

## **Migration in the Mediterranean: Human Rights Perspectives**

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At the outset I would like to highlight that this paper is not intended to cover all aspects of the relationship between migration and human rights. It will seek only to stress on some remarks and questions that may engender some thoughts, for us all to reflect on and discuss. In order to do so, I will commence by emphasising six key messages about migration which are, in my view, important considerations in the context of the relationship between migration and human rights.

### **I. Six Key Messages about Migration**

1. Migration statistics and flows vary from one source to another and due to the complexity of the phenomenon we really cannot find accurate and factual statistics.

In the southern Mediterranean there are no coherent policies addressing migration or refugee and asylum issues, and only a few MENA countries ratified the related conventions on migration and refugees. Moreover, in the southern Mediterranean countries the level of protection and rights enjoyed by migrant workers depend upon a number of factors including skill-level, sex, nationality, and occupation, and thus migrants in low-skilled occupations tend to experience frequent violations of their rights.

2. A comprehensive and inclusive human rights-based approach to migration should be applied when we deal with

migration-related issues as it places the migrant at the centre of migration policies and management and pays particular attention to the situation of marginalised and disadvantaged groups of migrants. Such an approach will also ensure that migrants are included in relevant national action plans and strategies, such as plans on the provision of public housing or national strategies to combat racism and xenophobia. The universality, indivisibility and interdependence of human rights and the protection of human rights, provided for by international human rights law, concerns all human beings, including migrants and refugees, regardless of their legal status. Therefore, when we talk about migration, then we talk about migrants, refugees and asylum seekers. We also need to know that we have various and different international conventions related to them, including, but not limited to, the Convention relating to the Status of Refugees and Protocol relating to the Status of Refugees, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance and ILO conventions.

In this regard, and as mentioned in key message one above, I would like to stress on the fact that the southern Mediterranean region and the Arab world in general should have more coherent policies, standards and norms when it comes to migrants and refugees protection mechanisms including migrant and refugees rights.

3. Management of migration flows is what stakeholders should think of and deal with when addressing the phenomenon. Here, I would like to quote a prominent scholar and economist, who worked on migration flows and their impact on human development and societies' development. Dr. Rainer Münz said:

*“In the absence of mass migration to Europe, EU28’s total population has already started to decline. By 2050 – without immigration – this number of people in Europe would have dropped to 443 million, from 520 million in 2035. Under this both unrealistic and unwelcome scenario,*

*Europe's working age population (age 15-65) would shrink from 342 million (2008) to 248 million people (2050)."*

During the same analyzed period, in Mediterranean and neighbouring countries of the Middle East and North Africa (MENA), the number of people between ages 15 and 64 will almost double: from 195 million in 2000 to 289 million by 2025 and to 365 million by 2050. In Turkey the respective age group would increase from 49 million (2008) to 67 million people (2050). He concludes by saying:

*"There is plenty of room for socio-economic cooperation between Europe and MENA. Managed Migration and the systematic development of skills for the benefit of both sending and receiving societies and the migrants themselves should be an integral part of this cooperation."*

4. Remittances of migrant workers exceed foreign aid and direct foreign investment. In this regard I would like to stress the fact that remittances are important sources of revenue for poorer countries. The World Bank estimates on the value of migrants' remittances in 2012 totalled \$401 billion<sup>1</sup>, which exceeded aid and foreign direct investment combined. According to the latest edition of the World Bank's Migration and Development Brief, remittances to developing countries are expected to grow by an annual average of 8.8 percent for the next two years and are forecasted to reach \$515 billion in 2015. Many families in developing countries depend on this income from relatives in developed states. Falls in this income may in fact stimulate greater movements of populations towards the EU who may feel they have no choice but to take their chances abroad. This in turn feeds

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<sup>1</sup> The Worldbank, 2013. World Bank Launches Initiative on Migration, Releases New Projections on Remittance Flows. [online] Available at: < <http://www.worldbank.org/en/news/press-release/2013/04/19/world-bank-launches-initiative-on-migration-releases-new-projections-on-remittance-flows> > [Accessed 13 March 2014].

the work of smugglers and traffickers exposing more individuals to abuse and exploitation.

5. What instigates xenophobia against migrant workers is sometimes not only related to differences of race, ethnicity, origin, background and culture. My perspective is that, to a considerable level, xenophobia is instigated because of unregulated labour markets, in the sense that migrant workers would accept less pay for the same kind of job that, for example, an ethnic European would get. Especially knowing that we also rely on the market to produce the conditions that allow us to provide for our own economic security through employment and access to the goods and services we need day-by-day.

6. The EU and the southern Mediterranean region need to foster their cooperation and partnership to provide tailor-made support to southern Mediterranean countries to respond to socio-economic and political transformations that are taking place in the southern Mediterranean and possibly in MENA as a whole region, through initiatives such as the EU's initiative "Partnership for Democracy and Shared Prosperity", which was launched in March 2011. However, there should be a kind of paradigm shift when launching such initiatives, so that the focus is more on setting standards for actions, best practices how to overcome challenges and achieve results. That would create impactful outcomes, including recommendations about how to resolve the tension and to overcome the rigidity of and between migration and migration policies, security measures and human rights of migrants and refugees!

## II. Global and Euro-Mediterranean Levels and Trends

According to the OHCHR statistics published on their website, accessed on the 27<sup>th</sup> of Feb. 2014, there are around 214 million people who are currently living outside their country of origin. Many have moved for a variety of reasons, in which the search for protection and the search for opportunity are effectively and closely interwoven. Other figures from the UN Department of Economic and Social Affairs (UN-DESA) show that 232 million people, or 3.2 per cent of the world's population, live abroad worldwide, compared with 175 million in 2000 and 154 million in 1990.

According to the UN-DESA statistics, Europe and Asia host nearly two thirds of all international migrants worldwide. Europe remains the most popular destination region with 72 million international migrants in 2013, compared to 71 million in Asia. Within Europe, Germany and France reside the largest immigrant communities due to work migration and the existence of geographic routes with North Africa.

Some 232 million international migrants are living in the world today. Since 1990, the number of international migrants in the global North increased by around 53 million (65%), while the migrant population in the global South grew by around 24 million (34%). Today, about six out of every ten international migrants reside in the developed regions.<sup>2</sup>

During the period 2000-2010, the global migrant stock grew twice as fast than during the previous decade. During the 1990s, the global migrant stock grew at an average of about two million migrants per year. During the decade 2000-2010, the growth in the migrant stock accelerated to about 4.6 million migrants annually.

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<sup>2</sup> OECD, 2013. World Migration in Figures a Joint Contribution by UN-DESA and OECD to UN's High-Level Dialogue on Migration and Development, 3-4 October 2013. [online] Available at: < <http://www.oecd.org/els/mig/World-Migration-in-Figures.pdf> > [Accessed 6 Oct 2014].

According to IOM<sup>3</sup>, and in the wake of the Arab uprisings, the EU, primarily Italy and Malta, saw a rising inflow of migrants during the first half of 2011, but overall figures were a fraction of the population displacement witnessed in the southern Mediterranean. Between 1 January and 31 July 2011, Italy received approximately 48,000 undocumented migrants as part of the 2011 influx from North Africa, of whom 24,769 originated from Tunisia and 23,267 arrived from Libya (made up largely of migrants originating from sub-Saharan Africa). Malta received just over 1,500 individuals during the spring and summer of 2011, of whom the vast majority came from Libya. But amongst them there were again individuals from sub-Saharan Africa. Moreover and according to UNHCR<sup>4</sup>, we are all saddened by the fact that there were more than 1,500<sup>5</sup> people who drowned or went missing while attempting to cross the Mediterranean to reach Europe. According to different sources, 8000 to 25000 people have drowned and/or went missing while crossing the Mediterranean since 1990. In the Arab southern Mediterranean countries, there are currently around five million migrants. Two thirds of them are undocumented migrants.<sup>6</sup>

The major countries receiving migrant workers in the EU have not yet ratified the ICMW, but although they have not ratified the convention, this in no way implies that they consider the protection of rights of migrants as less fundamental. However,

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<sup>3</sup> Carrera, S., Den Hertog, L., Parkin, J., 2012. EU Migration Policy in the wake of the Arab Spring, MEDPRO Technical Report No 15 August 2012. [online] Available at: < <http://www.medpro-foresight.eu/system/files/MEDPRO%20TR%20No%2015%20WP9%20Carrera.pdf> > [Accessed 6 March 2014].

<sup>4</sup> Ibid.

<sup>5</sup> Malta's current population number is 422.088. See: Countrymeters. Malta Population Clock. [online] Available at: < <http://countrymeters.info/en/Malta/> > [Accessed 9 March 2014].

<sup>6</sup> The Middle East Institute, 2010. Viewpoints: Migration and the Maghreb. [pdf] Available at: < <http://www.mei.edu/sites/default/files/publications/Migration%20Maghreb.pdf> > [Accessed 13 Oct 2014].

whether there are conventions and standards or regulations or not, implementation in practice is what we need to look at, including applying a human rights-based approach to migration.

### **III. A Human Rights Based Approach to Migration**

When we talk about migration, then we talk about migrants, refugees and asylum seekers. We also need to know that we have various and different international conventions related to them. The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families of December 1990 (ICMW) is the legal framework in both documented and undocumented situations of migrants. While the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol are the key legal documents in defining who is a refugee, their rights and the legal obligations of states, the 1967 Protocol removed geographical and temporal restrictions from the convention. Moreover and long before ICMW was adopted and ratified, ILO recognized in 1919 that migrant workers have human and labour rights, as per the ILO Conventions.

A human rights approach to migration places the migrant at the centre of migration policies and management and pays particular attention to the situation of marginalised and disadvantaged groups of migrants. Such an approach will also ensure that migrants are included in relevant national action plans and strategies, such as plans on the provision of public housing or national strategies to combat racism and xenophobia.

In order to effectively do that, the establishment of human rights mechanisms, such as the the Special Rapporteur (SR) on the Human Rights of Migrants is required.

As per the OHCHR's website, the mandate of the Special Rapporteur covers all countries, irrespective of whether or not a state has ratified the ICMW.

The key functions of the SR are:

- a. To examine ways and means to overcome the obstacles existing to the full and effective protection of the human rights of migrants, recognizing the particular vulnerability of women, children and those undocumented or in an undocumented situation;
- b. To request and receive information from all relevant sources, including migrants themselves, on violations of the human rights of migrants and their families;

How does the SR proceed?

- a. The Special Rapporteur acts on information submitted to him regarding alleged violations of the human rights of migrants by sending urgent appeals and communications to concerned governments to clarify these cases and/or bring them to their attention.
- b. The Special Rapporteur conducts country visits (also called fact-finding missions) upon the invitation of the relevant government, in order to examine the state of protection of the human rights of migrants in the given country. The Special Rapporteur submits a report of the visit to the Human Rights Council, presenting his findings, conclusions and recommendations.

However, the implementation of the ICMW faces a number of challenges, including in particular its non-ratification by most of the recipient and residence countries. The convention is also threatened by the growing hostile tendencies and the spreading of negative values represented in the rejection and hatred of foreigners and migrants in many countries of residence. In addition to the decrease in employment opportunities in the receiving countries and the impact of unemployment, which affects the status of the workers and their families, on the one hand, comes the increasing poverty in the countries of origin, and



what it entails in an increasing demand for undocumented immigration on the other hand. There is no need to recall the consequences of the global economic crisis, which inevitably impacted on the situation of migrant workers in all parts of the world. In all cases, the growing disparity in the phenomena of inequality, the lack of equal opportunities, the difficulty of assimilation for the migrant workers in the countries of residence, and the increasing manifestations of undocumented immigrants living in inhumane conditions are factors threatening the protection of the rights of the displaced workers. This vulnerable category of workers makes a strong contribution in the economies of the world, and in the exchange of knowledge and values through the history of human civilization, and here lies the irony.

#### **IV. Committee on the Convention on Migrant Workers**

This committee has been clear in stating that although countries have a sovereign right to determine conditions of entry and stay in their territories, they also have an obligation to respect, protect and fulfill the human rights of all individuals under their jurisdiction, regardless of their nationality or origin and regardless of their immigration status.

The Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) is the body of independent experts that monitors the implementation of the convention by its State Parties. It held its first session in March 2004. All State Parties are obliged to submit regular reports to the committee on how the rights are being implemented. States must report initially one year after acceding to the convention and then every five years to the committee. The committee will examine each report and address its concerns and recommendations to the State Party in the form of "concluding observations".

The committee will also, under certain circumstances, be able to consider individual complaints or communications from individuals claiming that their rights according to the convention have been violated, once 10 State Parties have accepted this

procedure in accordance with article 77 of the convention. The committee meets in Geneva and normally holds two sessions per year.

The committee also organizes days of general discussion and can publish statements on themes related to its work and interpretations of the content of the provisions in the convention (general comments), in order to overcome the present rigid separation between policies and security measures.

The committee has, for some time, proceeded in looking into the reports submitted by the States Parties under article 74 of the convention, in the issuance of final remarks and recommendations, and in the expression of major concerns regarding the situation of migrant workers in some States Parties. One must emphasize the role played by this committee in creating a new dynamic, not only at the level of the United Nations human rights system, and treaties' instruments, but also of increasing the awareness about the convention and urging its ratification by many recipient countries. The committee, at this level, plays the role of advocating for the effective implementation of the convention's requirements.

## **V. Conclusion**

It is clear that migration is both a huge and inevitable phenomenon at the global level and also within the Euro-Mediterranean region. The risk is that the statistics of such a large phenomenon hide the human reality behind the numbers. A human rights based approach to migration attempts to avoid falling into such a risk and reminds states and international organisations of the human dimension of migration. The creation of human rights instruments and institutions that focus on the human rights of migrants is an important contribution to the management of migration. Likewise, it is important that states ratify the relevant human rights treaties in order to render these rules operable. Finally, I would reiterate the importance that the migrant is placed at the centre of any and all migration policies.