countries, hundreds of thousands of people became refugees and many of them considered Europe secure. Within a short period, more than 25 thousand refugees appeared on the shores of Malta and Italy. According to the UN, in the last few years, most

¹ Erdei Nikolett - Tuka Ágnes: Az Európai Unió migrációs politikája napjainkban. www.ittvagyunk.eu/application/essay/134_1.pdf accessed 9 July 2015.

refugees come from countries such as Afghanistan, Syria or Iraq and other countries stoked with simmering conflicts. The UN's view emphasizes that the current refugee flood significantly outweighs the one we had before. In the following, when 'migrant' is mentioned, it includes 'refugee' as well. When the differentiation matters, we use the notions of refugee and migrant accordingly.

Migration leads to unstoppable changes in both the issuing and the host country. While experts² considered migration a slow process in 2008, now we see that it emerged. Migration towards Europe, within Europe and away from Europe, to for example the USA, New Zealand, Australia and Canada all show cyclical change, are closely related to the host countries' politics and to former immigrants' ability to integrate. Migration from Africa to Europe has constantly been present, but suggests a quantitative change recently.

In the last two decades, Denmark, Italy and Greece became popular destinations for settlement and in the meantime the composition of the population of major cities changed considerably. Nowadays, more than quarter of the population of Amsterdam, Rotterdam or Marseille is of foreign origin or from an ethnic minority and by 2020, it is expected to exceed 50%. Speaking of Hungary, though our country is not a desirable target country, being a transit state likewise have its own difficulties to face with.

There are questions rising: Should we defend ourselves from migrants? Should we defend migrants? Who are the ones who do commit crimes? Who should we punish and how do we justify the decision?

2. Migration related varieties of criminality.

In our opinion, migrants shall not be identified as criminals. Statistical surveys point out that mostly middle-class individuals leave their countries and are willing to provide their livelihood in the host country with work. Refugees escape from an uncivilized state where the violation of human rights is part of the daily routine. Thus, we consider a misguided political statement when migrants - and even refugees - are apostrophed as new risks of criminality.

However, there are delinquencies committed by them in the transit or host countries which can be categorized as follows:

- crimes committed for living
- emotional, conflictual crimes
- religious-motivated violence committed among groups of migrants

² Póczik Szilveszter - Fehér Lenke - Dunavölgyi Szilveszter - Jagusztin Tamás - Windt Szandra: Nemzetközi migráció - nemzetközi kockázatok, Magyar Tudomány, 2008/09, p. 1095.

- some people stress the threat of terrorism

Crimes committed for living: when they ran out of all their material resources, migrants do commit minor thefts. At this point, we should not forget that some migrant already run out of cash by time he arrives at a destination as he paid a huge amount of money for smugglers. Although we do not think that this type of crime is “acceptable” anyhow, we consider such a minor offense.

Impulsive crimes: Hall³ when examining the causes of urban crime concluded that criminality and crowdedness are directly related. A research was carried out on crowdedness, where individuals had less than 8-10 square meters of space: both mental and physical symptoms doubled. The results of the often cited famous rat study suggested that crowdedness caused cancer among female rats, while unnecessary tail-bites among male rats. In Hungary, refugees can be kept - as an extraordinary measure - in asylum detention while awaiting for the decision. Taken into account that there are thousands of people from all age and race sharing a space that can not host more than a couple hundred people, the tensions are strengthening.

Violence caused by religious conflicts: refugees do not come from a unique community: they have different beliefs, different cultural habits. It often happens - especially speaking of Hungary - that they are put together within the same refugee camp. There, religious conflicts might as well break out just as it takes place in the country they left behind.

Terrorism: authors of the present study are of the opinion that refugees are not terrorists. Families forced to escape are hardly ever soldiers of terrorist groups. International terrorism is a threat to the world as different groups feed on different mediums and have different motives. We believe that terrorist groups can carry out attacks whenever they intend to, independent of any migration trend or refugee flood. Experience has shown that the 1st generation migrants - who we are dealing with in the present study - are willing to integrate as integration is the way to find job and shelter. The integration problem of the 2nd and 3rd generation migrants can be found among educational policies of host countries'. Such conflicts can lead to minor riots, as can be seen in France or Germany.

We should also mention here the outcome of illegal border crossing. On the one hand, while people illegally came into the country and they have no right to stay here, we can not force them to go back to a country from which they

³ Hall, E.T. Rejtett dimenziók. Gondolat, Budapest, 1980.

successfully escaped. On the other hand, the emerging number of people staying in the country without any valid personal document might be a cause for economic and social concerns. According to Szandra Windt's research⁴, "illegal migrants" do not endanger neither the work conditions, nor the wages of the given society - the relationship between rising criminality and illegal migration can be seen not on the perpetrators' side, but on the victims'. Illegal migrants do not place any load on public funds or social security either. However, she underlines that the legal and illegal migrants' isolation accelerated. It is an important finding as it underlines that migrants might be directed towards the path of criminality as a consequence of such isolation. For that reason, another question rises: are (not) migrants more likely to become victims?

3. Migrants as victims of criminality.

In the previous paragraph, we examined the most common cases when a migrant does commit crimes. However, taking into account a migrant's defenseless circumstances, he may easily become a victim as:

- a persecuted person due to religious or political reasons
- a victim of human trafficking networks
- may become the victim of racist violence in the transit or host country
- may become the victim of violence committed by another migrant due to religious, cultural or communicational conflicts

The one who feels that the only chance remaining is leaving the country should obviously be regarded as a victim of his own country - even indirectly. (Not to forget, this is the time when the migrant becomes a refugee.)

A migrant - in this case we rather think of refugees - may pay a huge amount of money to a human smuggler who misleads him while putting his life at risk. Human trafficking is a type of organized crime - the only aim of such networks is to get good money. Therefore, after these "institutions" received their payments, reality has shown that they do not care whether the ship they loaded with people ever reaches a coast or sinks in the sea.

Even if somebody successfully reaches a transit or the host country itself, he might suffer from a series of violence, eg. might become a victim of racial attack or a victim of another group of migrants if the cultural or religious separation is not well established at the refugee camp. In Hungary immigration

⁴ Windt Szandra: Az illegális migráció kriminológiai kérdései. Miskolc, 2008. http://midra.uni-miskolc.hu/JaDoX_Portlets/displayContent?docId=5733&secId=1135

detention - though an extraordinary measure according to the law - is applied in half of the cases, pointed out by the Helsinki Committee⁵. The circumstances barely differ from those of prisons': people are kept in cells in horrible hygienic conditions, they hardly ever get food or are not properly informed about what exactly will happen to them. Thus, it is not an exaggeration to say that half of the refugees - unreasonably - are suffering from further punishment in the transit or host countries.

4. How migration is handled and how it should be.

Migration is regulated by international agreements or conventions. Sassen however, emphasizes that the gap between the practice and the aims of migration policy is increasing. We have the force that simultaneously creates economic areas without borders and enhances the control of borders to stop migrants.

Being a global issue, the local tactics of states are not sufficient - not the mention they do not do any good to the situation. There are steps taken by the European Union such as the *Mos Maiorum* police action - which likewise show that an international strategy is necessary. Unless international organizations, such as the United Nations (UN) or the European Union (EU) come up with a long-term solution, a global disaster affecting the whole globe can happen. However, as the UN Chief, Ban Ki Moon underlined, no military solution would do any good to the situation⁶. Intensive changes among economics, societies and politics are not local ones, but have their global effects. Crisis induced by the global financial market spread around all the world and therefore, we should prepare both locally and globally to the worsening of public security. The UN, the EU and the countries themselves have to make every effort to prevent anomy to turn to anarchy and to prepare societies and economies to be able to consolidate. The states' individual solutions are insufficient. An organized, joint action which offers a long term, civilized proposal for solution is required. We should beware from reckless local tactics as they would only lead to further tensions.

Europe - including Hungary - has to determine when migration is acceptable and when does it become a criminal act (as some countries, including Hungary address the question from this perspective). Criminal law should be ultima

⁵ Hungarian Helsinki Committee: Information note on asylum-seekers in detention and in Dublin procedure, May 2014, p. 5

⁶ Isla Binnie: No military solution to boat migrant crisis: U.N. chief to paper, Reuters, <http://www.reuters.com/article/2015/04/26/us-europe-migrants-un-idUSKBN0NH0JH20150426>, accessed: 10 July 2015.

ratio by all means. It is impossible to solve global political, economic or social problems with one country's criminal sanctions - not the mention that this path should not even be touched. Although locally committed crimes will always be chased by authorities, international cooperation is needed on a global level.

There are countries where authorities apply contra criminal methods, London's streets are fully covered by surveillance cameras⁷. The US considers deviance as the entrance hall to criminality and therefore it intervenes at the first suspicious move. The question of how to define the meaning of deviance has changed over the eras with societies and cultures. Norm is different in each and every country, accepted and rejected behaviours likewise differ. Without an accepted norm, even the declaration of deviance violates human rights just like using concepts as 'European' or 'Balkan' in a value-added form.

We can not handle this question with the tools of criminal law - starting from asylum detention. Hungary has no migration strategy, policy or concept - as pointed out by Wetzel. He highlights⁸ that our country lags behind in this area as well, though we should have had an immigration strategy a decade ago. In absence of such, the organization system and the legislation along with the practice of law are all drifting and hence, we can not enforce our interest neither in the EU.

Hungary act on its own motion - and perhaps the most worrisome step taken was the idea of building a fence to stop illegal migration. Recalling the words of Heiszler Vilmos⁹, we can built walls anytime, but we should bear in mind that building such is a herald of downturn. The same happened in China, in Rome and in Berlin. The establishment of a European fortress would just symbolize the continent's defensive inability.

Not only this idea is troublesome, but the whole process how we do - or do not - address the question of migration. Back to Wetzel's point, until the country does not come up with a migration policy, long-term answers to how and what kind of migrants the country expects are all waiting for their time... There are a number of questions lacking their answers:

- How many migrants do we need theoretically?

⁷ Safety enforcement cameras, Transport for London, <https://tfl.gov.uk/corporate/safety-and-security/road-safety/safety-enforcement-cameras>, accessed 9 July 2015.

⁸ Wetzel Tamás: A bevándorlás kérdése Magyarországon. Budapest, 2011. Készült az Európai Integrációs Alap/Belügyminisztérium által finanszírozott EIA/2010/3.1.4.1. azonosítószámú projekt keretében. www.publikon.hu, accessed 9 July 2015.

⁹ Windt Szandra quotes Heiszler Vilmos in: Az illegális migráció kriminológiai kérdései. Miskolc, 2008. http://midra.uni-miskolc.hu/JaDoX_Portlets/displayContent?docId=5733&secId=1135

- Do we need a bigger migration?
- What kind of migrants do we prefer?
- What sort of tools should we apply?
- What should be the integration policy?

Among all the questions, he already highlighted that the integration policy is the most crucial element of any migration policy as it is a must to avoid social tensions. For this reason, we should not leave out the relevant strategic documents on law enforcement strategy, anti trafficking strategy or crime prevention strategy.

Integration does not mean that migrants culturally adapt to the host society. This mistaken attitude has already led to a number of failures. There are countries which think that if a migrant starts to work, integration is done. There are countries who even think less - and take the view that it happens automatically. As set out above, migrants come from countries such as Syria or Iraq which fact in itself leads to further conflicts as their norms, culture, economic or political system firmly differ from the host countries'. The aim is not to formulate them into regular European people but to provide a common basis where we do not push each other to a marginalized situation just because some need help and we consider it sinful.

5. What is the solution? What works?

As underlined at the very beginning of this article, we can not give any political answers. However, we can tell that we stand on human rights' side: if anybody needs help, then we should help. But how can we help? What can we consider help in the present circumstances?

How should regions or states react to migration? Adequate answers should be given to each issues. When the migrant commits a crime, an appropriate reaction is required, when the migrant is a victim of a crime, he should be protected. Cesare Beccaria has emphasized in *Dei delitti e delle pene* that, the faster and the closer the decision is made (relative to the crime committed), the more equitable the punishment is. Punishment shall not be cruel, but inevitable. Therefore, if a migrant commits a violent crime or a crime against property, the criminal procedure shall be carried out and must receive a proportionate punishment. When the migrant is a victim of a crime, the same rights - that any other victim would be granted - shall be granted to him.

Criminal law however will not provide the real answer. The real answer will be given by humanity and care which - within reasonable limits - cover the

establishment of quality refugee camps and well functioning coordination.

As Shapiro points out, while commerce and politics are substantially becoming more and more international, law and criminal policy are not¹⁰. Beyond the first decade of the 21st century, not even this level of isolation is allowed - as we can clearly see its result nowadays. Those in charge of criminal policy and academics supporting their work should prepare for a growing number of events and occurrences, especially for the following:

- Ethnic religious strifes can explode in harsh economic situations and might easily expand their current form. As per the current refugee flood, we now see how Europe is terrified with the spread of islamism.
- Homer-Dixon's¹¹ studies extract how the scarcities of the environment can lead to social conflicts, even to armed violence.
- The opposite of the previous point is also true, when the peaceful population is isolated from the most basic, vital supplies then violence is a tool to survive.

It should again be underlined that migration in itself is not a criminal act, migrants are not criminals. There are criminals among migrants as well as there are criminals among any other society or groups of people. Therefore, fighting against criminality is not a migrant-specialized expectation. Rather, it is a general demand. Against "real" criminals, real answers by criminal policy is required.

¹⁰ Shapiro, M.: The Globalization of Law. Indiana Journal of Global Legal Studies. 1. 1993.

¹¹ Homer-Dixon: Environment, Sarcity and Violence. Princetown, University Press, 1999.