CLOSING THE GATES

How the Refugee Crisis Put Cherished Values to the Test

By Catherine Wihtol de Wenden

Europe today is experiencing an unprecedented influx of refugees. The member states of the European Union (EU) are surrounded by countries suffering from internal as well as, in some cases, external conflicts. Those fleeing the conflicts are more often asylum seekers rather than labor migrants, but both count as forced migrations. In 2014, more than seven hundred thousand asylum seekers reached Europe, and another one million arrived in 2015, according to the United Nations High Commissioner for Refugees. Those figures compare with an annual average of around two hundred thousand in the preceding years.

After a period of procrastination on the part of European leaders, a turning point in confronting the refugee flows came in September. Chancellor Angela Merkel announced that Germany would welcome eight hundred thousand asylum seekers in 2015. European Commission President Jean-Claude Juncker also proposed in September that a total of one hundred and sixty thousand be received by other European countries. These important steps, however, have proved insufficient for addressing the refugee crisis and the EU political crisis it exacerbated.

We should remember that, from the fall of the Iron Curtain in 1989 into the early 1990s, Europe was confronted by some five hundred thousand asylum seekers every year, many coming from eastern European countries including the ex-Yugoslavia. That number doesn't include ethnic disentanglements, the largest of which was the movement of some three million *Aussiedler*, or ethnic Germans, from the former Soviet Union and eastern European countries to Germany, where citizenship was at the time based on the right of blood. The current wave of migrants comes from Syria (where 4.8 million people have fled abroad, and 2.7 million of those have remained in Turkey), Iraq, Afghanistan, Kosovo, the Horn of Africa (Eritrea,

▷ Syrian refugees arriving on the island of Kos, Greece, Aug. 9, 2015. *Yannis Behrakis/ Reuters*

Somalia), and Libya (itself a longstanding transit point for sub-Saharan migrations toward the European Union).

European Union values—solidarity among its member states, respect for human rights, and the right to asylum—are now being tested by reality. The photo of a 3-year-old Syrian boy dead on a Turkish beach, who perished when the boat carrying him and his family to Greece capsized in September 2015, spread across the world. It was a powerful image that helped throw into doubt the security approach then dominating Europe's immigrant and asylum policies, which had been marked by discouraging, repressing, and criminalizing alien residents. Since the 1990s, some forty thousand migrants have died at Europe's gates attempting to cross the Mediterranean Sea; 3,371 of those died trying to navigate the waters in 2015, according to the International Organization for Migration.

Over these past twenty-five years, the EU has been put to the test many times by the migration question. It has been confronted with various types of migratory movements: qualified labor, migrants searching for menial work, family reunification, asylum seekers, students, unaccompanied minors. The pace of labor migration has actually slowed in comparison with other categories. The European Union remains the world's top migratory destination in terms of flow, ahead of the United States (second), the Gulf countries (third), and Russia (fourth). While migratory flows from the global south to the north take up most of the public (and usually heated) debate, flows toward the planet's southern regions (around 120 million in total, including south-south and north-south migrations) have risen to the level of those toward the north (again, around 120 million, including south-north and north-north).

As of 2015, the United Nations counted 244 million people, or 3.5 percent of the world population, as international migrants—people living in a country other than the one where they were born. In addition, there are 740 million internal migrants who move within their home countries. Currently, therefore, one out of seven billion inhabitants worldwide is a migrant. The rise in relatively new categories explains the redistribution of migrants across the world: women (51 percent of international migrants), environmental migrants (60 million), unaccompanied minors, sun-chasing seniors, and north-north migrations linked to Europe's economic crisis.

Basic statistics hide the diversity of migrants and reasons for migrating. The discourse focusing on "good" and "bad" migrants is misleading, because refugees and asylum seekers are both migrants falling under the definition put forth by the United Nations Department of Economic and Social Affairs Population Division: any person born in one country and living in another for a duration equal to or more than one year. The discourse, moreover, presents the risk of treating differently sub-Saharans from Near Easterners, not to mention creating an ethnic classification between Africans and Arabs.

Migrations in recent years have in fact included a mix of people searching for work and fleeing countries in crisis that no longer offer them a future. The *harragas*, the "frontier burners" of the Maghreb, as well as the trans-Saharan migrants, have been willing to give up everything for a new life in Europe and turn to smugglers to help them get there. The lack of hope, regardless of its cause, is often the reason behind the decision to leave badly governed and unstable countries, which are rife with corruption and offer their citizens little security. In these countries, governments are crippled by clientelism, resources are distributed unequally, and the labor market is unable to meet the needs of a largely young population.

The main causes of the most recent departures, of course, are war, political instability, and violence—in Eritrea, Somalia, Syria, Iraq, and Libya. While in the south generally the dominating migratory trend has been young men fleeing debilitating economic and political conditions at home, most new arrivals from the Middle East are families seeking asylum. Not all of these people meet the definition of persecuted individuals laid out in the 1951 United Nations Refugee Convention on asylum. And many are unable to acquire refugee status: France rejects 35 percent of asylum applicants, Germany 45 percent, and so on.

A catalyst driving migration is the availability of information. Many migrants have access to new technologies (the Internet, mobile telephones) and television, which inspire migratory fantasies. Most of them are qualified labor, well-educated, and cosmopolitan; they don't accept the fatalism of the older generation. The pattern of sending remittances back to countries of origin, which have become dependent on foreign currency flows, further encourages these fantasies; in 2013, asylum seekers sent $400 million to their home countries, the equivalent of three times the amount of public development aid spent by their governments.

Migrants, both voluntary and forced, willingly define themselves as entrepreneurs. Migration is simply one of their life options. The modern odyssey of crossing and defying national frontiers can even be a source of pride. They are supported in their efforts by smugglers offering passage, which has become a flourishing industry at points of transit and departure in proportion to the difficulty of crossing frontiers without a visa. Smugglers often use small fishing boats (*pateras* or *cayucos* in Spain), while the *harragas* use inflatable rubber dinghies and the sub-Saharans wooden canoes. Bigger smugglers even charter large cargo ships, holding as many as seven hundred people, to cross the Mediterranean from east to west. The smugglers themselves often abandon the crossing en route.

The right to immigrate is already one of the world's greatest inequalities, because a person's ability to travel with or without a visa entirely depends on his or her nationality. Those youth who embark on irregular migrations following the trans-Saharan,

Mediterranean, Turkish, Greek, or Balkans routes are another select group. Migrants must be in good health, resolute, and capable of enduring all kinds of difficulties, as well as having accumulated savings of as much as thirty thousand euros. They must also expect and be able to live abroad for a period long enough to regularize their situation. Their experience is vastly different from the guest workers who came to Europe in the 1960s, easily obtaining regularized status and driven by the expectation of returning to their home country one day.

Some of today's migrants were already working in their countries of transit, like sub-Saharans in Libya, and lost their work because of the chaos there. Others are the victims of wars ravaging their home countries (such as in Syria and Libya), and still others have failed to find any work opportunities in countries recovering from war (such as Afghanistan) and suffer from joblessness in countries where youth unemployment rates reach 40 percent. All of them see Europe as a refuge of peace, security, respect for human rights, and a place offering a future to their children.

Sharing the Burden

Europe has never thought of itself as a continent of immigrants, and many continue to deny the new reality. Europe has long been the point of departure: of great discoverers, colonizers, international traders, foreign missionaries, and settlers leaving for "empty" lands. A century ago, 5 percent of the world's population counted as international migrants (compared with 3.5 percent today). At the time, the majority of migrants were Europeans, as Europe was highly populated compared to other continents. Later, the first migrants came to Europe during a period of high growth, when many European countries lacked sufficient workers for their mining, manufacturing, and agricultural industries, and also needed more hands to help with rebuilding after two world wars. All countries in the European Union are signatories of the 1951 UN Refugee Convention and share the basic values of human rights at the heart of the European project.

Since the 1990s, the European Union has continuously increased efforts to discourage new arrivals. Politically, the far right is experiencing an upsurge in these countries, placing at the top of its agenda the "fight" against immigration. The 1997 Treaty of Amsterdam put immigration and asylum issues at the top of the EU's agenda and made immigration foremost a security issue. The EU has also undertaken to hold smugglers more accountable, privatize some frontier checkpoints, install an integrated border surveillance system (Sistema de Vigilancia Exterior, or SIVE) along the Mediterranean coast, and restrict asylum rights.

The Dublin Regulation of 1990 was an attempt to "Europeanize" asylum law. Dublin II, adopted in 2003, established the principle of "one stop, one shop," which

requires an asylum seeker to have his or her application processed in the first European country in which he or she sets foot. Dublin III, adopted in 2014, provided enhanced protections for asylum seekers. In 2000, European Dactyloscopy, or Eurodac, computerized digital fingerprints in order to identify fraudulent asylum claims. In 2004, EU states created the Frontex agency, which further militarized the EU's borders and put into place common police forces to protect them. An arsenal of nearly three hundred bilateral and multilateral agreements between European and non-European countries beyond the EU's frontiers has put an end to the ability of asylum seekers and illegal migrants to renew rejected asylum applications.

The control of Europe's external frontiers has become the primary objective, pushing back into second place the goal of freedom of movement established in 1985 by the Schengen Agreement. At the time of Schengen's signing, most European political leaders believed that the era of mass migrations was over; they assumed that development policies in countries of departure would produce homegrown alternatives to emigration, and that non-Europeans would eventually return to their native countries. They also believed that the internal mobility of Europeans would rise significantly and that nationals and fellow Europeans would replace the non-Europeans in the job market. In hindsight, almost all of these assumptions proved false: Europeans did not move in large numbers within Europe in search of work until 2004, when the EU took in ten new member countries; no such substitution in the job market took place; and few immigrants to Europe returned to their countries of origin. Development policies, too, failed to create an alternative to emigration in the countries bordering Europe. The few initiatives targeting the Mediterranean's southern shores (the Barcelona agreements in 1995 and 2005, and the Mediterranean Union in 2007) did not match the efforts that were undertaken in eastern Europe after the fall of the Iron Curtain. Political crises such as those in the Great Lakes countries in Africa, in ex-Yugoslavia, and in Algeria produced asylum seekers of a very different profile from the kind provided for under the UN Refugee Convention: claimants of a collective category who for ethnic, religious, or other reasons are victims not of their states but of their societies of origin. This profile poses the greatest technical difficulty in processing asylum cases.

Overall, Europe's response to the recent surge of refugees has been a cowardly turn in immigration and asylum policies, bending to a security mindset and xenophobic feelings. This has seen a return toward national control over migration—sovereignty over which European countries tend to jealously guard. There have been increasing calls to close national borders (like that between France and Italy at Ventimiglia in 2011 and 2015, and between Bulgaria and Greece, and Germany and Austria in 2015) and growing hostility especially among eastern Europeans toward the policy of "sharing the burden" among EU members. Europe still finds it painful to think of

immigration as an important part of its identity, and is endangering the values upon which it was founded in its treatment of asylum claimants.

The European Union has responded to the refugee influx by reinforcing border controls, upgrading the fight against immigration, and attempting to harmonize "from below" asylum laws. One area receiving special attention is in defining the Safe Country concept, which determines whether asylum seekers are truly at risk in their home countries or in the nations of passage to the country where they formally request asylum. These restrictive policies have increased the influence of smugglers and led to the deaths of thousands, turning the Mediterranean Sea into a vast cemetery.

The unequal exposure of different European countries to the massive flow of migrants and asylum seekers is the foremost obstacle to a joint response. By far, Germany is the top destination for immigrants in Europe, having registered more than seven million. It has welcomed more than three-quarters of all asylum claims in Europe in the past twenty-five years. Germany, France, Sweden, and the United Kingdom have attracted the most asylum seekers over the past five years. In the ranking of countries with immigrants, France has fallen from second to fifth place with 3.7 million; Spain has 5.5. million, and Italy and the UK about 4.5 million each.

Italy has taken in the most Maghrebis and sub-Saharans, concentrated on the Lampedusa islands. Malta, Cyprus, and the Greek islands of Lesbos, Kos, and Samos, have also had to accommodate tourists and asylum seekers within severely restrained spaces. By land, Greece has seen arrive the largest number of Syrians and other Middle Easterners affected by war, including Afghans and Iraqis. The Thracian land route going by the Turkey-Greece crossing has generally proven to be less dangerous than the maritime one. It has led to the closure of the border between Hungary and Serbia, as well as between Bulgaria and Turkey.

A second obstacle is the difficulty of bringing into line different asylum practices in the absence of a common foreign policy among EU countries. The harmonization of granting refugee status is often complicated by different interpretations of conflict: in Europe, each country has its own diplomacy, history, neighbors, political and commercial protocols, and will not necessarily give the same response to applicants in similar situations, especially when the case would risk setting a precedent for other European countries.

A final reason governments are reluctant to unify asylum policies is politics at home, where rising far-right movements attach heavy importance to borders. The response of European countries has been marked by a lack of solidarity. When Italy decided in November 2013 to launch the operation Mare Nostrum, following the death of 366 refugees and another four hundred in a second shipwreck off Lampedusa, the government did so in the face of general indifference towards the massive refugee

influx on the part of northern and eastern European countries. When in May 2015 the European Commission proposed sharing forty thousand asylum seekers between countries according to their population and wealth, member states responded with a categorical "no," arguing enforced quotas would impinge on national sovereignty.

Only after Merkel's speech on September 7, 2015 did the trend swing in the opposite direction. Following Juncker's initial proposal in May to settle forty thousand refugees, a new East-West split developed between countries supporting and opposing the obligatory and permanent sharing of Syrian asylum seekers between European countries. The long-term nature of imposed sharing was avoided by the fifteen most reluctant governments (including the UK, Ireland, Denmark, Hungary, Slovenia, the Czech Republic, Poland, and Romania). France completely flipped its position on imposed quotas, and accepted Juncker's proposed figure of twenty-four thousand. Germany has sought not only to set an example, but enforce it, such as when it closed the border with Austria, signaling the necessity for solidarity between all European countries.

By 2015, when the EU received more than one million asylum seekers, a split had arisen between western Europe, where the 1951 Refugee Convention is largely applied, and the countries of the so-called Visegrád Group (Poland, Hungary, Czech Republic, Slovakia) refusing to share the "burden" of taking in the newcomers. The Balkans route is a symbol of this missing solidarity: borders, covered with barbed wire, are closing there one after the other.

The EU attempted to find a way out of the policy morass by reinforcing its external borders. It constructed "hot spots" (local reception and holding centers for new arrivals) in the two main countries for arrivals, Greece and Italy, having also undertaken diplomatic initiatives with Turkey and the countries on the Mediterranean's southern shore. Another means of border control was also created at the Euro-African Valletta Summit on Migration in November 2015, launching a new political partnership with southern shore countries offering them development aid, easing visa access for seasonal migrants and qualified labor, and a repatriation fund financing "returning" migrants.

A new accord between Turkey and the European Union took effect on April 4, 2016. In exchange for accepting Syrian refugees, Turkey has obtained three demands: the reopening of negotiations for its EU candidacy; the lifting of visa requirements for Turkish citizens traveling to Europe (justified by the fact that there are today more Turks returning from Europe than Turks leaving their homeland for Europe); and the payment of six billion euros over the course of two years to help towards the cost of hosting refugees. The conditions of this agreement aroused controversy, partly because they recalled similar accords reached between the EU and Libya. That country has long been banished from the international community, but regained a veneer

of respectability in the eyes of European leaders (Italy and France notably) when it accepted to screen sub-Saharan asylum seekers headed for Europe. In exchange, Libyan leader Muammar Gadhafi received various "gifts," including payments of monies, development programs, and investment in infrastructure.

The current agreement with Turkey centers on a one-for-one bartering mechanism: For every Syrian sent back to Turkey (those claimants not meeting the EU's definition of a refugee), another Syrian will be accepted by the union (up to 72,000). As of April, European countries began implementing this strange bartering of humans, with assistance from Frontex, the European agency charged with coordinating between different national border guards, while NATO prepared to assist with intercepting refugee movements across the Mediterranean.

Legal scholars have expressed reservations with respect to a potentially "illegal" agreement, the efficacy of which is not guaranteed, as refugees will likely try new routes circumventing the Turkey-to-Greece passage. Human rights organizations, moreover, have criticized Turkey's classification as a "safe third country," which allows Greece and European countries to send "back" inadmissible refugees. The agreement only concerns Syrian claimants, even though roughly half of entrants into Greece are Afghans and Iraqis.

Once again, it appears that the European Union has put together an agreement externalizing a refugee problem to a non-member country, which, for reasons of political expediency, is considered "safe." This policy violates the Geneva Convention principle of *non-refoulement*—not pushing people back into danger—and clearly does not honor the principles of human rights on which the union is founded.

Right to Migrate

Despite the obstacles, there are some viable approaches to the refugee crisis. First, there is the possibility of granting "temporary protections," a status provided for under a European directive issued in 2001 for Kosovars. This could be applied to Syrian and other refugees in the present situation, though it seems to have been largely forgotten in the policy debate. Discussions across the continent have also focused increasingly on the "hot spots" that European agencies have begun to organize in Italy and Greece. The Dublin II system, also, should be re-evaluated, as it requires sending asylum seekers back to the European country where they, quite literally, first stepped foot. This system has had the perverse effect of creating, for example, a camp of some sixty thousand migrants at Calais waiting to cross the English Channel for Britain.

Another solution would be to broaden the categories of migrants allowed to cross borders, in order to avoid overwhelming the few existing paths for obtaining asylum. Instead of claiming asylum, many migrants would also choose the route of "economic

immigration," if it were more open than at present. These "mixed cause" migrants, who are both looking for economic opportunities and fleeing unstable countries, could find, therefore, an outlet without applying for asylum. In the recent past, this was the opportunity offered to many Portuguese immigrants in France, who did not arrive as asylum claimants but as illegal aliens whose status was regularized by employers.

A more diversified and flexible visa policy, targeting especially young migrants (students, tourists, job seekers, entrepreneurs), would constitute an effective response to both the hopelessness facing migrants today and the need for both unqualified and qualified labor in an aging Europe. Another part of a solution would be to lift the European employment preference dating from 1994, which has led to the shortage of labor in some sectors, such as construction and maintenance, the care industry, and medicine in rural areas. Lastly, granting refugee status on a slightly more flexible basis would allow for the legalization of many asylum seekers who entered Europe before the Syrian crisis, lifting them out of legal limbo and opening up the labor market to them. In such a past case, almost 80 percent of Vietnamese refugees in Europe were eventually granted their asylum requests.

The ongoing policy conflicts between European countries will take time to resolve, but waging a war against migrants and refugees will not solve anything. More than ever, we should be open to the possibility of turning on its head the prevailing logic, and recognize that the right to migrate is a universal one. We should also recognize the exceptional nature of the current situation and that, if there is indeed a crisis, it is a crisis of responsibility on the part of Europe.

Translated from the French by Amir-Hussein Radjy.