

Neither Fortress Nor Open Gate: Proposals for a Humane But Realistic Migration Policy

15

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Abstract

There is broad political consensus that neither closing European borders nor allowing unrestricted freedom of movement can be viewed as a feasible response to the increasing migration pressure around the world. But when it comes to the question of how to regulate migration in a way that adequately considers the legitimate interests of migrants, of the societies in the countries of destination and of the regions of origin, most political parties and academics remain silent if they are asked to be specific about the controversial question of ways and means to invite or restrict migration. Acknowledging that fighting the root causes of forced migration is a necessary but not sufficient contribution, this article aims to contribute to a consolidated development and migration policy composed of the three main pillars of firstly reducing migration pressures in the regions of origin, secondly providing safe legal routes for migrants to Europe and thirdly defining the parameters, i.e., the limitations necessary to keep migration movements within the absorption capacities of the societies and labour markets in the countries of destination. The policy recommendations refer to all motives for migration.

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15.1 The Problem: Forced Migration and no Safe Legal Ways into Europe¹

Thousands of people drowning in the Mediterranean Sea and persistently scandalous conditions in refugee camps on Lesbos, in Libya and elsewhere are clear indications that the European Union (EU) is a long way from managing the issues of refugee movements and immigration. Germans may be proud of their (partial) integration achievements after 2015, but the pathway to Europe continues to be a catalogue of disasters and human tragedy. Our efforts to realise a humane refugee policy and an immigration policy based on a consensus within European societies that meets the standards of open society have hardly advanced since the 2015 crisis, neither in Germany nor at the EU level.

Some people tend to argue that “the situation is not that dramatic, bearing in mind the declining numbers of arriving immigrants, which are easily manageable with a bit of goodwill” (cf. Kappel 2018). This perception tends to ignore, however, that the number of those who fail to reach the safe harbour of the European fortress is much higher: people who did not manage to get across the walls established by politicians like Orban or Salvini, or those who were scared away by the inhumane conditions in overcrowded camps. It is not that the migration pressure has weakened. Rather, it is that the risks and the costs of the journey to Europe have become prohibitively high (Rauch 2018). Therefore, we cannot continue to hide behind the walls of an inhumane deterrence policy. Nor is it enough to blame that policy without offering feasible alternative options because this would mean hiding one’s head in the sand. The failure to offer convincing humane and realistic migration policy perspectives tends to lose credibility among a European public oscillating between openness and scepticism.

Consequently, the big challenge for European and international policy is to arrive at a conclusive concept for (im)migration and development policies that are guided as much by the principles of humanism and openness as by realism. A concept that considers equally the legitimate interests of migrants, those of their countries of origin and those of the societies in their countries of destination (cf. introduction of Preuß et al. in this volume).

At present, international development policies as well as migration policies are far from meeting that challenge. Development policies have not succeeded in significantly reducing the political, economic and environmental pressures to migrate, while EU migration policies have failed to provide safe, legal and affordable ways into Europe for migrants from non-member countries, with the exception of qualified professionals. Instead, most migrants, whether politically persecuted individuals, war refugees or less qualified jobseekers, are forced to opt

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for illegal, dangerous, costly routes to Europe and either submit to a complicated, painful and expensive asylum procedure which was never designed for most of them or have to remain in illegality. Within that context, humanitarian efforts in support of refugees/migrants are little more than an attempt to achieve a slightly more generous application of the same inappropriate procedure.

Thus, the problem is a threefold one: ongoing migration pressures accompanied by a lack of safe migration routes and the absence of a credible immigration regime in the EU.

This paper aims to stimulate discussions about a combined development and migration policy concept which is able to address this threefold problem.

15.2 Migration Policy Principles: Balance of Interests

A world in which nobody is forced to migrate and where all those who chose to migrate can do so without any restrictions remains a long-term vision. Within the near future, the number of people without a chance of decent survival in their home regions exceeds by far the number of decent opportunities in the regions of destination on a global scale. Consequently, migration needs to be regulated in a short- to mid-term perspective, considering the legitimate interests of migrants, of the people in their areas of origin and of those in the areas of destination. Such regulation should consider the following principles and basic assumptions:

- Migration should be a choice, not a necessity.
- Migration tends to have positive as well as negative impacts on migrants, regions of origin and regions of destination (Collier 2013).
- The freedom to migrate needs to be balanced, therefore, with the legitimate interest of communities/societies in destination regions, with a view to keeping immigration within the limits of absorption capacities. Thus, migration needs to be regulated (Hassel 2018).
- In order to avoid eradicating the achievements of the social state, that regulation should not be left to the (labour) markets alone. Instead, democratically legitimated public regulation is required.
- Borders are ambivalent: they are exclusive for some and protective for others.
- In accordance with international human rights, the appropriate balance between openness and protection in the case of immigration countries should follow the principles of a) unlimited and indiscriminate access for politically persecuted people (in line with UN refugee agreements) and b) access for labour migrants in line with the requirements and absorption capacities of labour markets. This implies differentiating between migrants primarily looking for protection and those primarily looking for a better living.

Consequently, migration policies imply searching for a balance between partly conflicting and partly complementary interests. It is due to those partly diverging interests that they tend to generate beneficiaries and losers within the societies of origin and of destination. Therefore, the strategy proposed in this paper tries to reflect the necessity of balancing conflicting interests.

15.3 Double Strategy: Addressing the Root Causes of Migration While Providing Safe and Regulated Routes

Fighting the root causes of enforced migration is a must. Nobody should be forced to leave his or her home region for survival (Müller 2017). But it is a task that cannot be achieved within a short-term perspective in the prevailing global economic and political environment. Therefore, providing safe migration routes for those in need to leave their home regions as well as for those looking for more promising opportunities elsewhere is a must as well. Firstly, in order to comply with international human rights' obligations and secondly, in order to make use of the opportunities of migration. But that is also not a route towards a sufficient solution to the migration challenge. The number of those looking for better opportunities exceeds the global number of decent opportunities by far.

Consequently, any strategy aimed at improvement needs to combine the two approaches by

1. Fighting the root causes of enforced migration in the regions of origin. This includes political, economic and environmental causes.
2. Providing legal, safe, but regulated routes to decent opportunities in the countries of destination (here: EU states) for great numbers of people seeking protection or jobs.

This double strategy is based on the three hypotheses that

- fighting the root causes, e.g., assisting in creating decent living conditions in the areas of origin, deserves priority, but is not sufficient to solve the problem of forced migration – at least not in the short-run²;
- creating legal ways is thus a necessity in order to prevent people from taking the irregular and dangerous routes;

²Some authors even assume that success in reduction of poverty might increase the number of international migrants ('migration hub thesis') as it is not the very poor, but the middle-class who can afford to migrate overseas (cf. Braunsdorf 2019; Martin-Shields et al. 2017). This argument tends to neglect, however, the interlink between internal poverty migration and the transmission of the migration pressure to urban better-off people towards international migration ('migration cascade' thesis, cf. Rauch 2017).

- however, legal, less dangerous, less expensive and therefore more attractive pathways will only align with the absorption capacities of countries of destination and with the labour requirements of the countries of origin if the movements on these routes can be limited.

There is widespread political consensus about the necessity of fighting the causes of migration (at least as far as forced migration is concerned). And there is a certain consensus among a liberal mainstream in western EU countries to establish broader corridors for legal immigration on the one hand but to regulate and restrict the movement on these corridors on the other.³ That consensus ends, however, if we try to specify the details of these approaches.

As far as ‘fighting the root causes of migration’ is concerned, the German Federal Ministry for Economic Cooperation and Development (BMZ) as the German lead agency for that task has at its disposal plausible concepts and substantial resources for supporting war refugees within the first country they enter. If it comes to the root causes of labour migration, however, the consensus ends in stating that creating jobs might be a good idea (BMZ 2017). But even professional specialists for economic promotion in Africa fail to agree on the chances of success of such efforts and on appropriate tools.

As far as legal routes with ‘crash barriers’ are concerned, all left-wing political parties in Germany tend to support that idea in principle. But none of them dare to define the nature of the limitations. This is a taboo. This is not surprising as it would require an ethical debate about borders and about exclusion associated with borders (cf. Nida-Rümelin 2017). Opting for limitation of movement means opting for exclusion. Without breaking this liberal taboo of designing limitations, however, there is no chance to engage in an honest debate about a humane and realistic migration policy. But without such a humane and realistic, credible migration policy, we will not succeed in preventing a split within immigration societies between cosmopolitan and communitarian milieus (cf. Bröning and Mohr 2017; Merkel 2017; Stauffer 2019).

When it comes to drawing up borderlines and conditions, however, the devil is in the details. It means moving through a minefield of explosive contradictions. Which restrictions are legitimate from a human rights and non-discrimination perspective? Which of them are realistic, bearing in mind that, for many, borders are there to be overcome? Without engaging in debates on these touchy topics, there is no chance of proceeding towards a solution. Failing to do so, however, means not only a continuing disaster for migrants but also a continuing disaster for European societies and for Europe as a whole.

³This consensus is opposed by strategies focussing on closure and deterrence favoured by right-wing political parties on the one side and by movements in favour of a ‘human right of migration’ (or freedom of movement), e.g. abolishment of territorial states and all kinds of borders, on the other side of the political spectrum.

15.4 Strategy Components

The proposed double strategy (cf. Fig. 15.1) consists of five components: Components 1 and 2 relate to the root causes of migration, subdivided into causes of flight and causes of labour migration, including all migration movements aimed primarily at securing an improved livelihood. Components 3 to 5 relate to the legal routes of access for three different categories of migrants and their restrictions. None of these components has a chance of resolving the problem of the absence of a conducive migration policy on its own. Only by combining them can we hope to get closer to a solution. Not all the proposals are new or innovative. They are rather a combination of ongoing practices, of known but so far not yet implemented strategies, and of new proposals. The components differentiate between dominating motives of migration, in the awareness that many people decide to migrate due to a combination of different motives. Nevertheless, different motives constitute different rights according to international law and they require different solutions.

15.4.1 Fighting the Causes of Flight for Politically Persecuted People and War Refugees

This component is expected to reduce the number of people forced to migrate either due to political persecution or as a result of being affected or threatened by armed conflicts. The root causes of those population movements are related to wide and complex fields such as human rights policies, rule of law and democratisation in the case of persecution or forced evictions for political, religious, gender or tribal issues, and to likewise complex topics like conflict management and peace policy in the case of (civil) wars. In the context of this paper, I can only shortly refer to the relevant issues on a general level.

1. *Global enforcement of human rights and the rule of law* is a prerequisite for reducing the number of political refugees (cf. contribution of Grävingsholt in this volume). Taking the historic nature of democratic transformations of societies into account, this tends to be a long-term task, rather than the subject of some international declarations only.
2. *Peaceful conflict resolution and observance of international war law* are political requirements of global governance and diplomacy for minimising the number of war refugees and forced evictions. This includes quite different issues such as bans on aggressive wars, on the export of arms to conflict regions, prevention of wars through United Nations (UN) Security Council and international mediation, protection of civilians and education for peace. In all these fields there has been some limited progress, but there is much scope for improvement.

Due to limited success in fighting the root causes of politically and conflict-enforced migration, many efforts are directed towards preventing secondary migration from the first country of asylum to EU countries and towards encouraging and facilitating the reintegration of refugees within their regions of origin.

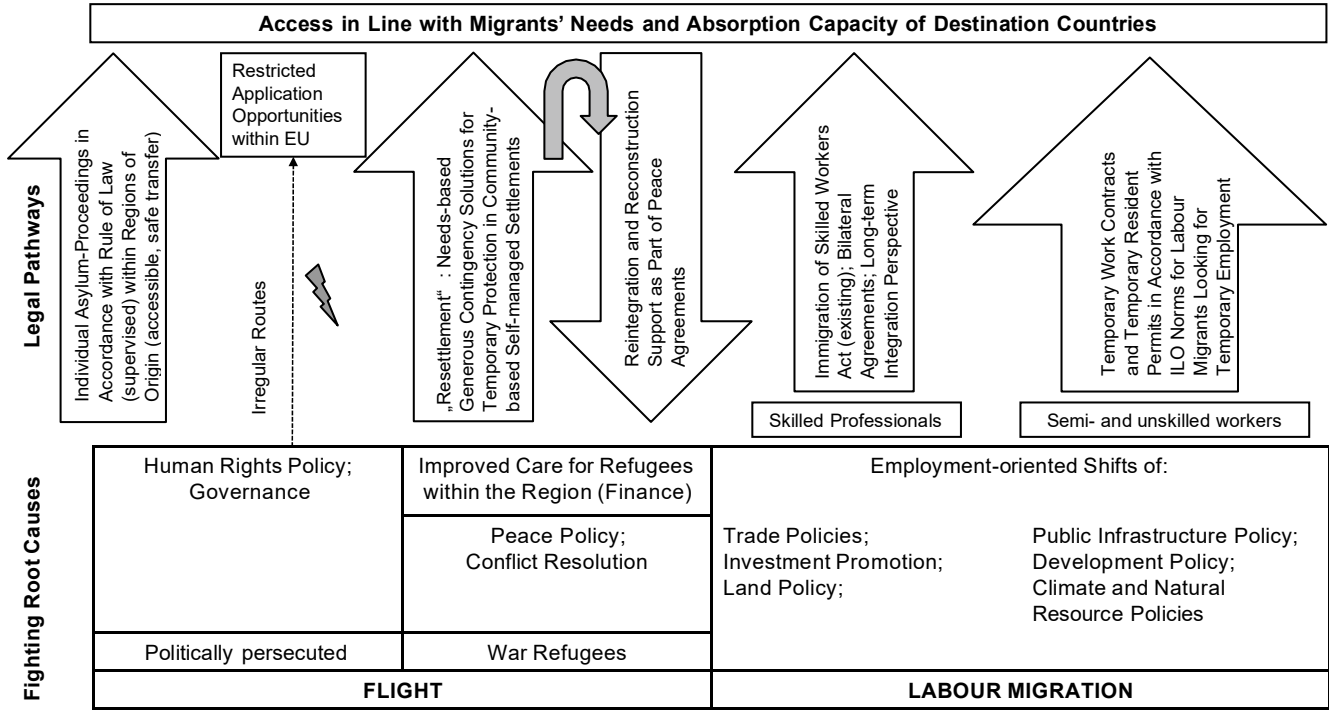


Fig. 15.1 The strategy: fighting root causes and providing legal pathways (with Restrictions)

3. *Supporting refugees and local population within the first countries of destination.* This is usually done by financing accommodation and infrastructure in refugee camps. Much more can and needs to be done in terms of promoting economic activities (cf. contribution of de la Chaux in this volume), training and education as well as social life in order to make these camps a place worth staying in and provide prospects for a better future. Refugee support can only be successful if it is accompanied by programmes to improve the overall economic and social situation in the wider region.
4. *Improving opportunities for the reintegration of returning refugees* through financial support for reconstruction and economic promotion for returning migrants, and also for those who have stayed at home.

While the fields of action nos. 3 and 4 are the subjects of ongoing development cooperation programmes (requiring much more international funding to cope with the magnitude of the challenge), nos. 1 and 2 have to be considered as permanent ongoing political tasks and struggles. Partly, there is harsh resistance to them from powerful interest groups (e.g., the arms industry). Partly, they are subject to contradictions and dilemmas: A prominent example would be human rights-oriented regime change interventions (Iraq, Libya, etc.), which were meant to reduce the number of political refugees, but instead resulted in protracted civil wars causing huge numbers of war refugees.

Conclusion: The great challenge for global governance and for an international peace and human rights movement which aims to minimise the number of people threatened by physical violence is to find good compromises in the tense area between human rights-oriented and peace-securing international politics. Limiting efforts to better care and reintegration of refugees is a necessary contribution, but it is little more than emergency aid after a humanitarian disaster.

15.4.2 Fighting the Root Causes of Enforced Labour Migration

The term 'labour migration' is used here for any migration that is predominantly motivated by the desire for (better) income opportunities. This includes people whose livelihood is threatened or diminishing because of market forces, loss of access to land or deteriorating natural resources, including effects of climate change. The focus of a strategy of fighting root causes needs to be directed towards migrations caused by necessity, i.e., movements enforced by existential distress and a lack of survival prospects in the home region, rather than towards voluntary movements in search of greener pastures – being aware that it is not always easy to draw the line between dominance of push- versus pull-effects.

Like any economic promotion and environmental policy, improving the opportunities for a decent living in the regions of origin within low-income countries is a long-term task under the joint responsibility of national governments and international cooperation partners. At the centre of that task is the creation or

improvement of income opportunities (including subsistence) by creating jobs and by improving the conditions for self-employment. Social security can play a complementary role, particularly for population groups who are not able to work.

Improving income and employment opportunities in low- and lower-middle-income countries characterised by high degrees of under-employment⁴ depends on a fundamental reorientation of trade, investment, development, environmental and population policies towards the objective of their impact on employment.⁵ This requires coherent *national or regional employment initiatives, supported by international ‘compacts for employment’* with international economic partner regions (in the case of Africa with the EU and China). Such compacts need to include the following:

1. *Trade agreements* that allow for the well-targeted protection of those labour-intensive industries in low-income countries which have a good chance of becoming internationally competitive against cheap imported commodities, instead of destroying such local industries in the interests of protecting export-oriented industries in high- and middle-income countries. These trade agreements should not only protect already existing industries but also guarantee protection for new trades envisaged in the ‘compacts for employment’ (cf. Rauch 2021). This requires a revision of the Economic Partnership Agreements (EPAs) between the EU and the ACP states⁶ to take a present-day example of immediate political relevance.
2. *An investment promotion policy* in the countries of origin that is guided by the national employment initiative of that country. The policy needs to be oriented towards the principle of creating a positive *net*-employment effect, i.e., it has to create more income opportunities than it is destroying by rationalisation or replacement of existing local businesses. Publicly subsidised private investments (as part of ‘public–private-partnerships’) should go towards generating new innovative business opportunities rather than replacing existing economic activities (cf. Rauch 2018). This refers equally to land investments whereby labour-intensive smallholder farming is frequently replaced by capital-intensive large-scale agriculture. This policy recommendation addresses existing German development initiatives such as the ‘*Compact with Africa*’ and the ‘*Marshall Plan with Africa*’ which claim to promote jobs for Africa while relying implicitly on the wrong assumption that foreign direct investment results per se in a positive employment effect.
3. *A climate and environmental policy* which seeks to reduce greenhouse gas emissions and other kinds of the destruction of the natural environment and

⁴Under-employment is not reflected by the official unemployment figures, which only refer to formal employees registered as unemployed. The dimensions of the problem of under-employment are better reflected by the fact that, in sub-Saharan Africa, only 2 million formal jobs are available for the 15 million people reaching working age each year.

⁵The term ‘employment’ is used here for any income opportunity. Thus, ‘impact on employment’ includes any impact on income- or subsistence-generating activity.

⁶African, Caribbean and Pacific countries associated with EU by trade and development partnerships.

instead promotes the sustainable utilisation of natural resources while – at the same time – enabling affected users of such resources to adapt to ongoing environmental change. Such an environmental policy helps to maintain existing natural resource-based income opportunities and to reduce the frequency of natural disasters and related displacements. This proposal addresses the ongoing struggle in favour of more consequent implementation of agreed climate policies (e.g., ‘Fridays for Future’).

4. *A development policy* in support of national employment initiatives. This implies supporting the identification of competitive and sustainable productive employment opportunities and enabling local institutions and people to make better use of such opportunities. Promoting professional skills development without corresponding employment opportunities, however, would just serve as a springboard for migration. This proposal addresses the ongoing debates on the nature of rural transformation and industrial promotion policies.
5. *A population policy* which assists families – with particular emphasis on women – in making use of appropriate family planning practices can contribute to a reduction in population and migration pressures. Such interventions realistically need to consider that the adjustment of fertility rates to declining mortality rates usually tends to take one generation, taking the rationale of family-based social security in rural societies into account.
6. *Programmes for labour-intensive construction and rehabilitation of public infrastructure based on seasonal employment* should be part of internationally supported national employment initiatives. Such programmes can create broad-based seasonal employment opportunities, particularly for the members of smallholder families, wherever the creation of competitive private-sector jobs cannot catch up with the urgency of the demand for jobs. International financial cooperation needs to provide long-term funding facilities for such programmes.

While it is obvious that these recommendations relate to long-term political battlefields and that – even in case of their political approval – it will take some more time until a significant impact on employment can be seen, we are not talking about distant visions, but about present-day debates and decision-making processes.

Conclusion: Development policy can contribute to mitigating the root causes of labour migration, if it consistently targets at the employment-oriented reorientation of focus and if it is complemented by equal employment-oriented changes in trade, investment promotion, environmental and public infrastructure policies. This, however, requires not only a shift in economic (agricultural, industrial) policies within the countries of origin but also a fundamental transformation of European (and German) trade and climate policies.⁷ Such transformations are part of ongoing

⁷The present EU trade policy still has some way to go to create a conducive environment for protecting labour-intensive manufacturing in Africa. The net-employment effects of the Private–Public Partnership programmes of Germany’s BMZ are not examined. The prevailing concepts of rural transformation for poorer countries tend to promote labour-saving rural mechanisation and take a ‘grow or vanish’ approach towards smallholders without being able to offer alternative sources of livelihood (cf. Rauch et al. 2016).

debates and struggles and should not be regarded as hopeless (Herbert/Schönhagen 2020). To succeed and to show impact, they will, however, take longer than migrants can afford to wait. Consequently, fighting the root causes is necessary, but not sufficient. It needs to be supplemented by a pro-active immigration policy on the part of the countries of destination.

15.4.3 Safe Routes to the EU with a Long-Term Perspective for Politically Persecuted People

This component refers to politically persecuted people and expellees according to the Geneva Refugee Convention, Chap. 1. This category of refugees is entitled by international law to have unlimited access to safe countries. At present, the possibility to claim this right is restricted to those who manage to reach the border of a safe country.⁸ These rules tend to exclude the majority of persecuted people, who cannot afford the journey to safe harbours. Whereas many people who seek access to wealthy countries for other reasons but have no alternative way of entering them are practically forced to use the gate of 'asylum'.

This inappropriate procedure, which forces the intended beneficiaries of the refugee convention as well as those who clearly do not comply with the criteria to opt for a dangerous and expensive route to their destination, needs to be replaced by a better targeted, less risky and less costly process. Access to the asylum procedure should be made easier for those protected by the asylum legislation, while application opportunities within EU countries for other migrants should be restricted in favour of alternative legal corridors (cf. components 4.4 and 4.5): safer routes for more of those in need of protection against more restrictions regarding access to asylum procedures accompanied with more appropriate routes for all others.

This overarching guideline needs to differentiate between persecuted or expelled individuals and larger groups (like Yazidi and Rohingya):

1. Persecuted individuals should have the opportunity to apply for *asylum at EU application centres within their region of origin* (including neighbouring countries) or in selected transit countries. There, they should be entitled to an asylum procedure in conformity with the rule of law, controlled by the United High Commissioner for Refugees (UNHCR) and civil society organisations, supported by UNHCR-certified lawyers with financial assistance during the process and – needs-related – travel allowances for those accepted. The distribution of successful applicants to EU countries should be settled according to an agreed key.⁹

⁸These rules are related to the post-war situation, where the right of asylum was meant for refugees from communist countries seeking asylum in the West.

⁹It is assumed that an agreement on such a key will be easier if it relates to approved refugees rather than to unknown numbers of uncontrolled immigrants.

2. *EU states remain application points* only for asylum seekers from neighbouring countries (e.g., Morocco, Turkey, Belarus), for those arriving at airports and for those already in EU countries who are at risk of persecution after they return home. Any other migrants still arriving at EU borders on irregular routes should go through an efficient, legal-based asylum procedure within Southern Europe border countries with accepted applicants being sent to willing EU countries and rejected candidates being retransferred to countries of origin on basis of migration agreements with those countries (cf. Knaus 2020).
3. *Persecuted or expelled larger groups of people* (e.g., ethnic or religious minorities) should be dealt with by special arrangements based on international negotiation guided by UNHCR. For them, contingency solutions without an individual asylum procedure seem to be an appropriate answer.
4. As it can be assumed that political refugees need unlimited protection, accepted individuals should receive an *unlimited residence status* with all the rights provided by the Geneva Refugee Convention. Their economic and societal integration should be actively promoted.

The proposals made under this component constitute improved access to asylum for a higher number of people in need of protection. The restrictions for those who are obviously not entitled are justified and feasible only as part of the package of all components, which provides better opportunities in the regions of origin (component 2) plus easier alternative ways to reach the regions of destination (components 4 and 5). They are necessary, as a continued possibility of unrestricted access to the EU for all migrants on the basis of the asylum process would result in the continuation of the present problems relating to irregular immigration or all the problems to be expected from a policy of open borders.

Conclusion: An easily accessible and constitutional asylum procedure within the proximity of their countries of origin is supposed to form a feasible alternative to the dangerous and expensive irregular pathway to Europe for those entitled. For those migrants guided by other motives, other safe and affordable gates to Europe need to be provided so as to prevent them from taking the irregular routes. These gates are the subject of the next chapters.

15.4.4 Temporary Protection Within a Humane and Promoting Environment for Contingents of War Refugees

War refugees do not seek protection as individuals but as groups of people affected by general violence and destruction. Caring for war refugees is not about dealing with individual applications, but about organising effective solutions for thousands (sometimes hundreds of thousands) of people fleeing from violence in a certain place or region. According to the Geneva Refugee Convention, war refugees are supposed to receive 'subsidiary protection', which does not imply the same unlimited residence status as enjoyed by politically persecuted people. They are to

be catered for within the proximity of their home region, ideally in neighbouring countries, but under the responsibility of the international community. Shelter and necessary facilities are usually provided in refugee camps. If the absorption capacities of neighbouring countries are overstretched, resettlement in other countries needs to be negotiated.

For war refugees, in contrast to politically persecuted people, the prospect of reintegration in their region of origin is in the foreground. Accordingly, the following strategy proposals are guided by the objective of ensuring a protective, humane and enabling environment with the promotion of possibilities to secure a decent living, while maintaining the prospect of reintegration after the end of the violence. Accordingly, the proposed measures are widely in line with present UNHCR rulings and related EU guidelines, but they deviate from a focus on integration as favoured by most migration support organisations in Germany:

1. *Priority for settlement in the proximity of the region of origin:* The cost per refugee can thus be kept low and the number of refugees benefitting from protection can be increased compared to accommodation in remote high-cost countries. Cultural proximity can reduce the need for integration efforts and help to keep the wish alive to return.
2. *Better financial support from the international community:* To ensure reliable and adequate funding for a decent accommodation in places of destination, the international community has to enter into legal financial commitments based on economic strength. Contributions to UNHCR need to be provided in the case of a refugee crisis through a system of fixed distribution quota without the need for case-by-case negotiations. The EU should – in its own interest – take the initiative towards setting up such a system in cooperation with the United Nations.
3. *Resettlement:* At present, the EU countries are neither ready to provide sufficient finance for accommodating refugees decently in neighbouring countries nor prepared to agree to generous resettlement solutions for those who cannot be assisted there anymore in an acceptable manner. As a result, these underfinanced and unwelcome war refugees try to get across the sea to seek asylum. To avoid the unbearable conditions on the various refugee routes without giving up efforts to regulate immigration, it is necessary to proactively invite and collect contingents of refugees who cannot be cared for anymore in countries of the first destination in line with the principle of subsidiarity: Settlement close to the place of origin as far as possible, resettlement to far away destinations as far as necessary. Opening safe, inexpensive and unbureaucratic ways for inviting selected numbers of people in need instead of tolerating the indiscriminate influx of people on dangerous and expensive routes ending up in an unnecessary cumbersome individual asylum selection procedure, that is the underlying rationale of this proposal (cf. Rauch 2020).
4. *Time-limit:* The residence status of resettled war refugees should in principle be restricted in terms of time and place in order to maintain the prospect of return and reintegration after the end of the threat of violence at the place of origin. Taking the uncertain duration of many civil wars into account, the status of

residence should be checked through independent international analysis at regular intervals.

5. *Self-managed community-settlements*: In accordance with the priority for return and reintegration and the proposed time limit, the contingents of war refugees should be accommodated jointly as self-managed local communities, rather than being directed towards a path of integration into the society of the host country. These communities should be – as far as possible – homogenous groups in terms of culture and language. They should be provided with basic social infrastructure (schools, clinics), possibly with their own staff and be supported in starting economic activities related to community needs. In order to avoid the negative effects of parallel societies, initiatives for mutual exchange with the local neighbourhood should be encouraged: a sort of ‘welcome culture’ is equally important for those in need for temporary protection as it is for immigrants. Individual efforts towards a stronger integration aiming at a shift towards the status of a labour-migrant should, however, be tolerated.
6. *Right to social contribution*: Unlike political refugees, who should be fully integrated into the labour market and related social systems of the countries of destination, temporary war refugees require a different set of social contributions such as grants for self-managed educational, health and transport services, free accommodation, water and electricity. The principle of equal treatment is to be interpreted in the sense of “equal but different” in that case. The specific rulings must be in line with UNHCR guidelines.
7. *Pro-active reconstruction aid* focussed on the regions of origin of the refugees needs to accompany the process of the jointly organised return of the refugees. Supporting the reconstruction of communal public infrastructure and the individual promotion of reintegration need to go hand in hand in order to open up promising prospects for returning refugees.

Through the combination of these proposals, better care for war refugees in their first places of destination would be accompanied by safer and uncomplicated access for those who cannot be appropriately catered for in these countries. These improved possibilities for access to a more humane level of protection come up against restrictions regarding the residential status of the members of the protected communities. These restrictions are at odds with strategies for the fast and permanent integration of war refugees into host societies. The controversial issue is why impose such restrictions in the case of Western European countries that are undeniably immigration societies? The answer is that the need for immigration and the legal obligation of protection follow different logics: successful integration is related to the labour market requirements of countries of destination, while the right to be protected is related to the needs of the migrants. Those in need are not necessarily those who are needed (cf. Münkler and Münkler 2016), but they may be needed by society in their countries of origin after the end of the violence. In order to give more people in need of protection a chance to get it in the future and to provide opportunities for those migrants in need of employment, it is justified to restrict the period of protection for war refugees – in principle – to the timespan in

which their lives are threatened at home. This is further justified by the fact that the prospect of integration in democratic and wealthy societies would create a strong disincentive for reintegration in difficult post-war situations, thereby contradicting the principle of giving priority to reintegration. And it would tend to reduce acceptance for welcoming refugees within the host societies, where a majority may be in favour of providing protection to people in urgent need but only a minority may be in favour of permanent integration of those people.

Conclusion: More war refugees are supposed to be provided with safe, decent and self-managed accommodation plus economic opportunities on the basis of a more adequate system of international financing, regulated temporary resettlement facilities for communities accompanied by reintegration support. The absorption capacities of countries providing protection can be significantly increased if protection from a temporary threat to life is not linked with the issue of permanent immigration.

15.4.5 Safe and Regulated Routes for Labour Migrants

While fighting the root causes of labour migration – even when done successfully – can reduce but cannot eliminate migration pressure, at least not within the next one or two decades (components 1 and 2), safe pathways for refugees – as proposed in components 3 and 4 – will not improve the freedom of migration for labour migrants. They need a separate gate. To cater for migration needs in a socially inclusive way (‘leave no one behind!’), two gates are even required: one for skilled workers and professionals who are in high demand in many EU states, and the other one for unskilled or semi-skilled labourers who are also needed in the industrially advanced countries, but who have to find their way on irregular routes and end up in precarious informal employment until now.

1. *Skilled workers and professionals* are the only categories of migrants whose access to major EU countries is regulated in a satisfactory manner. A recent example is the German ‘*Fachkräfte-Zuwanderungsgesetz*’ (“immigration of skilled workers act”) approved in 2020. This law interlinks private sector employment contracts and criteria-based (e.g., educational and language requirements) residence permits. Successful implementation of this law will be subject to a pro-active recruitment procedure associated with flexible bureaucratic procedures especially for the acknowledgement of qualifications from countries of origin. Furthermore, bilateral government agreements are necessary in order to ensure that brain drain through recruitment of scarce professionals is avoided and that poor countries are compensated for their investment in education costs. As a rule, skilled workers and professionals need to be provided with the prospect of unlimited residence and integration in order to ensure that the high level of integration efforts (in particular in countries with high language barriers like Germany) pays off for all involved.

2. *Opportunities for temporary labour migration for semi-skilled and unskilled workers.* There are few opportunities for legal access to formal EU labour markets for jobs requiring lower skills levels (cf. The Expert Councils' Research Unit and Migration Policy Institute Europe 2019). On the other hand, there is considerable demand in EU countries for unskilled or semi-skilled labour in those locally rooted economic sectors which cannot be automated easily (such as construction, agriculture and a wide range of services). And there are millions of informal ('black market') labourers in EU countries engaged under miserable conditions. One might conclude that some EU industries are not unhappy about the prevailing system of informal migration and employment of unskilled labour.

In order to address this unbearable situation and the scandalous circumstances around the Mediterranean that are associated with it, the provision of safe, affordable legal ways for unskilled and semi-skilled labour to enter socially sound and controlled EU labour markets is a must. If legal ways are to have a chance to contribute significantly to a reduction in movements on irregular routes, and if the migrant workers are not to be permanently withdrawn from their home regions, temporary forms of labour migration seem to be the most appropriate option for all parties involved. Temporary labour migration for unskilled and semi-skilled segments of the labour market is acceptable

- from the perspective of the regions of origin, as it releases the pressure on local labour markets, generates foreign exchange revenues and increases or stabilises family incomes via remittances (for examples, with figures see the article of Newland and Riestler in this volume);
- from the perspective of migrants, as it provides safe ways and – compared to the income levels in their home regions and on the illegal labour markets – highly attractive income opportunities without forcing them to abandon their family ties,
- from the perspective of the countries of destination, as these countries can fill gaps in labour supply without having to cope with the challenge of integrating so many people on a permanent basis.

Such temporary forms of labour migration for low-skill jobs seem to be feasible as well:

- The regions of origin, but also the big cities of those countries usually have a huge surplus of unskilled labour. Job seekers are on the move anyway, but usually without succeeding. Unlike in the case of skilled workers there is no threat of brain drain.
- The migrants and their families are used to living in trans-local livelihood systems (Steinbrink and Niedenführ 2018) anyway.¹⁰ So, it is quite common that

¹⁰This is in contrast to the situation of Turkish migrant workers in the 1960s, many of whom preferred to stay, as they had lost their access to land and other resources in their home areas.

family members are living in different places, but remain closely interlinked. It is not temporary migration as such that is perceived as a problem, but only unsuccessful migration. The higher the wage level, the shorter the necessary migration period for a certain savings target, e.g., for establishing a household or a family business.¹¹

- In European countries of destination, there is an increasing demand for unskilled labour for activities in sectors not suitable for rationalisation. These activities, in contrast to jobs with higher skill requirements, do not need high efforts in terms of training and acquiring language skills.

These aspects count in favour of arrangements with mutual benefits for all parties involved. But there are disadvantages as well:

- Temporary labour migrants enjoy a lower-level residence status with limited rights compared to citizens. Temporary residents are, by definition, second-class citizens.
- They are often accommodated in deplorable social conditions and are at a high risk of being exploited.
- Their jobs are highly vulnerable to fluctuations in business cycles.
- From the viewpoint of the society in the countries of destination, co-existence with a poorly integrated and underprivileged population group constitutes a moral and political challenge (cf. Newland and Riester in this volume).

How far the advantages can be realised and the possible disadvantages minimised depends on the concrete design of such migrant labour systems. This is outlined using the following set of proposals:

1. *National Migration Pact in the countries of destination on the basis of public-private-civil society cooperation:* Recent scandals in the German meat industry have shown that labour migration should not be fully entrusted to the private sector. A context-specific and socially acceptable design of work contracts and residence permits has to involve all relevant stakeholders such as employers, trade unions, labour offices, migration authorities, development cooperation agencies, representatives of the International Organization for Migration (IOM), of civil society organisations and of countries of origin. A National Migration Pact as a result of this consultation process should regulate numbers of jobs by sector, outlines of employment contracts and related residency permits, qualification requirements and recruitment procedures, social packages (including accommodation, catering, training opportunities and cultural facilities), tools of public control and agreements on abolishing informal employment in the sectors covered by the pact.

¹¹The wage level for unskilled labour in West African cities is around 4 euros a day as opposed to 25 euros in rural Southern Europe and 75 euros in Western Europe. If accommodation and catering costs can be kept to a modest level, comparatively high rates of savings and remittances can be achieved.

2. *International Migration Agreements*: These should be negotiated on the basis of the national migration pacts. These may be made on a bilateral or multilateral level (e.g., like the Economic Partnership Agreements between the EU and regional economic communities in Africa).
3. *Recruitment and selection*: As it can be safely assumed that the number of applicants will far exceed the number of jobs available, recruitment and selection procedures in the countries of origin are a delicate issue. It is very likely that recruitment agents will want a cut for approving applications, thereby making this route to the EU nearly as expensive as paying illegal human traffickers is at present. There are various options to avoid corrupt selection practices: One is to ensure a transparent multi-stakeholder procedure guided or supervised by the IOM. Another option is a system proposed recently by the German Sachverständigenrat für Migration und Integration (2020). It is based on payment of a security to the embassy of the country of destination, which is to be refunded after the return of the migrant. This could prevent corrupt practices while at the same time providing an incentive for return. The disadvantage is its social selectiveness, as only better-off families would be able to afford the substantial amount needed to fulfil the purpose. Still, it would be less selective and fairer than the ongoing exploitation on illegal routes.
4. *The social minimum standards* to be observed in the employment and visa conditions need to be in line with ILO minimum standards. These include adhering to national minimum wages, freedom of movement and participation in public life, socially acceptable and affordable communal accommodation and canteens provided by the employer, and access to further education, cultural and recreational facilities, inter-cultural exchange and to savings promotion schemes supported by public and civil society resources.
5. *The setting of time limits* needs to be adjusted to sector-specific requirements (e.g., seasonal arrangements for agriculture or tourism-related activities). The periods for employment contracts and residence permits should be aligned. Prolongation of contracts should be the exception, which can be granted, e.g., for workers who have qualified for a higher level of employment by doing further training.
6. *Magnitudes*: Taking the numbers of additional annual job seekers in the major regions of origin in West and North Africa, the estimated numbers of informal African employees in EU countries and the requirements of relevant labour markets into account, a magnitude of approximately 1 million temporary unskilled workers per year could be absorbed by the relevant European labour markets on a 2-to-3-year basis. Opportunities of such a scale might be sufficient to reduce the attractiveness of irregular routes significantly.
7. *Necessity of testing*: Due to the high degree of uncertainties of the assumptions underlying this proposal, it is necessary to start with closely monitored test programmes with selected partner countries.

A powerful counterargument against the recruitment of additional low-skilled workers (in particular in Germany after the massive influx of refugees in 2015) is

that it is difficult enough to provide employment for refugees who are already in the country. The problem with this line of argument is, however, that it implies that the receiving societies will continue to care predominantly for those who have managed to arrive there, while neglecting those in need of jobs who have not yet embarked on the path of irregular immigration. From the perspective of unskilled job seekers, this would suggest that the only way to get Europeans' attention is by getting in their face and illegally entering their territory. That kind of "out of sight – out of mind" policy implies only tends to perpetuate the present lamentable state of affairs.

Conclusion: Broad legal routes for unskilled and semi-skilled workers into European labour market segments in need of them are a necessary short-term prerequisite to reduce migration pressure on the dangerous and expensive irregular routes and to abolish existing incentives in favour of making inappropriate use of the asylum procedure. Consequently, this is the key to a regulated immigration policy. It has a high potential of scoring a 'triple-win' by relieving the labour surplus in countries of origin, by providing a guaranteed and comparatively attractive income opportunity on safe routes for migrants while allowing them to maintain close links to their families, and by meeting EU labour requirements in labour market segments where migrant workers do not compete with the local labour force. These benefits in absolute terms for people in urgent need of jobs tend to justify the problematic (but manageable) implication for European societies of having to live with a poorly integrated and relatively underprivileged group of migrant workers.

15.5 Final Conclusion

Resolving the scandalous humanitarian catastrophes at the Southern and South-Eastern borders of the EU requires a conclusive and humane migration policy that provides safe legal ways for different categories of migrants to enter the EU without allowing an unregulated massive influx of people beyond economic and societal absorption capacities.

Such a migration policy needs:

- to reduce politically and economically enforced migration;
- to provide safe and regulated ways of entry for politically persecuted individuals, war refugees, skilled and unskilled workers; and
- to restrict access on the one hand to those who actually need protection for the period they need it and on the other hand to those who can find employment.

The numbers of legal immigrants can thus be kept in line with the absorption capacities of the countries of destination. In order to provide sufficient space for more people looking for protection or work in the future, the prevailing European concept of permanent integration of immigrants needs to be replaced by concepts of temporary shelter and temporary employment in accordance with the actual need

for protection and the need for temporary labour migration in trans-local livelihood systems. It is preferable to offer safe access for more people in need in the future than to offer unique opportunities for permanent integration to those who were only in need of temporary shelter or jobs.

I am far from suggesting that the proposals presented in this paper are ideal solutions. To be accommodated far from home in camps or settlements is just as far from being a desirable prospect as being forced to contribute to family income whilst living far away from family members. Moreover, one cannot deny that labour migration – despite the benefits from remittances – tends to preserve post-colonial economic structures rather than transforming them.

Any enforced migration, whether for political, economic or climatic reasons, is an evil which needs to be fought. As long, however, as this struggle is not yet over, the necessity will exist to open up legal and safe ways in order to render the dangerous irregular ways superfluous. Even if that is not possible without imposing limits. This concept is not about a vision, it is about ways out of a dilemma. It is necessary and worthwhile to debate about details of the proposed restrictions. But we should never lose sight of the necessity to establish and regulate safer ways into Europe.

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