

Introduction

EUROPE, REFUGEES AND INTERNATIONAL MIGRATION

The present issue of the *Refugee Survey Quarterly* contains the papers presented at the Sixth Annual Humanitarian Conference organised by the *International Relations and Migration and Refugee Studies Program* of Webster University in Geneva. This event was held on the occasion of the fiftieth anniversary of the 1951 Geneva Convention on the Status of Refugees. The theme of this year's conference, **Europe, Refugees and International Migration**, was selected not only because of its importance in the current European and international context, but also its relevance for this anniversary.

As in previous years, the conference was held under the auspices of the Geneva Government and organized with the co-operation and participation of major humanitarian organizations, such as UNHCR, ICRC, IOM, as well as other governmental and non-governmental organizations. The presence among the speakers, this year, of two senior officials of the European Union was particularly welcome in the light of the topic of the seminar. The organizers are grateful to UNHCR for the publication of the conference proceedings¹.

The objectives of the conference

In the last ten years, due to the magnitude and violence of political and humanitarian crises, forced migration has become a key issue of international concern. Also, notwithstanding the process of globalization, there are growing obstacles throughout the world to the free flow of voluntary migration.

During this period European countries have been once more at the centre of major refugee movements, both as countries of origin (in particular from former Yugoslavia) and as countries of destination for asylum seekers. Moreover, in the last forty years from a continent of emigration Europe has become a continent of immigration.

In response to these developments and to the political, social and economic dynamics of European integration, the European Union is engaged today in a process of developing a common approach to both asylum and to immigration in general.

¹ As in previous years, the views expressed are those of the speakers and are not necessarily those of their respective organizations.

From the start, Western Europe has been one of the mainstays of the international refugee regime. Also, the European countries are the principal donor countries in favor of humanitarian assistance. Yet today, there is concern among many Europeans and non-Europeans that Europe's commitment to the principles of full protection for refugees may have weakened. There are also signs of a greater reluctance to continue to contribute fully Europe's share in financial and human resources which are necessary for providing a minimum level of assistance to the millions and millions of victims of forced migration throughout the world. Thus, there is considerable interest today in European policies on asylum and immigration. There is a broad agreement that the quality of European policies will have an important impact on the broader outlook of the international refugee regime and on future migration flows.

The objective of the conference was to bring together experts from international organizations, the European Commission, national governments, NGOs and other specialists to discuss the position of Europe in the current international migration and refugee trends and policies. The speakers were asked to address not only the present situation or recent developments, but also the outlook and the major challenges faced by Europe in this important area.

As in previous years, the program was designed to cover as wide a range of topics and interrogations as possible in a day-and-a-half meeting, rather than provide an in-depth analysis of one of the issues related to migration and refugees in Europe. This approach has allowed to show the complexity and interdependence of the issues and problems and reminded even the specialists that humanitarian action, asylum and immigration policies have broad ramifications and decisions must not be taken in isolation. It has also brought out among the conference participants a sense of sharing common values and preoccupations.

Major themes

The major themes and interrogations included:

- the roots and relevance of Europe's humanitarian tradition;
- the emergence of a common migration and refugee regime in Europe
- migration and refugee flows and policies in Europe and in a global context;
- the issues of protection, trafficking, and the impact of EU policies in Central and Eastern Europe;
- Kosovo as an example of confronting a major crisis in Europe;
- the issues of identity, integration, repatriation and resettlement; and finally,
- Europe's position in the world-wide context.

In the rest of this Introduction a number of points will be mentioned more in a way of illustrating the diversity of issues, than as an attempt at a systematic summary of each of the main themes dealt with at the conference.

Europe as a community of values

The first, and probably the most important message of the conference was that Europe has a strong, vested interest in the maintenance of the international refugee regime and in equitable immigration policies. Not only because of the long liberal tradition in Europe. But because Europe was also the birthplace of the most oppressive and murderous ideologies and political systems, of the "right" and of the "left", ever invented and implemented in the history of mankind: communism, national socialism, aggressive, murderous nationalism, political regimes that had been responsible for the persecution and death and flight of untold millions of victims.

Fifty years ago Europe was confronted with the challenge of forced migration resulting from the consequences of the Second World War and from the subsequent imposition of communist dictatorships in Central and Eastern Europe. The creation of an international protection system was part of the response to this challenge. This system, which originally was meant to be temporary, is still valid 50 years later and has to meet the increasingly complex needs of today's displaced people.

Systematic violations of human rights and of international humanitarian law are at the source of forced migration. In fact, three pillars of international law are designed to safeguard and protect human dignity: refugee law, human rights law and international humanitarian law. The specificity and convergence of these three areas were the topic of the fourth Webster humanitarian conference held in 1999. (Cf. *Refugee Survey Quarterly*, Volume 18, No. 3, 1999).

There was a consensus among the participants that Europe has to see itself as a *community of values*. Granting asylum to the persecuted and respecting the dignity and rights of the immigrants are essential elements of the value system that has been responsible for the extraordinary political, economic and social success of Europe, and of the Western community at large, during the second half of the twentieth century. The international refugee regime, international humanitarian law, the respect for human rights are all part of this fundamental value system to which Europe belongs and which ought to continue to shape its future as well.

European identity and the fight against racism and xenophobia

Patriotism, the attachment to one's country or countries and community or communities, are positive values. However, patriotism, European national or common identities must not degenerate into xenophobia. The European countries know from their own history, from their own experience the consequences of political systems based on racism, class warfare, xenophobia or other forms of religious or ethnic fanaticism.

One of the key messages of the conference has been that European countries, individually and as a whole, must not fall victims of xenophobic rhetoric. Today, most Europeans share a series of powerful principles, which have become universal by now, such as tolerance, the perception of democracy as a good political system, a sense of national pride, and the belief that states should not resort to violence and warfare to solve international difference and disputes. Despite their fragility, these values can serve as the foundation for a common identity.

Today's immigrants no longer feel the need for an exclusive new identity. In fact, both voluntary and forced migrants are still able to maintain close links with their relatives and country of origin, and are often not required to give up one national identity for another.

Immigrants and asylum seekers who will decide (or will be allowed) to stay, will be faced both with the richness and challenge of dealing with three different identities: the European; the one of their host country; and the best features of the one of their country of origin. One of the key conclusions to emerge from the debate is that the new European tradition and identity rest on the rejection of racism, class warfare and of xenophobia.

Europe: only temporary immigrants also in the future?

It is important to remind people that Europe was also built by migration and mass movements of people. One of the benefits of EU membership is the freedom to move. For immigration from non-member countries, however, the basic principle is unilateral decision by the country of immigration.

The issue of immigration has been less widely discussed in international fora than the refugee crisis. The main reason for this is that contrary to the international refugee regime, there is no "international migration regime". In fact, at the national level, in all European countries actual and potential immigration is a major political issue. Full freedom of migration has been known only among states or other political entities among which there are close political ties.

The issue of refugees and of asylum is linked to the broader issue of immigration. European leaders have a major responsibility in drawing attention to the positive aspects of migration, and not only to problems. There was and remains even today a major difference between the European tradition regarding the position of foreigners and the situation and tradition of the principal overseas countries of immigration. This difference has as much to do with the force of the idea of the nation state, as it developed in Europe in the 19th century, with the perception of political rights versus the nation, as it does with issues of demography and open spaces.

One of the most striking and worrisome features of the current European political landscape is the refusal of most, if not all Europeans (leaders and public at large) to recognize the permanent shift of Europe from a continent of emigration to a continent of immigration. Thus, for example,

one of the factors slowing down the admission of the new democracies in Central and Eastern Europe into the European Union has been the fear in the current member countries of immigration from the new members.

Today, Europe has no real immigration policies, at the national or the union level. This is the case despite the fact that during the last fifty years immigration has played an essential role in the unprecedented prosperity of Western Europe. The "zero immigration policy" which was Europe's response to the recession of the 1970s pushed most of the new immigrants into the category of "illegals", despite the fact that the inflow of foreigners continues to help relieve the potential shortage of labour in Western Europe. The overwhelming reliance on temporary immigration or of guest workers (including second-generation "immigrants"), practised throughout Europe since the 1950s, and which appeared to offer both political and economic advantages to the host countries, has proven to be a dead end street in the long run.

The emergence of a new Europe since the 1950s has reversed the flow not only of "economic migrants" from a net outflow to a net inflow. There has been an even more dramatic positive development in the field of forced migration. This has been true for Western Europe ever since 1945, and for most (but not all) of Central and Eastern Europe since 1989-90. Europe, which as a continent had been the principal source of refugee flows, became a continent of asylum from a continent of persecution and refugees. Few developments have demonstrated as clearly the permanent shift to democracy and human rights as the fact that asylum seekers came to Europe (first only to Western Europe), rather than fleeing from Europe. In this context the numerically largest flow of refugees in the post-war history of Europe, i.e. the flight of Germans from East to West, as well as the flight from the "People's Democracies" to freedom in the West has to be remembered. Had it not been for the iron curtain and for its most notorious portion, the Berlin Wall, this outflow would have assumed over the years even more massive proportions. As a former refugee from Hungary once rightly put it, "before becoming actual refugees in 1956, for years already we were all potential refugees".

The emerging European immigration and refugee regime: hopes and risks

The importance that forced and voluntary migration hold in the public debate is partly due to the fact that sovereignty is increasingly challenged by globalization and by economic and financial integration. The result is that states are jealously guarding their territory.

An important question in this context has been whether in the European Union the national interpretations and preferences ought to continue to prevail, or a common set of criteria can be applied? A second, equally important issue is whether the European countries, collectively, will move towards an interpretation of asylum according to "what they can

politically afford" rather than on the actual plight of the asylum seekers? Thirdly, when it comes to voluntary migration, will Europe continue to see immigrants not as potential future citizens, but as "temporary commodities", people whom we invite to come when we "need them" and send home when they are "no longer needed"?

Among Europeans and non-Europeans there is a broad consensus that Europe could and should play a more important role in the world, commensurate not only with its economic weight, but also with its values and experience. Yet, this goal will be difficult to achieve if its asylum and immigration policies were to be shaped by explicit or implicit fears of a racist backlash in Europe to immigrants and asylum seekers: a closed-door policy, a policy of *fortress Europe* would diminish, rather than strengthen Europe's standing in the world.

The goals achieved in Amsterdam and Tampere must contribute to make the EU an area of freedom, security and justice both for European citizens and for those who do not enjoy at home essential values like freedom, security and justice. Since the Treaty of Amsterdam, the European Union has been moving towards a more systematic approach to asylum. It can be said that, at least on paper, the EU has achieved a comprehensive system, which will be gradually implemented. Such a system is about common procedures for the determination of refugee status, for the conditions of reception of asylum seekers.

The system is extremely complex. Its main objectives are: the convergence of policies and legislation; the internal and external cohesion of the system; and its external aspect. There is a need for a systematic dialogue between countries of first transit and countries of origin, to determine which state of the Union is responsible for entertaining a refugee claim. There is also what is known as the external dimension of this system, which starts outside of the EU borders. This involves the achievement of common visa policies to combat the smuggling of people.

The dilemma of Central and Eastern Europe

There are two dimensions to the migration and refugee protection debate. The first one is the legal one, while the second one is political.

From the late 1940s till the end of the 1980s, the principal restrictions on the free movement of people for political reasons were the *severe exit controls* applied by the communist countries against their own citizens. These restrictions applied to both short-term travel and to longer-term migration. The "iron curtain", of which the Berlin Wall was only the most famous portion, was designed and maintained from the late 1940s till the end of 1989, to prevent the inhabitants of the Communist half of Europe from leaving: "attempted illegal border crossing" (meaning trying to leave without an exit permit) was punished by heavy prison sentences. Also, for many years the communist countries were by far the most important producers of actual or potential refugee flows in Europe and the world.

The question of which are the true European values and policies: freedom of movement or effective border controls, has to be faced by the Central and Eastern European countries today. Ten years ago, the collapse of communism brought a radical change also in the pattern of migration flows in Central and Eastern Europe. The new democracies became, from refugee producing countries, countries of asylum, as well as countries of transit and destination for different categories of migrants, including victims of trafficking and criminals. Also, as candidates to membership in the European Union they have to develop reliable control mechanisms to *keep out* the unwanted. Their acceptance as member of the EU will depend on it.

Europe, donor fatigue and humanitarian crises in the rest of the world

In the last ten years the number of internal conflicts has been increasing, and wars are becoming increasingly complex. The number of refugees and asylum seekers has increased throughout the world. For Europeans, the most immediate aspect is that refugees and asylum seekers targeting Europe as a destination. However, as the speakers from the EU Commission have pointed out, one must not forget what is going on in Africa and Asia.

What is the "effectiveness", the "efficiency" of humanitarian assistance? On what basis can we determine how much assistance, how much protection we should provide? Is it on a "needs" basis, or on the basis of what Europe can afford? Who determines what the needs are and who determines what we can afford?

Along with its member-states, the EU practically is the world's greatest sponsor of humanitarian action. At the same time, the EU believes in the importance of strong cooperation and dialogue with the United Nations, the 'Red Cross family', and NGO's that play a fundamental role in humanitarian action.

Although the European Union is engaged in providing short-term relief to refugees and asylum seekers, it believes that solutions must be found in long-term policies adapted to problems that are at the heart of these people's sufferings. Among the concerns of the European Union is the establishment of a balance between humanitarian intervention (that is a short-term, emergency response) and better policies of development (that are long-term, structural policies).

European countries are devoting substantial amounts to assistance to asylum seekers within their borders. The following "practical" question is often raised in many of the European countries: will cutting back financial and other assistance to asylum seekers and to illegal immigrants reduce the attractiveness of coming to Europe, or will it lead to the creation of a permanent underclass and to a criminalization of the illegal residents.

In the last ten to fifteen years, budget-cutting, the pressure to "streamline" and "downsize" national and international official agencies, the constant search for greater efficiency of organizations through staff reductions, have become, across party lines, the new constants of political conventional wisdom in the most advanced and richest democracies of the world.

The so-called “donor fatigue” is part of this phenomenon. There is a real danger that European countries could reduce their financial contributions to humanitarian assistance (especially in protracted crisis situations), not because of lesser needs, but “because they cannot afford it”.

Lessons from Kosovo

“Ethnic cleansing” has entered the vocabulary of persecution in the 1990s. The seemingly endless series of tragedies during the last ten years in former Yugoslavia have been a proof of how rapidly the smallest cultural, linguistic or religious differences can be turned into unchecked violence and into major humanitarian crises under populist and authoritarian rulers who see peaceful compromise as the biggest threat to their hold on power.

Time and again, the international community, and the European countries in particular, were overtaken in the Balkans by the strategies of ruthless leaders. International efforts of conflict-prevention or reconciliation regularly lagged behind actual developments. This tended to encourage some of the worst perpetrators of human rights abuses, who each time wanted to present the international community with an irreversible *fait accompli*.

This was the case again in Kosovo in 1998-1999. The NATO intervention, which had the full support of the European governments and public opinion, had essentially three objectives: 1. to stop the persecution of the non-Serbian Kosovars, which had led to large-scale forced internal displacements; 2. to prevent a massive permanent refugee outflow into the neighbouring countries and into Western Europe; and 3. “to draw the line” and to demonstrate that human rights violations on the scale occurring in Kosovo would not be tolerated in Europe.

Two important lessons of the Kosovo experience, stressed at the conference, should be mentioned here. The first one is the contrast between the magnitude of the resources mobilized by the international community to deal with the crisis in Kosovo, on the hand, and those available to deal with various crises in other part of world (e.g. in Africa), on the other hand. The differences here have to do both with the political-military resource mobilization, and with the financial resources for at least parts of the humanitarian action. The issue clearly is not that the Kosovars received too much aid and attention. The issue is that indifference (in political-strategic and humanitarian terms) to crises and suffering in other parts of the world hurts not only the victims, but can seriously undermine the credibility of the Western countries in general, and of Europe in particular.

The second important lesson is that Kosovo has shown once more the need that political and military leaders in the “international community” have to develop a better understanding of the nature and consequences of

“humanitarian crises”. This also means that humanitarian actors, official national and international organizations and NGOs, volunteers and professionals, must not be viewed as simple “auxiliaries” of political-military intervention (however necessary or justified this may be), who “do the job” before and after the conflict. The rejection of this view had inspired already the author of *A Souvenir of Solferino* in 1862.

The final lesson of Kosovo, and of the whole of experience in former Yugoslavia is that Europe cannot move away, it cannot establish a “cordon sanitaire” around situations of the type that threaten to turn into major human rights abuses and humanitarian crises. Europe will have to continue to devote political capital and important financial and human resources to the tasks of prevention and of reconciliation in Europe and in the rest of the world also in the future.

Interrogations about the future

Restrictive immigration policies and very tight border controls make it increasingly hard for refugees and asylum seekers to acquire protection. Migration flows are increasingly mixed and complex. Refugees and asylum seekers as well as voluntary migrants have to bear the consequences of a negative image surrounding migration today. Instead of creating barriers to keep people out, one should aim at managing refugee and migratory flows in a way that supports the basic principles of protection and allows regular and predictable flows of voluntary migration.

Restrictive immigration and asylum policies in some states will not reduce the number of refugees, but leads to the questioning of their international obligations and moral responsibility. A restrictive interpretation by Europe of the 1951 refugee Convention would not prevent people who are fleeing persecution from leaving their country of origin and seek asylum elsewhere. However, this is likely to divert their movement into other countries and regions. This leads one to question the principle of international solidarity.

Is refugee protection a purely legal issue? Can we determine the obligation of the States to provide asylum in purely legal terms, or are there other principles involved? Is the interpretation of the legal situation a purely national or regional matter? What is the role of UNHCR as a superior instance in interpreting the situation? What will be the nature of the common European “asylum space” and what will be the legal status of the consolidation of the existing arrangements on temporary protection? What can asylum seekers expect from future guidelines for the harmonization of the procedures to grant or deny refugee status? Refugees and asylum seekers, who are supposed to benefit from the international protection system, have very little trust in it. How can trust and confidence be restored?

These are some of the questions that have been raised about future policies and developments.

The EU aims to adopt a holistic approach with respect to migration and asylum and UNHCR and its member states need to have a better understanding of the 'EU process'. There is a need for a stronger inter-state dialogue and cooperation. The issue of burden sharing needs to be addressed within the EU member-states. NGOs have been increasingly active and ought to play a key role also in the policy debate.

The current Global Consultations in UNHCR should be seen as a means to achieve a better dialogue between all the stakeholders. It is also important to stress the global nature of the global consultations. In fact, they should not be perceived as a mere attempt to reform the 1951 Convention by Western Europe. The goal should be that of achieving not only 'l'Europe solidaire', but a 'monde solidaire'.

Conclusion

Finally, the general conclusions of the conference may be summed up in the following points:

- in the first place, Europe has an important role to play in upholding and strengthening the international refugee regime. The example of Europe, positive or negative, will have a major impact on the future of asylum and on the respect of the rights of refugees to protection, assistance and in the long-term to integration;
- while European countries are concerned about the number of asylum seekers coming to Europe, the bulk of the immediate burden of humanitarian crises has fallen on regions outside Europe. There can be no question that the financial and human resources to deal with the consequences of these crises ought to be bolstered rather than diminished;
- the issues of asylum and of immigration are related in the perception of the European public. It is important, however, to maintain the specificity of protection and of the asylum system;
- the European Union as a whole, and the European countries and nations individually, have to recognize the fact that Europe is no longer a continent of emigration, but it has become a continent of immigration. European countries, the European Union have to develop immigration policies that are transparent, predictable and liberal. Their objective must not be to turn the image of 'fortress Europe' into reality;
- thus, migration in Europe cannot and should not be limited to the free movement among the member countries of the European Union. This also means that the new European identity, while based on common values and objectives, should also be open and accessible to new future European citizens coming from outside the EU member countries;
- there was a consensus at the conference about the importance of the legal dimension of asylum and of the international refugee regime and of international humanitarian law and about the need to uphold,

- implement and strengthen both areas of protection. At the same time, there was also general agreement that political arguments, and not only legal ones, militate in favour of full respect by states of their obligations under the international refugee regime;
- finally, the purpose of liberal European asylum and immigration policies is not simply to help the victims of persecution or to ease the population problem in the countries of origin. Policies that weaken refugee protection, migration policies based on exclusion and ethnic discrimination are contrary to the values that helped create the new Europe of 2001. Undermining these values, through policies of omission or commission would threaten the foundations of this new Europe, the future prosperity and security of the citizens of Europe.

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