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**THE POLITICS OF SOLIDARITY AND
CONTENTIOUSNESS
MIGRATION AND RIGHTS**

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Table of Contents

Abstracts	4
About the Authors bios	7
A Political and Legal Framework to Address Forced Migration in a Globalized World with Implications for the European Union	
Alfredo dos Santos Soares	9
I. <i>Introduction</i>	9
II. <i>The Global Context of Forced Migration: A Concise Overview</i>	11
III. <i>International Law on Forced Migrants</i>	13
IV. <i>How is the EU Addressing Forced Migration?</i>	16
<i>Global Challenges</i>	16
<i>“Migration Crisis” as the EU’s Major Challenge</i>	17
<i>The Response of the EU to the “Migration Crisis”:</i>	
<i>Communitarian Basic Regulation</i>	19
<i>Policy, Legal and Institutional Responses in Practice</i>	21
<i>The Contribution of the Visegrad Group</i>	
<i>to the EU’s Response to Forced Migration</i>	23
IV. <i>Final Remarks</i>	24
<i>Bibliography</i>	26
Homeland Minorities, Immigrant Minorities: Mind the Gap?	
Gábor Kardos	30
I. <i>Introduction</i>	30
II. <i>Changing Realities, Changing Perceptions</i>	31
A. <i>The Context</i>	31
B. <i>The Power of Interpretation</i>	32
C. <i>Scenarios</i>	33
III. <i>Public Use of Muslim Veils</i>	35
A. <i>The Freedom of Religion and the Public Use of Muslim Veils</i>	35
<i>Reasons for Wearing the Veil and</i>	
<i>Possible Legal Consequences</i>	36
<i>The Issue of Balance</i>	37
<i>The Interpretation of the Separation</i>	
<i>of the State and Church</i>	38
<i>Hijab Cases in Front of the Court</i>	39
<i>The Paradigmatic Dissenting Opinion</i>	41
<i>Niqab in Front of the Court: The S.A.S Case</i>	41
IV. <i>Instead of Conclusions</i>	42
<i>Bibliography</i>	44

Twelve Core Standards for a Sustainable Management of the Itlaian Centres for Refugees and Asylum Seekers

Martina Mugnaini	46
<i>Introduction</i>	46
<i>Within and Beyond the RASC Borders</i>	51
<i>The Aim of the Research</i>	52
<i>Research Methods and Procedure for the Choice of the Fields</i>	54
<i>The Basic Standard</i>	55
<i>What is Sustainability in RASCs Management?</i>	57
<i>The Twelve Core Standards of Sustainability for the RASCs Management</i>	59
<i>Final Notes</i>	64
<i>Bibliography</i>	65

Fostering the Representation of Supremacy Art and Sustainability for Social Insertion of Migrants

Martina Mugnaini	68
<i>Introduction</i>	68
<i>The Origins of 'Art for Migration': Public, Social and Collective Contemporary Art</i>	69
<i>The New "Social Art for Migration"</i>	72
<i>The Relationship between Power and Cultural Representation</i>	74
<i>Beyond Social Art: Fonda - A Brief Case Study</i>	76
<i>What Even the Best Quality Management Overlooks?</i>	77
<i>Conclusions</i>	83
<i>Bibliography</i>	85

The Making of the Romanie Refugee: A Global Ethnology from Hungary to Canada

Sara Swerdlyk	86
<i>Introduction: Framing the Problem</i>	86
<i>Case Background: A Brief Overview of Hungarian Romani Refugee-Seeking in Canada</i>	87
<i>Research Strategy and Methodological Considerations: Global Ethnography in Postsocialist Miskolc</i>	89
<i>Theoretical Considerations: Romani Mobility and Citizenship in Postsocialist Central Europe</i>	91
<i>Socialist and Postsocialist Realities: Ethnographic Notes on Roma and the History of Miskolc</i>	94
<i>Conclusion: Towards A Social History of Romani Asylum-Seeking to Canada</i>	98
<i>Bibliography</i>	99

Transformation of the Migration Paradigm

Jody Jensen	101
I. <i>Look Back and Learn</i>	101
II. <i>Six Truths about Europe's Migrant Crisis</i>	103
III. <i>How Politics Has Failed in the Refugee Crisis</i>	105
IV. <i>Transforming the Migration Paradigm</i>	108
<i>Selected Bibliography for Students</i>	113

Abstracts

A Political and Legal Framework to Address Forced Migration in a Globalized World with Implications for the European Union, Alfredo dos Santos Soares

The paper discusses the need for considering the ongoing forced migration reality as a global challenge which, accordingly, demands global solutions, based on co-operation, solidarity and "Responsibility to Protect". The aim of the study is to assess the implications for the European Union of shaping and implementing global solutions.

In fact, recent flows of forced migrants towards the territory of the EU have clearly brought to light the seriousness and complexity of contemporary forced migrations, not only as untold human suffering, but also as a result of, and a powerful manifestation of, persistent armed conflicts, jihadist terrorism and other threats to peace and human security, such as growing impacts of climate change, extreme poverty and social exclusion imposed by the dominant economic globalization.

Meanwhile, the inability and political unwillingness to properly manage the so-called "refugee crisis" has demonstrated the enormous potentialities of migratory phenomenon to easily bring EU to a sociopolitical crossroad. Breaching International Law and its own founding principles, the EU so far has responded to the refugee emergency in a deeply fragmented way, lacking solidarity and responsibility. This exacerbated rising xenophobic attitudes, the rejection and helplessness of many forced migrants, as well as the flourishing of mafias around them.

Will the EU and its member states be able to improve their common asylum system and respond holistically to the situation of people reaching their borders in need of international protection? On this depends their possible and very desirable engagement towards the development of a global legal and political framework for the protection of forced migrants caused mainly by armed conflicts, development projects and the impacts of climate change.

Homeland minorities, Immigrant Minorities: Mind the Gap? Gábor Kardos

Large immigrant communities live in Western Europe. They come from outside of Europe, sometimes from former colonies, also from Central and Eastern Europe, taking the advantage of free movement of people in the EU. What do these groups have in common? They have left behind their original homes and long standing ties. Their motivations have been mainly but not exclusively economic. They have only recently arrived and settled in Europe. Most of them do not show any sign of giving up their identity, and assimilating into the majority and it is no longer true they are abandoning their specific culture. On the contrary, they seem to be more and more committed to preserving their culture, traditions, language and religion. This can lead to demands for cultural and language minority rights on a much higher scale than before. As a consequence of the recent massive influx of migrants and asylum-seekers, the number of individuals belonging to these new minorities steadily grows, and the Central and Eastern European member states of the EU can hardly avoid increasing newcomers trying to settle in their territories.

The paper examines two questions: 1) What is the legal status of minority rights for members of immigrant communities? 2) What might be the impact of the wider recognition of their rights and the protection of the rights of those who are members of homeland minority communities? As a case study, it deals with the problem of accommodation, on a specific but pertinent issue, the public use of Muslim veils.

Twelve Core Standards for a Sustainable Management of the Italian Centres for Refugees and Asylum Seekers: *Towards a Response to the European Directive 2013/33/EU*, Martina Mugnaini

The objective of this paper is to provide input to the Italian Reception System for Refugees and Asylum Seekers in order to improve their management. In fact, by strengthening strategies with a win/win approach, taken from the logic of cooperative game theory (Spangler 2013), all the stakeholders can benefit, including those from the centers' management side, the refugees and migrants, and the hosting societies.

Fostering the Representation of Supremacy Art and Sustainability in the Planning for Social Insertion of Migrants, Martina Mugnaini

Even though it cannot be taken for granted, it seems predictable that mass migration will keep shaping our forthcoming and shared European future, likely increasing in its numbers. If that is the case, multicultural societies, with a complex variety of stakeholders such as institutions, political bodies and citizens, will have to continue to deal with new challenges, in order to find innovative solutions for peaceful intercultural cohabitation.

Previously I outlined some parameters to construct actions for social *integration* in centres for refugees and asylum seekers. Here, I will focus on some of them, to clarify to what extent this planning affects the communities involved, measuring their impact in terms of what I call 'social sustainability'. The analysis starts with a few thoughts about the role of 'socially committed art', proposing a brief historical contextualization in terms of 'public art', 'social art' and 'collective art' in order to shape the origins of spreading trend: the use of art in the planning for social insertion of refugees and asylum seekers. Indeed, social art can be depicted as the preferred means of communication currently chosen and adopted by NGOs, associations, cooperatives, companies, Town Halls and so on. It appears obvious that to enhance multicultural interaction, the humanitarian organizations assign to art a core function in social planning, by increasingly proposing to their 'guests', (as most of aid workers improperly call migrants), projects related to art or craftsmanship (here intended as a subcategory of it). Art is used to overcome marginalization, ghettoization and racism, on one hand, and to foster economic self-sufficiency of migrants, on the other hand. As a matter of fact, these modes of planning are increasing in forms and numbers throughout Italy and Europe. Thus, it seems necessary to promote a prompt and deepened study of their socio-political effects.

The Making of the Romani Refugee: A Global Ethnography from Hungary to Canada, Sara Swerdlyk

The last decade has borne witness to thousands of Hungarian Roma seeking asylum protection in Canada, where Hungary currently figures as one of the leading refugee-sending countries. This research investigates this contemporary 'Roma Exodus' from Hungary to Canada by tracing the experiences of Hungarian Romani refugee claimants in Toronto back to the broader historical developments taking place within the northeast Hungarian city of Miskolc from where the majority of Romani refugees originate. Combining ethnographic fieldwork in Miskolc with archival research and media analysis, the paper starts from the premise that refugee experiences must be placed and understood within their wider political, economic, and historical contexts. The main task of the paper is thus to build towards a contemporary historical ethnography of Romani marginalization and mobility in the city of Miskolc. In doing so, the research aims to illuminate the broader factors and power dynamics that have shaped over time the seeking of asylum of Hungarian Roma from Northeast Hungary to Canada. Adopting a globally-oriented perspective, the research emphasizes that a historically-sensitive understanding of the idiosyncrasies of Romani mobility demands an examination of the socio-economic transformations that have shaped the region of East-Central Europe in recent decades, in particular the de-industrialization of Northeast Hungary and Miskolc especially in the aftermath of postsocialist transformation. Such a study aims to offer new theorizations to the changing meanings of citizenship, asylum, and postsocialism.

Transformation of the Migration Paradigm, Jody Jensen

We are in the midst of an historic global migration of peoples, from war torn areas and failed states, and from countries who present no viable future to present and future generations. These causes are partly due to the ravages of past and present colonialization, and the persistence of war and conflicts that many Western nations are engaged in, especially in certain regions of the world. Our failure to manage the refugees and immigrants may not be because we don't care, but rather because politicians lack for how to adapt an international refugee system created over 50 years ago, after WW II, in a changing and globalized world. There are, however, options.

About the Authors

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Gábor Kardos completed his J.D. at the Faculty of Legal and Political Sciences, Eötvös Loránd University (ELTE), Budapest. He has PhD in International Law from the Hungarian Academy of Sciences, and Doctoral Habilitation from ELTE. He became Assistant Professor, and then lecturer in the Department of International Law, Faculty of Legal and Political Sciences, at ELTE. Since 2007, is a full-time professor at the same faculty. His main teaching and research interests are International Law, International Human Rights Law, Law of European Union, International Protection of Minority Rights, and Non-Military Aspects of Security. Since 1998 he is a member of the Committee of Experts of the European Charter for Regional or Minority Languages at the Council of Europe.

Martina Mugniani holds a BA in Peace Operations and Conflict Resolution and an MA degree in International Cooperation and Protection of Cultural Heritage in Mediterranean Area and Eurasia. She has two years of professional experience in the field of Italian Refugee and Asylum Seekers Reception Centres as chief of executive and intercultural mediator. Her practical approach aims to group parameters based on sustainable and innovative core standards for management of the Italian Asylum Seekers Reception Centres, embracing human rights protection. She is currently planning training programs for the management of Italian refugee centres. She is a young researcher at the Institute of Advanced Studies of Kőszeg from 2016-2017.

Sara Swerdlyk is a PhD candidate in the Department of Sociology and Social Anthropology at the Central European University. Sara received her BA in International Development Studies from Trent University, Canada, and holds an MA in Politics and Security from University College London, where she studied at the School of Slavonic and East European Studies. During her Masters, she conducted research at the Corvinus University of Budapest, where she received an MA in International Relations. Her doctoral research examines the contemporary phenomenon of Hungarian Roma seeking asylum in Canada with ethnographic fieldwork in Miskolc, Hungary, and Toronto, Canada. Through the employment of critical theories on class, race, and gender, her doctoral work uses the case of Romani migration as a site upon which to interrogate notions of citizenship, refugee protection, and mobility politics. As a junior research at iASK, Sara researched the historical and socio-economic context of the northeast Hungarian town of Miskolc as the main site from which Hungarian Roma depart to seek asylum in Canada.

Jody Jensen is the director of the Polányi Center at iASK. She was director of international relations at the Institute of Social and European Studies (a Jean Monnet Centre of Excellence) which she helped to found. She is the compiler and editor of all Polányi Centre publications. She is a Jean Monnet Professor in European Solidarity and Social Cohesion at the University of Pannonia. She teaches frequently abroad and also frequently works for the European Commission. Her areas of research at the IASK are prefigurative and subterranean politics about new social and political movements, particularly in East and Central Europe and the Balkans; looking at the conjunction of the social and natural sciences in the study of complexity as it translates to social phenomenon and change; she is also very interested in the transformation of education and the social sciences in response to global challenges.

A POLITICAL AND LEGAL FRAMEWORK TO ADDRESS FORCED MIGRATION IN A GLOBALIZED WORLD WITH IMPLICATIONS FOR THE EUROPEAN UNION

Alfredo dos Santos Soares

I. Introduction

Recent flows of forced migrants towards the territory of the European Union (EU) have brought to light the seriousness and complexity of current and future forced migration. This not only includes untold human suffering of millions of victims, but is also the result and powerful manifestation of long-lasting armed conflicts, jihadist terrorism and other threats to peace and human security. It also includes the growing impacts of climate change and social exclusion taking place in many large-scale development projects, embodied in a very distorted and deeply unjust dominant economic model.

Certainly, forced migrations are far from new, but the current magnitude, scale, complexity as well as its multifaceted implications have not yet been considered sufficiently. Particularly interesting are those implications for International Law, for economic and political stability and institutional governance. In fact, it can be submitted, in key cases, that flows of displaced people have been severely aggravated by actions undertaken by the US and some EU member states to provoke regime change in North African and the Middle East (Libya and Syria), breaching International Law.

At the same time, the inability and political unwillingness to properly manage forced migrant flows has brought Europe to a political and economic crossroad. Migration has become the most important key force shaping EU policy, at least over the past two years. Indeed, the mismanagement of this momentous phenomenon has already become a powerful test to the EU project, undermining some of its fundamental pillars, mainly the Schengen Agreement on free movement.

Considering the fact that forced migrations are a global issue in need of a global solution and global cooperation, since no state can effectively manage it on its own, this paper aims to find out and discuss the reasons underpinning the current attitude of EU member states towards refugees and other forced migrants.

In this regard, a key issue, as mentioned, is the degree to which the EU so far has proved incapable of responding in a coherent manner to the so-called “migration crisis”, undermining its own fundamental values and principles, enshrined in article 2 of the *Treaty on European Union* (TEU) as follows:

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the member states in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

Also important is the degree to which immigration played a key role in the success of the

UKIP campaign to leave the EU in the recent British referendum on EU membership, the Hungarian referendum on the EU's refugee quotas policy and the response of Marine Le Pen and others in France opposed to immigration in demanding that France also should hold a referendum on EU membership.

Taking into account that the purpose here is to assess the implications that may exist for the EU shaping and implementing a global governance of forced migrations, rooted in human values, the study attempts to answer the following questions:

- Clearly, there is resistance to asylum seekers and other migrants. To what degree should it be assumed that such resistance is necessarily racist?
- To what extent should one argue that politicians and the media have actively created a racist electorate over the past 6 years, while embedding racism in the European Union, most particularly in the Visegrad Group politics?
- To what degree does religion rather than race or ethnicity play a role in such resistance?
- What are the links between unemployment and resistance to immigration?
- Why has there been such resistance in Germany to Angel Merkel's proposal to accept a million asylum seekers when more than a million Turkish immigrants were welcomed as guest workers into Germany from the 1950s without social tensions?
- To what degree have the lack of integration policies contributed to generate social tensions?
- To what extent does the size of a nation state count in resistance to immigration?
- What are the implications for national as well as EU policies?
- To what extent do national security concern override a state's international obligations towards forced migrants?
- To what degree is the migration issue understood in European countries as a global issue? If it does, how is this understanding translated into practice?
- What can explain current the lack of solidarity and coordination among the EU countries on migration crisis?
- What role should civil society play to achieve good governance in such a crisis?
- To what degree does the migration issue reveal a more vertical (intergovernmental) and less horizontal (parliament and citizens) EU, increasing the democracy deficit within the EU itself and member states?
- Is there any kind of specific contribution the Visegrad Group countries could give towards good governance of forced migration in the EU and at the global level?

Awareness of the need for good governance of migration (forced and voluntary) has grown significantly at the international level, as evidenced by the recently proclaimed *New York Declaration for Refugees and Migrants (A/RES/71/1)*. Likewise meaningful is the increase in the body of literature on this crucial topic over the past fifteen years. Literature on the global governance of forced migration is still scarce, however, which indicates the need for further studies. Notwithstanding, the topic also has registered a notable increase over the past seven years.

Utilizing contemporary information and analysis provided by literature review and in-

depth interviews, the paper is divided into three sections. The first portrays the general context of forced migration. The second reviews and examines the existing international legislation applicable to forced migration. The third focuses on analyzing the EU's response to the contemporary reality of forced migration. Particular attention will be devoted to examining the Visegrad Group's position on migration management, trying to understand its positive or negative contribution to European and global governance of forced migration.

II. The Global Context of Forced Migration: A Concise Overview

Barbarism, persistent and widespread in many parts of the world, entrenches *armed conflicts* and *socio-political crisis*¹ – whether being internal, internal internationalized or international (Escola de Cultura de Pau 2016: 28-30; 87-92) – as the main cause of forced migration worldwide. The *Alert 2016!* provides a summarized report on the huge scale of armed conflicts and socio-political crisis around the world, noting that in 2015 thirty-five armed conflicts² and eighty-three scenarios of socio-political crisis³ were reported (Escola de Cultura de Pau 2016: 11-12). Forced displacement induced by all these *conflicts* and *socio-political crisis* reached the figure of 65.3 million people by the end of 2015. Among them, the overwhelming majority, 40.8 million, were internally displaced persons (IDPs), 21.3 million were refugees and 3.2 million were asylum seekers, according to the UNHCR (2016a).

Simultaneously, we are witnessing the progressive affirmation of climate change which tends to become the dominant force inducing human displacement, as it acts as an amplifying factor over conflicts and other elements of socio-economic vulnerability. The

¹ The definitions provided by *Alert 2016! Report on conflicts, human rights and peacebuilding* are followed for *armed conflict* and *socio-political crisis*. According to this report, «an armed conflict is any confrontation between regular or irregular armed groups with objectives that are perceived as incompatible in which the continuous and organised use of violence a) causes a minimum of 100 battle-related deaths in a year and/or a serious impact on the territory (destruction of infrastructures or of natural resources) and human security (e.g. wounded or displaced population, sexual violence, food insecurity, impact on mental health and on the social fabric or disruption of basic services) and b) aims to achieve objectives that are different than those of common delinquency and are normally linked to

- demands for self-determination and self-government or identity issues;

- the opposition to the political, economic, social or ideological system of a state or the internal or international policy of the government, which in both cases leads to fighting to seize or erode power;

- control over the resources or the territory» (p.27). And «a socio-political crisis is [...] that in which the pursuit of certain objectives or the failure to satisfy certain demands made by different actors leads to high levels of political, social or military mobilisation and/or the use of violence with a level of intensity that does not reach that of an armed conflict and that may include clashes, repression, coups d'état and bombings or attacks of other kinds, and whose escalation may degenerate into an armed conflict under certain circumstances. Socio-political crises are normally related to: a) demands for self-determination and self-government, or identity issues; b) opposition to the political, economic, social or ideological system of a state, or the Internal or International policies of a government, which in both cases produces a struggle to take or erode power; or c) control of resources or territory» (p.81).

² «(...) most of them in Africa (13) and Asia (12), followed by the Middle East (6), Europe (3) and the Americas (1)» (Escola de Cultura de Pau 2016: 11).

³ «The cases were primarily concentrated in Africa (36) and Asia (20), while the rest of the situations of tension took place in Europe (11), the Middle East (11) and the Americas (5)» (Escola de Cultura de Pau 2016: 12).

global scale of displacement caused by disasters, many of them related to climate change, is provided by IDMC (Internally Displaced Monitoring Centre), which points out that

Since 2008, *an average of 26.4 million people per year* have been displaced from their homes by disasters brought on by natural hazards. This is *the equivalent to one person being displaced every second*. The number and scale of huge disasters creates significant fluctuation from year to year in the total number of people displaced, while the trend over decades is on the rise (IDMC 2015) (my emphasis).

In 2007, the NGO Christian Aid predicted that by the year 2050 around 250 million people could be permanently displaced as a result of climate change related phenomena such as droughts, floods and hurricanes (Christian Aid 2007: 6).

The need for concrete research and objective assessments is undeniable, since they will allow a better understanding of the problem and accurate forecasting with valid estimations, that may overtake mere conjectures and "academic approximations". Meanwhile, the available data and information clearly suggest an accelerating trend of climate change to likely become the most important root cause of massive human displacements in the 21st century (Dos Santos Soares, 2015: 239-241).

Furthermore, in the context of an exponential increase in inequality at both local and global levels, displacement by force is the high price that millions of people are paying for a distorted and deeply unjust development model which, in addition to an extreme concentration of economic resources (including land) in the hands of a few and the poverty of the vast majority, operates as a powerful weapon of exclusion, marginalization and socioeconomic segregation, even "ethnic cleansing in disguise" (Rajagopal 2001).

As an attempt of approaching the magnitude of the problem, it is enough to be reminded that the World Bank itself estimated that around 10 million people are forcibly displaced each year by development projects funded by this same institution (Robinson 2003: 3). The aforementioned, NGO Christian Aid, goes much further, having estimated that by 2050, around 645 million people may be displaced by development projects such as dams and mines (Christian Aid 2007: 6).

Seen as "a complex, wide-ranging and pervasive set of phenomena" (FMO⁴), contemporary forced migration has been described by International IASFM⁵ as "a general term that refers to the movements of refugees and internally displaced people (those displaced by conflicts) as well as people displaced by natural or environmental disasters, chemical or nuclear disasters, famine, or development projects".

Thus, from all the above, the concept of forced migrant is derived that includes several profiles, most of them insufficiently studied. In addition to legally well-known refugees and asylum seekers, we are referring to: environmentally displaced people, development

⁴ Forced Migration on Line, <http://www.forcedmigration.org/about/whatisfm> (accessed: 30.11.2016).

⁵ Association for the Study of Forced Migration, <http://www.efms.uni-bamberg.de/iasfm/mission.htm> (retrieved 30.11.2016).

displaced people, smuggled people, trafficked people and many of those ironically called economic migrants, being, in fact, authentic victims of human rights violations in the realm of “structural violence” inherently associated to exclusionary economic globalization. We will come back to this later.

Needless to say, the overwhelming majority of forced migrants remain inside their own countries (IDPs), this being the most prominent quantitative and qualitative feature of current forced migration, mainly since the end of the Cold War. In practice, that means millions of uprooted human beings in need of international protection and assistance remain invisible and helpless. This situation raises huge challenges to contemporary international society, to its political, economic and legal order. Thus, the following section tries to examine how and to what extent the international legal order regulates forced migration.

III. International Law on Forced Migrants

As an instrument born to bring order to international social life since “without it, there could be chaos” (UN 2011), International Law (hereafter IL) also places limits on the actions of states and other actors that can harm peoples’ dignity and rights. As such, it encompasses many areas, including human rights, refugees and migration (UN 2011). However, forced migration itself is not yet an accepted common term in IL. There is no legal status recognized for forced migrants that would determine their rights as well as obligations for a particular international agency.

It is true that as a dynamic and evolutionary process that must adapt to demands of social reality under which it operates, IL has advanced remarkably in its own humanization. This is due to its commitment to the internationalization and protection of human rights. Certainly, existing international human rights treaties are relevant in every forced migration context. However, we must emphasize that the magnitude, breadth and special features of this multifaceted phenomenon probably have not been specifically considered in drafting and subsequent adoption of such treaties.⁶ This explains, at least in part, the persistent legal vacuum regarding many aspects of this reality. In this respect, the advances of the international legal order are still quite timid and scarce. In fact, forced displacement affecting growing segments of the population in many countries, is likely one of the most serious contemporary crises (Cançado Trindade 2000), whose root causes IL still does not sufficiently regulate. Besides, there are reasons to suspect that there are states’ interests in generating the containment of refugees and other undesirable immigrants (Vidal López 2007; Posada 2009). IL has given a restrictive and partial treatment to forced migration and its scope, having reduced it almost exclusively to refugees *ex professo*.

Clearly, refugees and asylum-seekers make up the only sector of forced migrants for whom IL provides effective protection and assistance through substantive legislation as well as a relevant degree of institutionalization, embodied in the UNHCR. Therefore, International

⁶ We are referring to the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966) and to the International Covenant on Economic Social and Cultural Rights (1966).

Refugee Law (hereinafter IRL) – established fundamentally by the 1951 Convention relating to the Status of Refugees and its 1967 Protocol relating to the Status of Refugees – is clearly the most important and systematized response given by international legal order to contemporary forced migration.

According to article 1 A(2) of the Convention, a refugee is

a person who is outside his or her country of nationality or habitual residence; has a well-founded fear of being persecuted because of his or her race, religion, nationality, membership of a particular social group or political opinion; and is unable or unwilling to avail him— or herself of the protection of that country, or to return there, for fear of persecution.

This definition has been enlarged in the African and Latin American regional contexts, by adding some more objectively based considerations. Thus, in its article 1 (2) the *1969 Organization of African Unity [OAU] Convention Governing the Specific Aspects of Refugee Problems in Africa* applies the term “refugee” also to every person who is compelled to leave his/her place of habitual residence in order to seek refuge in another place outside his/her country of origin or nationality, “owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality”. In turn, the *1984 Cartagena Declaration* enlarges the 1951 Convention refugee definition by including persons who escape from their countries “because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order” (III.3).

In the European Union regional context, attempts to expand the definition of the Geneva's refugee concept may be substantiated into temporary and subsidiary protection, created in the realm of Common European Asylum System still in progress.

It is evident that, even expanded, the international definition of a refugee excludes all other groups or categories of forcibly displaced people previously mentioned. This means that, despite progress made in understanding the indivisibility of human rights, only the violation of civil and political rights remains a constituent of refugee status. Not so the violation of the fundamental right to live with dignity, nor the violation of economic, social and cultural rights, much less of the so-called third generation rights (Celis Sánchez & Aierdi Urraza 2015). Not to mention those people displaced due to environmental disasters (Anderson & Bausch 2006), many of them related to climate change impacts, nor those displaced by “the violence of development” (Marchand 2010). In addition, and denounced by Carmen Miguel Juan (2016) and Maryann Cusimano Love (2011), interpreted mainly from a male point of view, IRL does not expressly foresee persecution on the basis of gender. It hardly considers the experiences of women persecuted in the private sphere by non-state agents. On the contrary, it “depoliticizes” certain types of violence such as rape, sexual exploitation, forced marriage, genital mutilation or forced sterilization.

Thanks to the efforts of the humanitarian community, since 1998 IDPs by conflicts are covered by a relevant *soft law* normative, the *Guiding Principles on Internal Displacement*

(E/CN.4/1998/53/Add.2)⁷, as well as with some institutional assistance, especially from the UNHCR. The same cannot be said with regard to IDPs from causes different from conflicts.

From all the above it is necessary to come to the conclusion that IL is far from a sufficient response to contemporary forced migration, whose causes are increasingly “complex and overlapping” (Crawley 2006: 60). What is most worrying, however, is what appears to be a generalized trend in the states' attitude not to accomplish their own international obligations towards refugees under the provisions of IRL, including the sacrosanct principle of *non-refoulement*.

The good news is that the international community embodied in the UN has begun to realize the need to understand migration reality (forced or voluntary) as a global challenge that equally demands global governance. This is clearly reflected in the United Nations Summit for Refugees and Migrants, held on 19 September 2016. Pitched by the same UN “as an ‘historic opportunity’ and ‘watershed moment’ to further international cooperation with the hopes of ultimately leading to a more systematic, humane and coordinated approach to responding to large movements of refugees and migrants” (Almeida & Bamberg 2016). This very recent Summit “offered an opportunity to evaluate the current scenario of migration worldwide and to frame the discussion for future negotiations on a global migration policy” (Almeida & Bamberg 2016). That is to say, in line with Stephen Castles (quoted by Munck 2009), never before has the migration issue been so high on the global political agenda. It is too early to know whether efforts to achieve global consensus on forced migration governance will prove, once again, elusive. In fact, the nature of the outcome document resulting from the aforementioned Summit, the *New York Declaration for Refugees and Migrants*, adopted by the General Assembly on 19 September 2016 (A/RES/71/1), at the outset has left many disillusioned.

However, many experts agree on minimizing such disillusionment, since this Declaration “has a very important moral force” (Sagarra Trias 2016: 2) and is expected to give rise to binding legal instruments, as was the case with the Universal Declaration of Human Rights, adopted on December 10, 1948 (Gortázar Rotaeché 2016).

The greatest concern lies in the fact that, well examined from the EU’s footprint throughout its content, this Declaration leads to the conclusion that its foreseen Global Compact will likely “mirror and open space for legitimising important elements of current EU migration policy, such as the focus on border controls and the EU’s migration compacts”, as pointed by Almeida & Bamberg (2016). We will return to this later, but now and following the roadmap previously established, the next section will try to examine the regional response of the EU to forced migration.

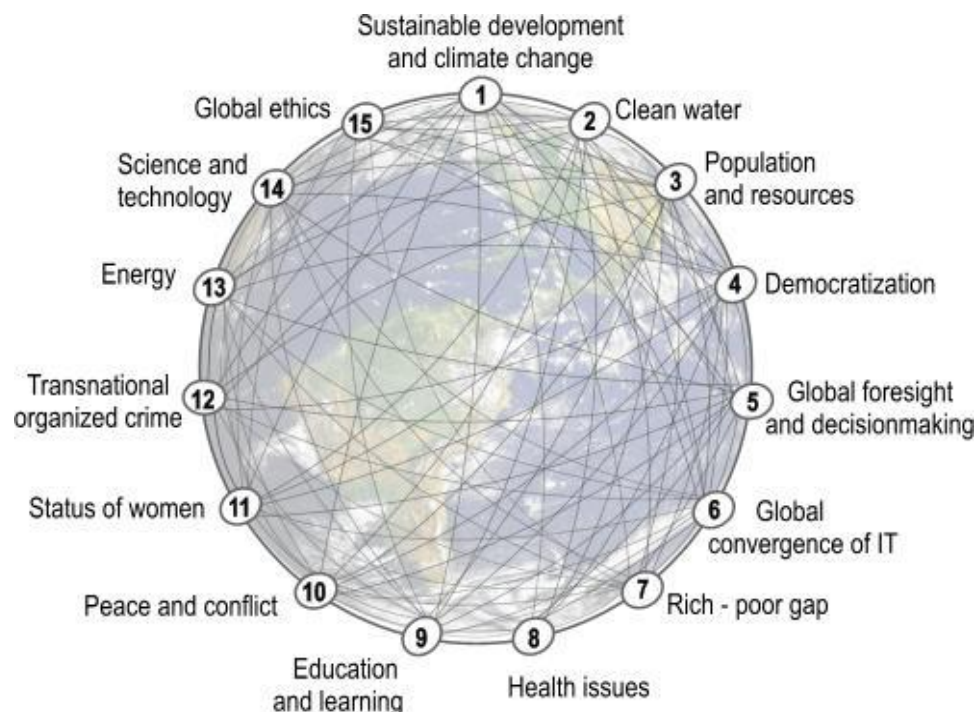
⁷ The African Union has turned these Guiding Principles into a binding treaty, the *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa*, also known as the *Kampala Convention*. Adopted in Kampala on 23 October 2009, it entered into force on 6 December 2012, being the only legal international binding instrument on the IDPs situation.

IV. How is the EU Addressing Forced Migration?

Global Challenges

The world's political landscape is dotted with challenges. We are referring here to a series of global challenges, which, in terms of *The Millennium Project*⁸, "are transnational in nature and transinstitutional in solution; cannot be addressed by any government or institution acting alone; require collaborative action among governments, international organizations" and all the living forces of civil society («corporations, universities, NGOs, and creative individuals», etc.).

According to *The Millennium Project*, these are the 15 major challenges facing humanity:



Formulated in an integrative way, these 15 global challenges are:

1. How can sustainable development be achieved for all while addressing global climate change?
2. How can everyone have sufficient clean water without conflict?
3. How can population growth and resources be brought into balance?
4. How can genuine democracy emerge from authoritarian regimes?
5. How can policymaking be made more sensitive to global long-term perspectives?
6. How can the global convergence of information and communications technologies work for everyone?
7. How can ethical market economies be encouraged to help reduce the gap

⁸ <<http://www.millennium-project.org/millennium/challenges.html>> (retrieved 4.12.2016)

- between rich and poor?
8. How can the threat of new and reemerging diseases and immune micro-organisms be reduced?
 9. How can the capacity to decide be improved as the nature of work and institutions change?
 10. How can shared values and new security strategies reduce ethnic conflicts, terrorism, and the use of weapons of mass destruction?
 11. How can the changing status of women help improve the human condition?
 12. How can transnational organized crime networks be stopped from becoming more powerful and sophisticated global enterprises?
 13. How can growing energy demands be met safely and efficiently?
 14. How can scientific and technological breakthroughs be accelerated to improve the human condition?
 15. How can ethical considerations become more routinely incorporated into global decisions?

The UN has shown its determination to address such huge challenges by setting up the *2030 Agenda for Sustainable Development* (A/RES/70/1)⁹, consisting of 17 Sustainable Development Goals (SDGs). Simply put, it is intended that, individually and cooperatively, over the next 15 years all “countries will mobilize efforts to end all forms of poverty, fight **inequalities** and tackle **climate change**, while ensuring that no one is left behind”¹⁰ (my emphasis).

In the meantime, over the past two years “asylum and migration” – simply reduced to the so-called “migration crisis” – “have become the most urgent topics of discussion across the EU” (European Parliament’s blog 2016). It is not unemployment, nor the serious dysfunctionalities of the financial system, nor Brexit. Thus, stemming from this “surprising” consideration, the next section will try to examine the response the EU has so far given to the “migration crisis” and to find out to what extent such responses are reasonable, humane and accordance with the law.

“Migration Crisis” as the EU’s Major Challenge

Before jumping into the analysis of the EU's response to contemporary forced migration, it is interesting to shortly examine and, perhaps, try to deconstruct the already popularized concept of “migration crisis”. This may be done by simply asking: who is in crisis? The EU member states? The countries of origin? Or the children, women and men in need of international protection? What is really at stake?

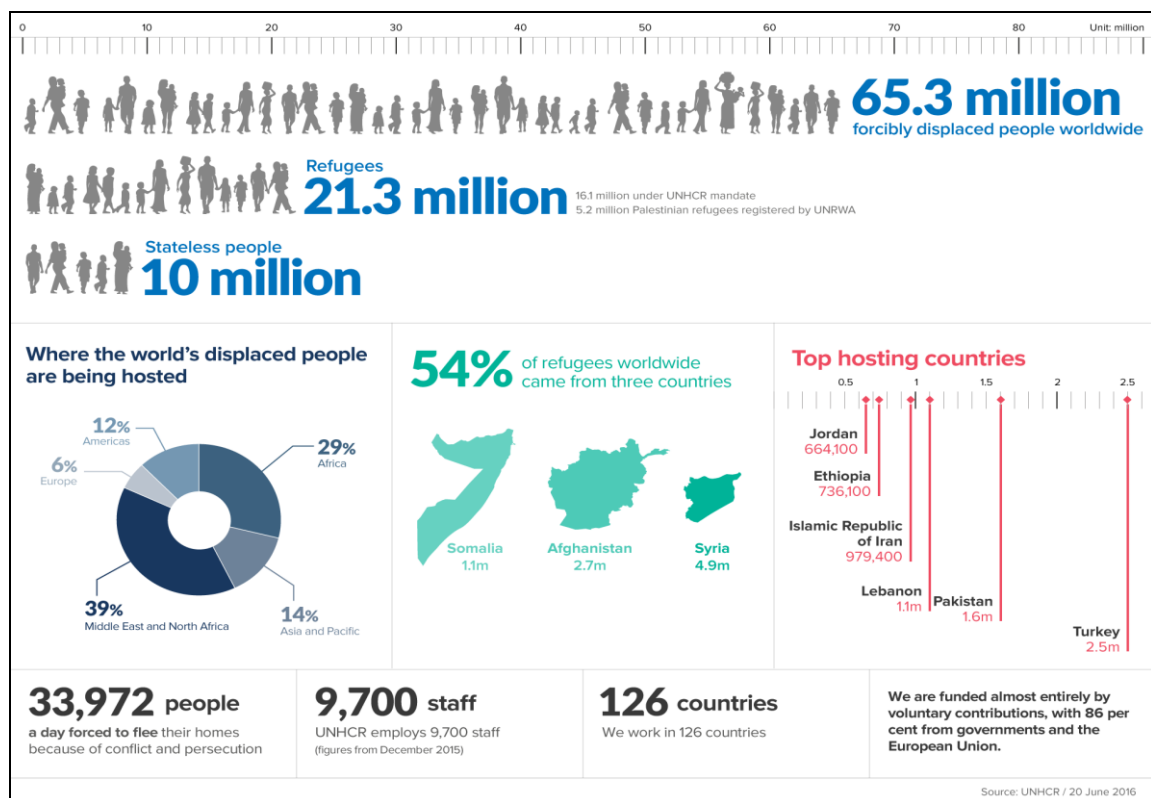
Ironically, so far this concept (“migration crisis”) has referred to the EU and its member states. Certainly, this determines or, at least, is used as an explanatory frame for the current direction (“securitization”) of the EU's migration and asylum normative and policies, since forced migrants are increasingly perceived as a potential threat by the EU countries and their societies.

⁹ Adopted on 25 September 2015, it officially came into force on 1 January 2016.

¹⁰ <<http://www.un.org/sustainabledevelopment/development-agenda/>> (retrieved 4.12.2016).

The dramatic situation of the Syrian, Iraqi, Afghan and Eritrean refugees among others, that broke out in the second half of 2014, is considered by many to be *the greatest humanitarian catastrophe since the end of World War II*. As put by Sami Nair (2016), this is a tragedy that “poses to European societies, to the governments and to the ethical conscience of everybody fundamental questions about the respect for human rights, human solidarity, and the belief in principles and values of Europe as a civilized community”.

However, it seems that the EU is overestimating, in a cynical and intentional way, the extent of the portion of this problem that it is actually handling. In fact, as pointed out by the UNHCR, European countries (including the EU member states) host only 6% of the 65.3 million of forcibly displaced people by conflicts worldwide. Of course, this is mentioned without any prejudice to the fact that, according to same UNHCR, 86% of its budget comes from governments of the EU.



Having said that, the factual picture of the EU “migration crisis” may be described as follows: the number of people reported as to be arriving to Europe, by land and sea, in 2015, reached 1,046,599, according to the IOM (2016). 84% of them came from the world’s top 10 refugee-producing countries, including the Syrian Arab Republic (50%), Afghanistan (21%), Iraq (9%), Eritrea (4%) and Pakistan (3%) in the top five, says the UNHCR (2016a). The vast majority (1,015,078 people) arrived by sea (the Mediterranean and the Aegean Seas). “Children made up 25% of total arrivals to Greece, Italy and Spain in 2015, many unaccompanied or separated” (Idem). During the same year, 3,771 people were reported dead or missing at the sea.

By mid-December, the number of arrivals by sea and land in Europe recorded since earlier 2016 year were 374,802 people. Given the fact that the situation in the aforementioned main countries of origin remains unchanged, this significant fall in arrivals in Europe (-2%) (IOM 2016) is at least clear. Meanwhile, the estimated number of migrants dead or missing in the Mediterranean Sea continues to rise. From 1 January until 31 December 2016, 5,082 were officially reported (UNHCR 2016b; IOM 2016), making up what Javier de Lucas (2016) called "*Europe's shipwreck in the Mediterranean*".

According to EUROSTAT, 1,255,600 first time asylum seekers applied for international protection in the member states of the EU, in 2015, a number more than double that of the previous year. The highest number of them were registered in Germany (with 441,800 first time applicants, or 35% of all first time applicants in the EU Member States), followed by Hungary (174,400, or 14%), Sweden (156,100, or 12%), Austria (85,500, or 7%), Italy (83,200, or 7%) and France (70,600, or 6%). Compared with the previous year, the number of first time asylum applicants in 2015 increased the most in Finland (+822%), ahead of Hungary (+323%), Austria (+233%), Belgium (+178%), Spain (+167%) and Germany (+155%).

Compared with the population of each member state, the highest number of registered first time applicants in 2015 was recorded in Hungary (17,699 first time applicants per million inhabitants), ahead of Sweden (16,016), Austria (9,970), Finland (5,876) and Germany (5,441). In contrast, the lowest numbers were observed in Croatia (34 applicants per million inhabitants), Slovakia (50), Romania (62), Portugal (80) and Lithuania (93). In 2015, there were on average 2,470 first time asylum applicants per million inhabitants in the EU member states.

Almost 1 out of 3 first time asylum seekers originate from Syria. This country (29% of the total number of first time applicants) was again in 2015 the main country of citizenship of asylum seekers in the EU member states. Of the 362,800 Syrians who applied for the first time for asylum in the EU in 2015, almost half were registered in Germany (158,700). In total, Syrians represented the main citizenship of asylum seekers in twelve EU member states. Afghanistan (14% of the total number of first time applicants) remained the second main country of citizenship of asylum seekers in the EU member states in 2015. Of the 178,200 Afghans seeking asylum protection for the first time in the EU member states in 2015, nearly half applied in two member states: Hungary (45,600) and Sweden (41,200). With 121,500 first time applicants (or 10% of the EU total) in 2015, Iraq was the third country of citizenship of asylum seekers in the EU member states. Six in ten applied in one of the following three member states: Germany (29,800), Finland (20,400) and Sweden (20,200).

The Response of the EU to the "Migration Crisis": Communitarian Basic Regulation

In an attempt to bring reasonableness to the EU's reaction before the arrivals, from the outset the humanitarian community preferred speaking of "refugee emergency" rather than "migration crisis". As pointed out by Amnesty International (2015: 9), this is due to the fact that while the figures include people fleeing poverty, the majority of men, women and children arriving are refugees fleeing violence and widespread human rights

violations in countries like Syria, Afghanistan, Eritrea, Iraq, Somalia and Sudan among others. Then, how does the EU's law address the situation of those people in distress seeking international protection?

Following the indicated humanitarian community approach, it is more than reasonable, even necessary, to consider that the current “refugee emergency” should be tackled respecting human dignity, freedom, democracy, equality, the rule of law and human rights. These are the universal, indivisible values and common principles on which the EU is based, as enshrined in article 2 TEU and in the Preamble of the *Charter of Fundamental Rights of the EU* (hereinafter the Charter). Besides, in its article 18, the Charter ensures the right of asylum in observance of the 1951 Refugee Convention and its 1967 Protocol, also under the TEU and the TFEU. Furthermore, in its article 19 the Charter clearly determines: “Collective expulsions are prohibited” (1). “No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment” (2). Pursuant to article 21 TEU, the EU has an obligation to base its external relations, including those related to migration, on the principles of democracy, human rights and solidarity. In turn, article 80 TFEU¹¹ establishes the core *principle of solidarity and fair sharing of responsibility*, which must govern the implementation of the EU's policies on asylum, border checks and immigration. This same principle is expressed in article 4(3) TEU¹² in terms “sincere cooperation”.

Article 78 TFEU¹³ is particularly interesting to understand current EU policies and norms

¹¹ Which reads as follow: «The policies of the Union set out in this Chapter and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Chapter shall contain appropriate measures to give effect to this principle»

¹² «Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties»

¹³ It reads as follow:

1. The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of *non-refoulement*. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties.
2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures for a common European asylum system comprising:
 - (a) a uniform status of asylum for nationals of third countries, valid throughout the Union;
 - (b) a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection;
 - (c) a common system of temporary protection for displaced persons in the event of a massive inflow;
 - (d) common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status;
 - (e) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection;
 - (f) standards concerning the conditions for the reception of applicants for asylum or subsidiary protection;
 - (g) partnership and cooperation with third countries for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection.
3. In the event of one or more member state being confronted by an emergency situation characterized by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the member state(s) concerned. It shall act after consulting the European Parliament.

on asylum, border checks and immigration, in the realm of the Common European Asylum System (hereinafter CEAS)¹⁴, still under progress. Most remarkable is point (e), this being the legal basis of the well-known and deeply problematic “Dublin System” (Regulation 604/2013), which, in essence, consists in criteria and mechanisms for determining the responsible member state for examining an application for asylum or subsidiary protection lodged in the EU.

Its main flaw, as pointed out by De Bruycker & Tsourdi (2016), stems from the fact that, having been “conceived by the North-Western Member States who drafted the Schengen Convention (...) which is at the origin of the Dublin Convention”, “*the Dublin system was not devised on the basis of solidarity*” (my emphasis). It is characterised by being the source of “asymmetric burdens among Member States due to the fate of geography”. That is why, since the very beginning of this regulation, member states in the South, much more exposed to first entry of the third-country nationals to the EU, “have been complaining about the lack of solidarity measures, while many Member States in the Northwest have castigated them about their (alleged) inability to implement their responsibilities” (De Bruycker & Tsourdi 2016).

Many voices have been raised to reform the Dublin system, to bring it into line with the principle of solidarity and fair sharing of responsibility (Chetail, De Bruycker & Maiani 2016; Di Fillipo 2016); either that or the return to national based solutions. The European Commission itself has recently delivered its reform proposal that may lead to Dublin IV (COM [2016] 270 final). In the meantime, the desired reform of this system seems difficult to achieve, unless the basic principle on which it is based is reversed.

Policy, Legal and Institutional Responses in Practice

From the outset of the current refugee emergency, the EU has held an uncertain position, even not acting in compliance with its founding principles and International Law. The EU has been unable to respond effectively and in a coordinated way to the emergency. On the contrary, this emergency highlighted the profound divisions existing among the EU member states and a search for possible common solutions on the basis of “solidarity and fair sharing of responsibility”. As summarized by the UNHCR (2016; 2015), last year’s refugee emergency severely tested the capacity of EU member states and the CEAS, and proved “the imperative of a comprehensive response”.

Some countries, such as Austria, Germany, Greece, Italy, and Sweden, were more affected than others. Fragmented responses emerged amongst EU

¹⁴ At its current stage, this common asylum regime is composed of four main legal instruments, all recently recast, such as: the Qualification Directive 2011/95/EU on standards for the qualification of non-EU nationals and stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection; the Asylum Procedures Directive 2013/32/EU on common procedures for granting and withdrawing international protection; the Reception Conditions Directive 2013/33/EU laying down standards for the reception of applicants for international protection; and the Dublin Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the member state responsible for examining an application for international protection lodged in one of the member states by a third-country national or stateless person.

Member States. Some took measures to restrict access of refugees and migrants to their territories and to shift the responsibility to neighbouring countries (UNCHR 2016c: 2). In particular, 2015 saw increased border controls and fences¹⁵ erected along borders between several countries in an effort to thwart the movement of refugees into their countries and across Europe. In addition, many countries passed legislation restricting access to asylum systems and placing limitations on family reunification (UNHCR 2016a: 34). Although several made efforts to welcome refugees, the lack of a common EU response led to seemingly intractable policy dilemmas. This resulted in serious operational difficulties, exacerbating the already precarious circumstances under which refugees and migrants arrived in the EU (UNHCR 2016c: 2).

The closure of borders has been accompanied by a systematic externalization of asylum provision to third countries. Paradigmatic in this regard is the agreement between the EU and Turkey (18 March 2016), branded by the humanitarian and defense of human rights community as a “shameful deal” or “an agreement of great indignity”. The seriousness of this agreement can be seen in the attitude of the medical aid charity Medecins Sans Frontieres (MSF), which, in June 2016, decided to reject all funding from the European Union and its member states in protest at such a deal to stem the influx of migrants and refugees, “jeopardizing the very concept of refugee”¹⁶.

In addition to border control and the externalization of asylum provision, the response of the EU to the refugee emergency is characterized by an increasing militarization of refugees’ management (Frontex and NATO) (Naïr 2016: 122).

Despite the aforementioned lack of unity and solidarity, it is possible to identify some policy, legislative, institutional and financial responses agreed at the EU level to respond to the refugee crisis. The most far-reaching ones are the European Migration Agenda and a number of legal and policy instruments related to: the temporary relocation system; the hotspots approach; safe third country; irregular migration, trafficking and smuggling; funding; and the Commission proposal for a European border and coast guard. A critical assessment on these aspects leads analysts to worrying conclusions. As Carrera, Blockmans, Gros & Guild (2015: 2) put it,

The EU policy responses, both internally and in cooperation with third countries, have by and large lacked a *multi-policy sector* approach. Instead, they have given priority to security-driven (home affairs) and military concerns and interests of the EU and its member states, where the focus on border controls, return and readmission and fighting against smuggling have by and large prevailed, instead of first ensuring full compliance with fundamental human rights standards and principles. This constitutes one of the Achilles

¹⁵ In its report "Fear and Fences" (2015), Amnesty International also complained that in response to the refugee emergency, over the year 2015 EU member states have built more than 235 km of fences at the external borders of the EU, with an economic cost rising upwards of 175 million Euros. Among such fences, that report pointed out those on the borders between Greece and Turkey, between Hungary and Serbia, between Bulgaria and Turkey and also between the Spanish enclaves of Ceuta and Melia with Morocco.

¹⁶ “MSF spurns EU funding over 'shameful' Turkey migrant deal” <
<http://www.reuters.com/article/us-europe-migrants-msf-idUSKCN0Z30SB>> (retrieved 14.12.2016).

heels of the current European Agenda on Migration.

The concern is even greater considering a couple of reasons. First, the fact that most of these aspects that characterize the EU's response have been recently reaffirmed in the *Bratislava Declaration*, issued by the 27 EU member states on 16 September 2016. Assumed as being «the beginning of a process», the Bratislava Declaration literally ignores the refugees (which are not even mentioned in the text) by reducing them to “irregular migrants” and prioritizes “the objective to ensure full control of external borders” over asylum policies. Moreover, it deepens the unworkable Dublin System by prioritizing individual state's responsibility over solidarity. This is reduced to a “commitment by a number of member states to offer immediate assistance to strengthen the protection of Bulgaria's border with Turkey and continue support to other frontline states”, since «solidarity must be given voluntarily. It must come from the heart. It cannot be forced» (De Bruycker & Tsourdi 2016). And second, as mentioned, the Global Compact devised in the New York Declaration for Refugee and Migration will likely „mirror and open space for legitimising important elements of current EU migration policy, such as the focus on border controls and the EU's “migration compacts” (Almeida & Bamberg 2016).

The Contribution of the Visegrad Group to the EU's Response to Forced Migration

From the outset of the current refugee emergency, the Visegrad Group has assumed a sort of leading role with regard to the direction that the EU's response to forced migrants is taking. Characterized by a disquieting tendency of flatly rejecting the duty to implement any future decision on intra-EU solidarity on asylum and migration issues; characterized also by a discourse identifying Brussels with socialist Moscow as centre of a dictatorial empire, these countries and their respective governments are those who seem to openly lead the EU's resistance to asylum seekers, refugees and migrants. Among the driving forces behind this resistance seem to be fear, racism and xenophobia. These attitudes seem to have flourished significantly across the Visegrad countries (Simonovits & Bernát 2016; Simonovits 2015) and all of Europe in the last two years. No less important among the driving forces seems to be the non-existence or failure of the EU social project (Holland 2016), which is reflected in the high unemployment and inequality rates in many member states.

In fact, just to be reminded of some key facts, together with Romania, three of the Visegrad countries (Hungary, Slovakia and the Czech Republic) are opposed to the mandatory character of the relocation decision, which was imposed on 22 September 2015 by a qualified majority in the Council (Council Decision 2015/1601).

Previously, on 4 September 2015, the group's Heads of Government issued a Joint Statement¹⁷ expressing their support for Hungary, which had just built a four-meter high fence along a 175-kilometer on its border with Serbia. It established penalties of three years in jail for entering illegally in the country and five for the aggravation of damaging the fence, as well as opening a criminal procedure against 60 migrants for breaking the fence.

¹⁷ Available at <http://www.visegradgroup.eu/calendar/2015> (retrieved 15.12.2016).

On 2 December 2015, Slovakia denounced the quotas for the distribution of refugees to the Luxembourg court by considering them to be in contradiction with European law. At the same time, the country allowed only Syrian Christians to cross its borders, due to "security and cultural reasons".

In their Joint Statement issued on 17 December 2015¹⁸, the Visegrad countries declared that the main objective of the EU should be to regain absolute control of the external borders, and they refused to discuss common immigration and asylum policy with the rest of the EU countries if that goal had not been achieved. In their Joint Statement on Migration, issued in Prague on 15 February 2016, the Heads of State of the Visegrad Group reaffirmed their refusal to a permanent and automatic resettlement mechanism; called for a more effective use of the EU and NATO instruments, infrastructures and resources to manage migratory flows; and emphasized, once again, the protection of the external borders on the basis of the principle of balance between the powers of the EU and the competences of the member states.

On 2 October 2016 Hungary held its referendum, initiated by the national government on 24 February 2016, on the relocation of asylum seekers and/or any future plan on intra-EU solidarity concerning forced migrants. As pointed out by Boldizsár Nagy (2016a), so far the result of the referendum, which proved to be invalid, was "a gigantic fiasco for the Hungarian government" and its brutal campaign inciting xenophobia, "demonizing" refugees, "portraying migrants as a danger to the Hungarian society" and promoting "deceptive messages".

Certainly, the Visegrad countries' responses to the situation of forced migrants seems to be based more on securitization and other explanatory frames and driving forces (identity politics, nationalism, xenophobia) rather than on loyal cooperation (article 4[3] TEU), on solidarity and fair sharing of responsibilities (article 80 TFEU). In this sense, having analyzed the Hungarian asylum law and policy over the period 2015-2016, Boldizsár Nagy (2016b) summarized: "The conclusion is not reassuring. The ambitions of the Hungarian government and of the EU are widely divergent; they do not run in parallel as they should. The words uttered are about 'defending Europe,' but the deeds actually destroy it."

V. Final Remarks

Barbarism, persistent and proliferating in many parts of the world, entrenches *armed conflicts* as the main cause of forced migration worldwide. Simultaneously, we are witnessing the progressive affirmation of *climate change* which tends to become the dominant force inducing human displacement, as it acts as an amplifying factor for conflicts and other elements of socio-economic vulnerability. Furthermore, in the context of an exponential increase in inequality at both local and global levels, displacement by force is the high price that millions of people are paying for a distorted and deeply unjust development model which, in addition to an extreme concentration of economic resources (including land) in the hands of a few and the poverty of the vast majority, operates as a powerful weapon of exclusion, marginalization and socioeconomic

¹⁸ Idem

segregation, even "ethnic cleansing in disguise".

From all these derive a concept of the forced migrant which includes several profiles that are insufficiently studied. In practice, that means many millions of uprooted human beings, in need of international protection and assistance, remain invisible and helpless. This situation raises huge challenges to contemporary international society, to its political, economic and legal order. With this general context in mind, this paper raised for consideration of current forced migration the need for global solutions. Fortunately, this awareness begins to surface and be assumed at the highest level of the international community as evidenced by the recent *New York Declaration for Refugee and Migration*. This Declaration clearly brought to light the imperative need of establishing an international legal, political and institutional framework towards good global governance of both forced and voluntary migration. Certainly, there are reasons for hope in achieving this goal. In the meantime, much remains to be done to ensure that the responses of the EU and all its member states to forced migration are reasonable, in accordance with law and contribute to realizing those hopes rather than to undermining it.

Indeed, as the UNHCR (2016c) states, "the EU needs a bold, imaginative and workable approach to overcome fragmentation and manage refugee movements effectively in accordance with international law". All this implies the need to reforming the EU construction project: its "social project" dimension, based on shared human values, "solidarity and fair sharing responsibilities", that should be strengthened and prioritized over its "single market" character.

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HOMELAND MINORITIES, IMMIGRANT MINORITIES: MIND THE GAP?

Gábor Kardos

I. *Introduction*

Large immigrant communities live in the countries of Western Europe. They come from outside of Europe, in some cases from former colonies, and also from Central and Eastern Europe, taking the advantage of free movement of people in the EU. What do these groups have in common? They have left behind their original homes and long standing ties as a consequence of their decision. Their motivations have been mainly but not exclusively economic, and they are only recently arrived and settled in Europe. They have obviously not been in Europe for centuries, but “only” for some years or decades (Medda-Widischer 2015: 1). Most of them do not show any sign of giving up their identity, and assimilating into the majority. It is not true, or not true any longer, that they abandon their specific culture. On the contrary, they seem to be more and more committed to preserving their culture, traditions, language and religion. This can lead to demands for cultural and language minority rights on a much higher scale than before, questioning the “absorption capacity of societies” (Kymlicka 2001: 275-279). As a consequence of the recent massive influx of migrants and asylum-seekers, the number of individuals belonging to these new minorities steadily grows, and the Central and Eastern European member states of the EU can hardly avoid increasing newcomers trying to settle in their territories.

In the first part of this paper I will examine two questions: 1) What is the legal status of minority rights for members of immigrant communities? 2) What might be the impact of the wider recognition of their rights and the protection of the rights of those who are members of homeland minority communities? In the second part of the paper, as a case study, I will deal with a problem of accommodation, a specific but pertinent issue, the public use of Muslim veils.

It might be a good point of departure to quote the words of the Explanatory Report of the 2012 *Ljubljana Guidelines on Integration of Diverse Societies of OSCE*:

Recognizing that diversity enriches society implies that States should not define themselves in exclusivist and (mono-) ethnic terms as the “property” of one or several specific ethnicities. In addition, members of majorities and minorities should accept that their identities – like the one of the State – may change and evolve, including through contact and exchange with other groups (*Ljubljana Guidelines* 2012: 15).

II. *Changing Realities, Changing Perceptions*

A. The Context

As far as the protection of homeland minorities is concerned, in the last two decades the strengthening of minority protection both at national and European level has been a factor in the greater manifestation or regaining of minority identities. First, the successful vernacular mobilisation of different ethnic groups and ethnic conflicts led to inclusive legislation and then the legislation itself proved to be an invitation to minority consciousness. Furthermore, in the identification of a minority group we can observe that the subjective elements are becoming more and more important as the UN Special Rapporteur has noted:

Traditionally it has been accepted that the existence of a minority depends on a combination of one or more objective elements with one subjective element, namely the members' awareness of belonging to a minority. However, the subjective aspect is increasingly seen as complex and independent. The existence of a minority is not "static", since it always depends on the will of its members, on their will to continue to form a group distinct from the majority, and on their capacity to recreate their own identity. There are many minorities where the so-called "objective" aspects are insignificant and where subjective aspects, such as the awareness of belonging, are the determining factors (Bengoa 2000: 15-16).

In the previous decades, these legislative and conceptual changes partly provoked, partly met the rising demands for recognition of identity, and a new phrase was born: identity politics. Diverse groups such as new cultural and sub-cultural communities, immigrants, sexual minorities, new religious groups, openly manifested their distinctiveness and their desire for equal respect. New flowers grew on a fertile identity soil.

These manifestations led to the strengthening of anti-discrimination legislation in many Western European states as well in the law of the EU. It is not an overstatement to claim that the anti-discrimination legislation is the jewel in the crown of the EU human rights policy. This development was also very important from the point of view of the immigrant communities, but their growing numbers and adherence to their culture and traditions raised the question as to whether it would be necessary to accept their culture and traditions as permanent factors in society. Alongside equality and freedom of religion, other minority rights, such right as the right to preserve cultural and language identity should be secured for immigrants. This change presupposes a renewal of the traditional understanding of the concept of the national minority that is basically viewed those communities as fragments of nations, or portions of nations that found themselves in the "wrong state," in a state which embodied another nation than their own (Ringelheim 2010: 101).

After the end of the Cold War, the European system of protection of national minorities includes the OSCE, the Council of Europe, and to a limited extent, the EU. The EU is not a Pan-European institution but it has significant influence on European non-member states

as well. The system reflects the idea of European unity in the sense that it covers the whole continent. It was politically very difficult for Western Europe to limit the system to the countries of Central and Eastern Europe as they did after the World War I in the context of the League of Nations because, in the meantime, the protection of minorities became an integral part of the international protection of universal human rights (Ringelheim 2010: 107). The idea of European unity also proved to be decisive. This development definitely very much helped from the point of view of the protection of national minorities traditionally living both in Western, and Central and Eastern European countries and hindered the unpleasant return of the past, although not completely, because the West European states basically do not cooperate with the OSCE High Commissioner on National Minorities. The rights of immigrant communities seem to be an exclusively West European issue for many in the other half of the continent.

B. The Power of Interpretation

Speaking from the point of view of international law, the two treaties of the Council of Europe – the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities – are the most significant instruments for the protection of minorities in Europe. The Charter *ab ovo* excludes the protection of the languages of migrants (Article 1, a, ii). If we accept that language is a fundamental element of personal identity, this might lead to the conclusion that all individuals should enjoy a secure and supportive language environment (Dunbar 2001: 94). Consequently, that exclusion in the Charter may be questioned.

As far as the scope of application of the Framework Convention is concerned, the treaty does not include the definition of a national minority, although Article 5 hints at the basic elements: “...to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage,” and leaves it to the state parties to establish the beneficiaries of the rights enshrined in the text. The state parties use different criteria to determine whose rights are protected under the Framework Convention: formal recognition, citizenship, length of residency, territoriality, substantial numbers, and support by kin states, specific identity markers, and ascribed categories (Thematic commentary No.4 2016: 12-15). Without analyzing them in details, it is clear at first glance that theoretically the inclusion of immigrant minorities into the beneficiaries of the protection. In reality, formal recognition and specific identity markers have been used for this purpose. In the Czech Republic and in Finland, based on self-identification, Somalis and Vietnamese were recognized and included into cultural consultation mechanisms and they received supports to finance their activities (Thematic commentary 4 2016: 13). In the UK, externally defined markers are used to recognize the “visible” minorities, such as Indian, Pakistani, Bangladeshi, Chinese, Black Caribbean and Black African communities (Craig 2000: 317-318).

In its reports, the Advisory Committee – dealing with the supervision over the implementation of the Framework Convention – applies Article 6 (protection against discrimination) to all persons living on the territory of the country, underlining the promotion of mutual respect and intercultural dialogue. The Advisory Committee

evaluates the role of education and media as tools for integration as well. The emphasis is given to an inclusive language policy which should take care of the needs of immigrant minorities as well. This practice has been done in many cases of immigrant minorities, for example *vis-à-vis* Denmark, Ireland or Italy. The body also relies on Article 8, addressing the financial support for immigrant religious organizations (Craig 2000: 318).

Moreover, the Advisory Committee always requires that the state parties should consider the applicability of *each* article in the case of new minorities. Consequently, the message which is conveyed by the Advisory Committee is inclusiveness. It might be added that the Venice Commission – the European Commission for Democracy through Law, the Council of Europe's advisory body on constitutional matters – in its 2006 Report on Non-Citizen and Minority Rights indicated a different opinion, claiming that the universal character of minority rights “does not exclude the legitimate existence of certain conditions placed on the access to minority rights” (Ringelheim 2010: 115). By this, the Venice Commission approved restrictive legal techniques, such as citizenship or lengths of residency used by European states to define who are the subjects of the protection of minority rights excluding migrants. The standpoint of the Venice Commission might be seen as a covert criticism of the activity of the Advisory Committee, a warning to what was the *raison d’être* of the procreation of the Framework Convention: the protection of homeland national minorities.

The responses from the state parties to the policy of the Advisory Committee are mixed. Certain states promised to extent the protection, such as Ireland, others only promised to contemplate this possibility, for example, Sweden. (Promises have consequences. The Polish foreign minister Witold Waszczykowski recently visiting Ireland indicated that the Polish government would like the Polish language taught in the country (*The Independent*: 24/11/2016). In Sweden, the Education Ordinance made legally possible that the first six years of education might be in immigrant languages (*Swedish Report* 2016: 27). The UK emphasized that it actually made the extension; Germany bluntly refused the inclusion, emphasizing that immigrant minorities do not have a traditional settlement in Germany where the protection would be concentrated, general human rights protect them and the article by article approach would lead to the dilution of the protection of homeland minorities (Craig 2000: 320-321).

C. Scenarios

As we have seen the situation is contradictory as it stands. Looking for the most probable scenario, the article-by-article, step-by-step approach advocated by the Advisory Committee continues. This is simply because, in the periodic reporting system, new turns arrive and “constructive dialogue” between the Advisory Committee and scrutinized state party revisits the problem and there may be changes in the behavior of the reluctant state parties. It is the solution of the “common but differentiated” treatment of the rights of the immigrant communities (Medda-Windischer 2015: 8-9). The process can be very slow; and it does not produce uniform practice and leaves state parties with wide room for maneuver.

There is a smaller chance for separated solution. There might be an additional protocol on

the minority rights of immigrants added to the Framework Convention for the Protection of National Minorities. Why is this less probable? Because it would need a clear political will, which would include not only commitment to protect those rights but also an agreement on what rights should be enshrined into the text and what should be the content of those rights.

The inclusion of the immigrants into the minority protection might have advantages, such as higher levels of equality and diversity, and this would terminate the assimilation policy towards the immigrants, accepting the reality that they are permanent factors in the society. At the same time, there may be a higher risk for less cohesion in European societies and greater conflicts of redistribution.

A different but not less exciting question is what might be the effect of the emerging legal status of immigrant minorities on the protection of homeland minorities. You can imagine an optimistic scenario, “the push ahead” scenario, an improvement, as the influx of Latinos has improved the status of African Americans in the United States (Skrentny 2002: 1-20). I am afraid, however, that the conditions for this do not exist. In the previously mentioned case, only two communities were involved and in Europe many homeland minorities exist under very different sociological and legal conditions without mentioning the diversity of the immigrants. Furthermore, although it is possible to find similarities between the federative system of the United States and integrated Europe, the latter is not one state having different sometimes changing attitudes towards immigrants.

A fear from a “the shade cover” scenario - meaning a possible deterioration, or at least a standstill in the protection of homeland minorities in the shadow of the pressing needs of the immigrants – seems to be more founded. The main danger may be the detrimental East-West division over the issue: immigrant minorities and their protections are seen as Western European and homeland minorities and their protections are seen as Central and Eastern European. From the view point of homeland minorities, the real danger would be “the watering down” scenario which would mean low level equality by raising the standards for immigrants and lowering them for homeland minorities.

It is easy to say that the solution is to raise the standards for the minority rights of immigrants and at the same time maintain the level of protection or possibly raise it for homeland minorities, but this is a very difficult scenario to put into practice. Consequently, the Advisory Committee of the Framework Convention for the Protection of National Minorities really has taken a huge responsibility because they should adhere to the principle of *primum non nocere*. On the other hand, “minority statutes and entitlements should reflect changing realities” (Pentkainen 2015: 42).

III. Public use of Muslim Veils

A. The Freedom of Religion and the Public Use of Muslim Veils

Freedom of religion and belief has a double nature, it is a general human right, and a cornerstone of democratic society; its role is comparable to freedom of expression and, at the same time, a highly important minority right. (It actually began as a minority right.) Minority rights in general might be seen as signs of equal recognition by the majority. In those states where the only recognised minority right (besides equality and non-discrimination, even for homeland minorities) is freedom of religion, in the case of new immigrants, minority rights are almost everywhere confined to non-discrimination and freedom of religion. The latter holds a special position. This provides a general protection of identity because there is a significant overlap between religious and other forms of identity, namely ethnic and cultural identities. Consequently, the use of religious symbols in public places indicates not only religious but ethnic and cultural identities, at least for a part of the community. Beside the “super diversity” in the West (Vertovec 2007: 1024-1054), essentially the problem is the visibility of Islam in Europe which is becoming more and more obvious.

Muslim identity is more than simply religious; it is the most important expression of the sense of collective, overlapping identity, which has been imbued with an existential significance for certain communities. They might see the toleration of use of their religious symbols as signs of their equal recognition and the acceptance of their authentic existence. But the latter is an especially difficult question because the recognition of the authentic existence of minority communities may undermine majority myths of the nation. In any case, Muslim Islamic veils are signs of authentic presence, they convey the message: “we are from here, whether you like it or not” (Krokovay 2011: 264).

In the postmodern Western societies, identity is a delicate issue: there are large immigrant communities and other social groups that identify themselves along the lines of a particular identity and in a way the majority might seem to be disappearing. At the same time, the visible signs of the obvious “otherness” on parade reconstitute the feeling of belonging to the majority and the amorphous majority regains its shape by redefining itself against them, motivated by the desire for homogeneity and the fear of losing social identity.

Under the circumstances of the demand for the recognition of the authentic existence on the one side, and the stronger and stronger desire for homogeneity on the other, the dilemma for Western law makers and courts is how to react to the visible signs of the presence of Islam, especially in the public use of Muslim veils. The answer – according to my understanding – depends on three major factors:

First, why is wearing this clothing seen as dominant? Second, how do we find a proper balance between the rights of the individual and collective values? Third, what is the ruling interpretation of the separation of state and church? Speaking from a legal point of view the problem might be seen as the question of reasonable accommodation of certain aspects of the Islamic religious freedom.

Reasons for Wearing the Veil and Possible Legal Consequences

Wearing a *hijab*, or headscarf that covers the hair, ears, and shoulders, or a *khimar*, a jacket-like veil reaching down to the waist, or *chador*, a full body veil leaving open the face, or *niqab*, a veil covering the face but not the eyes, or *burqa*, a full veil with a mesh screen in front of the eyes, by Muslim women might be seen as signs or symbols of true religious conviction, or proselytism, or community pressure, or oppression and discrimination, or protest against Western culture, or refusal of integration, or the intention to disturb the proper operation of public organs, or radicalization.

The visibility of Muslim veils in the West is not necessarily related to recent immigration because the use of Muslim symbols might be a product of religious revival of earlier generations. On a continent that has cherished the freedom of religion for centuries, the phenomenon should not pose a difficult question if we expect that the users of Muslim symbols behave according to true religious conviction, and indirectly their cultural identity. The freedom of religion should protect such behavior, although in the case of the *niqab* or *burqa* extreme situations like *obvious* proselytism, and disturbance of public organs, imminent terrorist threat, or need of identification, or if there is no reasonable doubt that community pressure has taken place, may justify the interference by state authorities to limit the public use. If the law presupposes that the dominant case is true conviction, the disturbing cases as exceptions might be forbidden.

Perhaps because they address truly a global perspective, universal human rights texts and bodies are clearly inclusive when it comes to that question, here there are two illustrations. Article 6 of the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief says: “the right to freedom of thought, conscience, religion or belief shall include, inter alia”, (c) to make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief. The UN Human Rights Committee states: “The observance and practice of religion or belief may include not only ceremonial acts but also such customs as the observance of dietary regulations, the wearing of distinctive clothing or head coverings, participation in rituals associated with certain stages of life, and the use of a particular language customarily spoken by a group (UN Human Rights Committee 0993: paragraph 4). As we will see later, when the European Court of Human Rights takes state and church relations into consideration, it has come to different conclusions.

If Muslim veils are seen as symbols of community pressure, oppression and discrimination, or proselytism, the intervention of state authorities seems to be well justified, but the law cannot presuppose that these situations are the prevailing ones. If it presupposes the collateral damage, at the expense of a basic human right of certain true believers, then the price is too high. As far as the refusal of Western culture or integration are concerned, there is clearly tolerable behaviour in a democratic society even if it raises questions about the inclusion policy of the state *post facto*. Under the circumstances of the horrific plots and constant threat of the Islamic terrorism of Al-Kaida and the so-called Islamic State, the majority society in the West might see the public use of Muslim veils as a sign of radicalization, or identification with radicalism. Even if this were the case, to interfere with this practice, the law would need a clear situation in which this intention is

beyond any reasonable doubt.

The Issue of Balance

To set a proper balance between the rights of the individual and collective values is never easy. In searching for answers to this dilemma, so much depends on which right is at stake, how far it is seen as a fundamental guarantee of democracy, and also on the *Zeitgeist*. If the right is considered as having primary importance for the functioning of democracy it is more difficult to justify any limitations on it even if they might seem to be proportionate and necessary. Living in a period of quick societal changes, there is a need for constant reconsideration; consequently, the balance should apparently be a dynamic one.

In the case of public use of Muslim veils, protected public values can be very different. Sometimes it is hardly debatable that public safety can require proper identification - although even this is not so obvious. The Federal Court of Canada rules it as unlawful to order new citizens to remove their face-covering veil when taking the oath of citizenship (*Toronto Star*, February 5, 2015); or the respect for freedom of religion needs protection in the case of obvious proselytising behaviour, but it is also clear that there is no right not to be disturbed, and the protection of public order is far from equal with secular conformity under the aegis of an assimilationist governmental policy which is hardly reconcilable with the individual's capacity to decide on his or her life (Daly 2010: 29).

On the other hand, there should be protection against intolerant doctrines, including intolerant religious doctrines, which seriously endanger the rights of others, public order and public safety. That was the reason the European Court of Human Rights in the *Refah Partisi* case considered legitimate the dissolution of that political party because, among other things, *jihad* was seen in the party not in a completely open way as a method to seize political power. The Court came to the conclusion that although the leaders of the party did not call for violence openly, they did not take steps either to distance themselves from those members who publicly referred to this possibility with approval. The Court in this decision in a way approved the doctrine of militant democracy connected to Article 17 - on prohibition of abuse of rights - of the European Convention on Human Rights.

In practice, it is better to find a *modus vivendi*, if the danger is limited and principles are upheld. To illustrate this, I would like to recall an early legal case from the 1970s. An Indian Sikh living in the UK turned to the court because he was required by the High Way Code to wear a crash helmet when he was riding his motor cycle, and it violated his religious beliefs which required wearing a turban. The British courts, and subsequently the European Commission of Human Rights, favoured the state interests in health over the right of the individual, and clearly stated that any interference with the person's freedom of religion was justified on the grounds of the protection of health. Later on, upholding the general rule and the health considerations standing behind it, the UK Government granted an exemption to the members of the Sikh community (Medda-Windischer 2009a: 105).

The legality of the network of the Islamic Sharia Councils and the Muslim Arbitration Tribunal in the United Kingdom is more controversial, more precisely in England and in Wales. Under the 1996 Arbitration Act, they act as consensual conflict resolution centres if both parties have agreed to be bound by their decisions. Consequently, the principles of Sharia serve as a base for an alternative conflict resolution in family and inheritance debates. The problem is discrimination. For example, it can easily happen that male heirs receive double the amount inherited by females. On a higher level of abstraction, the issue is not only the legal equality of citizens, but with the duplication of the legal system. On the other hand, British pragmatism prevails: the decisions of the Sharia Councils and the Muslim Arbitration Tribunal are binding, but the sanctions for the case of failure to comply should be drawn from the law of England or Wales. This means that only those decisions can expect legally secured implementation that are in harmony with the law of the country (*The Economist*: October 14, 2010).

The Interpretation of the Separation of the State and Church

The cases concerning the public use of Muslim veils in front of the European Court of Human Rights came from France, Switzerland, and Turkey. The main reason stems from the fact that in the above-mentioned states, the ruling interpretation of the state-church relationship not simply requires the state to separate itself from the church, but protects the individual from the claims of the religion (Halmai 2011: 269). This interpretation emphasizes the secularity of public institutions and places “in public” are considered broadly, including government buildings, public transportation, private businesses, entertainment venues, and also all streets and markets. This *laïcité* or secularism is just the opposite to American “disestablishmentarianism” aimed at liberating religious bodies from state interference (Halmai 2011: 267).

In France, the *laïcité* is interconnected with the republican tradition and the French “insist that the state requires the full participation of each citizen in its basic secular tradition;” or formulated differently, “traditional republican line demands secular conformity” (Goody 2004: 96, 101).

The case law of the European Court of Human Rights interprets the state and church relationship as interconnected with the concept of margin of appreciation (Greer 2000: 1-60). The Court as a European quasi constitutional court on human rights has the ultimate say, although it is not allowed to declare that a domestic court decision or legislation is null and void. (The state parties should “domesticate” the binding decisions of ECHR.) The Court time to time reviews its interpretation as societal needs change, as the expectations of the European value community change. One of the most important concepts in the Court’s work is the margin of appreciation left to national law-makers and courts.

In spite of the common cultural background and values, there are significant differences among the European states, and they differ in many respects. The Court cannot ignore these differences; the legal technique to take them into consideration is margin of appreciation. The Court has to decide, in a given situation, if there is only a single way of protection or there are different alternative ways of protection that have equal value. In

the latter case, the Court should respect the path taken by the national authorities. The Court leaves a narrower margin of appreciation to the national bodies if the right is directly related to the functioning of democracy and pluralism, in cases such as freedom of opinion, personal freedom, and freedom from torture, inhumane and degrading treatment. A wider margin is secured if moral conviction and cultural traditions are highly important in the determination of the choice, in cases such as abortion, same sex marriage, euthanasia, or the interpretation of obscenity.

The freedom of religion is a core democratic right. Consequently, only certain questions can be left to national decision making bodies, but which ones? The answer depends on how much weight is given to a related question, by how its relationship with free practice and religious pluralism is conceived. The establishment of the delicate relations between state and church is generally left to national authorities. So, if the problem is seen as a part of state and church relations there is a considerable margin of appreciation left; if the issue is related to the freedom aspects and religious pluralism, the margin hardly exists at all.

Hijab Cases in Front of the Court

The decisions in the Dahlab, Sahin, and Dogru cases demonstrate how the Court has conceived the problem, although only in school context. Unfortunately, schools are good examples where legal norms replace cultural norms (McCrae 2013: 58). In the Dahlab case, the Court dismissed the application of an elementary school teacher who had converted to Islam and who complained because she was not allowed to wear her Muslim headscarf during instruction. The Court found that the Muslim headscarf was a powerful external symbol with a proselytizing effect under the above-mentioned conditions. It also decided that wearing it was not reconcilable with gender equality. The Court emphasised that in the case of a teacher at a state school, operating under denominational neutrality, that proportionate restriction is justified. As far as the elements of the reasoning of the Court are concerned, I can accept the reference to the proselytizing effect but only under the special circumstances of the case and that may justify the restriction. In my opinion a school teacher is not a representative of a school, and the freedom of self-determination overcomes gender equality issues. Moreover, the reliance on the big powerful nature of the symbol might indirectly discriminate, because the powerful symbols belong to Islam and the smaller symbols of other religions seem to be classified separately.

In the Sahin case, the Court was ready to accept the prohibition in the case of a university student underlying the margin of appreciation approach. "Where questions concerning the relationship between State and religions are at stake, on which opinion in a democratic society may reasonably differ widely, the role of the national decision-making body must be given special importance." The Court again accepted that the prohibition was based on equality of the sexes, and gave special importance to social pressure: "The Court does not lose sight of the fact that there are extremist political movements in Turkey which seek to impose on society as a whole their religious symbols and conception of a society founded on religious precepts." In a disturbing way, the Court added that the secular way of life in Turkey leads to pressing social needs to prohibit the use of Muslim

symbols, “especially since this religious symbol has taken on political significance in Turkey in recent years.”

There are at least three problems with the ruling. Even if a teacher might be seen as a representative of the school (or university), a student obviously might not be. The argument of social pressure gives priority to an alleged social fact over the right of an individual in a case where the applicant was obviously a true believer having rational autonomy, although it can be convincing if the special circumstances of the case lead in that direction. Finally, if a secular way of life and the political significance of symbols are not concretized and too broad, then almost everything, including the complete ban on the public use of certain religious symbols, could be inevitable.

The dissenting opinion presented by judge Tulkens criticises the large margin of appreciation left to the Turkish authorities. Turkey's specific historical background does not properly justify the state's interference. She correctly observes that European supervision is quite simply absent from the judgment, and there is a need for the harmonisation of standards on that question. She emphasises that merely wearing the headscarf cannot be associated with fundamentalism and it is vital to distinguish between those who wear the headscarf and "extremists" who seek to impose the headscarf as they do other religious symbols.

In the Dogru case, in which a grammar school girl was the applicant, the Court upheld its approach emphasising diverse European practices as justification to leave the question to margin of appreciation, and the importance of the protection of rights of others. The first argument is not convincing, but a European standard might be justified. The second may refer to possible social conflict and the importance to avoid such phenomenon, but I think concrete signs of a possible wider social conflict are needed.

Interestingly enough, in the Begum case, the British House of Lords, in a similar school context, echoed the standpoint of the European Court of Human Rights (Halmai 2011: 272-273), but British pragmatism was not completely lost, because in other cases headscarves were allowed by the school administration if they displayed the school colours (Goody 2004: 96).

On the other hand, in the Ahmet Arslan case, the European Court of Human Rights showed a greater understanding towards the public use of minority religious clothing – not the *hidjab* of the *Aczimendi tarikaty* group. In that case, the members of the group wore their distinctive dress (turban, *salvar* (baggy trousers), tunic and stick) when they met on the street for religious ceremonies in their mosque. The Court came to the conclusion that punishment by the Turkish court was unjustified interference into the freedom of religion of the applicants because when they were wearing their distinctive clothes they were neither representing a threat to public order, nor involved in proselytism. The Court evaluated that the applicants were on their way to their place of worship and had to dress in the manner of their faith.

The Paradigmatic Dissenting Opinion

In the case of *Cha'are Shalom VE Tsedek v. France (Ch'are)*, a Jewish organisation applied for permission to perform ritual slaughter, following the strictest religious prescriptions, because they did not trust the thoughtfulness of those authorised to practice ritual slaughter. They did not receive, however, authorization. The European Court of Human Rights declined to agree with the complaint, emphasising that although its practice was different, another body representing different Jewish organizations (not the applicant) had received permission for ritual slaughter, and the required meat was available from other sources. Furthermore, "even supposing that this restriction could be considered an interference with the right to freedom to manifest one's religion, the Court observes that the measure complained of, which is prescribed by law, pursues a legitimate aim, namely protection of public health and public order, in so far as organisation by the State of the exercise of worship is conducive to religious harmony and tolerance. Furthermore, regard being had to the margin of appreciation left to Contracting States, ... particularly with regard to establishment of the delicate relations between the Churches and the State, it cannot be considered excessive or disproportionate." The Court certainly did not accept the accommodation of a demand of a minority inside a minority.

No less than seven of the Court judges presented a joint dissenting opinion underscoring the differential treatment for the minority inside the minority would have been objectively reasonable and proportionate. While they accepted that states enjoyed a margin of appreciation in this area, they emphasised that "in delimiting the extent of the margin of appreciation concerned it had to have regard to what was at stake, namely the need to secure true religious pluralism, which is an inherent feature of the notion of a democratic society." In their view, withholding the approval from the applicant association, while granting it to another body and "thereby conferring on the latter the exclusive right to authorise ritual slaughterers, amounted to a failure to secure religious pluralism or to ensure a reasonable relationship of proportionality between the means employed and the aim sought to be achieved."

The message of the joint dissenting opinion is clear, religious pluralism should be protected inside the community; the minority special practice should be accommodated, and the freedom of manoeuvre left for the authorities, the margin of appreciation, should be delimited with regard to the weight of the question at stake, and the question which was at stake directly related to religious pluralism, a major value of freedom of religion. This joint dissenting opinion should have worked as guidance in the *S.A.S.* case because wearing of the *burqa* and *niqab* is a special minority practice in Islam.

Niqab in Front of the Court: The S.A.S Case

Section 1 of the French law of 11 May 2010 states: "No one may, in public places, wear clothing that is designated to conceal the face" and according to Section 2 public places comprise any places open to the public or assigned to public. The violation of the law has been inserted into the Criminal Code as a second class petty offense with a maximum 150 euro fine. In the *S.A.S.* case, the applicant was a French citizen who wore a *niqab* in public places but not systematically; she didn't wear it for example when visiting a doctor or meeting friends.

In this case, the applicants emphasized that the state interference into her right did not have a legitimate aim because it was not a measure intended to address specific safety concerns in places of high risk such as airports. Furthermore, she stated that her right to exist as an individual in public places was denied; she was forced to choose between staying at home or breaking the law by following her religious convictions. The French government emphasized that the interference pursued a legitimate aim, because public safety required the identification of an individual in public and reversed the argument of the applicant claiming that if women must conceal their faces in public this amounted to denying their right to exist as individuals and its effect was dehumanizing, violating equality of sexes. The government emphasized that concealing the face in public breaks social ties and manifests the rejection of the principle of “living together.”

The Grand Chamber of the Court in its decision did not accept the reference to public safety and the equality of sexes but embraced the argument of the violation of “living together” principle, emphasizing the negative effect of isolation and the important role the face plays in social interactions. The Court accepted the broad ban emphasizing that the ban was not expressly based on religious connotations but exclusively on the ground that the clothing concealed the face. The ban can be seen as proportionate to the legitimate aim pursued – “living together” as an element of the protection of rights and freedoms of others – and inside the margin of appreciation afforded to the French state.

Judges Nussberger and Jaderblom came to different conclusions in their joint dissenting opinion. They claimed that the Court sacrificed the rights of the individual to abstract principles. The fears and uneasiness are not caused by the veils themselves but by the philosophy that is presumed to be linked to them, such as subservience, and dehumanization. The applicant emphasized that wearing the full-face veil depended only on her spiritual feelings. Furthermore, there is no right not to be shocked or provoked by different models of cultural or religious identity. The face plays an important role in human interactions but it does not mean that such interactions are impossible if the full face is not visible such as when skiing, motorcycling or at carnivals. They dissenting opinion, on the basis of the case law of the Court, underlined that the role of the authorities is not to remove the cause of tension by eliminating pluralism but to ensure that competing groups tolerate each other.

It is difficult to add further reasoning to the arguments of this well-founded dissenting opinion. It may be repeated what has been mentioned earlier, pluralism should always be protected inside a religious community, and the margin of appreciation, should be delimited with regard to the weight of the question directly related to religious pluralism.

IV. Instead of Conclusions

Many European intellectuals and lawyers are proud of the European protection of human rights, of the high standards maintained by the European Court of Human Rights. Although this pride is well justified in the most cases, as far as the protection of a minority practice in a religious community is concerned, and especially concerning the public use of Muslim veils, the decisions of the Court proved to be too lenient towards those state parties which put the secularity of public institutions and places over the freedom of religion of the individual. The public use of Muslim veils is a delicate question of the

accommodation of human and minority rights of many immigrants in Europe. At present, in most European states the minority rights of the immigrants are confined to equality (non-discrimination) and religious freedom, although it is clear that most of them would like to preserve their language, culture and tradition.

It is easy to say that the solution is to raise the standards for minority rights of immigrants and at the same time to maintain the level of protection or possibly raise it to homeland minorities, but this is probably the most difficult scenario to put into practice. Consequently, the Advisory Committee of the Framework Convention for the Protection of National Minorities really has taken on a great responsibility by requesting the application of the treaty to new minorities on an article by article base, because this approach entails significant risks to the protection of homeland minorities, and the body should adhere to the principle of *primum non nocere*. On the other hand, “minority statutes and entitlements should reflect changing realities” (Pentkainen 2015:42).

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**TWELVE CORE STANDARDS FOR A SUSTAINABLE MANAGEMENT OF THE ITALIAN
CENTRES FOR REFUGEES AND ASYLUM SEEKERS:
*Towards a Response to the European Directive 2013/33/EU***

Martina Mugnaini

Categorization is not a matter to be taken lightly.
Lakoff 1987: 5

Introduction

A path to enable sustainable and innovative forms of management to be employed by the RASCs seems challenging from several points of view. It can perilously drive toward various blind-alleys or even to a worsening of social realities due to an improper application of theory. In this sense, its direct influence and social effects have to be read as the only units of measurement of its intrinsic value.

In order to avoid well-known stereotyped and over simplified representations that shape the dynamics of the asylum seeking, it is important to dedicate the first section of this research paper to a preliminary terminological selection. The current general labelling that describes a whole range of experiences of asylum seekers who reach our European borders come from diverse actors. Media and political discourse feed the *fear of the diversity* and foster value judgments that push social representations into cognitive warps. As Emma Haddad notes, the array of generalized definitions is regrettably extended, although involuntarily, by the academic literature which offers quite often de-historicized interpretations on the socio-political dynamics of mass migration (Haddad 2008). Furthermore, intellectual elucidations often contradict one another. Thus, the actual meanings beyond the labels around the social effects of mass migration and the interrelated bureaucratic path of asylum seeking remains unclear.

Since the 1980s, there has been a systematic conceptualization in the study of the socio-political dynamics of refugees that has been grouped under the rubric of *refugee studies*.

Regrettably, as Lisa Malkki points out, some intellectual constructions build their sociological theories in a generalizing framework, thus collaborating with twisted rationalizations around migration and its European Reception, turning migrants into unique objects of a homogeneous social category. Thus, “the post-war refugee emerged as a knowable, nameable figure and as an object of social-scientific knowledge.” (Malkki 1995: 498). Hence, a portion of the available literature does not analyse dynamics and effects of the reception of migrants from a contextualized, syncretic socio-political point of view. For example, to wonder *what a refugee camp is* (Turner 2015) seems to be a warped question revealing conceptual generalization, as well as questioning the ontological nature of the whole human being. In other words, the question is a trap from its inception, clearly exceeding the defined borders of knowledge, and perhaps of usefulness. In this way, most of the

explanations around the meanings of *camp* seem to be attempts to portray them as “standardized and generalizable technologies of power” (Malkki 1995: 498) in the absence of a systematic and deep analysis.

Primarily, it can be said that several methods have been created in Europe for the reception of asylum seekers. To be properly analysed, a refugee *camp* needs to be contextualized in its mission, normative validity, bureaucratic structure, location, social composition and situated in a socially imbalance of power that is spread by a specific economic stakeholder running the camp (public body, international organization, private company). In this way, a Syrian emergency camp has nothing in common with a European *Second Reception Centre*, neither in its physical and political structure nor in its social meanings, constraints and procedures. The spatial parameter diversifies *camps* even within the national borders. For example, a *camp* situated in northern Italy faces different challenges than a Sicilian *camp*, which is a first supplier of services to thousands of people since their landing in Europe from the “Lybia - Lampedusa route” (cf. Ciabbari 2014).

As Zetter notes, even temporality, as well as spatiality, can contribute to reset social representations and academic discourses on refugee *camps* and their inhabitants, ultimately trying to decrease the abuse of “labels infusing the world of refugees” (Zetter 1991: 39).

Actually, the purposes of European refugee *camps* have changed through the decades. In this light, temporality can display its potential for a theoretical deepening. As Malkki points out, “it was toward the end of World War that the refugee camp became emplaced as a standardized, generalizable technology of power. (...) The refugee camp was a vital device of power. (...) (and) displaced people in Europe (were) classified as a military problem.” (Malkki, 1995: 498-499). Today’s European *camps* share little with these *camps*. Therefore, it can be affirmed that a broader theoretical framework, empirically grounded and far from generalization, needs to be built by the social sciences, in order to read between the lines.

Refugee *camps* can be defined neither sociologically nor politically as empty spaces waiting to be filled by social practices. They become rather the practices that are employed in that space.

In Italy, a refugee *camp* directly responds to the legitimacy that asylum seekers address to it, first of all embodied by their planned choices to live in these shelters. Although there are numerous migratory strategies, most asylum seekers I met in the field disclosed a deep knowledge of the European logistics of reception, making them subservient to their own migratory plans by deciding to live in these spaces for a fixed period established by earlier decisions based on cost-benefit analysis.

Additionally, asylum seekers themselves legitimate the *camp* even politically. In my case studies, they made use of the most advantageous means of protest (e.g., non-violent sit-in) in order to breakdown the systems they found illegitimate. By offering case studies, this viewpoint gives back accountability to the social stakeholders

involved, by returning political powers to those who are usually considered as people that need to be saved (Pinelli 2015).

Camps have much in common with the *dispositive of power* (Foucault 2005) as surrogates of *impossible homelands* (Arendt 1966), where the Agamben's *language of exception* dominates (Agamben 1998); or they embody Bauman's archetypal *Ghettos* (Bauman 2001) being physically and culturally distant from the surrounding societies. They can be somehow considered as places where bio-politics replaces political and social rights by maintaining bodies alive in an enduring and dangerous *symbolic violence* (Bourdieu 2004).

Nonetheless, in order to shape the everyday life in the *camps*, it seems more useful to support those scholars that bring into focus the coexistence of political logics of normalization with social participation (Fresia, Von Kanel 2015) and political representation (Lecadet 2016), enhanced by the interaction of social stakeholders by highlighting a *polyhierarchical structure* (Inheteven 2010 in Fresia, Von Kanel 2015: 251) of powers, where multiple strategies struggle in terms of social processes, political interests and administrative bureaucracies. These three aspects reciprocally interact with one another, vivifying both ontological and subjective circumstances in a countless variety of contexts.

Admittedly, the ethnographic case study technique, as an exercise aimed to build more general reflections by a specific experience, conceals an academic trap. Indeed, if one goes in search of universal definitions from a particular case study, the thin border that separates the world of general theories from the non-reproducibility of the specific case, can be easily exceeded. The effect can likely be exemplified by the abuse of categorical forms of thought, in this case represented by opaque and exploited definitions on the refugee experience into these devices, improperly called "camps".

In Italy (may be in Europe?) "refugee camps" do not exist. Today's Italian *camps* are indeed hosting asylum seekers. In a great percentage of cases, what is called a "camp" can be more easily called a *centre*, according to its physical structure. A camp is represented by movable accommodations, usually tents. In Italy, what is intended as a *camp*, in most cases is embodied by stable or often crumbling buildings or houses. Due to this, from this point on, I want to avoid the improper use of terminology, and step away from *camp* definitions. Furthermore, *refugee centre* cannot be considered a suitable definition either. People who seek shelter within Italian borders are commonly and improperly defined as *refugees*. As Edward Said brilliantly points out (Said 2000) some distinctions have to be made. Forced migrants represent various political, social or economic reasons for migration as push factors (Hein 1993). While all are displaced, by reaching Europe all of these categories are turned into *asylum seekers* by the bureaucratic process.

The current label of “refugee” was created by one treaty at the Geneva Convention¹⁹ known as the Refugee Convention adopted in 1951. It embodies a specific political and normative choice, addressing to the signer states the ownership of the decision of those who deserve international protection and deserve the normative refugee status. They are people who

... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

Convention Relating to the Status of Refugees - Art. 1

In my full cross-sample, only a few migrants have been acknowledged as refugees, gaining the international protection in one of its three forms.²⁰ This means that the 95.5% of the participants in my case study cannot be clearly considered as refugees. What the inhabitants of these places have in common is not represented by a sociological label in search of a *common refugee experience* (Malkki 1995) or by a common normative framework that can be invoked. What is shared among migrants is an institutional procedure, the “asylum seeking process”. What is basically needed, in my opinion, is to make use of the case studies as factual evidence.

Since the 1980s, the term “integration” has been *abused* both by scholars, political discourses, media and legislative frameworks (Calavita 2005); it is often limited, contradictory and ambiguous in its ontological meaning, bringing inconclusive meanings to discussions. Although this could be avoided with more exhaustive definitions, in this case, its use appears to be subservient to the purpose of conciseness. I avoid here to use the term to refer to the structural action brought by institutionalized bodies to improve it (i.e. in terms of the access to work, housing or health care improvements), although this aspect embodies an important and fundamental feature of the process. Thus, I recognize that integration encompasses a wide range of parameters as a result of “structural and cultural variables, such as immigration flows, markets, political structures, political ideology, and social organization.” (Koff 2008:27). Nevertheless, I focus here on its meaning in terms of relationships, social participation and interaction among individuals and/or groups, highlighting its role as plausible facilitator to enhance the social processes toward peaceful coexistence. Thus, intergration can be read as “a multidimensional and interactive process dedicated to the minimization of conflict and the maximization

¹⁹ UN. *Convention Relating to the Status of Refugees* (1951). Resolution 2198 (XXI) adopted by the United Nations General Assembly.

²⁰ International protection, subsidiary protection, humanitarian protection. www.refugeelawreader.org

of well-being for all involved. Integration is above all a process. ... the result of a path of social insertion and cultural understanding” (Calavita 2005: 77). In the words of Koff, “Integration is not defined in terms of political rights or notions of cultural identity, but rather in pragmatic terms of immigrant participation to local political, social and economic communities” (Koff 2008: 27).

Case study No. 1²¹

Asylum seekers: 100%

Refugees: 4.5%

Rejected: 95.5 %

Of those: Immigrants (economic push factors and famine): approx. 40%

Refugees hosted in the reception centres (in buildings or houses) often share the same accommodation with those still involved in the asylum-seeking process. In a smaller percentage of cases, refugees live in dedicated houses. Thus, the Italian reception system for migrants is composed of *asylum seeker emergency camps* and, to a greater extent, of RASCs: Refugee and Asylum Seekers Centres (houses dedicated to refugees included). The two types of reception, the asylum seeker camps (meant to host people for the shortest time possible, made of movable and emergency accommodations) and the RASCs (where people live up to two years, from my case studies, are made up of buildings, hotels, houses and so on) display different social dynamics and cannot be studied equally as homogeneous social constructs. This research focuses on the RASCs.

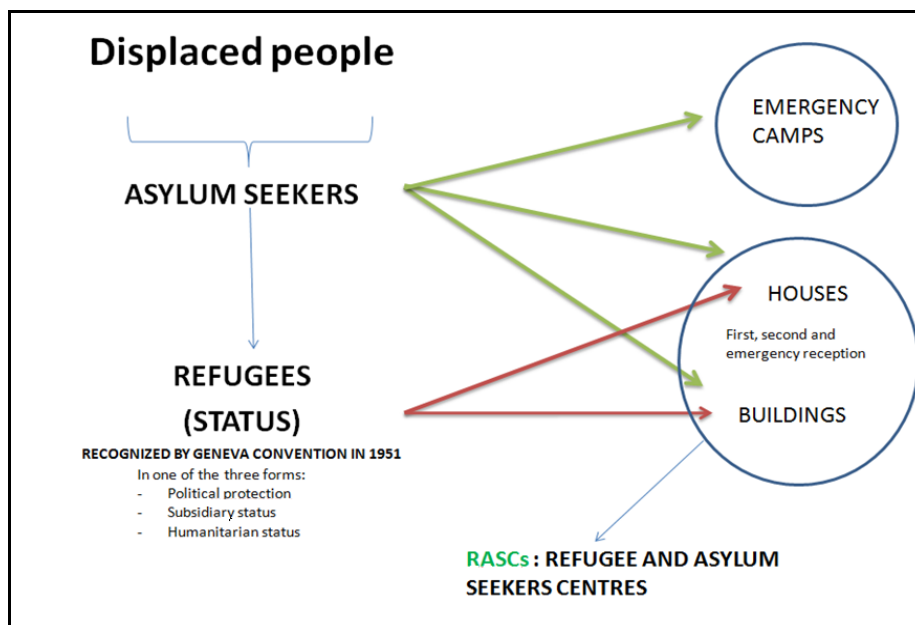


Fig. 1 The Italian Reception of Asylum Seekers and Refugees

²¹RASC 1. I conducted the evaluation of the data during my job in the field in October 2015.

Within and Beyond the RASC Borders

The theoretical construct of Giorgio Agamben used to shape the centres as mere “devices of bare life”, where norms of “exception” (Agamben 2005) become normalized with the current “bio-liberal form of domination” (Salinari 2006) unveils one of the faces of these power apparatuses.

Under legitimate current policies, RASC management supports the reproduction of invisible *structural violence* (Galtung 1996; Quaranta 2006; Farmer 2006), as a technical and planned mechanism of oppression on migrants, and even on local communities in a dangerous logic of exemption from public accountability. Broader reflections even indicate how the *symbolic violence* (Bourdieu 1977), reproduced with the current aid services dispensed to the users, plays a role in these socio-political constructs. They are considered a cultural promoter of the political, economic and social means of power, by affecting all the social groups involved in the RASCs dynamics. This can lead to quite dangerous effects, especially on younger generations with the reproduction of xenophobic and close-minded visions on migration and its social consequences. In this sense, Michel Agier accurately configures a wide spread *cure, care and control* culture of humanitarian aid (Agier 2005) by displaying the hidden risk as a reality, that services offered by national and supra-national agencies do not provide effective responses to users' needs or local needs (Pozzi 2011:42). Humanitarian services bestowed to asylum seekers act in this sense in a *gift logic* (Mauss 1968; Godbout 2007) by strengthening imbalances of power among those who provide and those who receive the gift.

However, experiencing the everyday life of RASCs, different interpretations can also pave the way for new interpretations. Thus, their social dynamics are not only governed by the prevailing syllogisms of *humanitarian minds*, that portray refugees and asylum seekers at once as dangerous social categories and as victims that have to be saved, by deducing that services proffered are fundamental for their very own survival. On the contrary, logics of exception “articulate with the logic of normalization (...) and go hand in hand with projects of social transformation and political participation that refugees plan both *within* and *beyond* the *camp* space” (Fresia, Von Kanel 2015: 251) by producing poly-faced social structures.

But, what is the link between the refugee centres and the surrounding communities? My concern is to gain knowledge about relationships *within* and the *beyond* RASCs realities in order to enable ameliorative mechanisms of cooperation between stakeholders through an improvement of the procedural machinery.

In “Anthropology in the Margin of the State” Veena Das and other scholars offer interesting analogies by revealing the syncretic origins of the social dynamics occurring along contemporary national borders. In this sense, margins “represent areas far from the national sovereignty in which the states are unable to ensure the categorical implementation of their policies” where “the application of law is constantly being negotiated” (Stevenson 2007: 140-141). RASCs, if understood as *social borders*, reveal their similarity with such a rationalization. Humanitarian

powers ruling the centres can hardly control the everyday strategies that inhabitants, aid workers and locals set up in order to overcome limits and obligations generated by national and supranational agreements on refugees. As peripheral areas, planned to be geographically and socially far from the city centres, they are both places of inclusion and exclusion (Stevenson 2007: 141) belonging simultaneously to the central power as “*constitutive outside*” (Turner 2015: 140). While understood as *social borders*, RASCs can rather be seen as uncertain grey areas of social experimentation. Under the shadow of marginality, they paradoxically have the potential to influence the entire hosting society. Following that, the social stakeholders involved face everyday grievances taking advantage of *border shadow* opportunities by embodying the role of social innovators. Furthermore, they can influence external social rationalizations on the effectiveness of migration by improving our multicultural societies. However, the effective needs of the social communities involved are often deceived by failing top-down approaches exemplified by *imposing-aid* solutions (Harrell-Bond 1986), leading to destructive long-term damage to societies. As Harrell-Bond puts it, some humanitarian NGOs have begun to “take initiatives²² to introduce codes of conduct and minimal standards in the delivery of assistance to refugees, but, as they admit, the absence of systems of enforcement and accountability is a problem.” (Harrell-Bond, 2002:85). Due to that, this paper mainly addresses institutional bodies as they are considered the stakeholders who possess the authority to put these guidelines into practice.

Since social tension arises from an interdependence among needs (of migrants and societies) and interests (of humanitarian agencies), and is increasing, the very urgency for new standards of conduct for RASCs seems to be clear.

The Aim of the Research

Italy has four main types and eight subcategories of reception for migrants. This system generates a complete overlap in roles and duties among centres that is hard to be understood even by professionals involved in their analysis. The *first reception centres* are exemplified by the CPSA (Centri di Primo Soccorso e Accoglienza), CARA (Centri di Accoglienza Richiedenti Asilo), CDA (Centri di Accoglienza), REGIONAL HUBS. These centres should host asylum seekers from their landing, and are places where applicants should formalise their asylum requests through the “form C3”²³ in a shortest time possible. These centres are particularly overcrowded. The Mineo CARA, the largest in Europe in May 2015²⁴, hosts between 3200 and 4000 people. It has been described by the Italian medical NGO *Medici per i Diritti Umani* (MEDU) as

²² An effective attempt to group standards to be honored by humanitarian organizations is embodied by the *Sphere Project* introduced in 1997 by a group of humanitarian NGOs, the Red Cross and Red Crescent Movement. The aim is to improve the quality of the humanitarian response during disasters or conflicts. The Sphere Project identified a set of minimum standards for NGOs working in the emergency field. See: <http://www.spherehandbook.org>.

²³Vademecum per richiedenti protezione internazionale. <http://www.interno.gov.it>.

²⁴ANSA at <http://www.ansa.it/sicilia/notizie/2015/05/25>

“incompatible with the dignity of the person”²⁵. Due to that, the Italian government built a parallel system of reception, the so-called *Emergency Reception System* embodied by CAS (Centri di Accoglienza Straordinaria) also known as CTA (Centri di Temporanea Accoglienza). Today, they represent the customary type of reception by hosting the greater percentage of asylum seekers in Italy (50.711 in June 2015)²⁶. These centres are run by private companies (associations, hotels, cooperatives), directly subcontracted by the Ministry of the Interior through the local prefectures with public contract regulations. To this day, these statutory instruments do not impose strict codes of conduct to be followed by the private companies, but rather minimal standards of guidance, considered by this survey as too weak from the viewpoint of the human rights observance and accountability. Due to that (the high percentage of people hosted and the emergency approach of private initiative recorded in the field and lack of proper monitoring), the twelve core standards mainly address this category. The Italian *Second Reception* is depicted by the SPRAR²⁷ system. Although they are run by private cooperatives too, this branch of reception is considered as the best quality management. The SPRAR system has a deep code of standards to be respected and a greater monitoring (often financial) from public bodies. The structures available to host asylum seekers and refugees mainly consist of flats (80% of the total number of facilities), small reception centres (14%), and community homes (6%)²⁸. The community homes are mainly addressed to unaccompanied minors. This system offers proper guidelines to delegated systems of reception in a wider logic of accountability. Nevertheless, they host a smaller number of people (21.056 in June 2015)²⁹ than the *Emergency Reception System*. In addition, there are the *Private System* accommodations which are not part of the National Reception System and are directly provided by Catholic groups (following the ‘Pope’s Call’) or by voluntary associations or families.

CIE category (Identification and Expulsion Centres) are represented by detention centres where individuals considered unauthorized and illegal are detained until a decision is made by the national authorities to repatriate them (often against the Non-Refoulement Principle of international law³⁰), or to the acquisition of a visa.

²⁵<http://www.mediciperidirittumani.org/cara-mineo-modello-accoglienza-incompatibile-dignita-persona/>

²⁶ Rapporto sulla Protezione Internazionale 2015. <http://www.interno.gov.it/it/sala-stampa/dati-e-statistiche/rapporto-sulla-protezione-internazionale-italia-2015>

²⁷“The Protection System for Asylum Seekers and Refugees was established in Italy in year 2002 by the Article 32, 1-sexies and septies of law 189/02 (the so-called *Bossi-Fini* law), a more organic and institutional version of the previous National Programme Asylum (PNA), supported by the National Fund for Asylum Policies and Services (FNPSA), which places specific resources at the disposal of SPRAR activities. The Ministry acts as institutional guarantor, delegating the operational aspects to ANCI, by establishing the Central Service, to be managed by the National Association of Italian Municipalities (ANCI), with responsibilities concerning information, promotion, consultancy, monitoring and technical support for the local authorities involved in the Protection system.” www.sprar.eu.

²⁸ AIDA. Asylum Information Database. Author: (CIR) Italian Council for Refugees. www.asylumineurope.com.

²⁹ Rapporto sulla Protezione Internazionale 2015.

³⁰ Art. 33, UN. *Convention Relating to the Status of Refugees* (1951). Resolution 2198 (XXI) adopted by the United Nations General Assembly.

Even if this type of centre needs urgent management improvements, CIE category is not linked to the RASC group because of its detention purposes.

Whatever the case, such fragmentation into categories and, contextually, into normative frameworks, inhibits the transparent control and supervision of the standards applied by the centres. The reception of migrants, as a public matter, cannot be left to private initiatives. Policies on compulsory standards need to be empowered, shared and monitored at national and international levels.

The current EU Directive 2013/33/UE³¹, called “*laying down standards for the reception of applicants for international protection*”³² does not give procedural standards on the reception measures to be taken by European centres. Although it offers some reception provisions, embodied by general guidelines on food, accommodation and on what I generally define as “basic services and material conditions” there is still a fragmented European legislation on procedural terms and management requirements at the national level. In other cases, despite the fact that the Directive proposes proper guidelines, it doesn't impose a constant monitoring of the procedures. Even though Italy absorbed the EU Directive with the Legislative Decree 142/2015, which laid down general codes of conduct and duties, my case studies record a weak monitoring on the application of the standards. This can be strictly related to a lack of technical guidelines to be followed; the only calculable variables which indeed could play the role of countercheck on the services offered.

In May 2016 the government moved a few steps toward an improvement of the standards by subscribing to the “Carta della buona accoglienza” at the ministerial and municipal levels. It is intended as a first recommendation calling for transparency and accountability.

In light of this, the survey can be ultimately considered as an additional operative answer to recommendations to bring the Reception System to public shelters, starting from an evaluation of the quality of the services offered in the case studies.

Research Methods and Procedure for the Choice of the Fields

This research was constructed over two years. The academic methodology adopted to collect the data mainly ethnographic. This methodology has been combined with other non-formal techniques that exceed academic frameworks. These are represented by operative meetings I planned with the working team I collaborated with, to figure out with innovative and sustainable methods for the management of a RASC, in order to face the procedural trouble spots we run into. Thus, the evaluations that arose from professional experience are considered as constitutive to the purpose. Academically, a *multi technique approach* (Cardano 2007) addressed

³¹ Absorbed by Italian legislation with D.Lgs 142 of August 18th 2015 and named “Attuazione della Direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale, nonché della Direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale.”

³² Directive 2013/33/EU (2013) of the European Parliament and of the Council.

the needs ascertained on the basis of various social contexts that were analyzed. The entire selection was carried out within the framework of qualitative methods. More specifically, the techniques are represented by semi-structured interviews (Corbetta 2003) for the collection of data coming from aid workers, activists and high skilled practitioners. A mixed methodology, shaped by free and semi-structured interviews was chosen for the data collection coming from asylum seekers and refugees. Participant observation can be considered as the main methodology adopted during the whole period.

The survey fields are comprised by seven Italian RASCs. One of them represents the benchmark for the choice of the others, because of the knowledge on the political, economic and social features, being initially involved as supervisor for the social insertion planning and, later, as executive director. The other RASCs were chosen to compare effects and limits recorded on the reference environment on behalf of bureaucratic procedures, planning for integration, and general working methodologies. The centres chosen for the comparison belong both to the CAS category and to the SPRAR category. Despite the fact that SPRAR can quite obviously be considered as the best quality category, accepting to work only on behalf of the *Emergency System* would have led to a dead end in terms of proper operative solutions. Primarily, the SPRAR system must be considered in order to show the way toward an improvement of the CAS category, by displaying with practical examples how “good policies” can develop better management. Nevertheless, they represent only a small segment of the whole RASCs reception and the CAS category needs very urgent answers based on the high percentage of people hosted. In addition, notice has to be taken that some of the SPRAR centres visited did not completely accomplish some of the minimal standards required by this study. Inversely, some of the CAS procedures analysed have been well implemented in terms of social sustainability and innovation. This means that the current SPRAR guidelines can still be improved in some ways.

In any case, all the seven RASCs satisfied, although in different levels, most of the two kinds of preparatory requirements called *basic standards* (or minimum standard of conduct), outlined ahead of time by the researcher in order to provide “good quality management” samples.

The Basic Standard

“A Requirements” or Basic Needs Requirements Accomplishment: They are represented by legal compliance, health compliance and intercultural compliance. The legal compliance, rolled out mainly by lawyers, is related to the duty of supporting migrants with asylum seeking procedures, offering at the same time legal advice. The health compliance refers to the adherence to the health and psychological obligations from the RASC team. The intercultural compliance is represented by the collaboration with skilled professionals, such as intercultural mediators and interpreters.

“B Requirements” or Actions for Social Insertion Accomplishment: All the RASCs launched sustainable and innovative planning for social insertion. In particular, they can be summarized as follows:

- Educational compliance: Permanent Italian language courses are granted.
- Started protocols for social insertion in collaboration with local institutions.
- Collaboration with local organizations and/or local communities.
- Innovation in programs (quite often related with art related activities).

The quality of the planning has been evaluated according to the following parameters:

- Methods for the classification of the users’ competences (low level of accomplishment based on totals)³³.
- Quality of the Italian language courses measured by the teachers’ certification levels and teaching methodologies (medium level of accomplishment based on totals).
- Direct involvement of the users in decision making regarding the planning for social insertion (low level of accomplishment based on totals).
- Percentage of working insertions achieved after participating in job training programs (low level of accomplishment based on totals).
- Percentage of participants to the activities proposed by the RASCs on the base of totals (medium level of accomplishment).
- Grade of engagement of locals in the activities of RASCs (social sustainability) (low level of accomplishment based on totals).
- Economic self-sufficiency of the planning for social insertion and independence from Public and European funding. (Low level of accomplishment based on totals).

Numbers

- RASCs compared: 7
- Of those:
- | <u>Category</u> | <u>Region</u> |
|-------------------|------------------|
| 2 from CAS | Sardinia |
| 4 from SPRAR | Sicily, Calabria |
| 1 mixed SPRAR-CAS | Lombardy |
- Users formally interviewed: 12, users informally interviewed: 40+
- Lawyers interviewed: 2
- Intercultural mediators: 13
- Coordinators: 5

³³ The qualitative evaluation on the services was mainly measured by interviewing the users about their effective grade of satisfaction. Low level of accomplishment: 8 people out of 10 are dissatisfied with the service. Medium level of accomplishment: 5 people out of 10 declare that ‘services are not enough’. High level of accomplishment: most of people interviewed agree on the good quality of the service or the activity. Other parameters have been evaluated by comparing different RASCs solutions from a professional viewpoint and by juxtaposing the outcomes.

- Executive directors: 4
- Psychologists: 3
- UNHCR representatives: 1
- Volunteers: 4
- Artists involved in local projects: 3

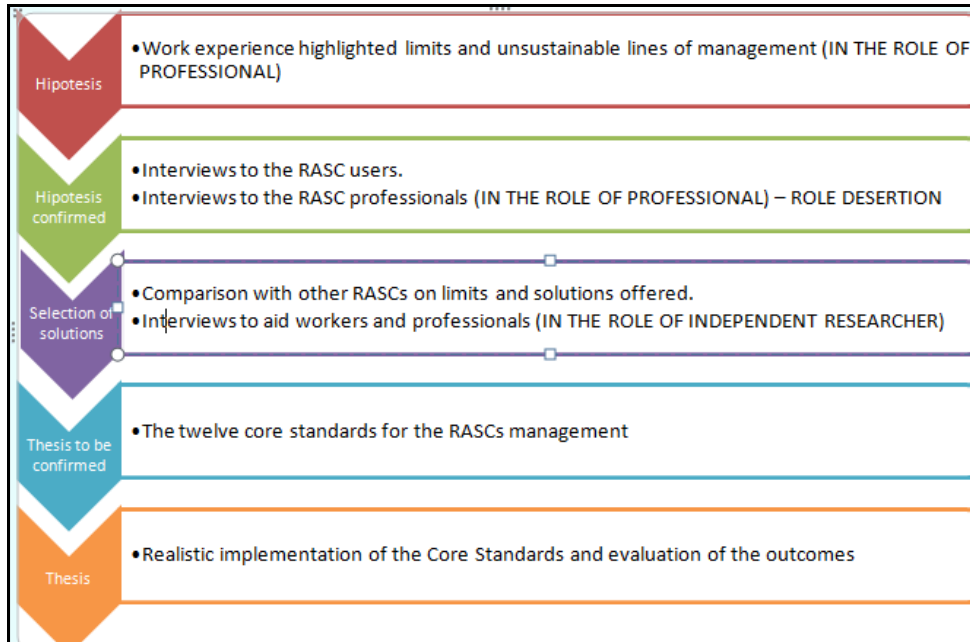


Fig. 2 Blueprint of the method

What is Sustainability in RASCs Management?

Each of the twelve standards respond to specific indexes of sustainability, which can be primarily read as an effort to prevent the loss of resources of any kind.

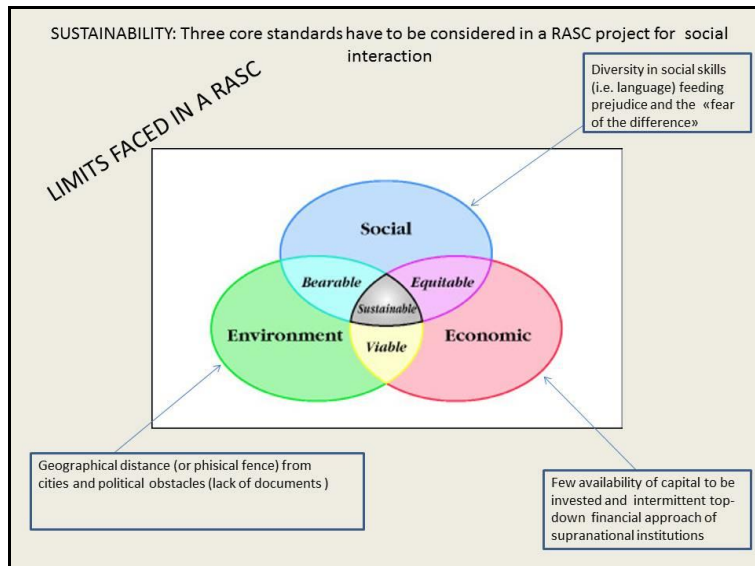


Fig. 3 Parameters of sustainability in the planning for social insertion

Even though the interaction among limits and parameters of reference is complex, the main guidelines that compose the core standards are the following:

1. **Human rights** to be safeguarded even those more hidden such as the right to be properly informed.
2. **Selection of operative solutions** that can minimize the risk of protests (in a *win-win* cooperative logic).
3. **Workers' rights protection.**
4. **Empowerment of community resilience through innovation.** Considered as the “adaptive capacity of social systems” (Endfield 2012), resilience reflects here the community's aptitude to overcome changes (in this case mass migration) with something new. As Cohen puts it, “the term *community resilience* describes a complex construct that encompasses social aspects such as leadership, collective efficacy, social cohesion and place attachment, along with physical dimensions such as infrastructure, services and protection aiming to improve the system to change” (Cohen et al 2016). In this case, resilience is particularly considered as the capacity of locals and migrants to interact with each other, coming out with innovative proposals and actions for social development and from which all the stakeholders involved can benefit in terms of peaceful cohabitation and cultural enrichment.
5. **Financial self-sufficiency** of the planning for social insertion regards the capability to sustain already started programs, even when monetary support coming from the donors is suspended. The SPRAR system suffers more than the CAS category from such a dependency, being directly subsidized from the institutional donors. As a matter of fact, usually when the public funding ends, projects are suspended. Thus, “how [will] the community continue to carry out the project activities when there is no grant available”? (Magis 2010). From these case studies some sustainable solutions can be found.

6. Environmental assessment. Activities related to the use of renewable energies, second hand products, organic products, or “0 km products” are considered environmentally sustainable.

7. Economic assessment. This parameter evaluates in which measure the projects for social development respond effectively to the needs of locals, in terms of economic considerations, i.e. by retaking and implementing weak activities of local economies.

8. Cultural heritage protection. All the activities intended to protect culture and traditions both of locals and migrants, in a syncretic overview, can be considered as an example of a sustainable approach.

9. Decision sharing processes. This last indicator responds to how and in which measure the users and the workers participate in the implementation of the projects. Parameters 1 and 2 give consistency to its urgency and in turn acknowledges people’s *capabilities construction* (Sen 1993) as a right that needs to be strengthened. This parameter also minimizes the risk of protest in the RASCs.

It can certainly be said that none of the case studies fully satisfied the whole range of indexes of sustainability, but clearly the representation of a standard for comparison provides a yardstick for measuring the starting point from which improvements can be made.

The Twelve Core Standards of Sustainability for the RASCs Management

Until less than two decades ago, there were no specialized courses or degree programs designed to prepare people to work in the field of humanitarian assistance. Although such opportunities for training have proliferated, there is yet no evidence that education per se has a direct impact on behavior in the field.

Harrell-Bond 2002:71

The standards are addressed to the *Emergency System*, the *SPRAR System* and the *First Reception System*. They represent a sector-wide consensus on good practices in the reception response to asylum seekers.

1. Limit: Weak level of National Coordination on the Technical Guidelines to be honoured.

Suggested Solution: Creation of a National Working Table (TLN – Tavolo di Lavoro Nazionale) that develops methods and Operational Guidelines for the improvement of the whole National System. The TLN must be composed of experts in the sector and work in collaboration with the Prefectures. Practitioners to be guaranteed are defending lawyers, doctors, Italian and foreigners, intercultural mediators in equal number, ethno-psychiatrists, Italian language teachers qualified with Ditals II certification, educators; 2 Government Representatives and (at least) 2 representatives of Humanitarian NGOs and 2 representatives of a Medical NGO.

NGOs involved must be apolitical and areligious to ensure the legitimacy and independence of the work done by the TLN. The National working table should prescribe Operational Guidelines at a national level, arrange trainings for professionals, plan specific courses addressed to refugees and aid workers who intend to undertake the profession of intercultural mediator, sketch the sanctions to be applied, tutor the TNM (standard No. 2). The TLN should take into consideration possible suggestions coming from local experts.

2. Limit: Insufficient Monitoring and general supervision on the guidelines to be honoured.

Suggested solution: Creation of a National Monitoring Team (TNM – *Tavolo Nazionale di Monitoraggio*). The TNM should work in collaboration with the Prefectures and follow a preliminary training guaranteed by the TLN. The monitoring will help to ensure the application of the proper procedures and the protection of the whole range of human rights. The monitoring team should consist of experts coming from the sector. In this way, each will be able to monitor his/her own area of expertise. The group of experts must be composed of 1 Lawyer, 1 doctor, 2 Italian and foreigner intercultural mediators, 1 ethno-psychiatrist, 1 Italian language teacher, 1 Parliament Representative, 2 Representatives of humanitarian and medical NGOs (apolitical and areligious), 1 Prefecture Officer. In case of violation of the procedures imposed by the TLN, sanctions (as penalty measures) are considered fundamental. Penalties shall be applied at the national level and have to be decided in advance by the TLN in accordance with the laws of the Italian Republic and in cooperation with the Prefectures. Violations shall be ascertained on the spot and Prefectures should apply the disciplinary proceedings. The TNM must have a toll-free number to be contacted in case of violation of the guidelines. The managers of the reception centers should compulsorily provide the phone number to migrants and aid workers.

3. Limit: Unsatisfactory communication on rights, duties, and bureaucratic procedures.

Proposed solution: Unique use of national audio-visual devices to explain the bureaucratic procedures for the asylum seeking. The device must be audio-visual to be understood by people unfamiliar with the Italian language. This should be shown to migrants on their arrival and should be replicable anytime a user requests. It must be available (at least) in: Italian, Arabic, English, French, Bambara, Mandinka, Wolof, Fula, Pashto, Bengali, Hindi. The unique audio-visual aids should include: a deep and truthful description of the bureaucratic processes and of the waiting periods, information on rights and duties of migrants in Italy, a description of the European Reception System based on the Dublin Regulation IV and it must be constantly updated.

In addition, each centre must provide on the spot legal advising services. Each user must benefit from the service for at least one hour per month. Each centre's compliance on the standards must be verifiable with papers signed by the users.

4. Limit: Weak consideration of the psychological factor in the diagnosis of diseases.

Proposed solution: Double session physician/ethno-psychiatrist or physician/psychologist (specialized). The first medical screening to the users must be carried out in collaboration among physicians and specialists of psychological disorders. The diagnosis and the possible pathways of care should be built in synergy between the two practitioners. Psychologists need to possess a specialization (psychological approaches to multiculturalism). If not, they should attend specific trainings in transcultural psychotherapy or related disciplines. The trainings must be validated by the TLN specialists.

Moreover, a constant **psychological supervision** for the **operators** (at least one hour/twice per month for each of them) is considered both compulsory and urgent.

5. Limit: Low technical skills of practitioners.

Proposed solution: All centres have to provide on a regular basis (at least twice a month), updated courses and specific trainings addressed to the totality of professionals involved, on the following subjects: Italian and European regulations in force and their changes, techniques of non-violent communication, dynamics of migration from a geopolitical viewpoint, intercultural education and peace-building techniques. The subjects must be chosen by the TLN and enriched by the centres according to the specific needs identified in the field. The centres should minutely appraise the CVs of the candidates and support workers in their training courses and updates.

6. Limit: Overload of working duties and frequent *burnout* of professionals.

Proposed solution: RASC directorships should conform to a fixed correlation among operators and users; job descriptions have to be signed by the professionals as well as plans on working hours. The centers, especially the CAS category, must provide 1 intercultural mediator per 10/15 migrants. Intercultural mediators shall not work more than 5 days per week and overtime should not be allowed. The team of mediators should be supervised by an external psychologist with regularity. The mediators must prove their knowledge of languages at a C1 level according to CEFR patterns (Common European Framework of Reference for Languages)³⁴ and possess a National Certification in Intercultural Mediation. Within the timeframe of a year, all the centers should hold a team of Italian and foreigner mediators in equal number (in order to cover the whole linguistic and cultural needs of the users). Each centre must have at least 2 employee representatives.

7. Limit: Deficient interest on the Italian language courses from the users and low quality lessons.

³⁴ www.en.wikipedia.org/wiki/Common_European_Framework_of_Reference_for_Languages

Proposed solution: Each center must offer high quality Italian language courses run by specialists. The subjects must meet the interests of adult users (socio-cultural issues, current news on law and geopolitics, civic education) and the methodologies must be comprise both formal and non-formal methods (at least 50%). Content and methods should be defined by the professionals of TLN. Teachers in the field should hold 'Ditals II'³⁵ or 'CEDILS'³⁶ qualifications. Language examination should occur both during the courses and at their end. A specific language certificate should be issued with recognition at the national level. The TLN should provide regionally based trainings for in-service teachers.

8. Limit: Inadequate institutional support to the services for education and integration.

Proposed solution: The centers should open school courses for adult users through the 'Centri Provinciali per l' Istruzione degli Adulti' (CPIA). They should start the necessary procedures towards local institutions for the activation of these courses, whether or not they are available in the district. To do so, they must rely on the signatures of the users concerned, who possess enrollment requirements. They could be those attending internal Italian language courses with a knowledge of Italian language at a B1 level at least. The centers should only have the duty to request formally and demonstrably the launch of the courses. In case of no response from the institutions, the TLN must facilitate the dialogue between them and the centers. The responsibility for enrollment and registration in courses should instead belong to the users themselves.

9. Limit: Lack of training services in the CAS system.

Proposed solution: Enhancement of integrated social systems for trainings/apprenticeships with certification. All RASCs should prove their attempts to build relationships with local companies and accredited institutions for professional trainings mainly in the field of intercultural mediation, tourism and interpreting, in order to take advantage of users' knowledge of foreign languages (English/Arabic/French). If required, the TLN must enhance the communication among the stakeholders in the role of facilitator. Only those attending Italian language courses should be admitted to the trainings. At the end of the internship, accredited institutions should issue certifications to be acknowledged at the national level by employment agencies in order to demonstrate the skills acquired by the users. Each center should commit an operator exclusively assigned to the census of competence and skills of users and to the building of individual pathways. The professional should have the duty to draw up a CV, to inform the migrant on the Italian labor system, to find job proposals related to the skills of the candidate, to prepare the users for interviews. It should be the users' duty to contact the potential employers to arrange interviews.

³⁵ <http://ditals.unistrasi.it/>

³⁶ <http://www.italis.it/corso-cedils>

10. Limit: High level of social “ghettoization” empowered by an inaccurate planning for integration.

Proposed Solution: Compulsory educational activities increasing the value of multiculturalism. All centres should demonstrate real efforts towards enhancing social awareness of multicultural values and intercultural cohabitation. Each centre should implement, in a compulsory way and with regularity, at least one among the following social activities: Courses on multiculturalism and dynamics of migration in primary and secondary schools directly managed by Asylum Seekers and Refugees; and/or university lectures on migration from a political/social or normative perspective managed by Asylum Seekers and Refugees; and/or meetings and workshops on multiculturalism planned by local NGOs and open to locals and migrants and monitored by the Department of Culture (Assessorato alla Cultura) or by the Welfare Service Department; and/or artistic/sporting projects and events involving local artists, athletes, locals and migrants; and/or foreign language courses (i.e. English, French, Arabic) open to citizens and directly run by migrants. The activities should run regularly (at least twice per month) according to preliminary planning, undersigned by all the stakeholders involved.

11. Limit: Violation of the fundamental right of expression in the RASCs (Art. 19 of the Declaration of Human Rights)³⁷.

Proposed solution: Each centre must include a representative system of the communities hosted. The representative form must be chosen by the users themselves and approved by the Board of Directors. The “plenary method”, if preferred, has to be considered as a legitimate means of expression.

The group of representatives has to be voted for by the users themselves. They should regularly manage the meetings with the chief executives on requests and communications coming from the communities hosted. The framework of meetings should be decided in advance by the parties involved (not less than twice per month).

12. Limit: Lack of financial and fiscal controls on costs incurred by the CAS category.

Proposed solution: The financial system of the CAS category should urgently align itself to the budget plan for reporting drafted by the SPRAR System and called *Sistema di Rendicontazione Unico* in order to prove the correspondence between the budget plan and the effective outcomes of the provided services.

³⁷19 UN (1948) Universal Declaration of Human Rights, proclaimed by the United Nations General Assembly in Paris on 10 December 1948, Resolution 217 A.

Final Notes

The standards proposed must be considered as supplementary material to the already existing guidelines at the national and supranational levels. Services delivered by the RASCs need to be verifiable by written evidence.

As a result of this study (in observance with human rights), each centre is allowed a maximum of 50 hosts and a maximum of 4 people per room.

A greater control of Prefectures within the centres is recommended. In association with TNM it should carry out controls on living conditions and managing standards at least once per month in each centre. Institutional monitoring and, potentially, sanctions, are considered as the only means that can work as a countercheck on the proper application of the guidelines proposed.

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FOSTERING THE REPRESENTATION OF SUPREMACY ART AND SUSTAINABILITY FOR SOCIAL INSERTION OF MIGRANTS

Martina Mugnaini

Opening a magazine or book, turning on the television set, watching a film, or looking at photographs in public spaces, we are most likely to see images of black people that reinforce and reinscribe white supremacy. (...)

Clearly, those of us committed to the black liberation struggle, to the freedom and self-determination of all black people, must face daily tragic reality that we have collectively made few, if any, revolutionary interventions in the area of race and representation.

Bell Hooks 1992: 1

Introduction

Even though it cannot be taken for grant, it seems predictable that mass migration will keep shaping our forthcoming and shared European future, likely increasing in its numbers. If that is the case, multicultural societies, with a complex variety of stakeholders such as institutions, political bodies and citizens, will have to continue to deal with new challenges in order to find innovative solutions for peaceful intercultural cohabitation.

Previously, I outlined some parameters to construct actions for social integration³⁸ in centres for refugees and asylum seekers. Here, I will focus on some of them, to clarify to what extent this planning affects the communities involved, measuring their impact in terms of what I call 'social sustainability'. In particular, I start my analysis with a few thoughts about the role of 'socially committed art', proposing a brief historical contextualization in terms of 'public art', 'social art' and 'collective art' in order to shape

³⁸Since the 80' the term integration has been *abused* both by scholars, political discourses, media and legislative framework (Calavita 2005) meeting quite often limitations, contradictions and ambiguities in its ontological meaning, bringing to vague and inconclusive meanings to the discussion. Although it could wisely be avoided in return for more exhaustive definitions, in this case, its use can appear subservient to the purpose of conciseness. I avoid here to use the term to refer to the structural action brought by insitutionalized bodies to improve it (i.e. in terms of the access to work, housing or health care improvements), although this aspect embodies an important and fundamental feature of the process. Thus, I regnognize that integration encompasses a wide range of parameters as a result of „structural and cultural variables, such as immiration flows, markets, political structures, political ideology, and social organization.” (Koff 2008:27). Nevethless I here prefer to focus on its meanings in terms of relationship, social participation and interaction among individuals and/or groups, highlighting its role as plausible facilitator to enhance the social processes toward peaceful cohabitations. Thus, intergration can be read as „a multidimensional and interactive process dedicated to the minimization of conflict and the maximization of well-being for all involved. Integration is above all a process. (..) the result of a path of social insertion and cultural understanding” (Calavita 2005: 77). In the words of Koff „Integration is not defined in terms of political rights or notions of cultural identity, but rather in pragmatic terms of immigrant participation to local political, social and economic communities” (Koff 2008: 27).

the origins of spreading trend: the use of art in the planning for social insertion of refugees and asylum seekers. Indeed, social art can be depicted as the preferred means of communication currently chosen and adopted by NGOs, associations, cooperatives, companies, Town Halls and so on. It appears obvious that to enhance multicultural interaction, the humanitarian organizations assign to art a core function in social planning, by increasingly proposing to their 'guests', (as most of aid workers improperly call migrants), projects related to art or craftsmanship (here intended as a subcategory of it). Art is used to overcome marginalization, ghettoization and racism, on one hand, and to foster economic self-sufficiency of migrants, on the other hand. As a matter of fact, these modes of planning are increasing in forms and numbers throughout Italy and Europe. Thus, it seems necessary to promote a prompt and deepened study of their socio-political effects.

Since actions for the reception/social insertion of migrants need to be read as a more complex construct made of a broader range of parameters (among those I drafted and many others), I will try to contextualize my reasoning into a wider syllogism. Starting from the role of art in the social planning, I will offer a more general overview on the effects and outcomes, in terms of social, cultural and economic consequences, that the projects provide both migrants and local communities.

To do so, I move forward with a case study, known worldwide and by most as the best Italian model for the reception of migrants (evidently involved with artistic activities too), trying to highlight its actual strengths and weakness, and its unexpected long-term implications. Indeed, the conclusions which I promote in this case study sound as a dissenting-voice compared to current mainstream public and scientific opinion.

Sadly, on the one hand, I must acknowledge that the role of art (and social planning) in social construction, wherein the political powers struggle to reproduce socio-economic inequalities, are dis-empowered and weakened due to several factors. Moreover, most of the time, they endorse another kind of inequality, i.e., cultural, since it often appears as white cultural supremacy (Hooks 1992), often carried out subconsciously.

Whether we accept that "one condition for peace is probably an equitable relation" (Galtung 1996: 1), the behaviour of humanitarian agencies must be considered as an extension of the main economic and political powers which they apparently aim to struggle against.

The Origins of 'Art for Migration': Public, Social and Collective Contemporary Art

The idea that art is a fundamental aspect of human expression and interconnection is not obviously new, in fact "UNESCO adopted recommendations concerning the status of artists, encouraging member states to recognize 'the essential role of art in the life and development of the individual and of society' since the early '80s" (Lingo, Tepper 2013: 339).

Not surprisingly, performance, conceptual, visual and aesthetic arts have proliferated for decades, empowering the breakdown of what has been experienced as 'high art', distant from the popular masses (Lacy 1995), both in their forms and contents.

Today, an increasing number of artists try to blend their artistic sensibilities with contemporary political and social issues, by elaborating new artistic products and, at the same time, involving people (in this case migrants) in a collaborative process, quite often embodied by vulnerable categories of citizens, enabling the development of a new social and collective art. Thus, these practices which proliferated worldwide, reveal an extended array of innumerable ethical engagements and political commitments. This is aimed to undermine the dominant power and the related socio-economic inequalities it produces. At the same time, it tries to disassemble mainstream public representations on current hot topics, feeding social awareness through critical thinking. These topics range from the neoliberal economic (dis)order, the unequal distribution of welfare, the representation of cultures, to gender relationships, new and old social exploitation, and much more. An increasing number of them focus on the refugee issue and on asylum seeking process as a political and cultural problem in terms of human rights and ethnic cohabitation in a multicultural perspective.

Calling the attention of a heterogeneous public, many artists are collaborating to provoke a more sympathetic representation of the dynamics of mass migration in order to trigger a breakdown of monoculturalist evaluations. By employing the theory of liquid (as in uncertain) time and society (Bauman 2006), enhanced by daily anxiety of our post-industrial economies (Hubbard 2003), many artists struggle with individualism as a value, and are thus willing to be directly involved in the planning of the social insertion of migrants, not only as artists but rather as aid workers. It is what can be called: the syncretic double role of 'social artist'.

As Kester puts it, collective art (intended as a collective and interactive process) is not a new phenomenon:

Many artists, over the past decade and a half (have) been drawn to collaborative modes of production. (...) While each practitioner comes to collaborative work with a unique perspective, these individual creative choices, taken in the aggregate, reveal much about both the current political moment and the broader history of modern art. (...) There is a growing interest in collaborative or collective approaches in contemporary art. And second, as I've already noted, there is a movement toward participatory, process-based experience (..)"

Kester 2011: 1-7

Kester refers to something which resembles what I call '*art for migration*', both in its participatory system, collective engagement of the audience (inclusion of the public in the creative process), and to some extent in their topics, quite often related to migration and democracy, most of all when he recalls names of international recognition like Superflex or Thomas Hirshorn (Kester 2011). Nevertheless, this collaborative contemporary art and what I call the '*art for migration*' differs enormously in many aspects as I will explain.

This specific art, made *with* migrants and *for* the migration issue, unveils both similarities and significant differences also with what has been recently called by Suzanne Lacy "New genre public art" (Lacy 1995). Political activism, an essential feature of both, is an example of similarity. As Lacy points out, "the connection between an activist view of culture and

new genre public art had been forged during the Vietnam War protests of the late sixties by U.S. artists” (Lacy 1995 26), and also

This definition has been used to refer to “artists of varying backgrounds and perspectives (which) have been working in a manner that resembles political and social activity but is distinguished by its aesthetic sensibility.(...) Dealing with some of the most profound issues of our time – toxic waste³⁹ race relations, homelessness, aging, gang warfare, and cultural identity- a group of visual artists has developed distinct models for an art whose public strategies of engagement are an important part of its aesthetic language.

Lacy 1995:19

The term ‘new genre public art’ has been used to distinguish it from previous public art: “a term used for the past twenty-five years to describe sculpture and installations sited in public places” (Lacy 1995: 19), often aimed to glorify the history of the nation exemplified through the sculptures of heroes, in what Judy Baca calls the “cannon in the park art” (Lacy 1995). The representation of a 'cultural identity' seen “in terms of one, shared culture, a sort of collective 'one true self', hiding inside the many other, more superficial or artificially imposed 'selves', which people with a shared history and ancestry hold in common” (Hall 1990: 223) can be considered its main value, and in turn, the main difference between Lacy’s “new genre public” art and the art I investigate here.

The choice of the places for representation are also crucial in this context, depicting a central point as a specific strategy. But places, and their significance, have changed immensely throughout history. Traditional public art of the XIX century was exhibited in public places in order to reignite and revive cities (intended as common resources to be proud of). The new social art does not have anything in common with the need to glorify cities, rather it works to revivify suburbs or dismantled areas with a socio-political goal. This is, in a sense re-humanizing urban spaces on one hand, and strengthening those marginalized social categories living there, on the other hand. Graffiti, visual arts, installations, performances are increasingly exhibited in open areas, in order to show the public significance of their concerns, in the very places they talk for and about. The choice to convey socio-political claims in public places is not obviously new, and finds its roots in the 1970s with the street art graffiti in the U.S. linked to the names of Jean-Michel Basquiat and Keith Haring.

The 1990s saw a proliferation of this art with (among others) Stak, Honet, and, more recently, Banksy, obtaining a strong international recognition. Arising from Pop Art, contemporary street art aims to repossess urban spaces with a communicative function, one criticizing the violence of political and economic powerholders, in counter-current mass communication.

What are the main differences among these different kinds of art the ‘social art for migration’? What accounts for structural dissimilarities among these politically committed art archetypes?

³⁹See Vik Muniz artworks realized in Jardim Gramacho dump (Rio de Janeiro). Recommended in this concern: ‘Waste land’ documentary (2010) Walker, L., Jardim, J., Harley, K.: Brazil, UK production.

The New "Social Art for Migration"

As mentioned above, an increasing number of artists (musicians, painters, theatre actors, craftsmen) focus on the refugee issue and on the process of seeking asylum, taking into account the aspect of political accountability and calling for wider human rights and peaceful multicultural coexistence. Thus, an increasing number of art-related projects, which involve both migrants and local communities, expand arts and crafts production, experimental workshops, ateliers, street performances, visual arts, poetry happenings, theatre events, music exhibitions, street art graffiti, and so on.

Being social in its appeals, this new art for migration retains its public feature, speaking to a wide audience about a public concern. Nonetheless, it is not easily classifiable as a continuation of the latest in contemporary social art. There are significant differences and this movement is something else. I make use of the definition 'social art for migration' to refer to the many actions carried out by artists as a response to the planned social interaction among migrants and locals. Evidently, artists work quite often at the service of private or public enterprises and NGOs involved in the reception of migrants due to the fact that the input (and financing) of the artistic productions come directly from those who run the reception centres for refugees or the social projects.

Increasingly, numbers of artists are officially involved in the reception system of asylum seekers and refugees, but are rarely hired as aid workers. Their role can be seen half way between the artist and the aid worker, while performing an ambiguous function in terms of mission and objectives. This overlap of functions pushes artists to wonder at their own professional identity. For example, when I asked Federico, a musician/aid worker involved in a project for social insertion of asylum seekers in Italy, how he feels with regard to his professional role, he admitted: "It's complicated... I am a musician... but I am an intercultural mediator as well... Although I would prefer to be only an artist, but, you know... I am both..."⁴⁰. The dual role which artists perform represents the first main difference of this new kind of art. In this sense, the overlap of pair artist and aid worker is not unusual.

Whether or not these products or performances can be called 'social art' could be a central question. Whatever the case, because of several similarities and analogies with social and contemporary art, I include them in this category. At the same time, this reveals several peculiar features which differ from the ones of traditional contemporary social art.

First of all, a growing number of artists are playing an important function: one of 'fundraisers' by devoting their proceeds to social care and projects.

⁴⁰ Federico Sampi. Intercultural mediator in the planning for social insertion of migrants. Sardinia. Interview date: June 2016.

On a cold night in late December at a smoky venue in the Greek capital, Anfo takes to the stage and immediately launches into a song... Although Anfo often plays for free, on this particular evening they are charging a five euro fee to raise money for a squat where refugees and migrants live in the Exarchia neighbourhood of the Greek capital. Attended by more than 800 people, the bands have raised nearly 4,000 euros (\$4,294) by the end of the night.

Aljazeera News. February 7, 2017⁴¹.

In this way, they perform a peculiar function, very similar to the one of charitable organizations and humanitarian NGOs which deal with the fundraising to cover the needs financial requirements of a particular humanitarian action. Additionally, the new features of this new social art for migrations can be summarized as follows:

- Economic reliance of the artists on wealthy donors, quite often public or private organizations who run the refugees and asylum seeker centres or social projects.
- High level of decision-making by those who subsidize the projects (and low level of knowledge on the artistic/social processes they subsidise)
- Projects' main goals: 1) to enable the freedom of expression for those who partake in the activities (migrants and local communities); 2) educational purposes supporting multiculturalism and peaceful coexistence between locals and migrants; 3) Financial return in order to enable economic self-sufficiency of those involved (a parameter hard to find in the case studies).

These last three features, also represent three of the ten main parameters I used to measure what I define as 'socioeconomic sustainability of the projects for social insertion'. The additional parameters are:

4. Groups' autonomy in leading the projects
5. Financial self-sufficiency of the projec.
6. Action toward the protection of the environment
7. Economic sustainability, measures to which extent the project answers to the effective needs of local economies
8. Level of interconnection with social communities and institutions, and their collective response
9. Level of innovation recorded
10. Continuity over time of projects.

As mentioned above, sometimes artists are directly involved as social workers in humanitarian organizations, and the artistic program answers directly to the needs of

⁴¹Source: <http://www.aljazeera.com/indepth/features/2017/01/greek-punk-bands-raise-money-refugee-squats-170119132728335.html>

those who finance it, quite often embodied by the chief executives of the organization. The artist stands in a secondary and derived relationship with a lack of independence of action. Indeed, in this case the role of the artist can be seen as a consequence of the decisions taken by those who commissioned the work, or more frequently the project. It can be said that this is emblematic and represents a definitive breakdown with other kinds of social art.

A last feature of 'social art for migration' is depicted by the 'spot-duration' of the programs and the contingency both of work contracts and finances. As Lingo and Stepper (2013: 338) advocate "the uncertainty faced both by cultural organizations (embodied in this case by the refugee reception system in its feature of planner of socio-cultural activities), as well as artists, shape decisions and work arrangements throughout the cultural sector. Cultural organizations manage uncertainty through project – based work and flexible employment, using short-term contracts to hire artists to do specific jobs on a case-by-case basis (..)".

The Relationship between Power and Cultural Representation

Once uncovering the specific characteristics of these new kinds of art, a second effort should be made to unveil a wider picture on its social effects and interconnections with the peculiar planning for the integration of asylum seekers.

The *art for migration* can be understood in its educative capability, towards its mission of multicultural social education where all stakeholders have a voice and are represented. The direct self-expression of the needs and struggles of the various social groups (in this case, migrants) can act as a powerful means of social transformation. This should be done by facilitating autonomous processes of self-representation.

As Dipti Daesi (2000:116) points out "the power of dominant forms of representation (...) (even) make marginalized groups see themselves as the 'others'" and "it goes without saying that the majority are encouraged to see marginalized groups as the others". Thus, when we represent "something for others" is necessary to "acknowledging the partiality of all forms of representations" (Desai 2000: 115).

Art expression led by social groups could instead be considered as an important non-institutional means for education, due to its goal of multicultural social change, and to the bottom-up participative approach. Thus, it could help to change mainstream thoughts on the migration matter among others, and to rethink new multicultural societies.

In this sense, '*monoculturalism*' (Goldberg 1994) can be acknowledged as an artificial construct of our sociological, political and economic mindset, spread from a specific historical experience which considers the nation state as a container which is comprised of one indivisible culture. The logic of "speaking for the others" of most of the planning for social integration in intercultural terms, displays an internalized racism (Hooks 1992) with its effects that paradoxically polarize the differences, often ridiculing '*blackness*' (Hook 1992: 6) in reprehensible exotic terms. This perpetuates a symbolic and cultural violence in our own societies. In the words of Galtung:

By cultural violence we mean those aspects of culture, the symbolic sphere of our existence, exemplified by religion and ideology, language and art, (history), empirical science and formal science, (logic, mathematics) that can be used to justify or legitimize direct or structural violence. Stars, cross, crescentflags, anthems and military parade.

Galtung 1990

Not surprisingly, in Italy it is not rare to bump into groups of migrants involved in 'black performances' (dancing, singing or playing) on the stages of town squares. These "spot happenings" (quite often arranged by white people) make me to wonder what kind of messages are we communicating as social workers involved in the planning. Perhaps, once again, the predominant imperialist representation of cultures, portrays migrants as someone different, reinforcing the cultural imperialism connected to our history of dominance and keeping stereotypes alive. Indeed, culture "preaches, teaches, admonishes, eggs on and dull us into seeing exploitation and/or (cultural) repression as normal and natural" (Galtung 199:295).

Up until now, I sadly recorded social projects still engaged in the representation of others as codified entities in relation to the predominant culture, reinforced and crystallized by the mass media. The central question is, why are we representing other cultures when they can autonomously represent themselves? Why do we continue to plan social projects for the "representation of the other", instead of leaving people free to express themselves, also considering the choice of non-presentation as an option? Certainly, the only purpose we should have as planners for these social projects is to play as an anchor to the whole process, where each group acts in their own interests for their own well-being. Indeed, we are not interacting with cultures but rather with people, carrying their own history, experiences, values, and beliefs.

These activities have the power to shape the world of future. In this sense, they have the capacity to influence meaning about our shared history, politics and social processes. Mass migration, as an important historical event that profoundly influences our societies, needs to be explained. In this sense, social art and planning can point the way towards new educative and pedagogical paths, influence new future paradigms, from which the youngest can discern a new intercultural world.

As Desai brilliantly points out, 'expressive' and 'formative' must be kept interconnected in their dynamics. As she puts it "the paradigmatic shift in our understanding of the formative as opposed to the expressive role of representation, has heralded what some call 'a crisis in representation' (...) This crisis is connected to the discursive practice of speaking for or about others" (Desai 2000: 116).

Up until today, the supremacy of our traditional educational system (Hook 1992) goes hand in hand with mass media discourse, affecting racist representations. How deeply the dominant power of cultural supremacy works in our colonized minds (Hooks 1992) can be found in, for example, the discourse of aid workers, who quite often share the 'redemption approach' that considers migrants as 'people that need to be saved' (Pinelli 2015).

In my previous paper, I held up those scholars who bring into focus the coexistence of the political logic of normalization with social participation (Fresia, Von Kanel 2015) and political representation (Lecadet 2016), enhanced by the interaction of social stakeholders by highlighting a 'polyhierarchical structure' (Fresia, Von Kanel 2015) of powers, where multiple strategies struggle in terms of social processes, political interests and administrative bureaucracies. Whether accepted or not, this overview addresses the capacity of education to directly subvert in people's minds the imperialist logic of cultural subordination. My concern is to make academic discourse subservient to practice in the field.

Thus, theories become clearer when we analyse the social impacts of planning for social insertion of migrants and the effects it provokes in the societies involved in the process. This paper embodies a practical call for a socio-political resistance against the predominant systems of reception of migrants, a challenge that both aid workers, activists and refugees I met on the way carry out in their daily tasks.

Here, I must ethically and intellectually take issue with Hooks when he points out that

racial integration in a social context where white supremacist systems are intact, undermines marginal spaces of resistance, by promoting the assumption that social equality can be attained without changes in the culture's attitude about blackness and black people (Hook 1992:10).

Politically speaking, planning for social insertion must be analysed through critical interrogations of the real holders of the power of social bargaining, and answers must concurrently be turned into effective practical strategies to eradicate the institutionalized racism we are experiencing.

Beyond Social Art: Fonda- A Brief Case Study⁴²

Fonda is considered as the role model for the management of a reception system for asylum seekers and refugees in Italy. I visited the project last previous summer on the occasion of the annual *Festival for Migration*. During my stay, I had the possibility to live in one of the houses for asylum seekers. My neighbours were a family from Gambia, a mother with five children and, in another house, an elderly man, the owner of my flat. I had the opportunity to speak with the inhabitants, migrants, collaborators, and aid workers about this huge project. Unfortunately, neither migrants nor young people took part in the 'Migration Festival'. The feeling I had, plunged into my participant observation, was related to an estrangement of both local communities and the people hosted, as if this festival were arranged with no consultation on their willingness to participate. This feeling was confirmed by people I interviewed during my week's stay.

Fonda is a little village in the wild countryside of south Italy, 7 kilometres far from the sea side. The village suffered massive depopulation in the latest decades since the youth moved out in search of jobs and study possibilities. The settlement is not connected to

⁴² All names and identifying details have been changed.

any medium or large size city. The municipality it belongs to, is 120 km far and approachable only via curvy, small secondary roads. The surrounding area is mostly mountainous, with wild, dry natural landscapes. Agricultural activities are concentrated in the hilly areas with crops of olive, vine, citrus fruits and tomatoes. Now Fonda hosts around 1200 people. Around 500 of them are refugees and asylum seekers.

Among the many activities they run, the main ones are several small ateliers for craftsmen. In these craftsmen shops, people produce handmade products, among others, woodworks, ceramics, glass and woven products. They are run by one local craftsman in collaboration with an asylum seeker, in shift rotation. They are not on-site workshops; in fact, they do not offer training courses, and those who have access to the workshops must have artistic capabilities. The very fine quality of manufactures produced sold in the ateliers.

The first day that I started my interviews S., a project collaborator, revealed to me:

the artisans' income is not derived from the sale of the art and crafts, but rather they are funded from the so-called *borsa lavoro*, a short-term European funding addressed to social projects for refugees. The payment system is structured as follows: the craftman gets the amount of the *borsa lavoro*, set previously in the amount and length with the agreement which the association undertook with public bodies by subscribing to the contract related to the call for tender. Conversely, the financial proceeds coming from the trade of the handmade products are returned to the association itself.⁴³

One of the most renowned ideas in the project is the local currency introduced to sustain the local financial system, that can be used along side the official national currency, simultaneously. Not all the local commercial spots accept this introduced currency; migrants use it to buy food and goods only with the retailers agreed upon. As C., one of the creators and enhancers of the Fonda project admits, "this alternative financial system has been thought to sustain the local economy on the one hand, and to face big payment delays of the prefectures on the other hand. Our economy must be strengthened, and this money system can help to locate local money. So, with this local currency we can overcome these payment delays and at the same time people can buy bread and food."

Apparently, it seems that the Fonda system offers a proper solution for all kinds of challenges the community faces with regards to the reception of migrants; indeed. This evaluation is shared among national and international visitors and journalists. But critically, what can be said about this system in the long-time term as far as effects are concerned? What happens when the sustainability parameter, that I drafted in my previous paper, as well as other outcomes is applied to the analysis?

What Even the Best Quality Management Overlooks?

Often what is thought to be unerring, must be more carefully and deeply examined. To do so, I start with what I consider one of the most important parameters on sustainability,

⁴³S.F. Co-creator of Fonda project. Interview date: July 2016.

the collective representation and concern on migration, in other words, the collective response. Once I arrived in the village, an elderly man received me and offered me accommodation in one of the hundreds of uninhabited houses. Thanks to that, I had the chance to experience the ordinary life of Fonda, speaking with my neighbours about their concerns and their representations of migrants living there and the whole project. The second day of my stay, a woman started to speak with me and my colleague on the street. She mistook us *for local aid workers*. *While she argued with us, she clarified to us what was the matter*: “They shouted all night... All of them, all of these many children... I told them to be quiet, I spoke with their mum but nothing happened. They are too noisy the whole day long, and even during the night... Besides, that there is a water problem... You guys must find a solution, try to speak with them, to resolve the matter...”⁴⁴

My colleague and I kindly asked her to stop the conversation because she was addressing the wrong people. In turn, she said “I am really sorry. I thought you guys were working for the Fonda project. You know, it is not a matter of racism. I agree with the project we are carrying out. We know they are people who seek shelter here. I agree with this, but ... we have needs as well... Anyway, I am sorry to bother you guys.”

This accidental conversation brought me to a first and preliminary consideration. The problem here was not a matter of racism. As far as I saw, people living in Fonda are really welcoming and friendly both with strangers and foreigners. In this case the woman, like another spokesman I spoke with, clarified the crux of the discussion using definitions such as ‘their needs’ and ‘our needs’. It is not new that one of the primary concerns of social groups is to keep the group interests preserved from the outsiders. Talking about ‘our needs’ and ‘their needs’, the woman clarified this point. In this case, people are disappointed with the quantity of ‘needs’ they have to face daily. Even though most of citizens support the project, they were disappointed with the number of people hosted. It is not rare to hear: “It’s ok, but they are too many!”.

Stepping away from my case study and talking about a shared Italian trend I recorded, I will go to my first point. Today, private companies and associations host an overload of migrants. There is no direct correlation between migrants and local inhabitants. There is no better way to say it than that the current system of assigning migrants to districts amounts to a form of structural violence toward citizens. Quotas should instead be governed by state and municipal rules, first of all according to the number of the inhabitants. Unluckily, today we find hundreds of municipalities which do not allow the assignment of migrants and little villages literally invaded by people who seek a shelter. If Italy would have a proper system of distribution of asylum seekers among municipalities, considering a commensurate proportion with local inhabitants, the communities would probably be able to face the new challenge of multiculturalism gradually, with no sense of subjugation and defeat. This logic could promptly interrupt the vicious cycle based on the capitalist logic which sees migrants as goods, assigned to private companies in change of money. Allow me the benefit of the doubt on those who share the responsibility for this game. As a matter of fact, I personally experienced with many of the executives I informally interviewed that they did not even try to limit the governmental migrant

⁴⁴Silvia. Fonda inhabitant. Interview date: July 2016.

settlement with real housing capacities. Once I spoke with an executive director, asking him to speak with the Prefecture officers on the overcrowded conditions of his reception centre in order to steer new arrivals to other places. He answered: “*No way*”. This is a well-known stance. This is a matter of profit. Migrants and aid workers have to deal daily with these systems. I think this is precisely the very first sticking point from where to start, because this affects dramatically any social project calling for sustainability.

I arrived in Fonda the very starting day of the annual ‘Festival for Migration’. Few people were gathering in the tiny streets. It astonished me, since I expected to arrive in one of the most famous happenings related to the reception of migrants. A group of Eritrean refugees and the chief of the project were laughing. My search started at the artistic ateliers. Ahmed received me, a 20-year-old Afghan refugee. He concurrently appeared to me shy and confident. He welcomed me by showing his wood crafts. Fine and fancy products were standing on the shelves. The Afghan man was working alone at that moment and I thought to seize the opportunity to talk with him. He shared his experience as a craftsman with us.

Ahmed: I took part in the project few months ago. I am happy to work here. I have something to do instead of sleeping and eating at least. I didn’t learn this job here; I brought it with me from Afghanistan. I like to spend time here... Anyway, in a few weeks my ‘project’ will end ... My ‘borsa lavoro’ I mean... and somebody else will replace me. ...

Martina: Can you tell me how the ‘borsa lavoro’ works here?

Ahmed: Well... I can talk about mine... I received a grant, public financing for seven months, according to my project... I am not paid for the products I sell... the grant is a fixed amount depending on the project... but well, we are not selling so many items here...⁴⁵

The very first question after this interview was related to potential buyers of these goods. Indeed, who could buy all these products in this little village, mainly populated by elderly people?

My colleague and I shared a preliminary foreboding that was confirmed by a member of the municipal council who removed all doubt.

Martina: Do you think this workshop system is doing well in terms of socio-economic sustainability?

S.: To me, this system is not bearable, thinking in long-term effects. I often speak with Mr. L. about it (the chief of the project). Here there are no buyers and few tourists are around now. It will not last forever, and we have to introduce new and different ideas. Moreover, the number of people to be ‘inserted’ is too high. That

⁴⁵Hamed Rashid. Craftman and refugee. Interview date: July 2016.

is why in the neighboring municipality there are fewer social projects for migrants, but at least we are trying to give real job opportunities to some of them.⁴⁶

Initially, the high quality of the products produced positively affected my impression of the project. Unfortunately, what I subsequently recorded during four studies related to art projects, is indeed the low quality of the goods produced by migrants. The first project I ran personally was also my first experience in this field. I was considered by inhabitants and aid workers as one of the best projects in Sardinia, where it ran. The low quality of merchandise was also recorded at the project in Trento, in northern Italy which produces rare quality items for distribution through Fair Trade channels. What is a shared trend behind this process? Why are artistic projects not taking into consideration the quality of the merchandise they produce? Why are they not planning on real financial returns for craftsmen, making a social project a real job opportunity? Why are aid workers and artists contributing to the production of "second class goods", which do not meet any market demands?

To me, this seems to be an enduring form of subordination of a social group to the majority. The shared and dangerous idea I heard from aid workers and Italian craftsmen see social projects as a mean to "keep them (the migrants) busy" and not as a path for a real job insertion. This veiled presumption is dangerous in terms of socio-economic sustainable development, and towards intercultural and economic equality.

One of my case studies revealed a high level of 'potential' innovation, a further parameter I drafted towards sustainability. An association which runs a reception project launched it. The coordinators opened a hotel on the upper floor of its legal head office. This hotel is run by members of the association in collaboration with those asylum seekers hosted by the association. I had a short stay in the hotel, but had enough time to realize the potential for innovation in such a project. The second day of my stay I met an artist, a painter who was supposed to carry out artistic activities with asylum seekers. Once back in the hotel, I met the receptionist and we shared time talking. I asked more specifically what migrants were expected to do in terms of work and artistic activities inside (or outside) the hotel.

She answered: "A few asylum seekers work in the kitchen, in the reception, or as housekeepers and charwoman. Others carry out little jobs, restoration works. Currently they are working on renewing the furniture, painting and drawing all the pieces of furniture. But, actually other times we do not exactly know what to do. For example, last week we painted the walls. Quite often we change the colour of the walls just to... 'fill up the time' ".⁴⁷

With 'fill up the time' the lady was meant "keep the asylum seekers busy". Moreover, the quality of the refurbishment was quite low.

⁴⁶S. R. Member of Municipal Council of Fonda and co-creator of Solina Project (5 km far from Fonda). Interview date: July 2016.

⁴⁷Receptionist and aid worker for Bresi project. Date interview: October 2016.

The potential of this project is huge. A high number of tourists and workers are hosted in the hotel. Besides, the surrounding mountains, the Alps, offer a perspective for winter sports and activities. Is there no other possibility beyond painting and repainting walls? In any case, could even this be done in collaboration with artists to realize a high quality product? It is, I admit, very difficult to build an efficient project for socio-economic development.

These artistic projects must take into consideration the potential market and local possibilities, investments, and potential buyers. This would not only be social innovation, but it would interrupt the deceptive top-down financing for social projects we see in the reception system of migrants. There is indeed a high possibility that a project financed from 'outsiders' will not survive once the grant is over. This 'top-down mentality of subsidy' of European countries is dangerous and failing. This can be seen in many, many projects. My third point addresses economic appraisal. For me, this measures the extent to which a project effectively answers to needs in terms of local economies, for example, by retaking and implementing depowered economic activities (also considering the protection of the local environment into the production process).

The production of high quality merchandise could reach new customers who may be inclined to pay more for handmade goods. During the project I personally implemented, I realized the strict connection between the quality of goods and the possibility to reach higher distribution channels. A low to medium quality product can only be exhibited at town festivals or craft fairs. Products of high artistic quality, instead, can be introduced into a 'real market', with higher economic returns for the craftsmen involved.

Whatever the case, Fonda fell into the opposite trap. Instead of a lack of quality, the very fine merchandise they produce, meets a lack of potential customers. When I speak about economic sustainability in this context, I mean that merchandise first needs to meet the real needs of local communities or, at least, the needs of any potential buyer. In this specific case, there is no possibility to distribute the products, and the ateliers act as a conspicuous showcase with no economic return. One could raise the objection that the products could reach interested tourists, but I didn't meet with any such interested tourists at the festival. "Tourists now appear rarely," a collaborator on the project admits. I had the opportunity to see how this opinion fits with reality, given the real absence of both tourists and migrants during the festival. It started in the early evening on the first day of my arrival. The head of the project, in honour of the occasion, invited one of the most noted Italian journalists and intellectuals. His opening speech was followed by a movie about the regional exodus of locals started during the 1970s. Only middle age white people were on the bleachers watching.

The day after, my colleague and I joined the project team for a dinner in a restaurant run by Eritrean refugees. The restaurant represents another peculiarity of the Fonda project. An Eritrean refugee offered us delicious Eritrean dishes. Once again, I felt that uncomfortable feeling which quite often caught me when I was working as an aid worker. Among those African workers and refugees of Fonda project, none participated in the dinner with us. Seemingly, this appeared quite normal since the group of refugees is involved in social and economic work. But, when one looks deeper, one of the main aims

of these kinds of programs is to reach also social insertion. Many of these workers have been living several years in Fonda before I arrived, but I saw this experience as the open segregation of the group of asylum seekers. Once again, I publicly took part in the logic of the subordination of a social group towards a local one. This was to me, the clear institutionalization of racial subservience.

The act of eating together has always been a clear message of acceptance from the local group to the hosted one. Once, I participated in another event arranged for and from migrants in a Sardinian refugee project. Dozens of people were invited to take part in the meal, where both guests and refugees were invited to share the same experience, and meal. There were no tables or chairs to remind you of who was in and who was out of the group, and dozens of dishes were available through self-service.

These two opposite examples reveal the tension of representation. The feelings of awkwardness and barriers which I personally experienced at the dinner in Fonda, brought me to share the thoughts of a local aid worker also involved in the anti-racist struggle in another region, Sicily.

See, it was not like this in the beginning. At that very beginning things were built together ... We ran the projects together both local workers, project managers and migrants. We cooked and ate altogether ... But today, things have radically changed ... We do not any more share those experiences. You see ... also the best idea we had, the olive press project has deteriorated.⁴⁸

The southern regions of Italy feed most part of their economies through agricultural production, and this region as well. But, during the summer no substantial agricultural activity was performed that would have enhanced the project. For this reason, the parameters (number six and seven from my previous study) that include some of the most important for my considerations, are not satisfied in this case study. This means that the parameter 'action toward the protection of the environment' and the parameter 'economic sustainability' which measures the extent to which the project effectively answers the needs of local economies are considered insufficient in the Fonda case study. Inversely, other 'twin project', from neighbouring municipalities (who revisited the 'Fonda model') are actively working in agriculture. Once, while visiting one of them, I was surprised by the high level of sustainability, both environmental and economic of the project planning. In fact, at the very beginning of the project, participants transformed local agricultural products, producing fine handmade marmalades, preserves, olive oil and vinegar. Furthermore, they found potential buyers on the market through e-commerce or Fair Trade channel of distribution.

Finally, I want to consider the financing system and local currency. The explanation of the *borsa lavoro* system is an insufficient and non-sustainable system of finance for the Italian reception system of migrants. They are directly subsidized by the Italian Ministry of the Interior in a top-down approach and finance apprenticeships or internships at local

⁴⁸Silvia P. Aid worker and activist in Rete Antirazzista (Sicily). Date interview: July 2016.

enterprises for asylum seekers and refugees. As external and short term grants they have no proportionality to the quality of the service performed by the worker and the real needs of the enterprises in terms of labour force.

Secondly, at the time, the Fonda system was granting its 'clients' 250 euros (the amount provided to those involved in the SPRAR system), 75 euros of which had to be issued, by law, in Euro. The remaining 175 euros were dispensed through the local currency. There was no effort to discuss the micro and macroeconomic effects of these measures. Although local currency can be considered as a good means for local economic development, at this juncture, the focus is on the social level of acceptance of such a measure from the users, because the concern is not related to an economic analysis, but rather to a sociological and anthropological one.

The local currency does not take into consideration one of the main priorities of migrants, remittances. Many adult males leave their families in their country of origin, who are literally surviving on those remittances. Thus, the Italian programs for social and economic insertion should take into consideration this aspect both for "local economic wellness" and for migrants, who often leave famine and economic and financial collapse in their countries of origin. Once away from Fonda, this currency loses all its purchasing power. So, this system literally anchors migrants to this little village.

It must be said that this financial system does not take into consideration some social needs (and human rights) like the freedom of movement. This can be explained in the words of Clelia Romani, a project coordinator at a project I visited in Sicily:

Most of those involved in the reception system of migrants are still talking of the very urgent need of relocating migrants to uninhabited villages in Italy, because of the emigration of hundreds of our Italian young people and families. The relocation of migrants in little villages in the countryside, so far from the cities, can be a problem. But most ... take the option. They say ... I am doing well, I repopulated this village! Who authorized us to address values universally as intended as valid for everybody? They have no clue what each migrant wants, needs, dreams.⁴⁹

Conclusions

I think that a beneficial point of view stands half way between the two opposite behaviours and considerations I reported above. A sustainable project for social insertion should be able to melt local needs, relocation to uninhabited villages, environmental assessments, but also leave the freedom of movement for the social categories that are hosted.

Of course, I have analysed some of the best cases in Italy. This means that many of the activities implemented by them can be considered as the best practices we are experiencing today in the reception system for migrants. Thus, with this essay I do not

⁴⁹Clelia Romani, project coordinator of a SPRAR project in Sicily. August 2016.

intend to criticize the entire work and ideas which these projects implement. In fact, in order to make improvements, I think we should truly start from them. In the meantime, my critiques attempt to highlight some of the distorted mechanisms of management that need to be improved, in order to bring benefit to all the communities involved, to local economies and to the environment. At the same time, and stepping away from the case studies analyzed here, the intention was to detect the dangerous cultural mechanisms of subjugation that we are subconsciously participating in, in our European societies.

The ghettoization reproduced by some of the artistic projects I visited, offer a dangerous rewriting of cultural subordination in two ways. The first is related to the subordination of migrants to our local values, beliefs, up to the way we view them as 'the others'. The second is a subordination of the artist to financial interests. Indeed, social planning often depends on those who represent the stronger partner among the stakeholders involved, embodied by the financier of the projects. Moreover, quite often migrants are not those who 'think and implement' the projects, therefore, becoming minor figures. On the one side, this mechanism reveals the conventional unequal relations of social bargaining with the European system of reception for refugees, and on the other side the cultural supremacy of our shared post-colonial minds and form of thoughts.

The dominant stereotype of migration as a threat can be corrected with several measures. The effects of ideology, of any kind and level, can be minimized with educational measures, mainly addressed to the younger generations. Art can be considered as a good means to this goal and as a powerful informal means for social education. Much can be done in this direction for younger generations, giving them the tools to be able to read the dynamics of migration and intercultural societies. But, first of all, it seems necessary to recognize and expose all the forms of submerged symbolic and cultural violence that we still reproduce (although involuntarily) from the point of view of institutions, global and local communities, and from our own personal and independent points of view.

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THE MAKING OF THE ROMANI REFUGEE: A GLOBAL ETHNOGRAPHY FROM HUNGARY TO CANADA

Sara Swerdlyk

Introduction: Framing the Problem

Viktória Mohácsi, a Romani woman originally from Northeast Hungary, has been living in Toronto for the last four years. An elected member of the European Parliament between 2004 and 2009, Mohácsi left her home in 2012 to seek refugee status in Canada on the grounds of ethnic persecution and fear of far-right violence due to her political work. A former European lawmaker turned asylum-seeker, Mohácsi's experience accentuates the peculiarities of an emerging Romani migration between Hungary and Canada: Mohácsi is just one amongst thousands of Roma from Northeast Hungary who have traveled to Canada to seek refugee protection since 2008, the year this contemporary wave of Romani migration to Canada commenced. Reaching approximately 15,000 in total refugee claims by 2016, this movement of asylum-seekers has established Hungary as one of the leading refugee-sending countries in the Canadian immigration system in the last decade, with Hungary holding the status of the number one leading source country of asylum-seekers in Canada between the years 2010 and 2012. It is because of these such numbers that scholars of Romani Studies have identified a "Roma Exodus" from Hungary to Canada currently taking place (Tóth 2013, Vidra 2015, Beaudoin et al 2015).

The claim of these asylum-seekers to refugee protection stems from their experiences of ethnic persecution living in Hungary: as Hungary's largest ethnic minority, the Roma have historically been cast as a domestic 'Other' excluded from Hungarian society (Kemény 2005), a 'problem population' (Timmer 2014) whose experiences of discrimination and poverty have worsened substantially in the postsocialist era (Ladányi and Szelényi 2006, Majtényi and Majtényi 2016). The increasingly uneven embodiment of citizenship rights by Roma in the postsocialist transformation of Hungary (Bigo, Guild and Carrera 2013) has resulted in the perplexing consequence that some of the most represented asylum-seekers in Canada today are residents of the European Union and citizens of a country recognized internationally as a democratic state and even identified within Canada's own asylum laws as a 'safe' country. In this context, Roma are increasingly choosing to use mobility as a strategy of citizenship enactment (Caglar and Mehling 2013) in maneuvering through and out of their circumstances in Northeast Hungary. Such a case raises pertinent questions about the position of East-Central European countries within the European Union today, in particular in terms of citizenship, human rights, and minority protection.

This research employs historical and urban ethnography to examine the phenomenon of Hungarian Romani asylum-seeking to Canada. In analyzing the theme of Romani mobility, citizenship access, and postsocialist transformation, I take the history of the city of Miskolc as a starting point for making sense of how and why Roma have left Hungary in the thousands to seek a new life in Canada. This research thus attempts to piece together a social history of Romani asylum-seeking from Hungary to Canada by placing it within the wider historical trends and politico-economic dynamics taking place within East-Central

Europe in recent decades. The research is based on ethnographic work I conducted in Miskolc and is methodologically guided by a globally-oriented approach to ethnography, connecting personal experiences to world systemic trends. Theoretically, the work is an engagement with academic debates on Romani mobility, citizenship and class in Europe, and the politics of asylum-seeking.

The paper first provides an overview and background on the case of Hungarian Roma seeking asylum in Canada, my research strategy and the parameters of my ethnographic work. Following from this section, the paper is split into two main sections: the first is a theoretical engagement with the question of Romani mobility and postsocialism within Hungary and Europe, emphasizing the need for historicizing migration and re-embedding refugee experiences within the broader structural, political, and social dynamics from which they emerge. This section is then followed by an attempt to apply these theoretical insights in building towards a social history of Romani asylum-seeking from Hungary to Canada through a focus on the history of the city of Miskolc. In this particular working paper, the history of the fall of the communism and subsequent postsocialist transformation in Miskolc is examined closely as the major common theme arising from the conversations in my fieldwork

Case Background: A Brief Overview of Hungarian Romani Refugee-Seeking in Canada

While Roma from Hungary have sought refugee protection in Canada in earlier periods, in particular during the 1990s and early 2000s after the fall of communism in the region, the current wave of migration began in 2008. This year was a definitive year in shaping Romani movement from Hungary to Canada for two main reasons. Firstly, the Canadian government lifted its visa requirement for Hungarian nationals, following Hungary's inclusion into the Schengen zone of the European Union. Following from this change in immigration controls, Hungarian Roma, as citizens of Hungary, became able to travel to Canada and stay for a period of up to 90 days without the necessity of applying for a visa. This move is often cited as the main instigator of the sharp incline in Romani numbers traveling to Canada (see, for example, Tóth 2013).

However, the visa lift, while offering an explanation for *how* Roma were enabled to come to Canada, does little to explain *why* they began to choose in such large numbers to leave Hungary in the first place during this time period. It is therefore necessary to look to the internal dynamics within Hungary at this time in order to understand why the year 2008 became pivotal in shaping the rise in Romani refugee claimants in Canada. As evidenced in various media and human rights reports, 2008 saw the beginning of a sharp increase in hate crime and violence towards Roma in Northeast Hungary, including one particularly shocking campaign instigated by a gang of Hungarian neo-nazis which involved the racially-motivated serial murders of six Roma and the injuring of 55 more (See Majtenyi and Majtenyi 2016). The rise of far-right politics and hate crime from 2008 onwards must be understood as having profound effects on Romani communities in Hungary and therefore necessarily linked to their movement in Canada (Beaudoin et al 2015).

Additionally, contemporary Romani marginalization must be understood as part of a greater neoliberal transformation within global labour markets and government social

policy arising in the post-2010 political landscape carved out by a Hungarian government governed by the Fidesz party (Vidra and Virág 2015:140-150, Majtenyi and Majtenyi 2016). The past eight years have seen the Hungarian government implement neoliberal reforms to its poverty alleviation programs with grave consequences for Romani populations. Particularly in most recent years, the Hungarian state has embarked on a shift in government policy and discourse that sets aside the welfare model to create a new 'workfare society' with "increasingly anti-poor tendencies explicitly targeting Roma" (Vidra and Virág 2015: 142, Majtényi and Majtényi 2016: 189-197). With this research project, I aim to make sense of Romani migration to Canada in the context of these post-1990 neoliberal reforms in Hungary, the rise of the far-right in Northeast Hungary, and the ongoing de-industrialization of the city of Miskolc. I do this by bringing a wider historical lens and focus to bare upon the analysis: a consideration of the role played by the themes of socialism and postsocialism within my informants' understanding of the situation.

Since 2008, approximately 15,000 Roma have sought refugee status in Canada, making Hungary one of the most represented countries in the Canadian asylum regime in the last decade. In the initial years of the wave, success rates for Hungarian Romani refugee claims were considerably low: less than 10 per cent of claims were accepted. However, the most recent statistics for the year 2015 show that this number has risen drastically to 67 per cent of claims, which is above the average 50 per cent success rate of overall refugee claims that Canada receives. Romani migration to Canada for the purposes of asylum-seeking continues to the present day (Beaudoin et al 2015).

The Canadian government during the period of heightened Romani migration to Canada was headed by the Conservative Party, whose Minister of Immigration and Citizenship spoke frequently in public about 'bogus' Romani refugees. The wave of Romani migration from Hungary to Canada has been characterized by a series of contestations, including three refugee lawyers who worked with 1000 Hungarian Romani families being charged with negligence due to their improper handling of their claims; a prime Canadian media personality being charged with hate speech for making a nationally-broadcasted public statement on Romani refugees; a public state campaign against Romani refugee fraud led by the Canadian Minister of Immigration, which included putting billboards up in the city of Miskolc warning against Romani asylum-seeking in Canada; and a national security report on Romani refugees authored by the Canadian Border Services Agency.

The Canadian government's response regarding the growing trend of Hungarian refugee claimants is understood here as rooted within a broader structural change to the country's refugee policy in the past two decades towards neoliberal definitions of refugee status, which has shifted from viewing asylum seekers as "deserving victims" to "masters of deceit" capitalizing on welfare profiteering (Valverde and Pratt 2002). Such a shift is perceived as in line with ongoing economic downsizing of state support for social services within a neoliberalizing Canadian economy, where welfare chauvinism captures the popular 'common sense' towards potential refugee claimants. What is important to note about this particular reaction of the Canadian government to the influx of Romani refugee claimants from Hungary is the way in which any historical or structural explanation and analysis is entirely absent from their understanding of the situation. Though the Canadian government did author a security report on the topic and though the Canadian Minister of

Immigration visited Hungary to investigate the situation, the wave of Romani migration to Canada was not considered in a long-term framework as the result of any patterns taking place in Hungary. It is this lacuna that my research aims to fill, therefore serving as a corrective to ahistorical explanations of asylum-seeking.

*Research Strategy and Methodological Considerations:
Global Ethnography in Postsocialist Miskolc*

Through the use of historical and urban ethnography, my research attempts to make sense of this case study, with the overall claim that a closer analysis of it may offer new insights for contemporary critical understandings of citizenship, asylum-seeking, and postsocialism. The research is thus rooted in an anthropology of migration that emphasizes the social relations of mobility wrought by the dynamics of global economic formations and how this comes to bare on the individual and personal lives of people. This research is based on ethnographic fieldwork I conducted in Miskolc during the Fall of 2016 over the course of four months, in a series of visits totaling approximately four weeks in the field⁵⁰. During this time, I conducted interviews, focus groups, and participant observation with two main groups. The first group comprised of Romani families who had previously lived in Toronto, filed for asylum in Canada and were now back in Miskolc after their refugee claim was either rejected, abandoned, or withdrawn. The second group of my informants consisted of Romani activists, volunteers and workers active in Miskolc with various Romani-focused NGOs. In total I conducted approximately 20 informal interviews and group discussions. Because the issue of Romani migration to Canada is a dynamic and ongoing process, the people I spoke with discussed this issue both in terms of it being a past experience as well as one that continues to shape their own lives and decision-making for the future. Most of the people I spoke with, whether or not they had already been to Canada, had plans or voiced intentions to make a move to Canada in the near future.

Much of my participant observation took place at the office of a Romani-led organization, where I spent a few hours most days becoming a part of the daily activities of the organization, discussing various topics with the Romani activists who work there and the Romani community members who dropped in, assisting with the work of the organization, and observing staff meetings and events. During this period of participant observation, I attended a memorial held at the office for the 2008/2009 serial murders of Roma that took place in the region, assisted with handing out food and donations during a day-long Christmas charity drive, attended two staff meetings, was given a tour of the main segregated Romani neighbourhood in Miskolc by one of the office's staff members, and visited an elementary school attended primarily by Romani students to assist one of the office's staff members in providing dance and art lessons to the children. Because one of the tasks of this particular office is to issue documentation certifying to someone's Romani ethnicity, a document that is often used by Hungarian Roma in refugee claims in Canada, during my time there I encountered several people who were making imminent

⁵⁰ All fieldwork was conducted with a fellow PhD researcher whose language skills in Hungarian were more advanced than mine. While I am certified at the high-intermediate level in the Hungarian language, and was therefore able to make general sense of my interactions in the field, my co-researcher was able to clarify for me any details I missed or misinterpreted.

travel plans to leave for Canada, including three people I spoke with who did in fact depart for Toronto during the period of my fieldwork.

The interviews and daily time spent with my research informants was organized in an informal manner. While I did not engage in specifically structured questioning with any of my interlocutors, due to the atmosphere of the setting, I did guide our casual discussions as much as I could to a consideration of history and the city of Miskolc and what have been the decisive factors in bringing about the movement of Roma to Canada. My research informants were enthusiastic to explain the background and history of the developments taking place in the region; many of them were directly affected by the developments I discuss throughout this paper, whether as former factory workers or people living in the Romani neighbourhoods in the city. These discussions were extremely informative for me: In telling a history of Miskolc through this ethnographic work, my research foregrounds the voices of local Roma and how they understand the historical developments that have taken place in the region in recent decades. This paper therefore attempts to make sense of Romani asylum-seeking as both a historical production as well as a daily and personal negotiation on behalf of both those Roma who have gone to Canada as well as those who have returned or stayed in the city of Miskolc.

In order to provide a nuanced analysis from these personal experiences that is, both temporally as well as spatially, broad and connected to wider trends, it has been necessary for me to employ a methodological approach that could place these stories within a wider global context. Therefore, at the analytical level of my methodology, the research is guided by the extended case method, as developed by Michael Burawoy and applied most readily within the framework of global ethnography. Here the emphasis for a research design is to “pursue manifestations of the planetary *Zeitgeist* within the mundane, the marginal, the everyday” (Burawoy et al 2000: xii). The task becomes one of placing “anthropological subjects within larger historical, political, economic movements” in an attempt “to understand the impact of structures upon them” (Roseberry 1988: 169).

In employing Burawoy’s extended case method, this project emphasizes the extension of an ethnographic case into wider historical and theoretical analysis (Burawoy 2000: 28). In extending the ethnographer into the world of the participant and extending observations over space and time, this project adopts a historical lens to understand Romani experiences of asylum as connected to the postsocialist transformation of Hungary. In extending from micro processes to macro forces, the research explores how larger *long duree* developments and institutional arrangements become embodied and evidenced within the individual experiences of Romani refugee claimants. Finally, in using the case as an opportunity to extend theory, the research works to unearth the conceptual surprises, the unexpected theoretical paradoxes, and the unforeseen anomalies within the field in order to rework and refine contemporary conceptualizations of postsocialism, citizenship and asylum-seeking. In order to do so, I first situate myself within the theoretical debates taking place on these topics, as the following section outlines.

*Theoretical Considerations:
Romani Mobility and Citizenship in Postsocialist Central Europe*

Romani mobility has emerged as a contemporary scholarly topic in the aftermath of the 2004 and 2007 enlargements of the European Union to include East-Central European countries and the ensuing enveloping of these countries within the channels that regulate the migratory flows within Europe. In this post-accession period, the movements of Roma from East-Central Europe exercising their right as EU citizens to travel between their own postsocialist countries and countries in Western Europe have brought into stark relief the tensions present within the presumed homogeneously democratic space of the European project (Sardelic 2015, Caglar and Mehling 2013, Fekete 2014). As many different academic studies have illustrated (Guy 2001, Ladanyi and Szelenyi 2006, Kemeny 2005, Stewart 1997), the position of Romani minorities deteriorated significantly after the collapse of communism; the introduction of the market economy in these countries destabilized many Romani communities while simultaneously exacerbating the long-felt racist sentiments held by non-Roma. Consequently, Romani people across East-Central Europe find themselves pushed into 'underclass' positions characterized by racialized poverty and segregation, increasingly becoming the target of the populist rhetoric and violence intensifying in the region (Majtenyi and Majtenyi 2016, Stewart and Rovid 2012).

Studies on Romani experiences with citizenship in this contemporary climate highlight that while Romani populations in Europe are granted *de jure* citizenship rights and thus possess status, they *de facto* do not enjoy the privileges associated with that status (Sardelic 2015: 159). As Caglar and Mehling find, EU Romani citizens "despite their EU citizenship are still located in but not of the EU space" (Caglar and Mehling 2013: 156). At the same time, it is emphasized that Romani 'second-class' citizenship status must be understood in relation to the adoption of neoliberal market strategies in the region, through which postsocialist citizenship has been reconceptualized as a conditional 'contract' that differently values population groups according to market mechanisms; as van Baar's work illustrates, the implementation of neoliberal market strategies in postsocialist East-Central Europe has resulted in "a situation where Roma who are formal citizens do not enjoy basic rights because their marginalized and second-class work position, rather than their official citizenship status, determines their living conditions" (van Baar 2012: 1300). The transformation of the welfare system in the postsocialist era is thus undeniably an important factor in the increasing migration and mobility strategies of Romani populations. This has been highlighted in particular in the Hungarian context, where from 2010 the Fidesz-led government has embarked on transforming the public works program under the rubric of a putative 'workfare' program (Vidra et al 2015) that has been characterized as implicitly targeting Romani citizens.

As citizenship rights become tenuous under postsocialist realities, Roma engage in mobility practices to ameliorate their conditions (Bigo, Guild and Carrera 2013, Grill 2012, Cahn 2004). Romani mobility thus denotes a multi-dimensional meaning, in which migration is perceived by Roma as a step towards upward mobility in their socio-economic status; this is what Grill terms "existential mobility" for Roma migrating "up" to England from Slovakia as they pursue upwardly class aspirations (Grill 2012: 1269). From this perspective, mobility that exercises the right of free movement within the European space

can in itself become a way of enacting citizenship. Roma from Hungary can be seen as participating in this form of citizenship enactment as well, in exercising their right to go to Canada visa-free as citizens of Hungary. In a Canadian context, applying for refugee status is in most cases the only way Hungarian Roma can engage in transatlantic mobility practices, and therefore claiming asylum itself can be seen as an act of citizenship and an aspiration for upward mobility (Vidra et al 2015, Toth 2013). The task at hand thus becomes one of interpreting Romani experience within the global proliferation of subject positions, which are neither fully included or fully excluded from the space of citizenship (Mezzadra and Neilson 2013).

While Roma opt for mobility strategies in response to their changing class and citizenship statuses, these migrations are confronted by increasingly anti-migrant regimes in the West: as growing numbers of Romani people move westward - to Western European countries as well as to Canada, to where the vast majority of Roma leaving Europe immigrate - state responses have tended towards regulation, securitization and hostility (van Baar 2013, Diop 2014, Beaudoin et al 2015, Fekete 2014). In an increasingly neoliberalized global space, Romani populations come to represent both the despised foreigner/suspected migrant and the welfare scourger/unproductive destitute as they become caught between neoliberal economic policies and what De Genova terms the “determined accelerated deportation drives” of increasingly stringent immigration and asylum laws. On the one hand, they are targeted for allegedly enjoying a welfare-tourism in a time when ‘native’ working-class people “are having to pull it together against austerity” (Fekete 2014: 64); Roma become the quintessential target of “the very modern disgust with the destitute, as austerity digs deeper in the lives of working and workless poor” (Ibid: 61). On the other hand, as the climate is increasingly characterized by anti-migrant xenophobia, Roma join “the ranks of destitute migrants and failed asylum seekers” (Ibid: 60) in being defined as unwelcome foreigners, revealing that whether as migrant or as citizen, the Roma remain an external figure.

For Fekete this means that Romani experience is essentially characterized by “a defacto statelessness” in a Europe that for them approximates “a huge open prison” (Fekete 2014: 68). Such a phenomenon underscores the intersections between class relations, economic restructuring and dispossession on the one hand, and uneven citizenship, foreignness, and anti-immigration on the other hand. Romani citizens in Europe thus “act out the anomalies of the EU social and political space through their mobility” (Caglar and Mehling 2013) - consequently, paying attention to their experience provides a valuable lens for investigating how mobility and citizenship intersect neoliberal transformations and growing nationalist xenophobia. In the Hungarian context, this increasing characterization of Roma as second-class citizen or foreigner has become particularly pronounced in light of the contemporary refugee crisis, as more and more Hungarian politicians draw parallels between the situation of refugees with that of Roma (see Rajaram 2016).

These discussions on the dynamics of Romani mobility within Europe are crucial for the task at hand: contextualizing and historicizing the case of Romani asylum seeking from Hungary to Canada. As scholars of refugee studies note, critical approaches to studying displacement problematize the tendency to see asylum-seeking as localized in the

problems of a single country instead of as “a global or world-systemic phenomenon” (Malkki 1995: 502). Such scholars emphasize that asylum must be placed in a wider analysis that recognizes that “involuntary or forced movements of people are always only one aspect of much larger constellations of sociopolitical and cultural processes and practices” (Ibid: 496). Hence critical approaches to analyzing asylum challenge representations of refugees that disembled individual experiences of displacement from their political and historical context; refugee movements must be recognized as inescapably political phenomena emerging from certain historical configurations (Ibid: 505). In examining Romani mobility and the large influx of Romani refugee claims in Canada, it becomes necessary for refugee experiences to be re-embedded and understood within their wider political, economic, and historical contexts. This research paper thus emphasizes the need to resist the abstraction of refugee experiences from their broader circumstances, in which asylum-seeking appears to be a ‘moment in itself.’

It therefore becomes necessary to critically examine how the parameters of citizenship and mobility have changed over time. My Romani research informants often raised the issue of citizenship and how they felt like they were being actively excluded from the imaginings of Hungarian citizenship. One of my informants stated to me, when discussing Romani migration to Canada, “*You know, gypsies are Hungarians, too. My ethnicity is gypsy but my citizenship is Hungarian. My passport says Hungarian on it*” Another questioned, when describing an incident of racism at the hospital, “*Am I not Hungarian?*” framing the situation in terms of citizenship and nationality. In a discussion of contemporary migrant and refugee politics, another of my interlocutors interjected in the conversation to say, “*Roma are called migrant too by these people. But we Roma have been here for a 1000 years.*” It is clear then that Roma in Miskolc actively negotiate questions of citizenship, mobility and belonging in the changing history of the city and as they analyse the situation of Roma going to Canada to seek asylum.

The remainder of the paper explores how the ‘Romani refugee’ originating in Northeast Hungary is a product of a particular historical conjuncture defined by the postsocialist economic transformations reshaping East-Central Europe, where increasingly exclusionary access to citizenship rights, contemporary class restructuring and dispossession, and growing postsocialist populism have dire effects on the marginalization and mobility of Roma. The paper examines these *long-duree* historical changes in light of how Hungarian Roma themselves make sense of their place within them and use mobility as an act of citizenship. My research thus ultimately underscores the ways in which Romani refugees ‘make themselves’ as much as they are made, and ‘learn’ to be refugees within the current historical moment, in which the ‘making of the Romani refugee’ is simultaneously both a historical production and a daily negotiation.

*Socialist Nostalgia and Postsocialist Realities:
Ethnographic Notes on Roma and the History of Miskolc*

When I went north to my various workplaces I often passed through Miskolc - the capital of Hungary's industrial heartland. It is strung along the bottom of a valley at one end of which are the great Lenin Steel Works (LKM) and its sister factory, the Diósgyőr Machine Works. From the hills I had seen the steelworks sprawling over its vast area with its complex of railroad tracks, the familiar tangle of defunct chimneys that had been its Siemens-Martin furnaces, the covered buildings that were its rolling mills, its blast furnaces, and its glowing dump of molten slag. I often wondered what it must be like to work down there in the heart of socialist industry. *What had happened to those steelworkers - once glamorized as the proletarian heroes of socialism?*

Michael Burawoy, *The Radiant Past* (1992)

Miskolc is the fourth largest city in Hungary, located in the northeast region; it is the administrative centre of the Borsod-Abauj-Zemplen County. It is estimated that approximately 25,000 Roma live in the city, out of a total population of 168,000, making the city and the region the most densely populated by Roma in the country. During the communist era, Miskolc grew to become a highly industrialized city and served as the centre of steel production in socialist Hungary. Today Miskolc is now characterized by a high unemployment rate and poverty, in particular among the local Roma population, who live primarily in thirteen demographically concentrated areas on the outskirts of Miskolc. Since 2010, Miskolc's City Council has been governed by Fidesz, the conservative political party also governing the country nationally for the same time period.

The most significant historical break noted by many of my research informants regarding the city of Miskolc was the fall of communism and Hungary's transformation to a market economy. As the heart of socialist industrial production, Miskolc has been particularly hit by the de-industrialization of the postcommunist era. The regime change, the times before it as well as the times since, was referenced frequently in casual conversation when discussing the predicament of Roma in Northeast Hungary. For my research informants, much of the contemporary relations between Roma and non-Roma in the city can be traced back to this moment. Most of them spoke positively and with a sense of nostalgia about the way in which Romani people in Miskolc lived under communism. As one of my interlocutors, a former factory worker who now works as a Romani activist, noted,

Under communism, Roma and non-Roma Hungarians were equal: we worked together, we drank beer together, we lived in the same neighbourhoods. We didn't have classes then, economically or ethnically. It was good; it really was like this.

During the times of socialism, most of the Roma of Miskolc held low-level jobs in the industrial factories around Miskolc, and in particular, the Lenin Steel Works, the oldest of three integrated steel mills in Hungary which all together employed approximately 50,000 of the city's population. The city life of Miskolc, and Romani experiences within it, was

thus shaped by its role as the industrial centre of the nation. Michael Burawoy, an American political sociologist who conducted a year's worth of ethnographic work in Miskolc's Lenin Steel Works factory in the 1980s, paints a vivid urban picture of Miskolc's city life:

Certainly, I had arrived in a proletarian city. With a quarter of a million inhabitants, Miskolc is Hungary's second biggest town and industrial center. Its pulse is ruled by the factory siren. Chimneys belch smoke and dust into a polluted atmosphere; at the turn of the shifts, buses spread through the city - jam-packed with the silence of the weary; housing projects are cramped and overflowing; bars bulge on payday; and tiny weekend homes, planted next to one another in the surrounding hills, provide an eagerly sought refuge when work, weather, and family permit. The city's character is engraved in the rhythm of its time and its distribution in space. Although quite a distance from the center and not easily visible from the main street running from one end of town to the other, the Lenin Steel Works and the Diósgyőr Machine Factory are the directing forces of city life. (Burawoy 1992: 120)

Romani workers tended to live in the semi-comfort family homes in the neighbourhoods close to the factories, the so-called 'Numbered Streets'. The Hungarian socialist state embarked on a national scale on a program that brought the country's Romani minority, on the one hand, social housing and, on the other hand, compulsory education, which had direct effects on improving the socio-economic status of Roma, decreasing segregation and have a direct impact on literacy and employment rates amongst Romani populations. At the same time, these policies had a negative impact on the cultural and linguistic practices of Roma, resulting in an assimilation of Roma that was premised on erasing the ethnic distinctiveness of cultural minorities within the proletarianization and modernization of the country. Such policies were often implicitly or explicitly racist and premised on the so-called 'primitiveness' of Romani culture and ethnicity.

Additionally, as various documentations from this time indicate, despite the official socialist policy, Roma were not entirely brought into the proletarian brotherhood of workers, whether in Hungary or across the communist world. Newspaper articles and government policy indicate that while Roma were subjected to a communist assimilationist ideology in the first years of socialism, these efforts waned particularly in the 1980s. As a result, deliberate ghettoization occasionally resurfaced as a response to what continued to be framed, quite problematically, by the state as a "Gypsy problem."

In 1988, for instance, officials in Miskolc attempted to transfer the large Roma community living in the inner city to a high-rise project constructed at a remote site. Public outcry eventually led to the abandonment of the project, as Hungarian intellectuals and Romani activists came together to oppose this proposal. Unfortunately, for many of the Hungarians involved in these efforts, their opposition stemmed from a displeasure with the Hungarian communist state and not their solidarity with their fellow Romani neighbours and did not translate into long-term commitments. At the same time, the assimilationist socialist policies, premised problematically on the notion that Roma needed to leave behind their old-fashioned 'primitive' ways, had negative effects on Romani cultural practices, leading to a drastic loss in linguistic skills amongst Roma.

Therefore, it is important to note the ways in which the socialist ideology of equality did not transpire in a genuine material sense for Roma in Hungary.

It is therefore interesting to consider the romantic depictions that were frequently vocalized by my interlocutors of Romani status regarding the socialist era in Hungary. It was common for the 'regime change' to be referenced in discussions of the contemporary plight of Romani people in Miskolc today. When I would ask, 'Why do so many Roma from Miskolc go to Canada?' the conversation usually started with the role of Roma in the city during the communist time. For example, during a memorial service to commemorate a series of murders that were executed by a group of neo-nazis towards Romani communities in 2008 and 2009, one Romani woman stated:

Things have changed in the last 20 years. Things were different under communism. Before the regime change, it was better for Roma, and now we see this racism that leads to these murders. There has been a big change in Miskolc: the racism is now out in the open and not under the rug anymore. The rise of Jobbik [Hungarian far-right political party] makes it ok.

The Romani people that I spoke with thus see a connection between the transformation of Hungary to a market economy in the 1990s, the rise of far-right politics and racism, and the worsening of the situation of Roma in Miskolc. While Romani experience in Miskolc under communism was not unproblematic, it is clear that their position worsened dramatically with the regime change, as evidenced by the massive socio-economic upheaval experienced in Hungary in the 1990s. To understand the social and demographic circumstances of Hungary in the 1990s, it is essential to place it within a regional-historical perspective, with particular attention paid to the changes and transitions occurring in Hungary at the time of the comprehensive reforms of the regime change. At the time of the first political restructuring in 1990, the economic transition both in East-Central Europe generally and within Hungary specifically had a profound impact on all sectors of the nation's economy in both urban and rural areas, but especially the large urban sites of production, such as Miskolc. The shock was a combined effect of the absence of import demand by the USSR, a lack of competitiveness within Western markets, and the effects of the protectionism exercised by European countries.

Therefore, between 1989 and 1992, Hungary lost more than one-third of its jobs; the percentage of Hungarians receiving less than 50 per cent of the national average income per capita increased by 35.9 per cent between 1993 and 1996. The economic recession after the end of the communist era hit the industrial cities of Northern Hungary the hardest. The unemployment rate rose until it became the highest in the country, and the population of Miskolc dramatically decreased. The economic situation of the city went through a major overhaul, and smaller enterprises appeared in place of the large state-owned companies, with many of the industrial factories downsizing and eventually closing. The evidence of this massive economic change is visible in present-day Miskolc, with the city's perimeters framed by enormous now-empty and idle factories.

As the low-skilled workers in Hungary's factories, Romani workers were generally the first to lose their employment positions with little recourse for replacing them with new jobs.

The first 'big losers' of postcommunist Miskolc, therefore, were those unskilled Roma people, whose majority still lives in the agglomeration of the citadel of Northern Hungary. The labor market position of Roma in Hungary suffered a greater-than-average deterioration following this period. A 2003 national representative survey of Roma found that only 38 per cent of Roma men and 20 per cent of Roma women between the ages of 15 and 49 were employed, compared with respective figures of 85 per cent and 53 per cent at the time of the political transition. In sum, with the fall of the socialist regime, the industry faced a crisis and Borsod-Abaúj-Zemplén is now among the counties that have the highest rate of unemployment and also the lowest rates of GDP per capita in Hungary. One of my informants expressed how these changes had impacted him when I asked him if I would be able to go inside any of the empty factories:

Well I would take you to see the factory myself, but I think it would be sad and strange for me to see it now, empty and not bustling with workers. I think it would just be heart-turning actually, for me to revisit it. I used to work there in the 1980s, I would go there to work everyday with thousands of others; it was like going to work every morning to a small town, it was that big and that many workers. After the regime changed, the factories closed; there is nothing there now. And look at us now...

These changes help to explain why it is common amongst my research informants to look back on socialism with a mix of nostalgia and sentimentality: while the realities of socialist practice were often rooted in anti-gypsy racism, the realities of postsocialism are seen as a much worse fate. It is indeed as Burawoy notes in his ethnography, "For many in Miskolc, the past does indeed look more radiant every day" (Burawoy 1992: 33). The postsocialist promises of freedom and prosperity have yet to transpire for Miskolc's Roma: as one Romani activist explained to me,

Everyone believed it would get better after communism. But for us Roma, it got worse. Under Kadar there were factories and a big working class; there was no 'gypsy' class, and no anti-gypsyism the way it is now. All the gypsies worked in the factories; everybody worked. Understand? Together. But now we cannot find employment and we are blamed for all of society's problems.

The repeated reference by my research informants to the situation of Roma in Miskolc before and after socialism is significant for the contextualization of Romani asylum-seeking to Canada. This is especially the case since the people that I spoke with drew links between the massive changes that took place in the immediate aftermath of postcommunist transformation and the movement of Roma to Canada that takes place today. Throughout casual conversation, a historicization of Roma going to Canada was made through referencing socialism and postsocialism. As one informant remarked, while discussing the regime change,

And you know, the people who go to Canada? They lived well under socialism. It was a complete turn-around in their living situation afterwards.

Another informant explained it to me in this way:

A lot of families go to Canada nowadays because things changed after communism. Today Roma in Miskolc are unemployed, poor, and becoming homeless. This is why they go to Canada; the city government does not care about them.

Another of my interlocutors described the movement of Roma to Canada in terms of how life in Canada for Romani asylum-seekers resembles the circumstances Roma enjoyed in Miskolc during socialism:

When people go to Canada and live there for a bit, it reminds them of the time before the regime change, the times of socialism. You know, do you understand? It reminds them of what it was like to live back then, having a job and a house and some security, not feeling like a 'gypsy,' without the everyday racism we feel now.

Therefore, the reconfiguration of Romani experience in Miskolc following the transformation of Hungary from a communist society to a free-market economy plays an integral role in the ways in which Romani people contextualize their position today in Hungarian society. Following the regime change, Roma found themselves in precarious and vulnerable positions characterized by unemployment and racism, which became more entrenched as the years passed. In order to begin to make sense of why Roma have gone to Canada, the dynamics of postsocialist realities for Romani people and the uses of socialist nostalgia in making sense of contemporary circumstances is a useful starting point.

Conclusion: Towards A Social History of Romani Asylum-Seeking to Canada

This research has been an effort to bring historical analysis and contextualization to the contemporary circumstances of Romani people living in Hungary who increasingly turn to seeking asylum in Canada as a strategy to ameliorate their conditions. My ethnographic work in this paper has unearthed the themes of socialism and postsocialism as playing a key role in the ways in which Romani people in Miskolc make sense of their current situation and the factors that play into peoples' choice to go to Canada. In building towards a social history of Romani mobility in Miskolc, this ethnographic work has aimed to serve as a corrective to apolitical and ahistorical depictions of the influx of Roma to Canada, of which both Hungarian and Canadian states are guilty. As such this research has strived to provide deeper and rigorous analysis of the historical developments that have shaped Romani marginalization, citizenship, and mobility over time.

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TRANSFORMATION OF THE MIGRATION PARADIGM⁵¹

Jody Jensen

You have to understand
that no one puts their children in a boat
unless the water is safer than the land.
Warsan Shire, British-Somali poet

You need to tell us that we have a future ... You can't escape us immigrants.
We won't stop trying. We won't stop taking risks.
Paul Ohioyah, Nigerian plumber

I. Look Back and Learn



A Cartoon published in 1938 by the Daily Express newspaper in Britain showing refugees from Nazi occupied territories and the unwillingness of any countries to take them.⁵²

The article from which the cartoon and following discussion were taken describe the meeting in early July 1938 at Lake Geneva of 32 international political representatives who failed to agree on „how to accommodate hundreds of thousands of refugees fleeing violent oppression”. Later meetings also produced no outcome. The US refused to increase the annual quota of from Germany and Austria even before a consequent meeting began. The UK position was clearly stated by a Lord Winterton who proclaimed: “The United Kingdom is not a country of immigration”. This led to the German newspaper *Völkischer Beobachter* on July 1938 to triumphantly proclaim: “No one wants them.”

⁵¹ This is a compilation, summary and analysis of several articles the author accessed for presentation at the XXIst Savaria International Summer University in Kőszeg in 2016. At the request of students, it is meant rather a resource, than an academic paper.

⁵² See: <http://www.irinnews.org/analysis/2015/11/18>

Golda Meir (1975:158), who became the foreign minister and later Prime Minister of Israel wrote in her memoirs:

sitting there in that magnificent hall and listening to the delegates of 32 countries rise, each in turn, to explain how much they would have liked to take in substantial numbers of refugees and how unfortunate it was that they were not able to do so, was a terrible experience ...

This episode has resonance today. Although the historical and cultural contexts are different, “the opposition to accepting Jewish immigrants in the 1930s was rooted in many of the same concerns politicians cite today: security, the need to maintain a cohesive society, safeguarding national economic interest” (*IRIN News* 2015/11/18).

The key concern today is the same as it was in the 1930s, that large numbers of refugees would have a destabilizing effect on societies, and that they would not be able to integrate. This does not just apply to Muslims who are immigrated from war torn regions, but certain nations have voiced a preference for Christian immigrants. The stated example in the article is Brazil which also requires a certificate of Christian baptism. There was and is today the concern that immigrants would require resources that would have benefited the poor citizens in the host countries, and would take jobs away from national citizens.

It is interesting to note, as the article points out, that concerns about terrorism today were also reflected in the 1930s when the hidden dangers of communist agents, nazi spies or sympathizers was widespread in the US and elsewhere. In fact, the UK government “actually interned 27,000 Jews as ‘enemy aliens’ alongside Nazi sympathisers. In one camp on the Isle of Man, 80% of those interned were Jewish refugees”.⁵³

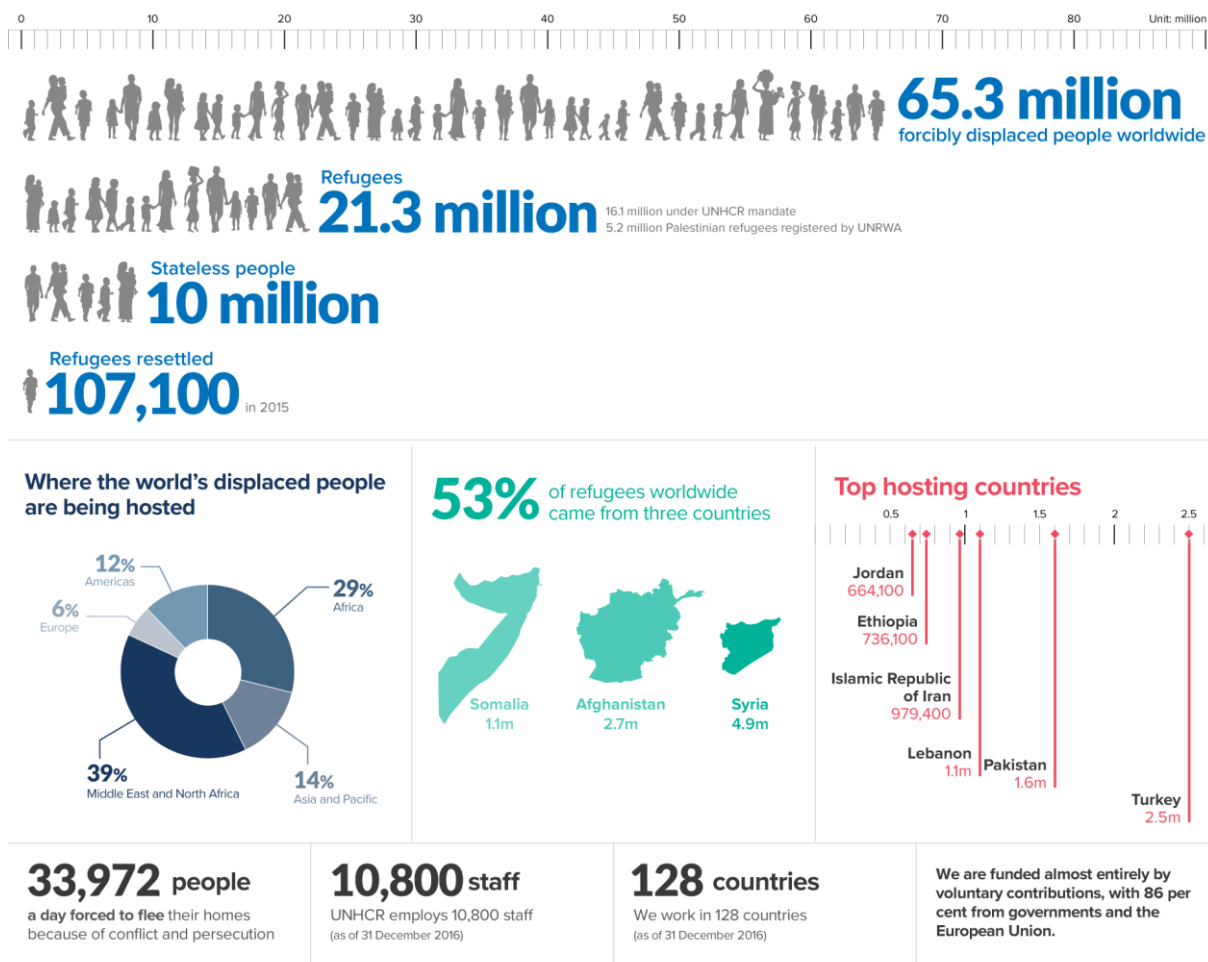
One must also, however, recognize the differences between the historical episodes of mass migrations. The Jews in Europe were targeted by Nazi strategy for removal as part of their efforts to destabilize and conquer Europe. Those “who left were a small and very specific minority, not an entire population fleeing indiscriminate warfare. Germany was not in the midst of an ongoing civil war in which the head of state was a key protagonist (in 1938, political leaders were still trying to appease and accommodate Hitler)”.

The important lesson that can be learned from the failure in Evian in 1938 is that by not addressing and managing mass migration and refugees is neither a neutral decision nor without consequences as Europe is experiencing today.

⁵³ Ibidem.

II. Six Truths about Europe's Migrant Crisis

From *The Guardian*,⁵⁴ “6 Truths about Europe’s Migrant Crisis” were elaborated to contradict most misconceptions of the refugee and migration challenge today. Today, in 2017, the UNHCR reports that an unprecedented 65.3 million people around the world have been forcibly displaced from their homes; 21.3 million are refugees – among with over half are under the age of 18; 10 million are stateless people, and only 107,000 have been resettled. 53% come from 3 countries (Somalia: 1.1 million, Afghanistan: 2.7 million, and Syria (4.9 million)⁵⁵. Of this number over 1 million have tried to enter the EU this past year.



Source: UNHCR / 20 June 2016

In order to come to terms with how to respond, the UNHCR insists that we look at the following data.

⁵⁴ See: www.theguardian.com/uk-news/2015/aug/10/10-truths-about-europes-refugee-crisis

⁵⁵ See: <http://www.unhcr.org/figures-at-a-glance.html>.

62%: Far from being propelled by economic migrants, this crisis is mostly about refugees. By the end of July 2015, 62% of those who had reached Europe by boat were from Syria, Eritrea and Afghanistan, according to figures compiled by the UN. These are countries torn apart by war, dictatorial oppression, and religious extremism – and, in Syria’s case, all three. Their citizens almost always have the legal right to refuge in Europe. And if you add those coming from Darfur, Iraq, Somalia, and some parts of Nigeria – then the total proportion of migrants likely to qualify for asylum rises to well over 70%.

1%: In reality, the migrants at Calais account for as little as 1% of those who arrived in Europe in 2015. Estimates suggest that between 2,000-5,000 migrants reached Calais, which is between 1% and 2.5% of the more than 200,000 who landed in Italy and Greece. Just as importantly, there is no evidence to suggest that as many as 7 in 10 reach Britain after arriving in Calais.

0.027%: There are those that say that migrants would speed the collapse of the European social order. In reality, the number of migrants that arrived by August 2015 (200,000) constitute just 0.027% of Europe’s total population of 740 million. The world’s wealthiest continent can easily handle such a comparatively small influx.

1.2 million: There are countries with social infrastructure at breaking point because of the refugee crisis – but they are not in Europe. The most obvious example is Lebanon, which houses 1.2 million Syrian refugees within a total population of roughly 4.5 million. To put that in context, a country that is more than 100 times smaller than the EU has already taken in more than 50 times as many refugees as the EU will even consider resettling in the future. Lebanon has a refugee crisis. Europe does not.

50%: In 2015, according to UN figures, 50% of immigrants are from two non-African countries: Syria (38%) and Afghanistan (12%). When migrants from Pakistan, Iraq and Iran are added into the equation, it becomes clear that the number of African migrants is significantly less than half. Even so, many of them – especially those from Eritrea, Darfur, and Somalia – have legitimate claims to refugee status.

4%: In the fall of 2014, the EU opted to suspend full-scale maritime rescue operations in the Mediterranean in the belief that their presence was encouraging more migrants to risk the sea journey from Libya to Europe. In reality, people keep on coming. In fact, there was a 4% year-on-year increase during the months that the rescue missions stopped. Over 27,800 tried the journey in 2015, or died in the attempt, until operations were reinstated in May, according to figures from the International Organisation for Migration. Only 26,740 tried it in 2014. The disparity suggests that migrants were either unaware of the rescue operations in the first place, or simply did not care about their suspension. *“I don’t think that even if they decided to bomb migrant boats it would change peoples’ decision to go,”* said Abu Jana, a Syrian said who was planning to make the sea voyage early in 2015.

III. *How Politics Has Failed in the Refugee Crisis*

If we are not able to find humanitarian and efficient solutions, then others will find solutions which are inhumane, nationalistic, and for sure not European.

Donald Tusk, president of the European Council,
October 15, 2015

Patrick Kingsley (2016) writes in his new book, *The New Odyssey*, that “In a way, the refugee crisis is something of a misnomer. There is a crisis, but it’s one caused largely by our response to the refugees themselves.” This is his simple point, that Europe, with its population of 500 million, has the resources and capacity to absorb very large numbers of refugees. While nearly one million tried to reach the shores of Europe in 2016, they would still only make up about 0.2% of Europe’s total population; yet in most cases European countries have responded by building walls, criminalization of refugees attempting to enter, and with other bureaucratic

The article from the German magazine *Bild*⁵⁶ states that “In fact, that in the first half of 2015, almost 45 percent of all refugees and migrants coming to Germany came from six states in the Western Balkans”. The president of Kosovo, Hashim Thaci, is quoted as saying, “Unfortunately, we only noticed all of this very late,” and it was only in October 2015 when the German Parliament finally declared that all six of the Balkan states were “safe third countries”, and, therefore, not for consideration for asylum. After this decision, the numbers of refugees from the Balkans significantly decreased.

Another extenuating circumstance arose in the early summer of 2015 when the “World Food Program was forced to temporarily cut by half the camp rations for over one million refugees” (*Bild* 2016). Hundreds of thousands of refugees were impacted and this also had consequences for more refugees who were pushed out of camps as they were threatened with hunger. Many of these refugees chose the Balkan route to EU countries like Germany and Sweden as they believed it was less dangerous and less expensive than the route from Libya to Italy on the Mediterranean.

In one anecdotal story from August 25, 2015 at the Office of Migration in Germany, a press officer tweeted, targeting journalists, that “#Dublin regulations for Syrian citizens are not currently, for the most part, being implemented by us.” She hadn’t thought of the repercussions of this tweet on potential refugees, but it had an immediate impact on the streets of Kabul. A close staff member of Angela Merkel, it was reported, later commented that, “The tweet looked like an invitation to the refugees in the camps in Turkey, Jordan,

⁵⁶ See: www.bild.de/politik/ausland/englischesprachig/how-politics-is-failing-in-the-refugee-crisis--46041376.bild.html.

and Lebanon. It spread like wildfire.” All Syrians were exempted from the Dublin Declaration, so then everyone pretended to be from Syria.

The article reports that in June 2015, Frontex warned that irregular border crossings from Turkey to Greece had increased by 550% compared to the previous year; and, at the same time, between 500,000 and 1 million refugees were ready to leave Libya. This number actually increased to 1.5 million. In total, refugee and immigrant numbers increased by as much as four times in 2015 from 2014. Through the use of social media, the word got out that Germany was accepted refugees and immigrants and, for example, suddenly three times the number of Afghans requested asylum compared to the previous 6 months.

Bild (2016) provides excellent portraits of refugees:

*At the same time, something else also happens on Wednesday, 19 August. Saleh and Rami arrive on Samos. They are both 25 years old. Both have studied in Germany. At the end of July, they were about to be forced into the ruler Assad’s army – and they escaped. Rami sold his car and had more than 3,000 euros in his pocket. Via facebook, from other refugees, he knows how much the traffickers are charging. In stages, both fly to Izmir in Turkey, then continue on foot along the coast. At 4 am, they enter an overloaded trafficker’s boat, merely nine metres long, along with 40 other refugees. **They were scared but very lucky.** After an odyssey over the sea, they are apprehended and transported to Athens by Greek soldiers. Several thousand Syrians are stuck there. On facebook, the two read every day about how work on the Hungarian border fence is progressing. Rami says: “We have to hurry up.”*

At the end of August, 2015, a fence is built, and Rami and Saleh, the two refugees from Damascus, stand right in front of it. All they can see is barbed wire and a soldier or police officer every hundred metres. There is no way to get through. The route from Athens to Macedonia was already difficult. For four days, the border is closed. For four days, they sleep under the open sky. Thousands more are also on their way on the Balkans route. It is cold and it rains. Rami and Saleh make it to Serbia, where they are again stopped by soldiers. “We want to go to Germany,” they say, and they are allowed to continue. No country along the Balkan route wants to register the refugees or even have them apply for asylum. And in the north, from Austria to Sweden, the borders are still open. The two Syrians take a taxi to the Serbian capital, Belgrade, then a bus to go further north, to the border with Hungary. To the fence. And through the fence. **Exhausted, Rami and Saleh let themselves be apprehended by Hungarian soldiers, one of whom shouts at them saying: “You are illegal, you are destroying our beautiful country,” one of the soldiers shouts at them. It is August 24, 2015.**

Mohammed, a young man from Aleppo, also reads about the tweet in a facebook group for Syrian refugees. “Nothing kept us back at this point,” Mohammed says. “The news reached us all immediately, and now I knew that there would be no obstacle on the way to Germany.” His mobile phone shows him the way. Everyone on the Balkans route has a mobile phone. **This is what it is to be a refugee in the 21st century.**

Rami and Saleh make it to Budapest on August 26, 2015. They are stuck in refugee camps for several days, somewhere in Hungary, under strict surveillance. There is little food or shelter. Suddenly the gates are opened, and the police watch as thousands leave the camp. Everyone is on their way to Keleti Pályaudvar, Budapest’s Eastern train station. **What Rami and Saleh find there is shocking: crying children, women in tears, stench everywhere. The two Syrians want to continue, but how? There are rumours about a gruesome discovery on the motorway in Austria, which is later confirmed: more than 70 refugees have suffocated in a truck.** The conditions in front of the train station become worse and worse. A few showers and toilets are erected – not enough for the increasing number of people. After four days and nights, trains to Germany are supposed to start. Everyone can jump on, even without papers. Rami and Saleh manage to squeeze into the second train, they are young and strong. Rami posts a photo on facebook: his sunglasses in front of him, thumbs up. **This is also what it is to be a refugee in the 21st century. At one o'clock in the morning, the two arrive in Munich. People cheer them on the platform and in the station concourse, holding up signs that say: “Refugees welcome”.**

It is August 31st.

As the number of refugees rose, both hatred and the willingness to help out spread quickly among societies and countries who were on the frontlines of the crisis. Increasingly the far right began to dominate political discourse both in Western and Eastern Europe.

The horrific human toll on people coming to Europe reached a climax when we saw the image of three year old Aylan Kurdi on the Turkish coast. He was escaping with his parents and brother and only his father survived. The media took a more compassionate stand for a while to the plight of refugees and migrants.

The *Bild* (2016) article methodically delineates the time frame of official German and other European country responses to the ensuing crisis. All parties seem to have been shocked and unprepared for the numbers of people and their determination to try to reach safehavens in Europe.

The initial German “generosity” at the beginning of the crisis is worth looking at, as well as subsequent CDU reactions:

The thinking was that because of its history, Germany had to keep its borders open longer than anyone else in Europe, and the country had to accept the refugees. Many think it is Germany's late thank you to the other EU states for the fortune of Reunification. This is how Angela Merkel will argue months later. The corresponding calculation was: it is impossible to hold back thousands of exhausted men, women, and children at the German borders – at least not without “images we will not be able to bear,” says Merkel. But the Bavarians do not accept this. And there was opposition in Merkel's own party. “A state that cannot defend its borders stops to exist,” one CDU minister says ... (*Bild* 2016).

Merkel met with her closest staff and they develop a plan to stop the flow of refugees in Turkey – and not in the EU. As in the Euro crisis, Merkel is concerned that Germany – and she personally – might look like the EU's “grave digger”. She therefore keeps the borders open. Merkel's decision of September 13th is the political climax of the refugee crisis. October is the record month in refugee numbers: more than 202,000. In November and December, approximately 278,000 more arrived. Seehofer thinks that Merkel puts Europe before Germany, and Germany before Bavaria. Merkel thinks that Seehofer puts Bavaria before everything. Merkel says to him: “You will see, in ten years' time, what I do now will be considered historical.” Seehofer says to her: “Stop this refugee tourism. Go and finally solve the problem!” Angela Merkel enforced her policy, but subsequently she had the aliens and asylum laws toughened. At the same time, and under great concessions, she negotiated an agreement with Turkey in order to reduce the number of refugees (*Bild* 2016).

IV. *Transforming the Migration Paradigm*

Alexander Betts, in an excellent TED lecture, points out how the international refugee system is failing and how the system can be fixed.⁵⁷ He prefaces his arguments about the “ineffective, inhumane” response that is full of contradictions with the following observations:

- We mourned the tragic death of four-year-old Aylan Kurdi, but since then more than 200 children have drowned in the Mediterranean.⁵⁸
- We have international treaties that recognize that refugees are a shared responsibility, yet accept that tiny Lebanon hosts more Syrians than the whole of Europe combined.
- We decry the existence of human smugglers, but make that the only viable route to seek asylum in Europe.

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https://www.ted.com/talks/alexander_betts_our_refugee_system_is_failing_here_s_how_we_can_fix_it

⁵⁸ Actually over 600 children were drowned in 2016, according to Save the Children (see: <https://www.savethechildren.net/article/600-children-have-died-mediterranean-year>).

- We have labor shortages in Europe, but exclude people who fit our economic and demographic needs from coming to Europe.
- We proclaim our liberal values in opposition to fundamentalist Islam, but have repressive policies that detain child asylum seekers, that separate children from their families, and that seize property from refugees.

The main reason, he thinks, for our failure is not because we don't care, but rather because "our politicians lack a vision, a vision for how to adapt an international refugee system created over 50 years ago for a changing and globalized world". He explains that the current refugee regime, created after WW II, was aimed to ensure that when states fail (Somalia, Iraq), or turn against their people (Syria), that those who are vulnerable have somewhere safe to go where they can live with dignity. The Convention on the Status of Refugees, signed by 147 nations in 1951, states that all signatories are committed to admit people onto their territories who are fleeing from conflict and persecution. Today, that system is failing. He concludes:

- In theory, refugees have a right to a path towards integration, or return to the country they've come from. But in practice, they get stuck in almost indefinite limbo.
- In theory, refugees are a shared global responsibility. In practice, geography means that countries close to the conflict take the overwhelming majority of the world's refugees.
- The system isn't broken because the rules are wrong; it is broken because we are not applying them adequately to a changing world, and that's what we need to reconsider.

If you are a Syrian refugee, for example, with no hope of resettlement in a third country (because only 1% of the world's refugees have this option), he provides three options for you and your family:

- 1) You can take your family to a camp where you might get assistance, but there are very few prospects for you or your family there. Education is often of poor quality. There is only restricted economic activity. Around the world, 80% of refugees who are in camps have to stay there for at least five years. It is a miserable experience with little hope, and that is probably why only 9% of Syrians choose this option.
- 2) You can move to an urban area in a neighboring country, like Amman or Beirut. This option also creates difficulties: usually, refugees in urban areas do not have the right to work, and do not get significant access to assistance. So when you as a refugee have used up your life savings, you are left with nothing and become

poor, abandoned and destitute. That is the option that about 75% of Syrian refugees have taken.

- 3) There is a third alternative, and one that increasing numbers of Syrians and others are taking. You and your family can see some hope in risking your lives on a dangerous and perilous journey to another country. That is what we are seeing today in Europe.

These are impossible choices, Betts admits, but these are the only options available under the current global refugee regime. We must do better and stop assuming that refugees are an inevitable cost and burden on societies, instead of seeing them as potential contributors. Betts delineates at least five ways we can transform the global refugee paradigm, taking advantage of “globalization, mobility and markets” and “They all start from the basic recognition that refugees are human beings like everyone else, but they're just in extraordinary circumstances.”

- 1) The first one is addressed by Jacob Funk Kierkegaard – a European Migration and Mobility Union. The current situation, he says, offers Europe an opportunity. The refugees and the challenges they present could speed a necessary process of integration and common migration institutionalization in Europe that would be politically impossible in normal times. Permanent new European migration institutions should support progress toward two long-term goals: safeguarding Schengen Area mobility and adequate regional inward migration that channels labor input to where it is needed with the issuance of a temporary blue work permit. Kierkegaard goes into much detail about implementation and financing this option.
- 2) A second option is outlined by Alexander Betts and his colleagues from Oxford University. It is about creating enabling environments, based on a study conducted in Uganda that looked at the economic lives of refugees. Uganda is exceptional, because it provides refugees with economic opportunities. It gives them the right to work. It gives them freedom of movement. The Oxford University group found extraordinary results for both refugees and the host community. In Kampala, they found that 21% of refugees own a businesses that employ other people, and 40% of those employees are nationals of the host country. In other words, refugees create jobs for citizens of the host country. Even in the camps, they found extraordinary examples of dynamic and flourishing businesses, like digital music exchange businesses, or businesses that make computer games available for young people on recycled game consoles and recycled televisions. There are community radio stations, and refugee filmmakers in the camps. Basic necessities are important like food and clothing during the emergency phase, but there needs to be a vision that looks beyond the immediate

needs. Opportunities for connectivity, electricity, education, the right to work, access to capital and banking need to be provided, that is, all the ways we are all plugged in to the global economy can and should apply to refugees.

- 3) A third idea is the establishment of special economic zones since most host countries do not open up their economies to refugees like Uganda has done. The Oxford working group traveled to Jordan with the idea of setting up an economic zone that could potentially integrate the employment of refugees alongside the employment of Jordanian host nationals. Just 15 minutes from the Zaatari refugee camp, home to 83,000 refugees, is an existing economic zone called the King Hussein Bin Talal Development Area. The government has spent over a hundred million dollars connecting it to the electricity grid, connecting it to the road network, but it lacked two things: access to labor and inward investment. So what if refugees were able to work there rather than being stuck in camps, able to support their families and develop skills through vocational training before they go back to Syria? This could also benefit Jordan, whose national development strategy includes transformation to manufacturing. It could benefit refugees, but it could also contribute to the post-conflict reconstruction of Syria by recognizing that we need to incubate refugees as the best source of eventually rebuilding Syria. This idea has been picked up by King Abdullah and a pilot project is developing.
- 4) A fourth idea is preference matching between states and refugees. Refugees are rarely asked what they themselves want, in terms of preferred destinations. Then states could rank the types of refugees they want in terms of skills or based on language criteria and this allows for a mutually beneficial match. This idea has been successfully implemented, for example, matching students with universities, matching kidney donors with patients, and it underlies the kind of algorithms that exist on dating websites. Why can't this be applied to give refugees greater choices? It could also be used at the national level, where one of the great challenges is to persuade local communities to accept refugees. Matching markets offers a potential way to bring preferences together by listening to the needs and demands of the populations that host and the refugees themselves.
- 5) The fifth idea is the introduction of humanitarian visas. Much of the tragedy and chaos in Europe was entirely avoidable. It stems from a fundamental contradiction in Europe's asylum policy, which is the following: in order to seek asylum in Europe, you have to arrive spontaneously by embarking on dangerous journeys. But why should those journeys be necessary in an era of the budget airline and modern consular capabilities? They're completely unnecessary

journeys, and last year, they led to the deaths of over 3,000 people on Europe's borders and within European territory. If refugees were simply allowed to travel directly and seek asylum in Europe, we would avoid that, and there's a way of doing that through something called a humanitarian visa, that allows people to collect a visa at an embassy or a consulate in a neighboring country and then simply pay their own way by boat or flight to Europe. It costs around 1000 Euro with a smuggler from Turkey to the Greek islands. It costs 200 Euros to take a budget airline from Bodrum to Frankfurt. If refugees were allowed to do that, the advantages would be:

- It would save lives,
- it would undercut the entire market for smugglers, and
- it would remove the chaos we see from Europe's front line in areas like the Greek islands.

This idea was applied in Brazil where over 2,000 Syrians were able to get humanitarian visas, enter Brazil, and claim refugee status on arrival in Brazil. Every Syrian who has gone through this process has received refugee status and been recognized as a genuine refugee. There is a historical precedent for it as well. Between 1922 and 1942, Nansen Passports were used as travel documents to allow 450,000 Assyrians, Turks and Chechens to travel across Europe and claim refugee status elsewhere in Europe. And the Nansen International Refugee Office received the Nobel Peace Prize in recognition of this being a viable strategy.

All of these options, he concludes would expand refugees' choices and benefit both refugees and host communities.

What we really need is a new vision that enlarges refugees' choices and that recognizes they don't have to be a burden. There's nothing inevitable about refugees being a cost. Yes, they are a humanitarian responsibility, but they're human beings with skills, talents, aspirations, with the ability to make contributions -- if we let them.

Alexander Betts

We are in the midst of an historic global migration of peoples, from war torn areas and failed states, and from countries who present no viable future to present and future generations. These causes are partly due to the ravages of past and present colonialization, and the persistence of war and conflicts that many Western nations are engaged in, especially in certain regions of the world. Migration will be with us for decades and we need to build resilient societies to manage and actually benefit from the positive contributions that refugees and migrants can make.

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