

Migrant workers: a threat to “our European way of life”? Or vulnerable and exploited?

Discriminations against migrants, engrained in the law, have an undoubtable impact on the quality of their working conditions. And because discrimination creates fiercer competition for jobs, this could, by a kind of boomerang effect, be damaging to employment as a whole. Are these migrants a threat to the “European way of life” or should they simply be seen as people living and working in harsher, exploitative conditions?

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A migrant attempts to climb over a barbed-wire border fence to enter the Spanish territory of Ceuta.

Image: © Belga



September 2019: Ursula von der Leyen, the new President of the European Commission, is distributing portfolios to the commissioners nominated by the 27¹ Member States of the European Union. Each commissioner is given a job title and a mission letter setting out the broad outlines of his or her future policy. Margaritis Schinas is the Commissioner-designate for Greece and a member of the centre-right conservative party *Néa Dimokratía*. His role is to be the commissioner responsible for "protecting our European way of life", and his activities will focus on three areas: skills, migration and security. Very quickly, numerous voices are heard protesting that, once again, a major player in world politics is drifting off course. In what way is migration a threat to "our European way of life"? And, above all, why talk about migrants and public safety in the same breath? Building on their successes at the polls in many countries, groups on the far right have managed to influence the speech and actions of many traditional parties.

The idea of the foreigner as a threat, as the cause of innumerable problems, is clearly nothing new in party political propaganda. We are, however, witnessing an intensification of institutionalised violence against migrant populations, the likes of which have not been seen since World War Two. Children incarcerated, individuals detained for simple administrative irregularities which have never been ruled on, the undermining of a basic principle of the law of the sea that victims of shipwreck must be rescued, and subcontracting by the European Union of inhuman practices including imprisonment, torture and forced labour in non-EU countries that are supposed to be the first line of defence of Fortress Europe (such as Libya, Morocco and Turkey).

Of the 112 000 people who crossed the Mediterranean in 2018, more than 2 200 perished, according to the Office of the United Nations High Commissioner for Refugees. Hundreds of thousands of people, whose legal statuses can vary enormously, just about survive in Europe in shantytowns, in insanitary housing or with no roof over their heads at all – in numerous cities, in farming areas or close to a border that is hard to cross. In Denmark in January 2016, an overwhelming majority of parliament – encompassing the far right, all the liberal and conservative parties and the social democrats – voted through a law empowering police to strip asylum seekers of their cash and assets above the value of 10 000

kroner (1 340 euros). Just 27 members from green political parties and the radical left opposed this controversial law. The official justification given by proponents of the law is that the state must be able to claw back money from anyone who is a drain on the public purse. Following this line of reasoning, and setting aside any racist perspective, one might logically argue that anyone receiving any form of social benefits should also be fair game. The true justification was provided by the Danish People's Party (DF), a far rightist group which supports the measure: "Our message [to migrants] is this: if you must come to Europe, stay away from Denmark."

Harsh utterances like this have touched off racism of the worst kind in a number of groups of the population. Cases of discrimination are on the rise, such as punitive raids or individuals being insulted or attacked on public transport because of the colour of their skin. It is reasonable to conclude that it is not migrants who threaten "our European way of life", but rather the self-proclaimed defenders of that way of life who endanger the migrant population and the well-being of the public as a whole.

Inequality before the law

A brilliant analysis of the concept of nationality has recently been published by the French jurist Karine Parrot. Her book is concerned essentially with France, but its analysis could broadly be applied to the other countries of the European Union. She shows that nationality is a recent concept. Far from being a fundamental characteristic of a human being, it is a tool that allows every state to divide populations into two groups. Citizens have specified rights that are denied to foreign nationals. This "fabrication of the non-citizen" first made its appearance amongst the population

in the years following the French Revolution. The process spread and was further refined during the era of colonial conquest. It provided justification for the huge inequalities between people who were all subject to the authority of the same state. At certain times, however, when the state was short of manpower for industry or war, surprising solutions were found to help people acquire citizenship fast.

On the matter of European law, Karine Parrot's verdict is unequivocal. The law is cold and brutal. The construction of tight borders is a profitable business for multinational companies which are increasingly resourceful in devising ways of monitoring people and controlling them by force. The fences erected around the Spanish enclave of Ceuta in North Africa are barbaric, with sharp razor wire that cuts, mutilates and inflicts serious injuries. Europe's Dublin Regulation, meanwhile, which requires asylum seekers to apply for asylum in the first EU country they reach, seems to be deliberately unworkable and to justify arbitrary and violent treatment.

Karine Parrot's analysis is valuable chiefly because it points to the continuity between the countless measures that delineate and discriminate against *legal* immigration and those that seek to curb *illegal* immigration. Thus, the status of seasonal workers who are not EU nationals condemns them to working in precarious jobs, demand-driven and renewable at the employer's whim, and in many cases this situation means that their immigrant status swings to and fro between

¹ In view of Brexit, the United Kingdom has made no nomination for the office of European Commissioner.

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legal and illegal. In fact, the European rules are broadly derived from the status created in agreements between France and her former colonies.

The pitfalls of a sensationalist portrayal

One justification for the current arsenal of legal rules relies on the portrayal of some migrant groups as hapless victims with no say in their own fate. Condemnations of human trafficking, or other modern forms of slavery, are doubtless well-intentioned. Tragedies do indeed happen when people have no documents and no rights. But, in the great majority of cases, these references to trafficking and slavery are deceptive. Unlike real slaves who have been trafficked, most migrants have chosen to leave their countries of origin for a wide variety of reasons. Their freedom is compromised by their illegal status, which can work to the advantage of multiple intermediaries involved in their transportation to Europe, their residence and their work. But portraying this as "slavery" shifts the blame for its essential cause (the status of being "illegal" that is decreed by the state) on to those intermediaries. Some of these individuals may be part of a criminal organisation, but that is by no means the norm. Plenty of people-smugglers, landlords or employers have a keen nose for profit and few scruples about

how they achieve it, but they are not a part of major organised crime. Organised crime often spreads out its activities very carefully: thus, in Italy, 'Ndrangheta, one of the country's main mafia groups, has received significant funding from the Italian state channelled through cooperatives it set up to run centres for asylum seekers.²

EU legislation on human trafficking is, in fact, built on highly ambiguous concepts.³ Legal instruments to combat people-smuggling were adopted in 2002. The scope of these is very broad, because they cover all activities which foster illegal immigration, including entry, transit and residence. Persons involved in entry or transit may be prosecuted as criminals, even if they did not act for monetary gain. Instead of penal sanctions exclusively targeting organised crime, all humanitarian acts and measures of public solidarity with migrants are considered criminal offences.

A recent study shows that this legal framework has led to the criminalisation of solidarity in many Member States of the European Union. Some of them, like Poland and Hungary,⁴ have gone far beyond EU law in adopting domestic anti-NGO legislation. Most other countries, meanwhile, have used the punitive EU framework to prosecute NGOs and individuals acting out of solidarity or for humanitarian reasons. In 24 of the 28 Member States of the European Union, the law makes it a criminal offence to facilitate the entry of illegal migrants, even if it was not done for profit. The low point in this campaign against the fundamental duty to save human lives was reached in July 2019 when Carola Rackete, a German activist and captain of the rescue ship Sea-Watch 3, was arrested in Italy for bringing 40 survivors of a shipwreck into port in Lampedusa. She was charged with "assisting illegal immigration".

It is common knowledge that most migrants, whether legal, illegal or somewhere in between, are living in Europe on a more or less permanent basis. The existing rules certainly make them more vulnerable. By

2. Messinetti S. (2017) 'Ndrangheta, non ong: milioni sulla pelle dei rifugiati, *Il Manifesto*, 15 May 2017.

3. See Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence, and Council Framework Decision of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence.

4. The Hungarian law was passed in 2018 as part of a "Stop Soros" campaign which combined new forms of xenophobic hostility to refugees and barely concealed antisemitism.

condemning them to a precarious existence, the political decision-makers help to perpetuate poor working conditions, low pay, higher occupational risks and, generally speaking, a social climate in which there is less chance that respect for their social and fundamental rights will improve. Whether we are talking about women working in Parisian nail parlours or farm workers in Italy, popular unease and forms of resistance are on the rise. It is the most obvious paradox of this generalised xenophobic demagoguery that it feeds on the fears of those whose circumstances are insecure, who are concerned for their future. But by blaming this imagined enemy – the foreigner – it further weakens labour's position against capital. ●

Further reading

Lemozy F. (2019) Retour sur la notion de "travail esclave" au Brésil: Zara et les travailleurs migrants boliviens, *Problèmes d'Amérique latine*, (1), 115-129.

Parrot K. (2019) Carte blanche. L'État contre les étrangers, Paris, *Éditions La Fabrique*.

Vosyliute L., Conte C. (2019) Crackdown on NGOs and volunteers helping refugees and other migrants, ReSOMA Final Synthetic Report, June 2019: <http://www.resoma.eu/node/194>.

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