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The Editors' foreword on the occasion of the launch of the Corvinus Journal of International Affairs (COJOURN)

***László Csicsmann and Péter Marton*[1]**

The Institute of International Studies (IIS) at Corvinus University is the first and traditionally the strongest site of education and research in the field of International Relations in Hungary. It is co-host to the International Relations Doctoral School, and it was the first in Hungary to launch English-language programs in International Relations on all three levels of higher education. It has led the way in internationalisation in terms of exchanges of students and teaching staff as well.

We are now interested in carrying these efforts further by launching the *Corvinus Journal of International Affairs* (COJOURN), creating a valuable interface between Hungarian and international scholars of IR. Beyond thus introducing an English-language medium for the purposes of this scholarly dialog, with COJOURN we shall also strive for academic excellence and for raising the standards of scholarly discourse in Hungary. This is a priority for us.

To this end, COJOURN is not merely interested in importing good practices in the field of scholarly publication. In certain respects we wish to differ from the leading peer-reviewed international journals of the field, experimenting with new ways of ensuring quality along with better representation of scholarly work at the same time.

COJOURN will function as a series of thematic issues. It will solicit contributions to these issues from certain authors, and it will also invite and accept contributions based on open calls. Articles shall be submitted to blind peer review which the Editors and the Editorial Board shall consider as an authoritative recommendation as to whether an article may be published or if it shall be revised or rejected.

In order to be able to accomodate all valuable contributions that meet our standards in one issue we are seeking shorter contributions of around 3,000 words. In a future where everything turns out according to our most optimistic expectations, we may

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need to make a selection as to which articles to include in print issues of COJOURN but in any case all accepted articles will be available on our website in a single digital edition of the given issue. It is with this in mind that we are issuing our call for the next thematic issue on Geo-Economics (see our call at the end of this issue).

With that, we shall wish our Readers a useful time browsing the articles in the present issue. The contributions here are all by close associates and staff of our Institute at Corvinus University. That is because we note, with due humility, that in in order to open a dialog, one shall first speak in order to express one's interest in it.

This issue is therefore our way of saying welcome to this discourse whereby in the future we wish to accomodate diverse voices from Hungary and abroad.

The Editors

Foreword:
The global refugee crisis and the changing forms of transnational migration and global governance

Attila Melegh[1]

The most recent global refugee crisis has hit various key social and political institutions globally, regionally and locally, and it has thus become an issue of concern in public debates. At the same time, there are legitimate fears that the continuing global political transformation, along with conflicts, wars and ecological crises "managed" within the framework of global competitive capitalism, will inevitably lead to further new challenges for global as well as various levels of regional and local governance.

Thus it is urgent to analyse the recent processes as a result of which some of the historical achievements of refugee protection have come to be quickly questioned and even thrown away. The first issue of *Corvinus Journal of International Affairs* focuses on this dynamic situation in which international, and among these intra-EU, developments pose a challenge to the existing system of legal arrangements. At the ultimate source of the crisis, one may speak of the complete collapse of a larger region, in Western Asia and Northern Africa, which produces the waves of refugees who now function as the "reasons" for the questioning of the norms of refugee protection.

The present issue of *Corvinus Journal of International Affairs* is one of the first products of analysis dealing with the multifaceted background of the crisis, and thus it deserves due attention. The articles here highlight at least four key elements of the crisis that need to be addressed in a complex manner.

Firstly, there is the crisis of an entire region which the refugees are fleeing from. This is eloquently analysed in the last piece in the issue, by László Csicsmann. Given the nature of its subject, perhaps this article may deserve attention first of all. It may have conveniently served as the introductory piece of a thematic issue of this kind. The long-

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term conflict it discusses (in and around Syria) has reached a level where it has major global political implications through its impact on regional stability. It calls into question the influence of the major powers (most importantly that of the various EU countries and their allies, among them the United States) that seem to have thought that they can intervene in the conflict in various ways without bearing the negative consequences of their political and military actions. Regional powers are proving similarly impotent in "solving" actually unsolvable problems, ones that they were drawn into as much as they manoeuvred themselves into these.

As Csicsmann's article shows, among the countries of the region Turkey is already under dramatic strain. To expect that it can be a reliable partner of the EU and the United States is at least an illusion if not outright self-deception. Turkey is a country where even the local population, most importantly the Kurds, suffer, and now it has to deal with the arrival of masses of refugees who seek protection there.

There is a great risk that the refugees may suffer there from neglect (very little has been spent on them, and it only affects those who live in camps). They are also exposed to competition for scarce resources with local populations and even terrorist attacks should the EU wish to keep them in Turkey at all costs. This latter attempt is of great importance as Turkey has become the country hosting the greatest number of refugees, and no one sees clearly how the EU could seal itself off from the resulting humanitarian crisis. The EU's approach contains various elements, such as limited but clearly inadequate levels of financial assistance, the use of various means of law enforcement at sea and on land, and it will also ask for stronger control of its territory by a Turkish government whose overall political record is already very negative.

A specific and salient element of the conflict, the issue of the "foreign fighters" is addressed by Péter Marton. His article analyses the transnational forms of "combatant migration" from a broad historical perspective. Foreign combatants are widely used by all of the forces on the ground and these "foreign" troops can be a major resource for the emerging and ongoing low or medium-intensity "transnational" wars around the world. Due to their cruelty, foreign combatants can significantly contribute to the flight of further waves of refugees – causing the flight of people who do not want to fight alongside them, besides making more refugees in victims of their excessive violence. This very interesting analysis questions the notion that "terrorists" originating from the region should be a key concern and that the halting of the refugee waves could dramatically reduce security risks. As we can see, we now live in a truly transnational era where Western European

combatants wreak havoc in faraway locations: an era in which national territories and sovereignties are constantly questioned, making nationalist claims louder and louder but at the same time more and more obsolete.

This leads to the second analytical element of the current crisis, namely how international and EU law develops, the issue of why and how it is used or not used, and how it is becoming paralyzed. In his study, Tamás Molnár shows in a complex and sharp analysis that after major international conventions such as the Geneva Convention there is almost always an unstoppable process in which principles like "non-refoulement" find their way into various legal texts and can become a cornerstone – if only these processes can evolve without major political interventions. The global human rights regime has made great steps toward becoming a well-established system of international governance. Molnár warns, however, that these principles and the related legal arrangements can "receive meanings and content" by the applying organizations and such interpretative exercises can lead to varying results, as widely divergent as life and death. Through the analysis of the author we can see that key elements of even the Geneva Convention and the related international and EU laws can be put aside when expressed national and regional interests go against them. Who would have thought that the Common European Asylum System of the EU could, as a result of a painful process, collapse within months after the recent refugee waves hit the region?

As the third analytical element of the crisis, namely with regards to the political use and misuse of legal systems, Péter Stepper very nicely shows that some of the bricks of this system were kicked out by the very countries which were among the first to sign during their EU accession process. At the time, these acceding countries thought that the legal pieces concerned were mere formalities, or beauty spots, which showed the humanism of the EU and that of the acceding countries. Having no historical experience of large-scale immigration, the countries of Central and East Europe thought that there would be no need to take these principles too seriously, and they basically imagined that the "European open space" was only for them to take advantage of, to compensate for the losses they suffer due to the stubborn economic inequalities within and around the EU. In a proper structural analysis it can be no surprise that precisely these countries were the first to "securitise" the inflow of refugees and migrants. They fought for maintaining their privileges within the open space of the EU. In addition, although they do have small immigrant populations from Western Asia and Northern Africa from before the crisis, there are no sizable diasporas in these countries that could have built links to the refugee

groups during the recent massive inflow. As opposed to these countries, there are areas in the EU that have been longer-term immigrant destinations where refugees could actually find previous diaspora groups to help them (as in Germany and Sweden). In contrast, Stepper demonstrates that the Visegrad Group countries used a rather brutal and vulgar language when they explained why certain elements of refugee protection and EU-level solutions should be annulled. They talked about diseases and parasytes besides organised invasions and terrorist threats. They clearly held the view that the people arriving as refugees in Turkey were in fact "economic migrants," to be expelled from their territory. The consistency of this negativity is surprisingly strong. Ironically, the group has become vocal and collaborative after it has been raised in recent years that its significance may have been significantly reduced, and that the Visegrad Group may be at the brink of dissolution. This otherwise inferiorised "New Europe" has now become the leading defensive force of "Fortress Europe," somewhat repeating the scenario when the war on Iraq started in 2003. At that time, these were the countries that joined forces with the hardliners against France and Germany, and loudly supported the war that led to the collapse of the region that is the source of the present refugee waves. It seems that they did this without ever thinking over the possible consequences of such interventions. Now they are the first to demand the protection of Europe.

Clearly, the various identities of Europe and their political implications need further analysis in the manner of Stepper's article, and we also need to link this analysis to the historical critique of such identities started in the 1990s by Bakic and Hayden, Larry Wolff and Maria Todorova. The works of these authors have been proven right by the recent reactions to the global refugee crisis.[2]

Behind such identities and the reactions that can be observed, we have to see how global capitalism operates and how various inequalities manifest even in seemingly apolitical developments such as in the area of climate change. In the excellent starting piece of the issue, Viktor Friedman stresses this complexity and eloquently shows that the problem of excess migration due to global warming or climate change cannot be separated from various state failures, and the "perpetrators" are often found far outside

[2] See among others: Wolff, L. (1994): *Inventing Eastern Europe. The Map of Civilization on the Mind of Enlightenment*. Stanford: Stanford University Press; Bakić-Hayden (1995): Nesting Orientalisms: The case of former Yugoslavia. *Slavic Review*, Winter, Vol. 54, no. 4, 917–930; Todorova, M. (1997a): *Imagining the Balkans*. Oxford: Oxford University Press; Böröcz, J. (2009): *The European Union and Global Social Change. A critical Geopolitical-economic Analysis*. Routledge, London; Melegh, Attila (2006): *On the East/West Slope*. Budapest: CEU Press.

the relevant regions of the South. Thus, links of causality cannot be separated from existing economic inequalities. He also shows that certain elements of global governance are developing but even so the concept of "climate refugees" remains very new and very weak. We can be sure that its use is, and will be, limited even if climate change might exert its effect on people's lives through various social mechanisms and filters. Nothing shows this better than the widespread claim in public discourse that refugees coming from Syria are "just" fleeing from bad harvests and climate change, and that consequently there is no need to use any form of international refugee protection related to this.

This also demonstrates why the approach of the authors and editors of this journal issue is so important, and why we need to continue our debates from a global historical perspective and in a structural way. Otherwise there will be no deeper and progressive analysis which might guide the further development of global governance: a system of governance that might actually protect the lives, and the livelihood, of vulnerable social groups around the globe.

Disaggregated planetary governance: Implications for the nexus of climate change and international migration

Viktor Friedmann[1]

Abstract

The nexus between climate change and migration has received increasing attention in recent years. Using a governmentality framework, this article analyses how global governance has conceptualised and addressed the relationship between these two phenomena. It will show that the planetary-level problem of climate-induced migration has been disaggregated into more manageable subsets slowly consolidating into a protection framework on the one hand and a resilience-focused development framework on the other. It argues that the selection of relevant causal processes and problem definitions is not an objective, neutral and technical question. While disaggregation has undoubtedly contributed to improved global governance in the issue area, it has also obscured the causal processes and responsibilities that can only be identified at the planetary level.

Keywords: global governance; climate migration; responsibility

Introduction

In 2015 European politics was dominated by growing social and political tensions emerging around an increasing, and seemingly unmanageable, flow of migrants towards the continent. According to data from the International Organization for Migration (IOM), over a million migrants arrived in Europe over the course of the year. More than two thirds of them fled conflict-ridden Syria, Iraq and Afghanistan, and 3,771 among them lost their lives while trying to reach Europe by sea. In the meantime, arguably the most outstanding question of the year at the global level was whether developed and developing countries would finally reach an agreement at the 21st United Nations

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Framework Convention on Climate Change (UNFCCC) Conference of the Parties (COP21) negotiations in Paris which would make it possible to prevent climate change from reaching catastrophic levels.

In the context of these parallel challenges, policy entrepreneurs, scientists and journalists did not miss the opportunity to point out links between the two developments. In the warm-up to COP21, Prince Charles of the UK noted in an interview that civil war in Syria – which had by that time produced over four million internationally displaced people – can be linked to a six-year drought period between 2006 and 2011 (Press Association, 2015). The scientists, whose work he was making reference to, had established a link between falling rates of precipitation and anthropogenic climate change, and argued that the ensuing internal migration pressure and scarcity of food contributed to rising social tensions, thus facilitating the onset of conflict (Kelley et al., 2015).

This research joined other, earlier works, including an influential collection of essays in which researchers claimed that the impact of climate change on global food supplies and, consequently, on rising price levels of basic food items, contributed to the Arab Spring of 2013 (Werrell & Femia, 2013). The instability and conflict that often grew out of this upheaval was, in turn, a major factor behind increasing international migration as well. Such findings received detailed coverage in mainstream media, with one article claiming that climate-induced mass migration constitutes "a new paradigm" or "new normal" to which all societies need to adjust (O'Hagan, 2015; Baker, 2015; Bawden, 2015; Sinai, 2015).

A similar discourse dominated the world of international organizations. António Guterres, the United Nations High Commissioner for Refugees, centred his opening remarks at the Dialogue on Protection Challenges in December 2015 on the necessity of understanding the complex interaction between climate change, conflict and mass displacement (Guterres, 2015). At around the same time, the climate change – migration nexus was on the agenda of the COP21 negotiations. During the event the coordinator of the Advisory Group on Climate Change and Human Mobility emphasised that climate-related displacement is a present reality, and as such a "threat multiplier" that contributed to more than 22.5 million people displaced per year on average since 2008 (UNDP, 2015). The COP21 Paris agreement, adopted on December 12, for the first time formally included in its Preamble the problem of migration, and requested a task force to be set up

within the Loss and Damage component[2] of climate change policy to "develop recommendations for integrated approaches to avert, minimise and address displacement related to the adverse impacts of climate change" (UNFCCC COP21, 2015: 2,7).

The sense of simultaneously occurring environmental and migration crises focused attention on the interlinkages of these issues. The connection between them has in fact been noted at least as early as the mid-1980s. The increasing salience of the challenges posed by global warming raised the possibility that climate change might join the list of "root causes" of migration, alongside – or perhaps even in a position of primacy over – poverty, underdevelopment, and protracted conflict (Castles & Van Hear, 2011).

The goal of the present article is to analyse how and with what effects global governance has addressed the nexus between climate change and migration. Although the large majority of climate-induced displacement is expected to take place within state boundaries (Laczko & Piguet, 2014), the focus here will be on international migration, i.e. cross-boundary displacement, as this issue takes the problem of human mobility directly to the international/global level. Moreover, the discussion presented here is implicitly dominated by the theme of migration from the global South to the global North.

International migration is defined here as cross-border mobility involving a change in the location of a person's livelihood, and global governance as a non-hierarchical, problem-oriented activity coordinated by shared epistemic, normative and practical standards in which both state and non-state actors might participate. Agents of global governance (or "global governors") are understood as all those "authorities who exercise power across borders for purposes of affecting policy," where power might include the setting of agendas, the definition and creation of issues, the implementation of policies as well as the evaluation of outcomes and of other actors (Avant et al., 2010: 2). These authorities can be individuals, states, intergovernmental or civil society organizations as well as business actors. Of the two major "global governors" in the context of this article, for instance, the International Organization for Migration is an intergovernmental organization, whereas the Nansen Initiative on disaster-induced cross-border displacement is led by Norway and Switzerland.

[2] Global climate change policies are made up of three components: mitigation, adaptation and „loss and damage." Mitigation refers to measures aimed at reducing greenhouse gas emissions in order to minimise the extent of climate change. Adaptation aims at reducing vulnerability to the consequences of climate change. The actual losses resulting from climate change – those not prevented by mitigation or adaptation efforts – are addressed under loss and damage.

The structure of the article is as follows. The ensuing section discusses how the causal relationship between climate change and migration has been conceptualised and concludes by arguing that identified causal links underlying actual policy approaches are better understood as intersubjective constructs than as direct representations of an overly complex objective reality. Accordingly, the article proposes to investigate the existing epistemic and normative frameworks (governmentalities) within which the nexus at issue has been picked up, problematised, and made available to rational management within global governance. The next section describes how the general landscape of international migration governance is organised around a distinction between voluntary and forced migration. The third section then turns to mapping the current governance framework of the climate change – migration nexus, arguing that it is consolidating around a two-tiered system of a rights-focused protection framework and a resilience-focused understanding of development. This system accords with the distinction between forced and voluntary migration despite the ways in which the link to anthropogenic climate change transgresses these boundaries. The final section presents the argument that while there is a clear relationship between climate change and migration at the planetary level, in actual international/global governance initiatives the issue is disaggregated into lower-level systemic frameworks. While this facilitates the effective management of the identified problems, disaggregation itself – and not only the discourses of particular frameworks – contributes to depoliticizing the nexus of climate change and migration, and to reifying the state system and the contemporary economic order.

The problem of causality

Global climate change is considered today to be the "highest profile emerging issue" in the field of migration and refugee policy (Koser, 2013). More alarmist voices even argue that – by contributing to state fragility and related security threats – climate change-induced migration poses a threat that demands resources for international action on a par with those for the management of peace and war (Werz & Hoffman, 2015). The link between the two phenomena has, however, come under increasing scrutiny in recent years, at least in terms of its usefulness for policy-making (Mayer 2015).

Prominent in the early stages of migration studies in the 19th century, the idea of environmental migration faded out of fashion after the Second World War as being too deterministic and overly pessimistic about the force of human progress over nature, and a negligible factor compared to the economic determinants of migration (Piguet 2013). In

the mid-1980s the concept was resuscitated in the context of climate change advocacy, as a way of stressing the deleterious impact of unbridled greenhouse gas emissions (McAdam, 2011: 158). Consequently, the concept today exhibits an inherent bias, referring only to migration resulting from the negative effects of climate change (push factors) affecting the global South the most, and thus it is rarely taken to include human mobility in search of better environmental circumstances (e.g. suburbanization) in general.

Several causal pathways have been identified linking atmospheric changes to population displacement (McAdam, 2011). Climate change is expected to increase the frequency and magnitude of weather-related disasters, such as hurricanes and floods, leading to abrupt population moves. Other links operate through more slowly unfolding processes: the gradual disappearance of the territory of small island states as a result of increasing sea levels, or other slow-onset forms of environmental degradation, such as water scarcity, that destroy livelihoods and force people to migrate. Planned relocations in anticipation of these processes add a further source of displacement. Finally, environmental degradation is also understood to lead to competition over increasingly scarce resources, potentially contributing to the onset of violent conflicts and, thus, indirectly to migration (Nordås & Gleditsch 2007). This latter pathway has been identified as being at work in Syria.

The 1990s produced a number of apocalyptic predictions on the basis of this as to the anticipated scale of displacement. The prospect of large-scale migration due to unstoppable natural forces contributed to an increasingly securitised and dehumanised image of migration in the 1990s (Hammerstad, 2014: 270). By the early 2000s, however, this presentation of the link between climate change and migration came under increasing fire from migration research (Black, 2001; Martin, 2010). Some of the criticism was directed at alarmist images, revising downwards the predicted magnitude of the problem and pointing out that the overwhelming majority of displacement will be short-term and will either not involve crossing borders or will remain short-range.

Furthermore, while the emphasis on a direct link and the idea of "climate refugees" may have been an effective tool for norm entrepreneurs (Mayer, 2015), in the hands of migration experts the causal links began to seem more and more tenuous. Although it is generally accepted that climate change exacerbates patterns of displacement (current predictions running between 200 million and 1 billion people displaced in the next 40 years), linking actual instances of migration directly to climate

change is seen as almost impossible (and even undesirable), because environmental factors are always mediated by a wide range of social variables (Laczko & Piguet, 2014; Pachauri & Meyer, L.A., 2014: 16; GMG, 2011). Economic disparities, the availability of infrastructure or the lack thereof, access to political power and representation, class-structures, gender relations, economic policies, etc. all deeply influence how particular communities and individuals are affected by climate change. Thus, whereas the Netherlands might have the resources to defend itself from climate change-related sea level rise, the same is not true for a poor developing country such as Bangladesh. Similarly, although climate change contributed to the drought in Syria between 2006 and 2011, the concomitant internal migration and social tensions were just as much the results of the government's agricultural policy being directed at cash crop production (Sinai, 2015).

The seemingly apolitical relationship between environmental push factors and migration has thus become the target of growing criticism, and the emphasis shifted towards complex, multi-causal frameworks in which disaggregating individual causal factors is thought to be nearly impossible (Zetter & Morissey, 2014: 343). Instead of trying to identify something like "climate migration" and developing a related set of policies and global institutions, researchers suggested looking at how climate change affects existing drivers of migration (Collyer, 2014: 117) or how migration is transformed in the context of climate change and environmental degradation (Faist & Schade, 2013:4). Others further argued that causal reasoning is in fact pointless in such complex systems, and problems are much better addressed by focusing on how to effectively allocate resources, or on identifying and responding to human rights violations irrespective of their causal background (Betts, 2010a: 378; Nicholson, 2014). The multi-causality and multi-dimensionality of climate-induced migration has become a taken-for-granted starting point for global governance (IOM, 2014).

It is, however, precisely such difficulties with pinning down a straightforward causal link between climate change and international migration that bring the social construction of policy problems into the foreground. Challenges for global governance are never simply objectively given: the objects of government must always first be identified, and problems then need to be defined and goals selected. Identifying causal links – deciding on which causal relations are more relevant than others and on which shall thus occupy the centre of attention (Betts, 2011: 23) – is part of the contested construction of policies, since the rational government of problems relies on

understanding their nature and the opportunities it presents for intervention and management. This process involves selectivity and simplification, and brings to bear on the outcome a range of political, ideational and normative influences. Furthermore, the intersubjective process of causality-attribution simultaneously – and necessarily – identifies relations of power and, thus, of responsibility (Guzzini, 2009; Lukes, 2005; Connolly, 1993: 85–137).

Accordingly, the rest of the paper will investigate how the relationship between climate change and migration has been taken up in various ways within global governance. What governmental rationality (or governmentality) can be identified in these frameworks (Pécoud 2013; Kalm 2012; Geiger & Pécoud 2012a)? I.e.: How is migration understood? How are causal relations, problems and goals defined and solutions identified? What shared theoretical principles, forms of knowledge and norms inform them, providing a taken-for-granted basis and justification for exercising government? What categorization and conceptual distinctions are used to represent the issue for the purpose of devising policies?

The governance of international migration

International migration is part of a broader field of global mobility that excludes those crossing borders only for short-term travel [tourists, business travellers, etc.] (Samers, 2009; Koslowski, 2011). Its two major categories, refugees and the rest of international (economic) migrants are co-constituted with the system of sovereign, territorial states that continue to dominate world politics. The concept of refugee implicitly contains the idea that every person should be under the protection of the state to which he or she belongs. If that state is unable or unwilling to provide that protection, an anomaly appears that we call a refugee (Betts, 2014). More broadly, control over population mobility is at the core of modern state sovereignty, and hence cross-border flows of people are, from such a systemic perspective, a problem or a threat (Geiger, 2013: 16–18).

Taking the above considerations into account, it is not surprising that states remain the primary actors in global migration governance (Koser, 2010). No formal and coherent multilateral institutional framework is currently in place to regulate international migration; instead, mostly non-binding bilateral and regional agreements, customary and soft law, and indirect governance through other areas of global governance (health, development, travel, human rights, security, etc.) characterise the field (Koser, 2013;

Koslowski, 2011; Betts, 2010b).[3] The well-developed institutional framework and relatively strong state obligations of the refugee protection regime provide the strongest exception to this general picture. It is a fairly limited one however, outside of which migration governance remains fragmented and informal.

The distinction between refugees or forced migrants and voluntary migrants is a fundamental element of the prevailing governmentality of international migration governance, which is also manifest in the existing institutional framework. In terms of their basic normative structure, the two systems are quite distinct: the regulation of voluntary migration is understood to fall almost completely – with the exception of fundamental human rights provisions – under the discretion of sovereign states, who make their decisions on the basis of economic calculations or other considerations. In contrast, forced migration is a realm of morality: it is identified in terms of rights violations to which individual states and the international community have a responsibility to react (Betts & Loescher, 2011). The central norm of the refugee regime is *non-refoulement*: once stepping onto the territory of a receiving state, asylum-seekers should not be returned to their country of origin (or to any other territory where they would suffer persecution as defined above) before determining their refugee status. Beyond providing asylum, states are also expected, although not required, to share the burden of refugee protection in major receiving states (Betts, 2014: 66).

The category of forced migration accommodates a broad range of phenomena, including state persecution, conflict-induced displacement, environmental displacement or displacement resulting from the implementation of large-scale development projects (Betts, 2009). Much of this migration remains within borders, but civil wars and persecution by the state in particular require action on the international level. In contrast with such a broad understanding of forced migration, however, the actual legal category of refugee is a fairly limited one. Based on the 1951 Geneva Convention, which was universalised in 1967, a refugee is defined as a person persecuted by his or her own state for reasons of race, religion, ethnicity, political opinion or being member of a social group who therefore seeks protection outside the borders of the state concerned. Political human agency is thus a constitutive factor in the idea of the refugee. Such a restrictive definition is at odds with the broad range of protracted, life-threatening conditions that force people to leave their countries. State practice and regional arrangements consequently often

[3] For detailed overviews of the institutional system, see Martin (2011) and Newland (2010).

handle refugee status in a more expansive manner to include at least some of those who have been characterised as "survival migrants" (Betts, 2010a), especially people fleeing conflict zones (Popp, 2014).

During the Cold War, the refugee regime was dominated by political considerations in the context of the ideological conflict between the "free world" and the Communist bloc, and was generally reactive in nature. The refugee flows triggered by the dissolution of states in the 1990s then prompted a more proactive attitude with an emphasis on prevention, especially by means of reforming and strengthening institutional capacities in fragile states of the global South, thus linking the refugee regime more closely with security and development (Gottwald, 2014).

In contrast with the humanitarian concerns of the refugee regime, the governance of voluntary migration was from the beginning focused on calculating economic benefits and on the necessity of controlling a potentially threatening flow of migrants (Geiger & Pécoud, 2012a; Kalm, 2012). At the most basic level, voluntary migration is generally conceptualised as an "economic response to the gap in income" between more and less developed countries (Collier, 2013: 38). From the perspective of the receiving states, immigration can offer economic advantages by providing an additional and cheap source of labour force. Simultaneously, however, inward migration is also considered to have potentially significant costs in terms of the social security system, social and cultural cohesion, security and political stability (Watson, 2009: 6–7).

Consequently, international migration was traditionally governed on a strict national, intergovernmental and mostly bilateral basis. It was only in the 2000s that the management of populations rose to the global agenda with the emergence of a new approach called "migration management" (Geiger & Pécoud, 2012b). At the centre of this approach stands the International Organization for Migration (IOM), which is not part of the UN system and generally serves as a provider of services for states. More broadly, different agencies related to migration management (including the UN High Commissioner for Refugees [UNHCR], the UN Development Program [UNDP] and others) are united under the umbrella of the Global Migration Group (GMG), a forum for discussion, coordination and the exchange of best practices.

In contradistinction with the earlier approaches to migration, which focused on legal instruments and on stopping what was perceived as an ongoing and threatening crisis of migration flows, migration management conceives migration as a normal state of affairs: an intrinsically human activity which, if steered adequately, can be a positive

process for all involved. Migration management operates in a form of "regulated openness," a liberalised but managed movement of populations driven by the exigencies of the market (Geiger & Pécoud, 2012a: 3; Kalm, 2012). Instead of curbing migration, this new approach seeks to put it to work and to optimise it on the basis of cost-benefit calculations. It promises a predictable and orderly circulation of people between the global South and the global North, which at the same time is supposed to contribute to global development in both regions (Pécoud, 2013).

The circular migration (fluid, mostly temporary labour migration between countries) that is at the centre of migration management is thought to provide resources for the economies of the North, to ease social tensions associated with permanent migration, to address concerns about brain drain from the global South, and also to help the improvement of economic conditions in the source countries through generating considerable remittance flows (Kalm, 2012). The UN's Sustainable Development Goals, announced in September 2015, now also incorporate "the positive contribution of migrants for inclusive growth and sustainable development." The document names the facilitation of "orderly, regular and responsible migration" and of remittance flows as central policies to reduce global inequality (UNGA, 2015: 8, 21).

Migration is hence presented no longer as a problem but as a solution to a range of challenges (ageing populations in the global North, development in the global South). In fact, by reducing international inequality, over time managed migration is expected to lead to reduced South-to-North migration. Through its links with development it is also supposed to contribute to the preventative elements of refugee protection by propping up the resources of weak states and by increasing the resilience of communities against certain causes of forced migration (e.g. natural disasters, famines and other complex emergencies).

This is not the only way in which the two elements of the governance of international migration have converged over the years (Koser, 2013). Because of practical difficulties in distinguishing between refugee and other migration flows as well as between economic and survival motives (well demonstrated in the current European crisis), these two dimensions have long been difficult to separate in practice. In the 1990s a discourse on security provided the encompassing framework (Hammerstad, 2011: 242), largely replaced by the framework of development by today.

Governing the climate change – migration nexus

The entry of climate change among the factors driving migration raised new questions about the framework described above. At a minimum it added another item – climate change governance, with the UNFCCC at its centre – to the long list of regimes involved in migration governance. More fundamentally, however, this new association cast further doubt over the distinction between economically-driven voluntary migration and rights-focused refugee protection challenges (Koser, 2013: 668). Although climate change faces those affected by it as an environmental factor, its anthropogenic sources are recognised by the UNFCCC. It is further admitted in the basic norm of "common but differentiated responsibility" that industrialised countries bear a larger responsibility – and should bear a larger share of the burdens of managing the problem – because climate change is the outcome of the accumulative impact of the same historical development that made them prosperous. Thus a systemic force is identified on a planetary level which is expected to have a negative effect on livelihoods all over the world, but more so precisely in societies of the underdeveloped global South that contributed the least to bringing about the problem.

This at least partly throws into question the distinction between voluntary and forced migration as well as between pull and push factors, both constitutive of current migration governance (Kalm, 2012). Even in the domain of economic development it is arguably the case that man-made global institutional structures contribute significantly to maintaining global inequalities (Pogge, 2010), but there the relationship is not officially recognised and is largely obscured by a naturalization of market forces. In the case of climate change, in contrast, differentiated human causal responsibility is clearly accepted, opening a path towards establishing relations of moral and legal responsibility. Another consequence of this is that climate change not only adds stronger moral and "push" considerations to the idea of voluntary migration, but it also becomes difficult to contain within the conceptual boundaries of the refugee regime. Whereas refugees are supposed to flee from their state, which not only does not protect them but is a perpetrator of the violation of their human rights, in the case of climate-change-induced migration people might be conceived as fleeing precisely to the perpetrator states in the global North (McAdam, 2011: 165–6).

Such lines of reasoning informed calls for the recognition of a new category of "climate refugees" or "climate migrants" (e.g.: Biermann & Boas, 2010), although broader considerations of effective climate change advocacy also played a major role. In

the 1990s no framework was available to address this new issue in a straightforward manner. Extending the refugee regime to include those displaced by the consequences of climate change encountered serious difficulties. On the one hand, as mentioned above, the category of the refugee is restricted to those affected by protracted and life-threatening (political) push factors that force them to cross borders, and this covers only a limited circle of people affected by climate change (Lister 2014). On the other hand, there has been no willingness on the part of the most developed states to extend their special responsibility as major emitters of greenhouse gases (GHGs) to include an obligation to admit climate migrants onto their territories (McAdam, 2014).

Instead of developing a new framework around the particular categories of "climate refugee" or "climate migrant", global governance responded to the climate change – migration nexus in a way that worked around the novelty of the problem: by drawing distinctions among forms of migration on the basis of their different immediate causes, i.e. the effects of climate change. This way it also reasserted the existing categories of governance with complementary policies for covering the major gaps left by them. Today the governance of the nexus seems to be consolidating in a dual structure: a rights-based protection framework and a managerial development framework.

This structure is based on disaggregating migration into the following major categories:

a) migration resulting from climate-induced conflict;
b) temporary displacement induced by sudden-onset disasters;
c) permanent migration due to slow-onset disasters (sea level rise, desertification, etc.);
d) temporary voluntary migration in the context of climate change.

Of these four strands, the first remains managed within the general framework for conflict-induced displacement, with its partial extension of the category of the refugee and its emphasis on preventative state-building. The second and the third have become part of the protection agenda, crystallizing around the Nansen Initiative, and the last was effectively incorporated into the system of migration management.

International action on climate migration was catalysed by the Cancún Adaptation Framework adopted at COP16 in 2010, which for the first time recognised climate-change-induced migration as a part of the adaptation agenda (UNFCCC COP16 2010:

para.14(f)). It was the UNHCR that first tried to address the lack of protection in international law and governance for people displaced across borders as a result of natural disasters, including those related to climate change. Due to state opposition to the agency's role, the issue was later transferred to the Nansen Initiative, which was launched in 2012 as a state-led, multi-stakeholder consultative process (McAdam 2014). The aim of the initiative is to develop a common conceptual framework and to identify effective practical measures that states and other actors can share and voluntarily adopt in this policy field.

In October 2015 the first phase of the Nansen Initiative closed as 109 governmental delegations endorsed the Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change – in short: the Protection Agenda (The Nansen Initiative, 2015). The specificity of the Nansen initiative is its focus on the problem of protection, i.e. on facilitating the creation of a legal and practical tool-box that would specify and guarantee the human rights (and responsibilities) of people displaced across borders. It encourages states and regional actors to develop legal instruments for admitting environmentally displaced people to their territories, as well as to extend the principle of non-refoulement to such migrants already on their territory. UNHCR (2014) also provides guidelines for temporary protection in such circumstances. Although slow-onset disasters rarely lead to cross-border displacement, in extreme cases (such as whole island-states disappearing under rising sea levels) the Nansen Initiative also promotes the option of permanent migration. Although rights-based protection is at the centre of the Nansen Initiative, recently its agenda has been extended to incorporate broader measures to prevent and manage displacement (The Nansen Initiative, 2015: 44–52). These include, among others, two areas that make up the development framework of climate migration governance: facilitated migration as an adaptation mechanism, and policies to improve the resilience of affected communities. By reducing the vulnerability of populations, these measures are expected to prevent cross-border displacement. Facilitated migration in this context is understood both as a form of adaptation itself and as a mechanism supporting the adaptation and resilience agenda. Although the Nansen Protection Agenda calls for facilitated temporary migration, the central actors in this field remain the IOM and the major development agencies.

The reconceptualization of climate migration in the development framework, from being a problem to offering a potential solution, is the most significant change to have

taken place in the governance of the climate-migration nexus in recent years (Vlassopoulos 2013). Foresight (2011), a report commissioned by the British government on this issue, has been identified as the turning point when the approach of migration management – described above – began to incorporate the problem of climate change (Ransan-Cooper et al., 2015: 113; Methmann & Oels, 2015: 59–60). As a consequence, migration in the context of climate change is no longer approached primarily as a problem created by failed mitigation of, and adaptation to, climate change, but as a strategy of adaptation, including as a mechanism for generating resources for adaptation (Martin, 2013; Felli, 2013). Migration is now understood as a normal and, if well managed, potentially beneficial human activity that can be mobilised in order to address problems caused by climate change, thus complementing national adaptation strategies.

Circular migration is thought to allow communities to diversify their livelihood by not depending only on local economic resources. It also reduces population pressure on scarce environmental resources. As an extension of the development context, remittances by migrants can provide resources for "trapped" – immobile – communities to develop the infrastructure, skills and other instruments necessary for adaptation and for achieving increased resilience in the face of climate change (Martin, 2013). Moreover, circular migration itself is also understood as a form of resilience: the expression of an entrepreneurial ethic that allows individuals and communities to better take care of themselves in emergency situations in a context of limited global resources (Felli, 2014; Gottwald, 2014: 532–5).

Conclusion: Disaggregated planetary governance and its discontents

This article has argued that the definition of problems, causal relationships and solutions offered is a deeply social and political process. Accordingly, it looked into how the relationship between climate change and international migration has been conceptualised in global governance for the purpose of making it amenable to policy interventions. It is suggested that we are witnessing the consolidation of a complex set of instruments that address the nexus through disaggregating it into smaller and more manageable categories focusing on more direct causal links (e.g. natural disasters and displacement, slow-onset resource depletion and displacement, etc.) and distinct rationalities (rights-based vs. economic-calculations-based). People displaced by natural disasters are included into a protection framework. It is hoped that by improving the resilience of affected communities in a development framework such forced migration can be minimised. The

remainder of migration is understood as voluntary mobility based on economic calculations, not as a rights issue prompting international responsibility, and is mobilised in the service of this latter framework.

Disaggregating issues as complex as the impact of climate change on human mobility has many advantages. It brings the scale of problems to a manageable level, allowing the identification of concrete points of intervention. It gives actors more options: they can address different sub-sets in different frameworks so as to develop acceptable frames for global cooperation (Geiger & Pécoud, 2012a: 4). Furthermore, by breaking down a complex issue to specific aspects fitting the profile of already existing regimes or institutions, it facilitates their incorporation into global governance (Vlassopoulos, 2013). By easing cooperation, disaggregation has contributed greatly to protecting some of the most vulnerable.

Nevertheless, it does not follow from this that the choice of "relevant" causal links, problem definitions and categorizations of objects of governance somehow reflect an objective reality. Such selective simplifications are always for someone and for some purpose (Cox, 1986). Furthermore, to attribute causal force to human actors is to attribute responsibility, even if such responsibility can be qualified by circumstances (e.g. justified lack of awareness of one's power). To move from one understanding of the problem to another is to shift, erase or highlight such relations of responsibility.

Many authors have already drawn attention to the depoliticizing effects of the way in which the climate-migration nexus has been taken up in global governance. Both sides of the dual structure described above are implicated in removing the question from the realm of political contestation by presenting it as a purely economic or moral issue to be decided by the relevant experts (Schmitt, 1995). The protection agenda handles climate migrants in terms of human rights violations, thus evoking the universal moral and legal responsibility of the international community. Migration management, on the other hand, promises a completely neutral solution in which everybody (the receiving state, the communities of origin and the migrants themselves) wins, and where there are no power asymmetries, divergent interests or contested problem-formulations (Kothari, 2014; Geiger & Pécoud, 2012a; Pécoud, 2013). From being understood as victims, migrants become perceived as the empowered, adaptive agents of circular migration, who use their entrepreneurial spirit to provide resources for the global South while being incorporated in the system of global neoliberal capitalism (Ransan-Cooper et al., 2015; Methmann & Oels, 2015; Felli, 2013; Felli, 2014). Such discourses contributed to removing or

obscuring the responsibility of the developed countries for the effects of climate change, and to shifting efforts from the mitigation of climate change (including significant cuts by the biggest GHG emitters) to adaptation and resilience-building in the global South.

In conclusion, one may complement these depoliticizing effects with a further element. Whereas the above-mentioned analyses tend to handle climate migration governmentality as a relatively unitary phenomenon with clearly discernible shifts in one particular direction, this article wishes to draw attention, instead, to the complexity of the institutional structure offered. Over and above the shift from victimhood to adaptive agency, from "migration threat" to "managed migration", from mitigation and traditional adaptation policies towards neoliberal resilience, there also continues to develop a parallel system addressing those cases of forced migration that cannot be subsumed under the former framework. Migration is not simply depoliticised but is disaggregated and depoliticised. What is at issue here is the scale of analysis: the choice, between systems thinking at the level of national and community resilience on the one hand, and systems thinking at the global or planetary level on the other, is not a neutral one (Gottwald, 2014: 533–5).

Climate change is at the centre of what scientists have begun to call "the Anthropocene," an era in which humanity becomes a geological force so that it is no longer possible to clearly distinguish the natural from the human (Crutzen, 2002). As critical voices have emphasised, the term "the Anthropocene" is deceptive as it suggests that it is mankind, or human nature, that is responsible for the way we change our planet (Malm & Hornborg, 2014). Most of mankind, however, is the victim rather than the agent of the so-called Anthropocene. Climate change is the outcome of a geographically uneven historical social development beginning with the Industrial Revolution, thus it is sociogenic rather than anthropogenic. A crucial part of these social relations is the system of sovereign states and the limits it places on human mobility. State control over migration is a major reason why much of the world population has not benefited from the economic development the externalities of which now threaten foremost precisely communities in the global South.

Fixing our gaze at the planetary level, the causal relationship between the prosperity of developed countries, climate change, and the growing environmental challenges of developing countries appears with clarity, and may even amount to "a persecution that we are inflicting on the most vulnerable" (Gemenne, 2015: 71). When we move down from this systemic level in order to identify concrete causal processes that

can be managed we lose sight of an overall picture of power and responsibility. The special responsibility of the developed countries for externalising their costs of development and engaging in activities that impact the life of many outside their sovereignty (Nawrotzki, 2014; Gibney, 2014: 52) is lost between a universal moral responsibility for human rights violations and the technical cost-benefit optimization of migration management. In the process of disaggregating – for policy purposes – this sociogenic, planetary problem stemming from our economic model and principles of global political order, the transformative potential inherent in confronting this problem is tamed as the very same systemic conditions are reified as being the natural framework within which problems must be addressed.

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Links between migration and the presence of foreign combatants in armed conflict

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Abstract

This article explores the connections between migration and foreign combat, offering an improved definition of „foreign fighters," and a general concept of foreign combatants' behaviour as an anomalous form of migration. In contrast with the popular discourse and terrorism-related concerns about present-day Western European foreign fighters in Iraq and Syria (and their return to Europe) and Middle Eastern migrant refugees (and their arrival in Europe), the intention of this article is to offer a conceptually thorough consideration of the causal connections between movements of migration and the presence of foreign combatants in armed conflict, informed by a wide sample of cases. Such an assessment has to take place with a view to all forms of migration (including forced migration), all forms of foreign combat (not only foreign combat on the side of non-state actors as David Malet's oft-cited but overly restrictive definition would imply), and regions of the world beyond the Middle East and Islamic countries. Along these guiding lines, the article points out many comparatively rarely considered cases of foreign combat as well as the underestimated obstacles in the way of fighting abroad. Taking account of the latter allows refutation of a key implication of „new war theory" (its focus on „greed" as a motive of combatants), in light of the continued importance of cultural factors and ideological motives for participation in foreign combat.

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Basic considerations related to migration

Even though only a fraction of humanity participates in protracted voluntary migration (as opposed to brief visits to other countries), mobility is fundamental to human nature

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and has been a key driver of history. This is how human beings came to inhabit all continents in the first place. The more recent history of colonisation, economic development, and even that of wars cannot be told without reference to movements of migration.

Here only a few basic considerations are pointed out that shall inform the discussion that follows (based on Koser, 2007). These are (1) that migrants tend to move to places with pre-existing migrant presence of the same or a similar population (Koser, 2007: 36); (2) that as a result of their movements networks of migration spring up providing an infrastructure (the provision of information, financial resources and logistical facilitation) for continued migratory flows along the same channel (Koser, 2007: 37); (3) that a part of movements of migration is „circular" in nature, i.e. migrants may continue to move between the original source and receiving countries (Koser, 2007: 9, 51); (4) that migrants' motives for migration are typically complex, and they may fit various different conceptual and legal categories of migrants as well as change from a profile fitting one of these to one conforming to another (Koser, 2007: 18); (5) that the distinction between source, receiving and transit countries is becoming blurred as the super-network of migration becomes more and more an all-channel network;[2] and (6) that even so there are a few countries with a pure „source" character where collapsing governance and armed conflict renders flight vital and immigration implausible (and, in that sense, anomalous when it does happen).

Foreign fighters: a definition

Most foreign fighters are migrants in the sense that they live „outside their own country for a year or more" (Koser, 2007: 16), or at the least for a considerable amount of time. They are a very special subset of migrants, however, and the implications of their status as such need to be considered in detail.

Foreign fighters have been around, and involved in armed conflicts, for much longer than is generally considered. Misconceptions of their presence as a recent phenomenon derive from definitions that primarily reflect the few salient cases of contemporary conflict where foreign fighters have played a prominent role (mostly Middle Eastern conflicts with Muslim foreign fighters).

[2] An all-channel network is one in which every node connects to all other nodes, unlike, for example, in a scale-free network where most nodes connect to a select few „popular" nodes (Arquilla and Ronfeldt, 2001: 1; Barabási, 2013).

A common definition thus tells us that foreign fighters are „noncitizens of conflict states who join insurgencies during civil conflicts" (Malet, 2013: 9). This takes a number of things for granted that ought to be critically assessed.

Do the combatants of interest need to join specifically an insurgency to qualify as „foreign fighters?" Is that circumstance relevant to their being „fighters," and to their being „foreign?" Malet's definition is just as puzzling from a truly neutral analytical perspective as the tendency in terrorism research to define terrorism as „non-state actor violence." Just as states can in fact engage in the use and the support of „terrorism" (violence deliberately targeted against civilians, designed to impact on a secondary audience of observers) to further their ends, states can also welcome foreign fighters on their side, and may even incorporate them into their armed forces. The French Foreign Legion, the British Gurkhas, the International Brigades on the republican side in the Spanish civil war, the Polish soldiers who fought in the course of the Italian campaign or in Operation Market Garden during World War II, and even immigrants participating in naturalisation-through-military-service schemes[3] may all serve as examples featuring foreign fighters involved in warfare (Porch, 2010; Farwell, 1990; Chudzio and Hejczyk, 2015; Koskodan, 2011).

A definition focusing only on non-state combat may also lose sight of the frequent involvement of state parties behind non-state belligerents who serve as their proxy forces. Foreign fighters who join an insurgency or a given combatant party may be delegated to do so by a state party, at times from among members of its own regular armed forces as seems to have been the case on a number of occasions with Pakistani soldiers fighting on the side of the Afghan mujahedeen (see the example of „Colonel Imam" in e.g. Gall, 2010) and later the Taliban (see available evidence about direct Pakistani support to the latter before the 2001 intervention in Human Rights Watch, 2001).

Furthermore, the „noncitizen" criterion takes the existence of citizenship, and by implication modern nation-states, for granted. This arbitrarily narrows the time-frame of interest whereas in reality „foreignness" is a quality that predates the nation-state. One may be foreign to a given locale without having a different citizenship, and historically one may have been foreign to a given locale without having any kind of citizenship to

[3] For instance in the United States where the Immigration and Nationality Act offers this possibility to people „who (1) have good moral character, (2) knowledge of the English language, (3) knowledge of U.S. government and history (civics), and (4) attachment to the United States by taking an Oath of Allegiance to the U.S. Constitution." See further information at https://www.uscis.gov/news/fact-sheets/naturalization-through-military-service-fact-sheet (accessed: 12 January 2016).

differentiate one from the locals resident in the area. Crusaders covered a great distance to join the struggle in what they regarded as the „Holy Land" (Hindley, 2004) just as the jihadis of today travel a great distance in many cases to help out those whom they see as their „brothers."

At the same time, „local" is in empirical reality a problematic category. Does being resident, and thus local, in one village qualify one as foreign in the case of fighting in or around the neighbouring village? The application of the term „local" in the context of most conflicts is implicit reasoning concerning the legitimacy of involvement in a given struggle in a given locale. It alludes to who belongs in that locale in the first place.[4] The Kamajor militia that played a role in Sierra Leone's stabilisation post-1995 may have been a „local force" in the eyes of the international community but, as its Mende name makes it clear, it was a force arising from the Mende-speaking southeast and was thus behaving and seen differently in other parts of the country (Ferme and Hoffman, 2004).

Combat on the side of others may be understood by the supposedly non-local combatants as „their struggle" and „their community's struggle" regardless, their notion of communal identity and territorial possession extending to the people and the area concerned. In some cases this may be an artificially or intersubjectively constructed „right" to impose an agenda unto others, irrespective of whether the others concerned are willing or not to accept said agenda. Calling a fighter a foreign fighter may itself be a tool to counter this: for the purpose of separating these combatants from the people among whom they are involved in fighting (to de-legitimise such combatants).

To use a contemporary example of the controversial (and inherently political) nature of the „foreign" label, those sharing the Islamic State's perspective in Iraq and Syria may not regard members of the broad Islamic *umma* (community) as „foreign" at all. Such a distinction may be illegitimate in their eyes in light of the „unity of the community of the believers" which they seek to emphasise. At the same time, showing the complexity of the matter at hand, even Islamic State combatants indicate attachment to different locales in their „kunyas," i.e. their *noms de guerre*: there are the „al-Libis" (Libyans), the „al-Masris" (Egyptians), the „al-Suris" (Syrians), the „al-Filastinis" (Palestinians), the „al-Shishanis" (Chechnyans); by today there are also the „al-Britani"

[4] This may be one of the reasons for the tendency in the literature to accept the understanding that foreign fighting is connected to joining an insurgency. Joining the state may be seen by some to be somehow more normal and legitimate, In other words this is a manifestation of statism: the tendency to naturalise the state as a gatekeeper to both territory and society.

(British), the „al-Alemani" (Germans), the „al-Beljiki" (Belgians), the „al-Faransi" (Frenchmen), etc.

With a view to the above complications, a foreign fighter may be regarded as a combatant who takes part in combat within the territory of a political entity or sub-entity other than the one to which he or she has substantial attachment through birth, personal relationships, basic socialisation, and the amount of (life)time spent there, with the additional requirement that the combatant in question be <u>not</u> involved in *combat* as a member of the armed forces of his or her *home entity*.

The three definitional elements highlighted above (underlined and in italics, respectively) are reviewed below, along with other issues, to clarify and consider further details that may be relevant to careful conceptualisation.

1. The requirement of not being part of one's „own entity's" armed forces may be necessary as members of such forces typically have the nationality of the country they are fighting for. The definition thus excludes regular and other military troops involved in overtly fighting an adversary in depth, within the other party's own territory (e.g. Soviet troops advancing on Berlin in 1945, or Russian troops capturing the town of Gori during the war with Georgia in 2008), or fighting far away from their home country (e.g. Napoléon's *Grande Armée* and its fellow travellers occupying Moscow in 1812, or the Russian air force bombing targets in Syria from September 2015).

   Technological developments in warfare introduced ever larger mobility and firepower to the battlespace, and this played an important role in compelling leading powers' armed forces to become globally deployable and dispersed even in peacetime.[5] Economic and political interconnectedness worked to the same effect, along with the pull of economic interests.

   In the globalised political context and highly transnational social world of today military forces may have numerous reasons to remain engaged in different tasks around the world, be it as peacekeepers (in Peace-Keeping Forces or PKFs from the Sinai Peninsula to Kosovo), as observers (from the

[5] With reference to the need for power projection and rapid response capability related to developments even in peripheric areas, 2nd strike capability in prospective nuclear warfare (by submarines and Submarine-Launched Ballistic Missiles), security reassurance to allies fearing attack, and the evolving capability of intercontinental warfare (to name a few of the specific reasons that explain this).

Golan Heights to Jammu and Kashmir) or as forces forward-deployed with a view to contingencies (such as the U.S. Navy Fifth Fleet which has its „Garrison/HQ" in Bahrein). This is relevant because it would be wrong to deny that members of military forces serving abroad actually constitute a special subset of legal migrant labourers.[6]

2. The word „home" in „home entity" in the above definition acknowledges the elusive or intersubjective nature of what makes a foreign fighter „foreign:" through the question of whether a combatant has a larger political entity or sub-entity to call „home" other than the one where he or she is fighting. In some cases this is not a simple question. Most of Israel's overseas recruits in the First Arab-Israeli War emerged from among the „overseas enlistees" (Ga'hal) who joined its armed forces in Palestine from among the ranks of the Jewish population in Displaced Persons camps around Europe, in the wake of World War II. The Allied Powers originally intended to re-settle these people „in their respective countries" – countries that in many cases proved less than accomodating towards them and to which they did not necessarily wish to return. Instead, many of them were looking to Palestine as their future home, and many were persuaded to accept that prospect in the years that ensued [even as others re-settled elsewhere] (Cohen, 2011; Yablonka, 1992; Zertal, 1998).

   Another peculiar example in this respect is the case of Poles who were forcibly removed from Polish areas by Soviet forces after the Soviet aggression against Poland in 1939, and eventually set up the Polish Army in the USSR (upon Nazi Germany's attack against the Soviet Union). This exile army, created to serve at the side of Soviet forces, evacuated eventually to Iran, and merged in the Middle East with other elements into the 2nd Polish Corps (Chudzio and Hejczyk, 2015: 17-20).

[6] The term „entity" is used instead of „state," and this is relevant with a view to the times before the rise of the modern state. To operationalise how the distinction may apply (rather problematically) in a given case, French crusaders, for example, would have qualified as foreign combatants on the basis of fighting not for the French Kingdom *per se*, in lands distant from home, doing so in a force of diverse composition – a force that was often quite disorganised as well. They were, at the same time, acting under the Pope's guidance (albeit behaving not always in accordance with it, in practice), and may have joined a crusade and fought in it in direct service of their feudal lord – all of which makes categorisation in their case problematic. (On the organisation, including recruitment, of the first crusades, see Lloyd, 1999b: 47-53.) Swiss pikemen or German *Landsknechte* from Swabia (*Schwaben*) in foreign service would be purer examples from medieval times.

3. The reference to „combatant" is interesting in and of itself. The conduct of war is per definition a life and death matter. How a combatant who may have other, „nearer" enemies, ends up in potentially lethal engagement with a fighting force in a different locale, and why he or she does so, is always an intriguing issue to investigate.

   It is a common idea to think of the people concerned as either *mercenaries* (people who are financially motivated), or *fanatics* (people who are, at the very least, strongly committed to an idea), or somehow the *ethnic kin* of the local combatants (and thus motivated by solidarity, in which case they are not as clearly „foreign" as in other cases). In reality, however, these three categories may be found to be in overlap in some cases, while in others neither of them may constitute a valid interpretation (Morillo, 2008: 260). For instance, adventure-seeking, or the „Hemingway factor,"[7] which is usually found to play *some* role for a part of recruits in any case, seems to play an important role in the case of Western volunteers joining Kurdish forces and Christian militias in Iraq and Syria (Patin - bell¿ngcat, 2015: 26-29). Additionally, a motive is usually not enough of its own, and opportunities as well as constraints play a role in how and why people become foreign fighters.

   Opportunity, for example, would often arise from the presence of an actor or actors interested in mobilising for participation and hence the process of mobilisation itself is also interesting when seeking to understand what drives involvement in foreign combat. Consider here the peculiar example of Afghans fighting in Syria on the side of Bashar al-Assad's Syrian government forces, recruited by Iranian agents from among Afghan migrants and refugees in Iran (Dehghan, 2015).

4. The type of *combat role* also pertains to understanding the process of taking part in foreign combat. A person volunteering to be a suicide bomber may be interested in a one-nanosecond participation in conflict, with the limited requirements thereof (as were e.g. British Muslims Asif Muhammad Hanif and Omar Khan Sharif when they blew themselves up at a Tel-Aviv bar in

[7] American writer Ernest Hemingway covered various conflicts as a journalist, including the Spanish Civil War from where he reported clearly favouring the Republican side. He took his part in the making of propaganda films in support of Republican forces and he spoke out on various fora against Franco's faction and Fascism in general. Yet, he was not a foreign fighter (a combatant) himself. On Hemingway's time in Spain during the civil war see Herlihy-Mera (2012).

April 2003). Very different skills may be required for someone to make a valuable contribution in manufacturing suicide vests for bombers, and the recruitment process cannot quite work the same way. Herein lies a definitional issue: in order to decide what constitutes a „combat role," one has to have a solid concept of how to distinguish foreign fighters from foreigners who may be closely in touch with them, in the same area together with them, and yet not actively taking part in the fighting alongside them. What constitutes „taking part" is problematic.

The manufacturing of suicide vests clearly does, even though the person involved in this does not normally see direct engagement with the forces targeted; such persons' role will be analogous in this respect to that of a worker in a factory producing weapons of any kind. It may be tempting to say that a person's or his or her environment's understanding of one's role should determine the answer to the question above, yet even so one encounters many problematic issues. In Israel, people who, at the time of the birth of the country, smuggled Jewish migrants to Palestine on board ships, or flew military aircraft to the country without staying there to fight themselves, are acknowledged in historical memory as „overseas volunteers" (Ma'hal) of the 1948 war nonetheless.

To consider a very different example: If a teenage Muslim girl living in a Western country decides to join the Islamic State and marry one of its warriors to thus, in her own understanding, contribute to the cause of jihad, should that be seen as being part of the jihad? [Consider the example of „Syona, 21," born to Dutch parents, in: San, 2015: 50.] How about the cook who prepares food for jihadi combatants? [Consider the example of Osama bin Laden's cook e.g. on the basis of AP, 2012.]

With reference to humanitarian law, combatants are those who directly take part in hostilities. Yet from case to case such a restrictive understanding of the notion of the combatant may have to be reconsidered.

Links between conflict-induced migration and foreign combat

Conflict may induce both displacement and ex-migration (crossing borders). With regards to the presence of foreign combatants, it may induce immigration as well. The latter is clearly the more counter-intuitive implication of conflict, from the perspective of a

Rational Actor Model interpretation of human behaviour that regards survival as the fundamental preference of human beings in a consistent and transitive order of preferences. Yet, for various reasons, people do sometimes seek the chance to join conflicts of choice nonetheless.

That conflict induces displacement is a fairly uncontroversial statement. Still, it is worth taking account of the type of conflict, as suggested by Sarah Kenyon Lischer (2007: 146) who cites Kalyvas' categorisation of the latter (in Kalyvas, 2006) whilst arguing that in terms of displacement effects different kinds of conflict produce different outcomes.

Genocidal intent thus makes a difference in cases of both unilateral and bi- or multilateral use of violence. When state terror or civil war violence is selective (directed at select members of the opposition in the case of the former, and only combatants in the case of the latter), less displacement may be expected. Naturally, as noted by Lischer as well, recognising this is only the beginning to arriving at better-functioning models of conflict-induced displacement. In the case of a civil war, the weapons and tactics employed, the strategies of the combatants, and the spatio-territorial dynamics of the fighting may all contribute to different results.[8] Moreover, a protracted civil war may create a host of economic incentives for leaving as well as the fear of being enlisted by the combatant parties, thus leading to flight for reasons other than the fear of imminent death and destruction.

Much available anecdotal evidence supports the notion that conflict zones are fled not because all of their territory becomes a sure place to die but because much of their territory becomes a bad place to live. Consider but two examples here. Faisal Uday Faisal, an Iraqi man from Baghdad speaks openly of having migrated to Germany for economic reasons (having had a low-paying job as a steward in the Iraqi Ministry of Education) and „arranging" a story of being threatened by Iraqi militias to be able to claim refugee status, having by now returned to Iraq (cited in Morris, 2016). Meanwhile, a Syrian mother speaking in a *PBS* documentary at a bazaar in Damascus (2015: 7'29'' to 8'05'') tells about her sons, one of whom was „martryred" in her words, fighting in the ranks of the Syrian Army, while the others have left for abroad. As to the latter, she states that they should also have been „martyred" if necessary. In both cases the motives for leaving

[8] Consider the case of Syria where tactics that may qualify as terrorism, or at the least as the indiscriminate use of military force, are regularly employed by various factions against civilian populations. It would be hard to disregard the effects of such incidents when at the same time a single, stand-alone terrorist attack in a Western European country typically evokes significant reactions as well.

country and relatives behind were complex in the case of those who did so, and the word „flight" does not do justice to such complexity.

Once developments exceed internal displacement, and the people affected cross international borders, the countries primarily implicated by this are the directly neighbouring ones that become the countries of first asylum. The refugee population is mostly contained in their terroritory in the short run. Later on, however, ex-migration continues as temporary housing in refugee camps and other similar contingency facilities does not provide adequate prospects to the people concerned. Diaspora groups thus usually emerge out of protracted conflict situations.

The permanently transient nature of life in conflict-induced dispersion in diaspora on the one hand, and in refugee communities in countries of first asylum on the other, may be such that joining combat remains an option for young people, especially men. The emergence of „quasi-foreign" fighters is thus often observable. Diaspora Somalis' fighting in Somalia (see e.g. ADL, 2013) or the example of diaspora Chechens in Ukraine may illustrate this (in the latter case on a substitution battlefield instead of Chechnya proper; see Kramer, 2015). In the meantime, refugees in countries neighbouring on conflict zones are often forcibly or semi-forcibly recruited to be combatants (Stedman and Tanner, 2003). If they then fight in their source countries (from where they left as refugees) they may also be denoted as „quasi-foreign fighters" themselves.

As to those who migrate to conflict not from the diaspora and not as a result of coercion but feeling that there is a likeness of cause between them and the local combatants in their conflict of choice, the following list of considerations may apply based on a review of the available literature on foreign fighters (and related subjects):

(1) that push as well as pull factors play a role in driving the movement of aspiring combatants, just as in the case of other movements of migration;
(2) that there may be among them some who join fellow combatants, i.e. those significant others who may fit the previously mentioned profile more clearly, out of peer or social pressure – their micro-environment may be key to driving their actions. Cluster migration is often visible in foreign fighting as well as in the case of regular migration (on the importance of collective choices see della Porta, 1995; Petersen, 2001);
(3) that language skills play an important role in structuring the dynamics of the migration of prospective and actual combatants. Without commonality of

language or the availability of a convenient *lingua franca*, foreign fighting may be far less appealing (Ciluffo et al., 2010: 21-22);

(4) that the movement may have certain key „bridge" and „rockstar" figures who play a critical role in its organisation (Ciluffo et al., 2010: 21-22);

(5) that foreign combatants may be looking for a substitute fight in the conflict they join and see it as a prequel to eventually continuing essentially the same fight at home (Keck and Sikkink, 1999: 93-93);

(6) that given the transnational nature of the mobilisation as well as the migration for combat, pre-existing transnational human networks and resource bases may play a role in breathing life into the movement of combatants (Adamson, 2005: 31-35);

(7) that there may develop conflict between foreign and local combatants for a number of reasons.

Strategic explanations of the foreign fighter phenomenon concentrate on understanding combatants' behaviour in terms of a rational actor model, and thus focus on the role of constraints and opportunities. Push and pull factors in this sense are diverse. For example: in the People's Crusade of 1096 an important driving factor seems to have been economic distress and famine resulting in general scarcities, and even in mass outbreaks of ergotism (upon the consumption of stored rye poisoned by the toxin of a fungus). As to the latter, the sudden spike in cases of ergot poisoning had some relevance as well, as the fear that it inspired added to the wave of millenarianism sweeping across Christian Europe at the time (Riley-Smith, 2005: 18; Hindley, 2004: 21).

Important questions from the perspective of the would-be combatants include whether in his or her home area a foreign fighter has left behind a combat-prohibitive environment, or if the hope on their part is that constraints in the home environment may be eventually overcome by first training, practicing and consequently becoming a better warrior elsewhere (Hegghammer, 2013: 6-7).

While some of the considerations cited from the literature with respect to this are highly specific to the transnational jihadi movement (focused as the literature is on them), it seems reasonable to assume that in the past other foreign fighters may have found their respective environment combat-prohibitve in one sense or another as well, just as it may be reasonable to assume that many acquired military skills during their time as foreign fighters. For some this indeed may have been a key goal in and of itself, with a view to

further, more distant ends. Based on the scarce evidence available, Rękawek notes the possibility of this even in the case of the few Western European volunteers who have joined the Moscow-backed rebel side in the conflict in Ukraine (Rękawek, 2015a: 8-11, and 2015b).

Given commonsensical considerations about how both the practicing of one's existing skills in a new environment and the highly likely learning of new skills in a new environment may make one a more capable person in any walk of life, we may expect that this experience can be generalised to foreign fighters of any kind. What this does not mean is that foreign fighters would be necessarily more capable than local fighters. The experience of fighting in a foreign land is expected to enhance the skills they have and learn but the comparison in their being „comparatively more capable" is with their prior self. The exception may be that of mercenaries. In an historical overview of privatised warfare, Singer finds that „When quality mattered more than quantity, the activity and significance of mercenaries was typically higher, primarily because skilled professionals were superior to ill-trained or citizen soldiers" (2003: 18). The role of the former South African firm Executive Outcomes in Sierra Leone may be an instructive example in this regard (Howe, 1998).

Once foreign combatants are present in the area of conflict, their relationship to the local combatants to whom they are allied may become strained. Tension may be the result of the inevitably awkward relationship between partly or fully autonomous (and armed) actors who have potentially incompatible interests – and foreign combatants often fight in units of their own, even when hierarchically incorporated into a larger local force, owing to the practicality of this arising from their difference of language. Beyond this, foreign fighters may distort the agenda of local combatants' struggle, or even hijack it outright. They may act in less than perfect agreement with local combatants, e.g. by giving up early or continuing fighting when a compromise may be reached. In other words, they may be fighting with a different understanding of the public good (and with reference to a different „public" at that). In fact, it is hard to imagine how foreign and local combatants may have the exact same public good in mind related to what they are involved in (Hegghammer makes a similar point in 2010: 63). When foreign fighters enjoy a degree of autonomy and are, at the same time, more extreme in their approach to the conflict and towards the opposing parties, this may result in excessive violence and, consequently, more in the way of conflict-induced displacement and ex-migration.

As to the post-conflict experience of foreign fighters, van Zuijdewijn convincingly argues that instead of, or besides, the motive to become a foreign fighter, one's motive upon returning, in some cases decided in advance, in some cases developed at a later stage, may be an equally relevant dimension of categorisation. Thus, writing of jihadi foreign warriors, she differentiates „terrorists," „martyrs," „veterans," „reintegrated fighters," and „recruiters" (Zuijdewijn, 2014: 81-84).

Martyrs are those who are killed in the course of their tour as foreign fighters and may have been interested in sacrificing themselves in this way (and in never coming back) in the first place. Veterans are those who may continue to wander from one theatre of fighting to the other, adopting this as a form of life. Reintegrated fighters are those who eventually move beyond the fighting experience and choose to return to a more normal life. Recruiters, finally, may be back in their old country but with the interest of organising the continued supply of foreign combatants to a given conflict – they may do so especially effectively as veterans of the fight themselves.

One should add that the path that a foreign fighter eventually takes is determined partly by constraints, in any case, and hence one's motive (or intentions) upon returning may be different from one's eventual record upon returning. More importantly, a category that is missing from van Zuijdewijn's list, very relevantly for the subject consideered in this article, is the „émigré" who never returns, finding a new home connected to foreign fighting either in or near the conflict zone proper or elsewhere. The émigré may be either an exile who is practically unable to return, or a voluntary migrant whose wish may have been to emigrate in the first place.

Precisely this is the basis of one of the most interesting connections between migration and foreign fighting: that it has played a role in the process of state formation, with prominent examples across history including the Crusader states of the 12th and 13th centuries, the Monastic State of the Teutonic Knights (1230-1525), as well as, in the course of the 18th and 19th centuries, the history of the United States[9] where foreign

[9] Many newcomers to the Americas as well as actual foreign combatants (who would eventually return to their home countries) served in the U.S. War of Independence, on both sides. On the side of the colonies fought people such as Gilbert du Motier (the Marquis of Lafayette) who returned to France after the conflict, or, for another example, Michael Kovats (Kováts Mihály), formerly a Hussar officer of Maria Theresa, born in Karcag, Hungary, who joined the cavalry of the Continental Army and died in the 1779 Siege of Charleston. His comrade Casimir Pulaski (Kazimierz Pułaski) shared in his fate several months later, during the siege of Savannah. Together they are remembered to this day as the founders of U.S. cavalry. In the meantime, on the other side served a great number of „Hessians" from Hessen-Kassel whose rulers for centuries specialised in „hiring out" some of their soldiers as mercenary troops – a source of significant revenues for the Landgraviate (Reese, 1992: 16).

volunteers were as crucial in acquiring lands that today are a part of Texas [and were for a brief while a part of the Republic of Texas] (Malet, 2013: 58-92) as the continued influx of migrants was in pushing the Frontier westward along with the native population. These are but some of the more visible cases.[10]

The transnationality of foreign fighting and its limits

The theory of transnational mobilisation originates from starting assumptions that include the ambiguous nature of who may be regarded as socially embedded when it is an increasingly global world of transnational human networks in which individuals are connected. There is, in latter decades, growing migration as well as intensifying capital mobility. In such a context, „social entrepreneurs" interested in mobilising for different causes may draw on „transnational constituencies" and „transnational resource bases," that may emerge out of financial flows of remittances for example, and from „transnational informal economic networks" of labour, be it labour employed in licit or illicit economic activity [such as organised crime] (Adamson, 2005: 31-35).

In migrant communities, densely networked cooperation is especially common as they struggle to collectively overcome the problems of adaptation in a new environment where a steady stream of newcomers may be joining those already there. This gives rise to the solidarity networks of imagined communities, actually bringing the community closer together at the same time as it maintains an intense connection to those left behind at home as well (Lloyd, 1999a: 371-373). Along with the migration of people and capital, ideas spread more easily in a context like this, and this further facilitates transnational mobilisation (Adamson, 2005: 33-37).

Historically, the level of transnationalisation in the three dimensions alluded to above (of people, capital, and ideas) is variable and there have been earlier eras characterised by population movements as significant as the ones witnessed today. The simultaneously increasing flow of persons, goods, services, capital and ideas may represent something qualitatively new but the above insights into transnational mobilisation may still be of use in studying earlier historical contexts as well.[11]

[10] For a case considered less often, take the brief history of the State of Katanga, a short-lived breakaway entity (1960-1963) in the territory of the Democratic Republic of the Congo, under President Moise Tshombe's leadership, whose armed strength derived largely from the presence of foreign mercenary forces (organised in the framework of the infamous Katanga *Gendarmerie*).

[11] Taking part in the crusades, for instance, used to be referred to in their time as „peregrinatio" (pilgrimage) as well as „iter" (journey) and „passagium generale" (general passage), containing reference to how the experience was connected to the long-established practice of pilgrimage to Jerusalem. It had its

Regarding the issue of how much overall continuity there is, reflecting on the seeming prominence of foreign fighters in the contemporary era, we should question to what extent the scale of their presence is really unprecedented. Moreover, since the 1990s there has been much discussion in the literature of armed conflict on the perceived rise of „new wars" that are seen as distinct from the wars of old in certain respects (see e.g. Kaldor, 1999; Collier, 2000). The general assumptions operating behind this include the view that today's wars are motivated „by greed rather than grievance," that combatants lack ideology and mass legitimacy, and that they are inclined to use uninhibited violence even gratuitously (as this is summed up by a source critical of the discourse of new wars: Kalyvas, 2001).

The new war thesis, were we to believe it, would present a puzzle: If wars are really unlimited by considerations of morality or legitimacy, and are free of ideology, then in today's globalised world, characterised by a larger and more intense flow of persons than before, we should expect mass foreign combatant involvement in purely financially motivated, resource-exploitative fighting. Perhaps especially so in conflicts in sub-Saharan Africa that are often seen or presented as archetypes of new war.

In fact, sellswords and freelancers (along with other military professionals for hire, such as mercenary archers, crossbowmen, siege engineers, etc.) were *more* common in medieval Europe than in the conflicts in question in the present day, as the example of the *condottieri*,[12] free companies, *routiers*,[13] and others may show. In contrast, at the present the involvement of ideologically motivated foreign combatants is on the rise with the ascendance, among others, of the transnational jihadi movement since the 1970s.

The explanation for this on a superficial level may be two-fold, and lie partly in less than complete transnationalisation on the one hand, and the (in fact) less than complete transformation of the character of war on the other. To elaborate further: (1) it may matter to a combatant if one's home state and/or society (or at least a relevant

infrastructure as well – according to Hindley „by AD 350 there was a regular pilgrim route from Bordeaux to Jerusalem with hospices on the way" (2004: 3).

[12] Machiavelli thus writes of the *condottieri*: „Mercenaries are disorganised, ambitious, undisciplined, and disloyal; bold among friends, among enemies cowardly (…) In peacetime they plunder you, in wartime your enemies do [because your mercenaries will flee instead of beating them back]" (Machiavelli, 2008: 221). Elsewhere he writes of the demoralising effect that the employment of (and dependence on) foreign troops may have on one's regular forces (p. 241).

[13] *Routiers* or roaming (and killing and plundering) unpaid sellswords played a role both in causing and, eventually, in putting down the peasant rebellion of 1358 in northern France (known as the *La Grande Jacquerie* in French) [Erdődy, 1969: 7-23]. Four years later some of the same free companies involved have banded together to defeat the French army at the battle of Brignais – one of their commanders was the English mercenary John Hawkwood (Caferro, 2006).

segment thereof) approves of involvement in combat in a foreign location in terms of dominant values, beliefs and views; (2) it may also matter from the perspective of hosts, in terms of efficiency in combat as well as considerations of legitimacy, if they are fighting together with comrades with whom they share (at the least) culture and language (or a political vision).

Methodically verifying these propositions in empirical research may be warranted. Beyond addressing their validity, understanding the deeper reasons behind the contemporary character of civil war is prospectively even more interesting. Resource-exploitative many a contemporary conflict may be, yet even as the resources in question are sucked out of the regions concerned and are utilised by a globally interconnected and interdependent economy, most of those involved in the fighting on the ground remain local to the broader conflict zone, helped in some cases by ideologically motivated and/or culturally related comrades-in-arms.

Conclusion

Foreign fighting and migration connect in ways that may be obvious – such as that foreign fighters are themselves a special subset of migrants. Yet, as this article has shown, other connections exist that may be interesting to uncover, as is for instance the link with state formation and the role played in it by combatants who chose to emigrate upon their involvement in foreign fighting.

At the same time, it has also become visible in the process of exploring this connection that foreign combat and conflict interrelate in complex ways via population displacement. Viewed from this vantage point, the paradoxical nature of foreign fighting needs to be realised. Interpreting foreign combat as an anomalous form of migration, this article examined foreign combatants' motives based on the available literature on migration and foreign fighters, as well as based on a broad set of empirical examples.

Highlighting related considerations along with some of the practicalities (and difficulties) of foreign combat also points to a flawed aspect of new war theory that may guide further critical examination of its propositions: namely, that new war theory's assumption of „greed" being the most important motive of contemporary combatants may be called into question in light of the continued importance of cultural factors and ideological motives for participation in foreign combat.

This underlines the need to take continuities in the nature of armed conflict seriously at a time when new (and seemingly new) aspects of conflict are often over-emphasised.

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The principle of *non-refoulement* under international law: Its inception and evolution in a nutshell

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Abstract

The article first gives an overview of the formation and the evolution of the principle of *non-refoulement* under international law. The different meanings of the concept in the asylum and human rights contexts are then discussed and compared, with due regard to the convergences that arose in the course of legal developments. In doing so, this short piece also draws attention to certain controversial issues and blurred lines, which have surfaced through the practical application of the prohibition of *refoulement*. Identifying the contours of the concept and clarifying its content and its effects may help in appreciating the implications that stem, in the current extraordinary times of migratory movements, from the fundamental humanitarian legal principles of which the imperative of *non-refoulement* forms part.

Keywords: non-refoulement, asylum, refugee law, human rights, judicial practice

Historical development: the asylum context

The principle of *non-refoulement*, meaning "forbidding to send back," first appeared as a requirement in history in the work of international societies of international lawyers. At the 1892 Geneva Session of the *Institut de Droit International* (Institute of International Law) it was formulated that a refugee should not by way of expulsion be delivered up to another State that sought him unless the guarantee conditions set forth with respect to extradition were duly observed (*Règles internationales sur l'admission et l'expulsion des étrangers* 1892, Article 16).

Later on, with a view to the growing international tension in the period between the two World Wars, the principle of *non-refoulement* explicitly appeared in an increasing number of international conventions, stipulating that refugees must not be returned to their countries of origin [e.g. in the context of Russian and Armenian refugees; the

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conventions signed in 1936-38 with reference to refugees from Germany also contained similar restrictions on *refoulement*] (Tóth, 1994: 35; Goodwin-Gill & McAdam, 2007: 202-203).

After World War II it was the foundation of the United Nations (UN) that gave a new impetus to the consolidation of this principle in international law. Millions of people were seeking refuge at the time from the clashes and horrors of the six-year cataclysm, looking for the opportunity of settlement in an ultimate host country. In that period, the first context of application where the prohibition of *refoulement* became universal was the field of humanitarian international law: it was formulated in Article 45 of the *1949 Geneva Convention relative to the Protection of Civilians Persons in Time of War* according to which "in no circumstances shall a protected person be transferred to a country where he or she may have a reason to fear persecution for his or her political opinions or religious beliefs."

The principle of *non-refoulement*, granting broader protection, gained generally recognised, positive legal reinforcement at the universal level by virtue of Article 33 of the *1951 Geneva Convention relating to the Status of Refugees*, which stipulates that

> "No Contracting State shall expel or return (*"refouler"*) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."

Thus, in the beginning, the principle of *non-refoulement* was closely related to the field of international refugee law as *lex specialis*. The enforcement of this international legal principle protected those fleeing persecution. It required unconditional implementation, as reflected by the fact that no reservations may be made to Article 33 of the *1951 Geneva Convention*. Nevertheless, the implementation of this clear obligation faced various difficulties. For instance, certain States allowed only formally recognised refugees, but not asylum seekers, to invoke the principle of *non-refoulement*; while several States have failed to operate a meaningful and efficient refugee status determination procedure until today (Tóth, 1994: 35).

It is partly due to the latter issue that the Executive Committee of the Office of the United Nations High Commissioner for Refugees (UNHCR ExCom) has, since 1977, reinforced the significance and the universally accepted character of *non-refoulement* by the international community as a basic humanitarian principle several times, and has also

elaborated more on its contents and conditions of application in detail. Although as regards their normative force these are non-binding (soft law) documents, in many respects they reflect international customary law, established or in formation (see also: Goodwin-Gill & McAdam, 2007: 217). A UNHCR ExCom conclusion adopted in 1977 stipulated, for example, that the implementation of the principle of *non-refoulement* did not require the formal recognition of refugee status, while the ExCom conclusions passed in 1980 pointed out the need to consider the prohibition of *refoulement* as an obstacle to extradition and reinforced that the requirement of *non-refoulement* was to be strictly observed even in the case of the mass influx of refugees; later on, the UNHCR ExCom conclusions passed in 1981 and 2004 made it clear furthermore that the principle of *non-refoulement* also included non-rejection at frontiers (adding that access to fair and effective asylum procedures should also be ensured).

The principle of *non-refoulement* and human rights law

At the universal level, the development of the international protection of human rights later broadened the scope of the application of *non-refoulement*, whereby the principle grew beyond the narrow framework of international refugee law. Indirectly, the principle of *non-refoulement* can be already inferred from Article 7 of the *1966 International Covenant on Civil and Political Rights* (ICCPR) banning torture, through the extraterritorial interpretation of the prohibition of torture (i.e. a State indirectly commits torture by transferring the person concerned to a country where s/he is tortured or subjected to cruel, inhuman or degrading treatment or punishment). This was the interpretation that the Human Rights Committee monitoring the implementation of the Covenant assigned to the article concerned in their General Comments No. 20 (1992) and No. 31 (2004) as well [see also: Betlehem & Lauterpacht, 2003: 92; Goodwin-Gill & McAdam, 2007: 209].

A further prominent step in this direction was taken when the *1984 United Nations Convention against Torture* (CAT) formulated the *non-refoulement* obligation explicitly, in a general human rights context. Article 3 of the CAT prescribes it as a general rule that no State shall expel, return or extradite a person

> "to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant

considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violation of human rights."

It should be noted that the principle of *non-refoulement* deriving from the ICCPR has a broader scope of application than the provision laid down in the CAT since the former extends the ban beyond torture to cruel, inhuman and other degrading treatment or punishment as well. The UN itself has reinforced the embeddedness of the principle of *non-refoulement* into the international human rights protection system and its recognition in general international law several times (cf. e.g. the growing number of resolutions by the General Assembly in this field since the 1980s; the UNHCR ExCom themselves have pointed out the fact that this very legal principle has grown into a human rights requirement beyond refugee law).

Looking at the regional level, the principle of *non-refoulement* also appears in binding international legal instruments (international treaties). On the African continent, in the context of refugee law, Article II (3) of the *1969 Addis-Ababa Convention* governing the specific aspects of refugee problems in Africa offers a definition somewhat different from those above (threatening life, physical integrity or liberty is formulated as constituting the obstacle to return, to rejection at the frontier, and to expulsion), while *non-refoulement* is included in Article 22 (8) of the *1969 American Convention on Human Rights* as a purely human rights obligation. The latter general concept of *non-refoulement* protecting all foreigners is, as regards the reasons serving as the basis of protection, greatly akin to the original definition in the *1951 Geneva Convention relating to the Status of Refugees* (i.e. *refoulement*, to a country where the right of the person concerned to life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion, is prohibited).

Moreover, in Latin America, the *1984 Cartagena Declaration*, reiterating the significance of the principle of *non-refoulement*, gave emphasis to this principle as a cornerstone of the international protection of refugees, which should be observed therefore as a rule of *jus cogens* (para. III. 5). Considering that, in its judgment of 2012 rendered in the case concerning *Questions relating to the Obligation to Prosecute or Extradite* (Belgium v Senegal), the International Court of Justice acknowledged the *jus cogens* character of the prohibition of torture, one can assign the same status to the requirement of the unconditional enforcement of *non-refoulement*, as it is by its logic closely related to the former as well (as is its extraterritorial emanation).

In addition, the general prohibition of *refoulement* implicitly follows from Article 3 of the *1950 European Convention on Human Rights* (ECHR) declaring the prohibition of torture as an absolute right, thanks to the solid case-law of the Strasbourg Court interpreting and construing the prohibition of torture to be of an extraterritorial nature. The European Court of Human Rights (ECtHR) ruled that both extradition (see e.g. application No. 14038/88, *Soering v United Kingdom*) and expulsion (see e.g. application No. 22414/93, *Chahal v United Kingdom*) violated Article 3 of the Convention banning torture if there were reasonable grounds to assume actual danger that the person concerned would be subjected to torture or inhuman or other degrading treatment or punishment in the receiving State.

Within regional frameworks, *non-refoulement* is also expressed in multilateral conventions on extradition and therefore it may not be violated even as a result of an extradition procedure. Extradition as an instrument of criminal procedural law shall not be granted for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion [e.g. Article 3 (2) of the *1957 European Convention on Extradition*; or Article 4 (5) of the *1981 Inter-American Convention on Extradition*] (see also: Betlehem & Lauterpacht, 2003: 93; Goodwin-Gill & McAdam, 2007: 258).

With reference to regional soft law norms, the Member States of the Council of Europe undertook, in *Resolution (67) of the Committee of Ministers of the Council of Europe*, not to subject anyone to refusal of admission at the frontier, to rejection, or to expulsion, or to compel one to return to a territory where he would be in danger of persecution. The Committee of Ministers later reinforced this commitment several times (e.g. in 1984 and 1998).

In the law of the European Union, the *EU Charter of Fundamental Rights*, elevated to the level of primary EU law as of 1 December 2009, contains a specific provision for *non-refoulement*. This fundamental principle enshrined in Article 19 (2) of the Charter – actually codifying the case law of the ECtHR – rules with reference to everyone, i.e. covering the broadest possible range of persons:

> "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 death penalty, torture or other inhuman or degrading treatment or punishment."

Within secondary EU law, the *recast Qualification Directive* (2011/95/EU) formulates the requirement of *non-refoulement* specifically in the asylum (international protection) context (Article 21), while in the *Return Directive* (2008/115/EC) it appears as a horizontal human rights guarantee with reference to illegally staying third-country nationals (Article 5). In substance, these provisions do not provide for more than restating the international legal obligations of the Member States existing in any case, but the *non-refoulement* thus reproduced and made part of the EU law has progressed to a substantial legal principle within Member States that can be efficiently enforced (i.a. by the Court of Justice of the European Union) and which carries the structural principles of EU law (direct applicability, direct effect and primacy). In other words, in Europe, in addition to and parallel with the ECHR and the Strasbourg case-law, the judicial protection mechanism of the EU may also ensure taking measures against government acts violating the principle of *non-refoulement* (e.g. by providing effective legal remedies before the EU Court against such acts).

Summing up the above, by today the principle of *non-refoulement* has become more than the cornerstone of asylum (international protection), since, having grown beyond this, it has been reinforced as a general human rights requirement both at the universal and regional levels. Based on the above it can be established that this protection covers all individuals who have left their homeland for substantial fear of persecution for reasons specified by the 1951 Geneva Convention, as well as those in the case of whom it can be reasonably assumed that they would be subjected to torture or inhuman or other degrading treatment or punishment if forced to return to a particular country. This legal principle of customary nature (for an opposite view, see Hathaway, 2005: 363-370) – which, many believe, can be qualified as a *jus cogens* rule per se (Allain, 2001: 533-558; Farmer, 2008: 1-38) – must be observed from the moment that the person concerned *intends* to enter the border of another country, i.e. it does not only protect those already staying in the territory of a particular country from being removed. Moreover, due to the way international law has evolved, the extraterritorial application of the *non-refoulement* principle has become accepted. In other words, the principle must be enforced even if the act of the State takes place outside the territory of the State in the narrow sense, e.g. in airport transit zones (cf. the ECtHR judgement in *Amuur v France* – application No. 19776/92), in areas qualifying as international zones or even on the open sea (cf. the ECtHR judgement in *Hirsi et al v Italy* in 2012 – application No. 27765/09).

A unique situation arises when *refoulement* takes place only indirectly: although the country concerned sends the person in question only to a "transit country," the latter may send the individual back to the country where s/he may then be subjected to torture or cruel, inhuman or other degrading treatment or punishment (this is referred to as "indirect" or "chain" *refoulement*). According to the relevant ECtHR jurisprudence, if someone is sent back to his/her country of origin indirectly, this may raise the responsibility of the first country because it can be expected of the State to make sure if the "transit" country provides efficient guarantee against arbitrary *refoulement*. Some authors criticise the concept of "indirect" or "chain" *refoulement* since the act of the first State in itself does not *per se* realise *refoulement* violating international law. All this certainly does not mean, however, that this act does not violate international law (e.g. by violating the right to private and family life by itself if well-integrated families are torn apart due to the expulsion of a family member, not meeting the proportionality test) or that the responsibility of the first State cannot be established.

Debated issues

There are as yet some unclear questions with regard to the essence of the principle of *non-refoulement*, by now over one-hundred-years-old. One of these questions concerns the personal scope governed by the principle [scope *ratione personae*] (Goodwin-Gill & McAdam, 2007: 205). In the international refugee law context, as formulated by the *1951 Geneva Convention*, it is refugees (those who meet the definition of refugee formulated by the Convention) who are eligible for this protection, i.e. the right to stay in the host State's territory. The UNHCR ExCom Conclusion passed in 1977 assigned a broadening interpretation to this: according to the Committee's position the *non-refoulement* principle can be applied to asylum seekers as well. In this respect it is totally indifferent whether the asylum seeker is staying in the territory of the host country lawfully or unlawfully, or what migratory or other legal status s/he has otherwise (it also flows from the requirement to implement the *1951 Geneva Convention* in good faith (Hathaway 2005, 303-304).

In the *human rights context* the personal scope of the principle is straightforward stemming from the *1984 Convention against Torture*. The latter can be regarded as a universal instrument, and the regional human rights codifications all use general subjects ("someone;" "no one") in their formulation, so the subject of protection is the 'individual'

without any restrictions, which includes, beyond the totality of foreigners, the State's own citizens as well.

Another, more frequently disputed key issue is the range and permissibility of *exceptions* from the prohibition of *non-refoulement* – a prohibition of fundamental character (Goodwin-Gill & McAdam, 2007: 234-244; Kugelmann, 2010: para. 34). In the asylum context, the *1951 Geneva Convention* does not create absolute protection from *refoulement*. Under Article 33 (2) of the Convention

> "[t]he benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he or she is or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country."

At the same time, contrary to this universal normative framework, the *1969 Addis-Ababa Convention* recognises no exception from the principle of *non-refoulement*.

In the human rights context, the 1984 Convention against Torture, just like, at the regional level, the American Convention on Human Rights and the ECHR, as well as the Strasbourg case law based on Article 3 of the latter, formulate an absolute ban without exceptions, which is an obstacle even to removing *persona non grata* or dangerous individuals. The *EU Charter of Fundamental Rights* has adopted the same approach.

In view of the above the question may arise: Did the principle of *non-refoulement*, interpreted as a human rights guarantee in the broad sense, not make the exceptions specified under Article 33 (2) of the Geneva Convention of 1951 superfluous?

It may be argued that if an asylum seeker was returnable under the quoted provision of the Geneva Convention, but the imperative of the comprehensive, human-rights-driven principle of *non-refoulement* prevented the expulsion of the person concerned from the territory of the given country, the logical result would be that the person would keep his/her refugee status and would be practically impossible to send back. If, on the other hand, the individual in question fell under the scope of the excluding clause (Article 1 F) of the Geneva Convention, he would not be given conventional refugee status in any case but, considering the legal obstacle to expulsion, he would be allowed to continue to stay in the country concerned in a kind of "tolerated" status.

Judicial practice

The principle of *non-refoulement* frequently comes up in the case law of regional human rights courts, and these decisions have greatly contributed to unfolding the scope and contents as well as highlighting the respective aspects of the principle. At the forefront of all this has been the European Court of Human Rights which, with its abundant jurisprudence starting with the *Soering Case (1989),* has played a very active role in shaping the set of criteria related to the *non-refoulement* principle (considering the essential elements of the principle; significantly lowering e.g. the level of individualisation; increasingly focusing on the protection of the individual; and meaningfully and strictly controlling the application of legal concepts called upon by the States such as "safe third country" or "internal flight alternative").

The issue of *non-refoulement* has also come up in the case law of the *Inter-American Court of Human Rights*, even though the number of such cases has been by orders of magnitude lower (consider e.g. the judgement in *Caso Familia Pacheco Tineo v Estado Plurinacional de Bolivia* in 2013).

Before the *Court of Justice of the European Union* (CJEU) there have not really been any cases, with the exception of a few references, where the meaning of *non-refoulement*, the nature of protection, or the scope of application, etc. were meaningfully dealt with.

A recent CJEU judgement contains explicit reference to the pertinent provision of the EU Charter. It assimilated the ramifications of the prohibition of *non-refoulement* under EU law with those stemming from the case law of the ECtHR (*Tall* – C-239/14). At the same time, everything is given as regards both competence and positive law to make the CJEU active in this field as well.

It suffices to think of Article 19 (2) of the EU Charter, as well as the newly codified asylum *acquis* constituting the second generation of the Common European Asylum System, and the EU's foreseen accession to the European Convention on Human Rights in the future.

Beyond the international (regional) level, it is noteworthy that there exists massive case law with regard to the *non-refoulement* principle also before national courts. The latter have mutually affected the judicial practice of one another as well as the development of the contents of the principle (e.g. British, Australian, Canadian, French, German, Italian and US court verdicts).

Finally, mention must be made of the benchmark and often-referenced practice of *quasi-judicial bodies* (the so-called "treaty bodies") set up for the control of certain human rights conventions and the monitoring of the implementation of their contents (e.g. the Human Rights Committee, the Committee against Torture, etc.). Although they cannot render legally binding decisions, their quasi-case law enjoys a highly authoritatve force, and States usually follow these recommendations to maintain their credibility in the international human rights arena.

Conclusion

This short piece sketched out the formation and the evolution of the principle of *non-refoulement* under international law in order to highlight the logic behind its existence and the need for further extending and refining its scope. After its inception in the asylum context, and its subsequent infiltration into and establishment within international human rights law, convergences could be witnessed in the course of later developments regarding the content of the *non-refoulement* principle. Nevertheless, there still exist certain controversial issues and blurred lines, which have surfaced through the practical application of the prohibition of *refoulement*, and are rooted in the sometimes eclectic State practice. This leaves some questions unresolved.

The blossoming judicial application of the principle, especially in regional settings, is a promising sign. It also contributes to the strengthening of the international rule of law in relation to this essential, non-transgressable universal human right.

As to just how essential continuous reflection and the jurisprudential shaping and refinement of the principle of *non-refoulement* may be, in adapting to new circumstances and challenges, to answer the question, we may borrow Pirjola's vigorous words (2007: 656): "[o]pen concepts will always receive meaning and content, and from the perspective of people applying for protection, the content given to *non-refoulement* can be a question of life and death."

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The Visegrad Group and the EU agenda on migration: A coalition of the unwilling?

***Peter Stepper*[1]**

Abstract

More than a million refugees applied for asylum in member states of the European Union in the course of 2015. Along with the challenges of the central Mediterranean migration route, new hotspots of migratory movements emerged, such as Hungary. The EU is faced as a result with a number of challenges connected to its asylum policy, mostly because its system was not designed with the prospects of a persistent mass influx of refugees in mind. Although the recast process of the Common European Asylum System (CEAS) established the possibility of financial compensation, supportive measures and early-warning mechanisms, no common system for a more equal distribution of refugees was accepted. Initiatives aiming to establish resettlement and relocation mechanisms based on distribution keys were not supported unanimously. Among the prominent persistent objectors to such plans are the Visegrad Four (V4) countries who express a strong interest in securitising irregular migration. This article aims to explain V4 countries' reactions, and examines whether a fundamental reassessment of the CEAS is really needed or possible in the near future.

Keywords: refugees, migration, CEAS, securitization, irregular migration, Visegrad

Introduction

More than a million refugees applied for asylum in member-states of the European Union until 22 December 2015. Along with the challenges of the central Mediterranean migration route, which represents the greatest challenge in the field of border management and asylum policy since 2012, new hotspots appeared on the map after 2014.

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Hungary registered a total of 199,165 asylum applications up to the end of October in the course of 2015 (Nagy, 2015: 1). This is the second largest number after Germany, the main destination country for refugees. The Common European Asylum System (hereinafter: CEAS) was thus challenged, because the system was not designed to smoothly manage the persistent mass influx of people. In fact, the original idea behind the CEAS, as it exists since 1999, was mostly not burden-sharing, or the equal distribution of refugees across Europe but to prevent secondary migration, to provide adequate reception conditions, and to create minimum standards for the asylum procedure. The recasting of the CEAS, completed last year, established financial compensation mechanisms through the European Fund for Refugees and the new Asylum, Migration and Integration Fund (AMIF). It also called for supportive measures for weaker member states through the European Asylum Support Office (EASO), and early-warning mechanisms in case a Member State does not meet its asylum obligations. However, no common system for a less disproportionate distribution of refugees was accepted (Bendel, 2015:2). Therefore this article will focus on European asylum policy reform and the pros and cons of whether a fundamental re-assessment of the CEAS is necessary. It also provides an overview of how the member states reacted to the recent asylum relocation plans of the EU Commission.

After the arrival of Kosovar applicants in 2014 and the mass influx of Syrian, Afghan and Eritrean nationals in 2015, the overburdened asylum system of Hungary almost collapsed. The Hungarian decision to temporarily suspend the application of the Dublin Regulation triggered a meaningful discourse on the issue – even as this decision was reversed a few days later.[2] Hungary rejected becoming a new refugee hotspot of the EU but asked for assistance from member states because of the high number of applications at its southern border. Furthermore, Hungary urged the enhancement of surveillance in the field of border control, and supported the idea of extraterritorial defense to be established in cooperation with a zone of "safe third countries" in the Western Balkans. Based on this argument, refugees should not be resettled or relocated across the European Union, but simply kept outside the EU's territory. Hungary bears the

[2] A government spokesman announced the suspension of the Regulation. The latter establishes that the country where an asylum-seeker first sets foot in the EU must process his/her claim. The government's stated reason for the suspension was that it was "overburdened." A day later, the Ministry of Foreign Affairs said in a statement that it was not suspending any EU regulations, and that it had merely requested a grace period to deal with asylum seekers who were arriving at the time (ECRE, 2015).

support of the Visegrad Group in this issue and the V4's regional cooperation could have major signficance in influencing future EU legislation in this field.

The role of the V4 group is noteworthy as these countries implemented the CEAS from the very beginning of their EU accession talks. Yet for long they were largely unaffected by refugee flows and migratory movements. At the same time, they adopted the main security concerns of Western European strategic thinking[3] such as terrorism, organised crime and irregular migration – key aspects of European security policy documents (Schwell, 2015: 4).

The securitization of migration

According to Schwell, understanding irregular migration as a security risk may have begun with the Europeanization of CEE countries and their adoption of the European security agenda. This took a dynamic turn in recent years. Securitizing "speech acts" (political rhetoric, legislative acts, etc.) appeared in every single country of the V4 concerning irregular migration, suggesting that transboundary migratory movements derive from economic disparities and that "economic migrants" who are crossing the border illegally should be sent back.

The other influential argument behind securitisation is that migrants are presented as endangering these countries' cultural and religious values. This line of argumentation rests on ignorance of the numerous reasons why a person might need to leave his/her home country (such as coerced displacement, or displacement due to a natural disaster). It frames the recent crisis as a new "period of popular migration" (*népvándorlás* in Hungarian; *Völkerwanderung* in German).

That understanding may have its own relevance from a historical or a sociological point of view, but it does not address the problems related to the current European asylum legislation. Almost 900,000 of a total of one-million irregular migrants applied for asylum in the EU in 2015, and thus the current situation shall rather be termed a "refugee crisis" even as asylum policy issues were not on the top of the policy agenda in V4 countries at all (only a few experts raised their voice and urged the improvement of standards concerning asylum facilities, detention centers and asylum procedure as a whole). Instead,

[3] The European Security Strategy of 2003 is a comprehensive document which analyses and defines the EU's security environment, identifying key security challenges and subsequent political implications for the EU. It singled out five key threats: terrorism, the proliferation of weapons of mass destruction, regional conflicts, state failure, and organised crime.

decision-makers focused on the enhancement of border protection, and quicker and more effective border procedures in order to return the "economic migrants" to their country of origin or a "safe third country."

The fear from a "mass influx" may be rational if one looks at the number of arrivals in 2015. For Visegrad countries both the scale and the implications of the phenomenon may be unprecedented although it must be noted that these countries were not entirely evenly exposed to the migratory movements themselves.

Slovakia

As *Table 1.1* shows, Slovakia did not grant refugee status to more than 80 persons in any year in 1993-2004. Although they received more than 10,000 applications in 2003 and 2004, most of the refugee status determination procedures were halted given that the applicants left the territory of the country (presumably towards Western Europe). The high number of discontinued procedures shows that the secondary movement of asylum-seekers was the core problem of asylum policy already before Slovakia's EU accession.

Year	Asylum Applications	Positive decisions	Rejections	Discontinuation
1993	96	41	20	25
1994	140	58	32	65
1995	359	80	57	190
1996	415	72	62	193
1997	645	69	84	539
1998	506	53	36	224
1999	1320	26	176	1034
2000	1556	11	123	1366
2001	8151	18	130	6154
2002	9743	20	309	8053
2003	10358	11	531	10656
2004	11395	15	1592	11782

Table 1.1: Asylum applications in Slovakia 1993-2004 (Hurná, 2012: 1400).

According to *Table 1.2*, the peak year upon EU accession was 2005, with 3,549 requests. Authorities had to deal with approximately 3,000 applications per year in the first years post-accession. This amount started to decrease after 2008, and the result was an average level of ca. 700 applications annually. Meanwhile Slovakia granted asylum to less than one-hundred persons in the whole of the period concerned.

We may therefore conclude that Slovakia had virtually no experience with any mass influx of asylum-seekers. This may go a long way in explaining the country's relative passivity on CEAS issues before 2014.

Year	**Asylum Applications**	**Asylum granted**	**Rejected**	**Granted / Not granted subsidiary protection**	**Discontinued**
2005	3549	25	827	n/a	2930
2006	2849	8	861	n/a	194
2007	2642	14	1177	82/646	1693
2008	909	22	416	66/273	457
2009	822	14	330	98/165	460
2010	541	15	180	57/104	361
2011	491	12	186	91/48	270

Table 1.2: Asylum applications in Slovakia 2005-2011 (Hurná, 2012: 1401).

However, this posture has changed since 2015. In Pavelková's words:

> "When […] in October [2015], a group of Syrians temporarily relocated to Gabčíkovo municipality objected to the conditions of the housing facilities they were placed in, the Minister of the Interior Robert Kaliňák dismissed their critique, reminding them that they were not in the hotel Sheraton Arabella" (Pavelková, 2016:1).

While the Slovak standards of reception conditions are far below the average in the EU, this statement may show that the minister objected to the high costs of improving asylum infrastructure.

Meanwhile, Slovak Prime Minister Robert Fico claimed that ninety-five percent of those arriving in Slovakia were economic migrants and not refugees, suggesting that

their return would be the best solution because they constitute a threat to the welfare of the population of Slovakia and the economy itself. Later, he went on to suggest that Slovakia should eventually build "barriers to navigate" refugees alongside its borders (Pavelková, 2016: 2). Viewing economic migrants as "parasites" is not the only frame of understanding pertaining to Slovak government policy and societal discourse. The image of the Islamic terrorist hiding in refugee camps also influences the public debate and the audience in general. Arguments in connection with religious differences also frequently recur in Slovakia. According to Ivan Netik (the spokesperson for the Slovak Ministry of Interior) "Slovakia will only accept Christian arrivals […] and he warned […] that Muslims should not move to Slovakia because they will not easily integrate with the country's majority Christian population" (quoted in O'Grady, 2015).

Following the Paris terrorist attacks of November 2015, PM Fico announced that Slovakia will impose tighter security measures in detention and asylum facilities and immediately deport every migrant who enters the country illegally. He also suggested that Slovak authorities are already monitoring all Muslims in their territory, since "Slovak citizens and their security is of a higher priority than the rights of migrants" (Pavelková, 2016: 7).

Poland

The first unexpected influx of asylum-seekers in the history of modern Poland was after the collapse of the Soviet Union (800 applicants), responding to which the country established the post of Plenipotentiary for Refugees and an Office for Refugees within the Ministry of Interior, on 27 September 1991 (Chlebny - Trojan, 2010: 213). Similarly to Slovakia and other countries, Poland is mostly a transit country. Large numbers of people (around 100,000) travelled through its territory already in the 1990s, even as asylum applications remained below a few hundred in the first half of the decade.

Year	**Asylum Applications**	**Positive decisions and subsidiary protection granted**	**Rejections and discontinuation of procedure**
1992	590	75	58
1993	819	61	135+235
1994	598	391	188+362

1995	843	105	193+394
1996	3211	120	375+1454
1997	3533	139	597+3161
1998	3373	51	1387+175
1999	2864	45	2404+762
2000	4589	52	4537
2001	4529	296	4233
2002	5170	279	4891
2003	6909	245 + 315	6349

Table 1.3: Asylum applications in Poland 1992-2003 (UNHCR, 2005).

The data from before the EU accession shows a similar pattern to the other countries in the region. Asylum application numbers were double that of Slovakia's in the 1990s but the population of Poland is ca. 40 million inhabitants.

Poland began accepting applications from 1992, after the accession to the Geneva Convention. A total of 2067 applicants received asylum since then. The instrument of "tolerated stay" was introduced into Polish law in 2004. This status was subsequently granted to 7578 people (Lodzinski, 2009: 82).

Although these data may suggest that refugees should not be the most important concern of Polish politics, quite the same trend of *securitization* started in 2015 that is observable elsewhere across the V4 group. Jarosław Kaczyński, leader of Poland's largest opposition Law and Justice Party at the time, warned that refugees from the Middle East could bring dangerous disease and parasites to Poland. "There are symptoms of the emergence of diseases that are highly dangerous and have not been seen in Europe for a long time: cholera on the Greek islands, dysentery in Vienna… There are various types of parasites and protozoa that … are not dangerous in the bodies of these people, [but] could be dangerous here," said Kaczyński (quoted in Ojewska, 2015:2). Speaking at a rally during the first week of October, Jarosław Kaczyński, also raised concern that Poland could be forced to resettle more than 100,000 Muslims, to which PM Ewa Kopacz, leader of the then-ruling Civic Platform party, quickly responded that there was no secret plan to accept 100,000 refugees (Cienski, 2015b: 1). Since then, the Law and Justice Party has won the elections and Beata Szydło is Prime Minister, while Kaczyński still influences politics from the background.

Another important aspect of government rhetoric was the need to differentiate between "genuine refugees" and "economic migrants" and the proposition of the creation of an "extraterritorial defense zone" (a belt of safe third countries) guaranteed by bilateral return agreements. Related to this, Polish MEP from the European People's Party Rafał Trzaskowski mentioned the [positive] example of Spain, which saw a steep fall in the number of people arriving in the Canary Islands after a deal with African countries that allowed Spain to deport economic migrants within eight hours of their arrival. "We have to make a list of safe countries to which people are going to be sent back, and then we can focus on refugees. I think that would lessen the pressure on our borders," he said (Cienski, 2015a: 1).

Czech Republic

As part of the political transition following 1989, it was necessary introduce new asylum legislation in the Czech Republic. During the 1990s, all the countries of the Visegrad region ratified the Geneva Convention, including the Czech Republic. Starting in 1995, the country also began to harmonise its legislation, including asylum law, with the EU *acquis* and their first Asylum Act (the Czech Asylum Act, 325/1999 Coll.) was issued in 1999 (Kopecká, 2015: 47).

Year	**New Asylum applications**	**Positive decisions**	**Rejections and discontinuation of procedure**
1996	2211	162	2049
1997	2109	96	2013
1998	4085	78	4007
1999	7220	80	7140
2000	8788	133	8655
2001	18094	83	18011
2002	8484	103	8381
2003	11396	208	11188
2004	5459	142	5317

Table 1.4: Asylum applications in the Czech Republic 1996-2004 (UNHCR, 2005).

According to *Table 1.4*, the Czech Republic had less than 1,000 positive decisions on asylum requests in the ten years after the separation of Czechoslovakia. The peak year was 2001 with 18,094 new applications, but the high number of discontinued procedures brought similar results as in the case of Slovakia and Poland. In the official statistics of the Czech Ministry of Interior, in the course of 1998 Afghan nationals applied for international protection in the highest numbers. In the second place, there were nationals from the former Yugoslavia, followed by nationals from Sri Lanka and Iraq (Kopecká, 2015: 47). The period between the years 2000 to 2005 might be considered as the period of Europeanization, from which point the harmonization with the EU rules and the acceptance of the Dublin II Regulation (Regulation of EU 2003/343/ES) significantly influenced asylum trends in the Czech Republic.

The asylum situation changed significantly in the year 2004 (Kopecká, 2015: 48). As *Table 1.4* shows, asylum applications decreased to below half the level of the previous year. Positive decisions on refugee status have never been above 200 persons per year. Czech decision-makers appear intent on keeping these numbers low in the future as well. While PM Bohuslav Sobotka is a moderate politician on asylum issues, he still strongly rejects any kind of mandatory quota system in the EU. "The Czech Republic is sticking to its position of rejecting any mandatory quota system for redistributing asylum-seekers among European Union member states", argued Sobotka ahead of the 22 September 2015 EU meetings on the migration crisis. "We will strictly reject any attempt to introduce some permanent mechanism of redistributing refugees", Sobotka said, adding that "we as well reject using a quota system in any temporary mechanism" (Reuters, 2015: 2).

The president of the Czech Republic takes an even stronger position in terms of migration and refugee issues. President Miloš Zeman warned against welcoming asylum seekers and described what he calls a European culture of hospitality as naïve. "I am profoundly convinced that we are facing an organised invasion and not a spontaneous movement of refugees," he said in a speech broadcast on 26 December 2015. He also drew contrast between Czech nationals who left their country during the Nazi occupation on the one hand and contemporary refugees on the other, saying that Czechs intended to "fight to liberate the country and not to receive social benefits in Great Britain" (DW, 2015: 1). Thus the discourse about "economic migrants" appears in the Czech Republic, too. Zeman also called for stronger border protection measures. In his view, "rather than letting them in, consistent protection of our border by combined patrols of the military and police along with the use of the system of active reserves is much better" (Prague

Monitor, 2016: 2). Zeman also responded to critics of his stance saying that "Some of them have accused me of spreading hatred, fear and panic. These politicians remind me of the bathing Czech tourists on the Thai beaches at the time when a small wave appeared on the horizon. In fact, it is called a tsunami" (PragueMonitor, 2016: 2).

Hungary

Hungary has had a refugee population of ca. 6,000 to 9,000 people in its territory with a total number of 10 million inhabitants before its accession to the EU (UNHCR, 2005). *Table 1.5* shows that the average number of new applications was about 5000 people per year, The year 1999 saw this peak with 11,499 applications. The rejection/discontinuation rate is comparatively high, but it is still lower than in the other three countries which implies that Hungary has not always been merely a transit country but also a destination for asylum-seekers.

Year	**New asylum applications**	**Positive decisions and subsidiary protection granted**	**Rejections and discontinuation of procedure**
1996	n/a	172	n/a
1997	209	159	50
1998	7097	438	6659
1999	11499	313	11186
2000	7801	197+680	6924
2001	9554	174+290	9090
2002	6412	104+1304	5004
2003	2401	176+772	1453
2004	1600	156+177	1267

Table 1.5: Asylum applications in Hungary 1996-2004 (UNHCR Statistical Yearbook, 2005)

As a direct neighbour of Yugoslavia (and later on Serbia), a significant number of refugees fled to Budapest during and in the wake of the 1992 and 1999 wars. The increasing applications of Afghan and Iraqi nationals also influenced the general trends in Hungarian asylum policy, but did not cause significant growth of the refugee

population in the country. This changed significantly after the arrival of ten thousand Kosovar citizens in 2014-2015 and with the general refugee crisis of 2015. Since the beginning of the latter period mostly Syrian and Afghan nationals tried to access EU territory, approaching Hungary via the Western Balkans migration route.

At the same time as the number of irregular border-crossers reached 2000 per day along the southern borders of Hungary, by the first week of September 2015, a 175-km-long barbed-wire fence was completed on 15 September to keep them out. The second amendment of the Act on Asylum designated this a "temporary border closure," and illegal crossing was made a criminal act by introducing Articles 352 A, B, and C into the Criminal Code (Nagy, 2015:3). A maximum three-year imprisonment for crossing the fence illegally and five years of imprisonment for damaging the fence are applicable in the case of perpetrators.

This goes against Article 31 of the Geneva Convention whereby it is accepted that "the Contracting States shall not impose penalties, on account of [refugees'] illegal entry or presence." Even if the persons of concern are found not have a well-founded fear from persecution, and are thus not recognised as refugees, or if the level of general harm in their country of origin is not high enough for them to be the beneficiaries of subsidiary protection (and they thus remain irregular migrants who crossed the border illegally), the primary political goal should thus be to return them to their country of origin as soon as possible. Regardless of the existing legal imperatives of refugee protection, imprisonment for illegal border crossing in Hungary is not a practical idea, given that the prison system has its own serious problems, even without thousands of newly criminalised irregular migrants.

Alongside the criminalization of illegal border crossing, a governmental decree (269/2015 (IX. 15.) Korm.rend.) introduced the new notion of "crisis situation caused by mass migration." Transit zones were established and new border procedures were adopted, applicable only in these zones (Nagy, 2015:4). The result of the establishment of transit zones and related border procedures was a significant growth in the number of returnees sent back to Serbia which is a "safe third country" according to Hungary's position.

Requirements regarding this are outlined in Article 39 (1) of the EU Asylum Procedure Directive which states that:

> "Member States may provide that no, or no full, examination of the application for international protection and of the safety of the applicant in his or her particular

> circumstances as described in Chapter II shall take place in cases where a competent authority has established, on the basis of the facts, that the applicant is seeking to enter or has entered illegally into its territory from a safe third country."

According to Article 39 (2) a safe third country is a member of the Geneva Convention, a party to the European Convention on Human Rights and has an appropriate asylum procedure prescribed by its law. Although Belgrade fulfils these criteria, some recent reports claim that it could be a wrong presumption to think of Serbia as a safe third country (see: Bakonyi et al., 2011).

The Visegrad Group: A coalition of the unwilling?

The similar securitizing "speech acts" and the extraordinary measures implemented, adopted in name in order to "defend" these countries from "economic migrants" and "aliens" with a different cultural background, all suggest that these four countries are likely to stay on a common platform in future EU asylum policy talks.

The Visegrad Group has already harmonised its actions in the past. A Joint Statement of the Heads of Government of the Visegrad Group was adopted on 4 September 2015 in Prague, where the Prime Ministers present promised full-fledged support for Hungary's tackling of the migrant crisis and urged a constructive dialogue at the EU level. They agreed that the root causes of the crisis shall be resolved, and that significant EU financial assistance to Tukey and Jordan may be required to deal with the refugee issue. Meanwhile, they concluded that the effective implementation of the June EU Council conclusions on hotspots and further strengthening of the external borders is needed (VisegradGroup, 2015a).

Another Joint Statement of the Head of States of the Visegrad Group was issued directly after the terrorist attacks in Paris on 3 December 2015. It is interesting to see that only the first two paragraphs deal there with the EU's fight against terrorism (and the last paragraph is devoted to energy security), but more than seven paragraphs focused on migration and the refugee crisis, highlighting how important these issues are for the V4 leaders. The Heads of States resolved to support the further enhancement of border control measures, the use of biometric data collection with the help of EU agencies, and the implementation of the EU-Turkey agreement in order to reduce the migratory pressure from the South (VisegradGroup, 2015b). This concept of extraterritorial defense reappears in the Joint Article adopted by the V4 Ministers for Foreign Affairs on November 11 entitled "We offer you our helping hand on the EU path," which may be

seen as a political message to Western Balkans states that the V4 group will support their EU accession talks but in return they should not forget about the expectations towards them in the context of the recent migration crisis (VisegradGroup, 2015c). The Joint Declaration of Ministers of Interior adopted on 19 January 2016 was the last document accepted before the extraordinary JHA Council Meeting planned for February of 2016. The Ministers of Interior called for the urgent implementation of hotspots, without further delay, highlighting that any debate about the potential revision of the Dublin Regulation can start only after the EU regained control over its borders. V4 countries strongly support increasing the detention capacity available in these hotspots. Their main goal is to prevent the "misuse of international protection" and to revise the European asylum legislation in order to eliminate further pull factors for "illegal migrants". For the V4, the key priority is to achieve progress in the field of voluntary and forced returns of migrants and to start a pilot project of operational cooperation with Macedonia in border protection (VisegradGroup, 2016).

While most of the Western European countries also express the urgent need for a new asylum policy and seek a reform of the Dublin Regulation to mitigate the problems related to the disproportionate sharing of asylum requests, the agenda-setting activity of V4 countries is markedly different. V4 Declarations use the language of security, reiterating the need of enhancing border control, speeding up procedures mostly in the field of forced return, and increasing detention capacities in order to prevent the movement of asylum-seekers.

The governmental rhetoric securitising migration is proving quite successful in terms of domestic politics, across the region. Empirical evidence shows that most of the population in these countries rejects the idea of any kind of distribution scheme supported by the European Union. It is quite simple to understand why only 31% of the Slovakian population thinks that asylum-seekers should be better distributed: Slovakia is literally unaffected by the crisis and a beneficiary of the current Dublin legislation as a state without a Schengen border to the south. The Czech Republic, with ony 33% supporting relocation is quite similar. The two countries show the lowest support according to a TÁRKI survey 2015 (Bernát et al., 2015: 38). The same survey shows that 57% of Poles and 64% of Hungarians believe that asylum-seekers should be distributed more equally (Bernát et al., 2015: 39). A June 2015 opinion poll reported that 70% of Slovaks disagree with receiving refugees on the basis of the EU relocation quotas, and some 63% of the respondents saw refugees as a security threat (Pavelková, 2016: 2). Two thirds of the

respondents in the survey Ariadna says that Poland should not accept any refugees from the Middle East and North Africa. This poll shows a much worse attitude of Poles towards refugees than previous studies (Maliszewski, 2015).

Hungarians' comparatively higher level of support for relocation may not be entirely surprising considering the fact that Hungary registered the second highest number of asylum-seekers after Germany. Therefore, Hungarians would have numerous reasons to seek a re-distribution scheme should a situation arise where asylum seekers do not or cannot leave the territory of the country in the future.

In search of a new EU solution to the crisis

The recent refugee crises revealed severe flaws in the CEAS. The Dublin system, which functions on the basis of *Council Regulation No 604/2013 of 26 June 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 a stateless person* (recast) is at the center of numerous attacks from political figures as well as migration and refugee policy experts.

As researchers of the Centre for European Policy Studies recently argued, there is a need for the whole of the EU, and not just a few member-states, to acknowledge that the Dublin System simply does not work and a new approach is urgently required (Guild et al., 2015). However, "after a five-year-long negotiation marathon among the Member States, the Commission, and the Parliament on the recast of the CEAS, the Member States are today less than ever inclined to accept common regulations" (Bender, 2015). Although the recast and revision process in 2013 raised the question of the need for more equitable burden-sharing, the CEAS still expects far more from the border countries that are responsible to register the first asylum requests, even as the standards of asylum procedure in these over-burdened border countries are significantly lower than elsewhere. Landmark judgements of the European Court of Human Rights (EctHR) such as *M.S.S. v. Belgium and Greece, Application No. 30696/11* revealed that the asylum reception conditions in Greece are well below expected, so the Dublin-based transfer of M.S.S. (the applicant) to Greece should not have taken place by Belgian authorities because they "ought to have known" that Greece is not a possible destination in terms of safe-first-country conception.

Therefore, the main question is to what extent the EU needs to reform the CEAS and the Dublin Regulation, and not *if* it needs to do so. Another important challenge of

the crisis is to decide whether a country must insist on the current legislation in place and/or support a new European agenda on migration. It is a Catch-22 situation, characterised by perverse incentives, where all a border state needs to do is to "prove its incompetence" and ask for help and/or common European support, because if they cannot prove their inability to act, tens of thousands of asylum seekers (or more) shall remain in their responsibility. A problematic implication of this is that proving the inability to fulfil the Dublin criteria can lead to severe EU sanctions.

One way out from this vicious circle for EU states may be to disregard the former system and devise new solutions for the situation of a "mass influx." Another possible solution would be to insist on the current system and register the applicants at all cost, knowing the fact that most of them are going to leave the countries concerned before the end of their asylum procedure. However, based on the Dublin III Regulation, these asylum-seekers must be transferred back to the first country of application. It could be an option for an over-burdened first country to suspend Dublin transfers temporarily – as Hungary did it in summer 2015 – but it would not be a real solution in the long term.

In order to prevent such further unilateral actions and to strengthen solidarity within the European Union, many new proposals were adopted in Brussels since April 2015. Two of them are especially important in understanding the position of V4 countries. The first is the JHA Council Meeting conclusion adopted on 20 July 2015 about voluntary pledges concerning refugee resettlement plans. The main goal of the meeting was to agree on a scheme in order to achieve a more equal distribution of refugee resettlement across the EU. The second one is the result of the JHA Meeting in September which agreed to temporarily relocate 120,000 persons from Greece, Italy and Hungary and create so-called *hot-spots*, where EU agencies like FRONTEX and the European Asylum Support Office (EASO) could work and help to improve the quality of the procedure, serving the best interest of the asylum-seekers. It is worth, however, to look at the V4 pledges, and compare them to the EU total: the numbers may speak for themselves.

Member-state	**Share under resettlement distribution key**	**Final pledge**
Czech Republic	525	400
Hungary	307	0
Poland	962	900

Slovakia	319	100
V4 Total	2113	1400
EU Total	20.000	22.504

Table 1.6: Outcome of the 3405th Council Meeting – Justice and Home Affairs, Brussels, 20 July 2015.

Member-state	**Final decision**
Czech Republic	1591
Hungary	1294
Poland	5082
Slovakia	802
V4 Total	8769
EU Total	66.000

Table 1.7: Council Decision 2015/1601, Brussels, 22 September 2015. OJ L 248 80-94.

Most of the countries offered at least a limited pledge to resettle some of the refugees based on the JHA Council Conclusion of July 2015, but these numbers in the case of Visegrad Group countries were significantly lower than others' pledges (see *Table 1.6*). Slovakia offered a pledge of 100 persons with a population of 5 million, the Czech Republic offered 400 with a population of 10 million, Poland offered 900 with a population of almost 40million population, while Hungary insisted that it will accept no resettled refugees. Although the resettlement of no more than a few dozen refugees would be a symbolic gesture of solidarity, Hungary explicitly rejected the idea with reference to having registered already more than 200,000 applications. It was a clear political signal to Brussels that Central European countries are not open to this kind of solution. A key argument of the group is that in their view a temporary relocation scheme of this kind may be the creeping introduction of a mandatory quota system in the long term.

As far as the relocation scheme is concerned, we should not forget that the original plan aimed to relocate 120,000 persons, a group consisting of 66,000 persons from Italy and Greece, along with 54,000 from Hungary. Hungary rejected to be a beneficiary of this relocation scheme, and, in the end, with the Council decision of September 2015, became subject to a duty to relocate 1294 persons (see *Table 1.7*). The reasons behind the voluntary rejection of the original proposal, which offered a relocation of 54,000 *from*

Hungary, and the tacit acceptance of the relocation of 1294 *to* Hungary are not as difficult to comprehend as it may seem at the first sight. The 54,000 persons concerned have already left the country at the time when their relocation was offered, so literally no one remained to be relocated (Groenendijk - Nagy, 2015: 2). However, such a relocation plan would have *created a hot-spot* in Hungary, and this the Hungarian government did not accept. Hungary preferred the implementation of hotspots but only in Greece and Italy.

While the original proposal from the Commission aimed at the relocation of applicants from three countries, namely Greece, Italy and Hungary on 9 September 2015 (COM 450 Final) on the basis of Article 78(3) of the Treaty on the Functioning of the EU (TFEU), the Council Decision 2015/1601 is about the relocation of 66,000 persons only from Greece and Italy. The other 54,000 persons will be relocated from "certain countries", which have had severe difficulties with registering applicants.

Whereas the resettlement scheme, adopted on 20 July 2015, functions strictly on a voluntary basis, the temporary relocation plan (Council Decision 2015/1601) was adopted on the basis of 78(3) of the TFEU, with qualified majority, in consultation with the European Parliament. Only four member states voted against the decision (the Czech Republic, Hungary, Slovakia and Romania). Although the plan reflects on an emergency situation for the benefit of some members-states (Italy and Greece), the countries that voted against the proposal claimed that it constitutes a "mandatory quota system," and is thus unacceptable.

They highlighted the one-sided argument of Article 78(3) TFEU, which talks about the actions "for the benefit" of member-states indeed, but forgets to mention the disadvantages of these actions caused for the other member-states. Two from these four countries are up to submit a lawsuit at the Court of Justice of the EU (CJEU) against the decision, claiming that the procedure was against the EU principle of subsidiarity and the Council ought to decide on this issue on the basis of 78(2) of the TFEU in co-decision with the European Parliament (Groenendijk - Nagy, 2015: 4).

Conclusion

The historical overview of the V4 countries' asylum policies shows that the Visegrad Group had no previous experience with the mass influx of refugees. They established a system more or less harmonised with EU standards but a lot of work was still ahead before 2014. Human rights concerns and ECtHR judgements found that the reception facility conditions remained below expectations even before the increase in asylum applications.

The European refugee crisis also showed that border control capabilities, which shall be based on the implementation of the Schengen Information System (SiS II) and EURODAC (European Dactiloscopy), and the use of modern equipment, such as thermal cameras and biometric scanners, were far below the acceptable level. Only the deployment of physical barriers such as barbed-wires fences (the temporary closure of the Schengen border) remained a viable option for certain countries, including Hungary (and subsequently Croatia and Slovenia). The temporary suspension of the Dublin III Regulation and the Schengen Agreement revealed that a fundamental reassessment is needed in order to find a long-term solution.

Neither EU Commission proposals (COM 450) nor the few EU Council decisions adopted, such as Council Decision 2015/1601, were accepted unanimously and the Visegrad Group mounted strong opposition to Western European countries' initiatives. Hungary as well as Slovakia filed lawsuits against the latter decision at the CJEU. Regardless of their chances of succeeding, the process will take time, and keeps the issue on the top of the European political agenda.

In the meantime, over the course of 2015, irregular migration was framed increasingly as a security issue across the region. Not only the Orbán government and the Slovak PM Fico but also the newly elected PiS government in Poland and Czech President Zeman contributed to a securitisation of the issue. The metaphors used to describe refugees, as in the references to a "tsunami" and "parasites", and descriptions of them as persons of concern related to terrorism and public health, played on the worst fears of populations in Eastern Europe. As of the beginning of 2016, the Paris terrorist attacks of November 2015 and the events in Cologne during New Year's Eve seem to have ensured that this discourse cannot be plausibly expected to change in the near future.

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The Syrian refugee crisis reconsidered: The role of the EU-Turkey Agreement

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Abstract

The aim of the article is to analyse the roots of the current refugee crisis in Syria. The author argues that the most effective way to solve the crisis can only be to re-establish order and stability in Syria and Iraq. However, even with the most recent international attempts to bring the different Syrian actors to engage in proximity talks, re-establishing order in Syria will not be possible in the short term for the international community. Therefore more attention is needed to address the refugee crisis in the neighbouring countries. Due to its geographical location Turkey is the most important host and transit country for Syrian and other migrants. Turkey lacks the appropriate legal system and infrastructure to handle the situation. The author argues that the international community must make a greater effort to provide the refugees with basic necessities. The EU-Turkey agreement is an important step forward, but it lacks a truly comprehensive approach to solve the crisis. Turkey's foreign policy toward Syria further complicates the challenge arising from the Syrian crisis.

Keywords: Syria, refugees, postcolonial state, Syrian conflict, IDPs, Jordan, Turkey, Lebanon, state failure

Introduction

An unprecedented refugee crisis hit the European Union in the course of the year 2015, having its origins in the Middle East and North Africa. According to the statistics of UNHCR, over one-million refugees arrived in Europe mainly via sea routes through the Mediterranean. About half of these refugees (48%) have a Syrian background. Afghans account for 21%, Iraqis for 9%, and the rest come from a number of countries most of which are failed or collapsing states (UNHCR 2016a).

With a view to the source countries, these official numbers contradict the rhetoric of many European politicians that most of the refugees are economic migrants. The

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simple truth is that the consequences of the Arab Spring have left many countries in the region in a chronically unstable condition.

The aim of this article is to analyse the roots of the current refugee crisis with a focus on its origins in the Middle East. The author argues that the ultimate solution of the crisis can only be to re-establish order in the collapsed states of the region.

The failure of the postcolonial state

The Middle Eastern state system is the result of the collapse of the Ottoman Empire at the end of World War I. The so-called Sykes-Picot Treaty, a secret pact between Great Britain, France and Russia divided the sphere of influence among the three great powers in the Middle East. Later on, the San Remo agreement and the mandate system demarcated the current borders of the Middle Eastern states, and they subsequently remained under the sovereignty of the mandatory powers.

Border wars and disputes are not uncommon in the region, but generally speaking the state system remained relatively stable in the 20th century. The idea of nationalism, imported to the region in the 19th century from Europe, became the mantra of the newly appointed rulers of these countries after the dissolution of the Ottoman Empire. The new Middle Eastern entities were not nation-states in the European sense of the word but artificial ones based only on the interest of the European powers (Ayubi, 2001: 91-99). The merger of Baghdad, Mosul and Basra resulted in the contemporary state of Iraq in 1922. Its population did not share any kind of Iraqi identity or „Iraqiness." It was the British political interest that dictated the creation of the new Iraqi state, to serve its objectives in the Middle East. Syria, Jordan, Lebanon and many other states in the African Maghreb, where states were created earlier than in the Levant, similarly served external powers' purposes primarily.

For a century at least, the Sykes-Picot-based state order in the Middle East has remained stable despite frequent border disputes among the countries of the region. The Arab-Israeli question is an exception to this; with the establishment of the State of Israel in 1948, a new state was created based on religion and ethnicity.

The history of the Arab states shows that in spite of their artificiality they displayed strong viability during the last century. The Middle Eastern states entered into a period of modernization right after independence. Strong leaders such as Muammar al-Gaddafi in Libya or Saddam Hussein in Iraq helped to create a sense of "Libyanness" and "Iraqiness" in their respective countries. Many scholars discuss the "multiple identities"

of the Middle Eastern population resulting from this; one of the most important being "national" identity and that of belonging to a given "national" community, eventually (Lewis, 1998).

According to popular beliefs the Arab Spring has not only weakened the existing political regimes in certain republics, but also resulted in disintegrating states in four cases. Iraq, Syria, Yemen and Libya show the typical signs of what the literature refers to as "failed states." In all of the four states the so-called Arab Spring started with regular protests against the ruling elite calling for political and economic reforms. These protests have, under significant external influence, given way to civil wars preparing the ground for radical organizations which quickly filled the emerging political and military vacuum.

Borrowing Hamid Dabashi's idea, we might speak of the failure of the postcolonial state in these cases (Dabashi, 2012). The four long-ruling dictators (Saddam Hussein in Iraq, Ali Abdullah Saleh in Yemen, the al-Assad family, father Hafez and his son Bashar, in Syria, and Muammar al-Gaddafi in Libya) have maintained a "fragile equilibrium" in their ethnically and religiously diverse multicultural states. The lowest common denominator of the diverse politically determined groups was a consensus in maintaining the same elite groups in power for a long time. With the Arab Spring this consensus has completely collapsed and the attempt to challenge the *status quo* by transforming the political regime into either a new type of authoritarian or a democratic arrangement has failed. There is a lack of new charismatic leaders who would have enough power to reach a new balance among the different stakeholders of their societies. The only way to truly solve the challenge of the current wave of emigration from the region towards Europe may be to re-establish order in the four states in question.

This article deals only with the case of Syria due to space limitations, and with a view to the salient importance of this case for understanding the refugee question.

The situation in Syria

It is beyond our possibilities to deal with all of the aspects of the Syrian crisis, therefore the article will focus on those peculiarities of the Syrian case that hold relevance in the context of the present refugee crisis.

In Syria, protests began as they did elsewhere in the region. The first of them erupted in a town close to the Jordanian border, in the city of Deraa, in March 2011, at a time when the town and its area were already experiencing difficulties with agricultural production and water scarcity. This had an impact on other parts of Syria as well, and the

protests spread. However, at this time, the Syrian state was not yet a failed state, and the country was not in a state of war. There were political and military groups aiming to challenge the *status quo*, but the weakened Assad regime maintained its power and the existence of the Syrian state was not called into question. A major bomb attack in Damascus against the inner circles of the Assad regime in July 2012 marked the beginning of a new phase of the Syrian crisis. What we have seen from then on is a civil war and a proxy war at the same time.

Syria's geopolitical location in the Middle East makes the country a flash point where regional and global powers can measure their strength relative to one another. The main regional powers – Iran, Turkey, Saudi Arabia, and Qatar, a small country with enlarged capabilities – all have an interest in influencing the outcome of the Syrian war, turning it into a proxy conflict. Whereas Iran is allied with the Assad regime, Turkey, Saudi Arabia and Qatar have an interest in destabilising it by providing arms to the different rebel groups within the country. The influence of the regional powers and the conflict of global interests (American and Russian interests) has thus further aggravated the situation.

The rise of the Islamic State in 2014 came only in a later phase of the Syrian conflict. Upon its territorial expansion, the existence of the Islamic State consolidated Syria's fragmentation, turning the current map of the country into a mosaic. These and related changes in the military situation in Syria since 2014 are the most important to asssess in order to understand the contemporary refugee situation burdening the neighbouring countries, among them Turkey in particular (Herman, 2015).

From September 2014 a coalition of countries, with the leadership of the United States, has launched air strikes on the Islamic State and *Jabhat al-Nusra*. In the meantime, the provision of arms and training to certain rebel groups helped the factions concerned to advance against regime forces. In the end, however, the US program to train 5,000 rebels to fight both the Assad regime *and* the above-named extremist organizations came to a halt acknowledging the strategic failure of the initiative, and the air campaign has so far failed to cripple the Islamic State.

Most of the air strikes concentrated on the Iraqi side of the territory of the Islamic State, where military intervention was approved and even requested by the Abadi administration based in Baghdad. With limited foreign military pressure on the Islamic State in Syrian territory, there it was able to gain significant ground in the northern and eastern parts of the country. The city of Raqqa has become the administrative capital of

the Islamic State, and its advances have reached Palmyra in central Syria as well as the city of Deir al-Zor in the east where the Assad regime is waging war against both the Free Syrian Army and the Islamic State.

The Assad regime controls around 20 to 40 percent of the territory of Syria at the present. Yet it still maintains public services in the areas it is able to hold onto, and these are the most densely populated parts of the country.

The intervention of Russia from September 2015, aimed at strengthening the Assad regime's hold on these areas, further complicated the situation. Russia, together with Iran and the Lebanese Hezbollah, has the intention to reunify Syria under the banner of the Assad regime. With their help, by the time of writing this article, the government forces have recaptured key strategic cities in the north and the south of the country from the rebels.

In the meantime, a new series of peace talks was announced by the international community to address the situation in Syria. The so-called Vienna process was launched in November 2015 by the International Syria Support Group consisting of 20 member countries, including the United States, Russia, Iran and Saudi Arabia, and other important international actors. The latest efforts to bring peace are based on the joint opposition to the Islamic State and *Jabhat al-Nusra* by all the participating actors. However, this consensus is not enough to get all the relevant political actors to come to the table. According to a recent study, the number of rebel groups in Syria may be as high as 1,000. This multitude of factions represents a wide range of political and military interests (Lister, 2014). The recent Vienna talks in November 2015 have nominated Jordan and Saudi Arabia to decide which rebel groups are terrorist and which are not. The rebel groups regarded as terrorist organizations are thus excluded from any further negotiations on the political transition (Tabler and Decottignies, 2015).

The direct consequence of the Vienna initiative is the adoption of UN Security Council Resolution 2254 in December 2015. Based on the first and the second Geneva initiatives, the Resolution calls for a ceasefire and a genuine political transition within 18 months. It also emphasises the commitment of the major actors to fight against the Islamic State and *Jabhat al Nusra*, and to stop the war in Syria.

The actors supporting the Assad regime, among them Russia and Iran, criticise the role of Saudi Arabia and that the monarchy was given the right to decide over the legitimacy of the different rebel groups. The breaking of diplomatic relations between Saudi Arabia and Iran in January 2016 is a clear sign of diverging interests not only in

Syria, but related to the balance of power in the region. The Saudis were in fact not in favour of the inclusion of Iran in the Vienna talks to begin with. Without a minimal cooperation between these two regional powers the chances for peace are extremely low.

Saudi Arabia eventually proceeded to invite the representatives of various rebel groups to Riyadh in the wake of the Vienna initiative in December 2015. Not surprisingly, mainly the Saudi-backed rebel groups attended. These groups established the Higher Negotiations Committee in order to unify the like-minded factions under the auspices of Saudi Arabia (Final Statement, 2015). The Riyadh meeting excluded many influential and non-jihadist rebel groups, diminishing the likelihood of success. The absence of *Ahrar al-Sham*, an Islamist but non-jihadist rebel group, is a notable sign of how Saudi Arabia tried to manage the Syrian crisis on its own.

The military involvement of Russia, aimed against all the military and political groups that oppose the Assad regime in Syria further complicated the situation. Russia shares the standpoint of the Assad regime on the rebel groups, and labels all of them terrorist entities. Russia helps the military advancement of the Assad regime mainly, but not only, in the densely populated western parts of the country. Partly with this assistance, strategically important military bases and cities were captured by the Kurdish People's Protection Unit in late 2015. Russia's military involvement thus runs against the interests of the Turkish state, which has tried to keep the Kurdish minority out of any political transition. The November 2015 incident, in which a Turkish F-16 fighter aircraft shot down a Russian Su-24M bomber, brought bilateral relations into a negative spiral. Russia has launched a trade and economic embargo against the Turkish state.

In the meantime, with Russia's help, the Assad regime could initiate a new military campaign around Aleppo in order to re-occupy key positions from the rebel factions in these areas. According to some American observers, the aim of Russia may be to let the regime win the military conflict against all of its opponents before any serious political compromise on the transition. Whatever the motive, the intensified military operations by the regime and the resistance put up by the rebel groups further aggravated the humanitarian situation inside Syria, with obvious implications for the refugee crisis..

The recent attempt to engage the Syrian regime and the so-called rebel groups in proximity talks thus seems to be a failure. The planned Geneva round was suspended at the beginning of February due to a lack of confidence among the different Syrian groups. The Higher Negotiations Committee called for an immediate cease-fire which was not in the interest of Russia, involved at the time in helping the Assad regime's military

advancement. In Munich, in February 2016, behind the scenes of the yearly security conference, a limited agreement has eventually been reached by the United States, Russia, Saudi Arabia and Iran. This agreement called for a cessation of hostilities (not a cease-fire) within a week, and for the opening up of the main areas of Syria to let in humanitarian aid. At the time of writing, a fragile cease-fire has entered into force, on 27 February 2016, respected by the relevant actors, including Russia.

Whether this will bring lasting results remains to be seen. What is certain is that re-establishing order is a minimal requirement to solve the refugee crisis and the humanitarian situation. In the short run it can be safely expected that there will be a rise in the number of IDPs (Internally Displaced Persons) within Syria as well as in the number of refugees, due to the recent clashes among the different combatant parties. Furthermore, the cessation of hostilities does not include the territories held by the Islamic State or *Jabhat al Nusra*. Intensifying the military campaign against these groups can also have implications for the residents of these areas.

In the meantime, Turkey and Saudi Arabia are calling for a ground military intervention in Syria. Ground intervention is necessary according to many military observers to win the war against the Islamic State, but it can have a negative impact on stability as well as on the peace negotiations, due to the complexity of the local interests of the key regional powers.

The lack of a minimal consensus on the future of Syria among regional and global actors questions if there is any chance for immediate peace. Re-establishing order along with the state's reach in terms of both legitimacy and capacity in Syria might take several years at least. This means that the refugee crisis will continue to put pressure on European countries as well.

The current refugee situation

Given that solving the Syrian conflict is an enormous task, the international community should pay more attention to ameliorating the humanitarian situation of the Syrian refugees in the neighbouring countries as a short-term goal.

Among the three neighbouring countries (aside from Iraq) Turkey has the most importance. According to a recent UN estimate, the number of Syrians seeking refuge outside their home country has reached 4.7 million. More than half of them reside in Turkey (2.6 million), one-million in Lebanon, and 600,000 in Jordan (UNHCR, 2016b). Due to the intensifying military conflict among the different rebel groups and the

government forces, the number of IDPs within Syria is approximately 8 million, and this number is growing. According to the estimation of the Syrian Centre for Policy Research at least 470,000 persons have died due to the civil war in Syria by February 2016 (SCPR, 2016). From among the 4.7 million refugees, over 900,000 asylum seekers have reached the territory of the European Union between March 2011 and December 2015 (UNHCR, 2016c).

Syrian refugees find themselves in varying legal, political and economic circumstances in the neighbouring countries. What is common in the case of the three most affected countries is that the refugee crisis overlaps with certain internal tensions in their cases. The neighbouring countries thus pay a considerable price for accepting refugees in their territory. Among them, Lebanon and Jordan have the highest number of refugees in terms of percentage of the population.

Throughout its history, Jordan has witnessed numerous waves of refugees as one of the most stable countries in the region. The Palestinian refugee crisis hit Jordan first, in 1948, and it still has a huge impact on the ethnic mosaic of the country. The third Gulf War in 2003, which ousted Saddam Hussein from power, resulted in an influx of Iraqi refugees reaching the number of one-million. Even against this backdrop, the Syrian refugee crisis is unprecedented in many ways. At the beginning of the Syrian uprising in 2011, the refugees arriving in Jordan took shelter in refugee camps. Since then, Syrian refugees have contributed to an 8% growth of the Jordanian population (by the year 2015). In 2016, the population of Jordan has reached 9.5 million – among them 30%, or a total of 2.9 million people, are non-Jordanians. At least 600,000 Iraqi refugees still live in Jordan, complicating the situation even further. Given these numbers, refugee camps were filled rapidly, and at the moment 80% of the refugees stay in urban areas due to the shortage of places and the bad living conditions inside the camps.

Most of the refugees are around the capital Amman, and other cities in the north. Their situation is considerably worse than the that of the post-2003 Iraqi refugees. Generally speaking, Syrian refugees do not have the same accumulated wealth and standard of living that the Iraqi refugees had when they came to Jordan. It also means that the Syrian refugees living in Jordan rely mainly on state infrastructure and assistance rather than their own savings and income. The perception of Syrian refugees in Jordan is consequently rather negative, just as elsewhere in the region. The deeper reason behind the negative perceptions is the high unemployment rate in Jordanian urban areas, even as most of the Syrian refugees find work only in the informal sector, relying on seasonal

employment (Carrion, 2015). The presence of Syrian refugees in Jordan has thus worsened the fragile political situation in the country where King Abdullah initiated reforms in the context of the Arab Spring and the ensuing years with the regime's survival at stake. Jordan is, in the meantime, also a participant in the US-led coalition against the Islamic State.

The question of Syrian refugees in Lebanon is a similarly complex issue due to the direct involvement of the Lebanese Hezbollah movement in the Syrian crisis. Moreover, just like Jordan, Lebanon also has a controversial history with the Palestinian refugee crisis in the wake of the establishment of the State of Israel. Around 400,000 Palestinian refugees live in Lebanon without any political or civil rights in the country. The newly arrived Syrian refugees account for 26% of the total population. Most of them stay in urban areas as there is a lack of refugee camp housing, partly due to the high number of Palestinian refugees in the country (Mudallali 2013).

The influx of Syrian refugees has thereby further exacerbated the negative impact of the Arab Spring on Lebanon. It has worrying implications for social cohesion, given that Lebanon's confessional political system is in a state of constant crisis. Hezbollah, a Shia political and military group in Lebanon, openly intervened in Syria on the side of the Assad regime, helping it to reoccupy the city of Qusair in 2013. The Syrian crisis has thus effectively spilled over into the Lebanese political system, further aggravating instability in the Levantine country.

Overall, Lebanon shares the same humanitarian challenges related to the Syrian refugees that Jordan is facing. The lack of resources for easing the situation is the most fundamental problem. The lack of shelter, the lack of sufficient clean water, as well as the shortage of doctors and basic medications, are challenges on a daily basis.

The pivotal role of Turkey

In absolute terms, Turkey has the highest number of Syrian refugees, with (as of the beginning of 2016) over 2.6 million refugees. Turkey is not only a host country but it has also become the most important transit country for refugees from Iran, Afghanistan, Pakistan, and other Asian countries. During the summer of 2015, Turkey received an unprecedented wave of Syrian refugees, and at the same time it has continued to serve as a transit route for other refugees moving toward Europe.

To appreciate the larger context of this, it is important to understand the complex situation in which Turkish foreign policy found itself upon the eruption of the crisis in

Syria. Turkey's position towards the Syrian crisis has been in obvious conflict with its foreign policy principle of "zero problems with neighbours." The country adopted an open-door policy towards Syrian refugees from March 2011 providing "temporary protection" to them in the framework of the Turkish asylum system. At the same time, Turkey was the first country in the neighbourhood to break diplomatic ties with the Assad regime. From the very beginning of the uprising Turkey supported the rebel groups fighting against the Syrian government forces.

As to handling the arrival of refugees, the most significant issue with which Turkey was faced in 2011 was the underdeveloped status of Turkish asylum law. Turkey is a signatory of the 1951 Convention Relating to the Status of Refugees but with an important reservation: a geographical limitation was included, per consequence of which only refugees entering from European countries have rights and obligations according to the 1951 Law. The other asylum-seekers arriving from non-European countries are thus under "temporary protection" only. Temporary protection means that these refugees are supposed to resettle in a third country as soon as possible (Corabatir, 2015: 468-469). Despite these shortcomings of the legal system, Turkey declared an open door policy toward the Syrian refugees, and also expressed a commitment to the basic principle of the *non-refoulement* of refugees.

New legislation came into force in April 2014 with the help of the international community, and especially with the support of the UN High Commissioner for Refugees (UNHCR). Under the Law on Foreigners and International Protection, the General Directorate on Migration Management was established in order to coordinate the tremendous challenges arising from the tasks of dealing with the Syrian refugees. The new legal framework concerning refugees does not, however, annul the geographical limitation (Elman, 2015: 3). Moreover, even as the Turkish legal system related to refugees and international protection developed significantly over time, it still fails to incorporate some of the general norms of dealing with asylum-seekers.

Outside the legal system, the Turkish state faces further difficulties in dealing with the refugee situation. In the early stages of the Syrian crisis, the refugees found shelter in refugee camps, as was the case in Jordan. But with the growing numbers of refugees these camps soon ran out of capacity. Many are consequently finding or seeking shelter in urban areas. Turkey has started to build new refugee camps, especially along the border with Syria, but this fails to answer to the basic needs of the new asylum-seekers. A total of 25 refugee centres have been built meeting all international standards. The problem with

these refugee centres is that they provide facilities for only 15% of the refugee population hosted by Turkey (Elman, 2015: 4). Only 260,000 Syrian refugees have access, while the others lack this kind of opportunity.

The presence of the refugees places a huge burden on the Turkish economy. According to Turkish estimates, the cost of the Syrian refugee crisis may have amounted to around 9 billion Euros by the end of 2015. Despite the huge amount of resources invested, outside the camps the conditions have only deteriorated since 2013.

The lack of prospects, the absence of adequate accommodation, basic income, and enough schools and doctors forced many thousands of Syrian refugees in Turkey to leave the country toward Europe. The lack of any chance of peace in Syria in the short term also had an impact on the decision of many to start the journey towards Germany. By 2015, much of the urban infrastructure in many of Syria's major cities has been destroyed. Rebuilding the basic infrastructure to resettle Syrian refugees in their home country might take at least three to five years once (and if) a resolution of the conflict is achieved. The consequences of these losses of the civil war have pushed further IDPs to leave the territory of the country, and, at the same time, their arrival across the border created an impulse pushing those who were already outside Syria to depart for the European Union. With what were, as mentioned above, deteriorating humanitarian conditions both inside and outside the refugee camps at the same time, Syrian refugees had only one rational option: risking their lives to attempt the journey to Europe.

In spite of the extraordinary scale of the challenge, the European Union provided Turkey with only a small portion of the money that Turkey itself contributed to solve the refugee crisis. The members of the EU offered a 3-billion-Euro economic aid package to Turkey to deal with the situation, but Turkey received only 44.6 million Euros of this assistance so far. Overall international support for Syrian refugees in Turkey provided only for about 7% of the total costs of the crisis (Elman, 2015: 1).[2]

Expectations related to the EU-Turkish agreement

The European Union, and Germany in particular, realised the fact that without cooperation with Turkey the slowing down of the waves of asylum-seekers coming to Europe would not be possible.

[2] Turkey has also received financial contributions from the UN through the 3RP, i.e. the Regional Refugees and Resilience Plan (3RP, 2016), but according Turkish authorities only a part of the agreed sum arrived to Turkey thus far.

The European Union and Turkey have signed an agreement on 29 November 2015 in order to cooperate in the field of refugees. The European Union agreed to provide Turkey with 3 billion Euros in the year 2016 to deal with the crisis. The EU asked Turkey primarily to help the refugees to stay in its territory and to not allow them to seek asylum in the European Union. The EU promised that new chapters in the accession talks would be opened with Turkey in return. The Union will also speed up the process to liberalise the visa procedure for Turkish citizens in the Schengen area in case of Turkey's willingness to implement the readmission agreement concerning the sending back of refugees from European countries.

Due to the high number of refugees who have entered into the European Union in 2015, the EU tries to keep new refugees out of its area – clearly this is now the priority for the EU. Even Angela Merkel's earlier stance on allowing refugees into Germany without any conditions has changed significantly. The agreement therefore recognises the central role of Turkey in providing the refugees with basic humanitarian services which, according to EU countries' expectations, should convince them to stay in Turkey for a longer time. The Turkish leadership, for its part, called the agreement one of the most important events in EU-Turkish relations (Günther, 2016).

However, Turkey's relationship with the European Union is an ambivalent partnership. On the one hand, Turkey agrees to cooperate with the European Union on this issue, and even offers to monitor the sea routes to stop illegal migration. On the other hand, Turkish President Recep Tayyip Erdoğan threatens the European Union by saying: „we can put refugees on buses" (these were the words used by Erdoğan just after the beginning of the siege of Aleppo by the forces of the Assad regime).

The refugee situation is a double-edged sword for Turkey. The pressure from Syria due to the intensification of the military conflict there has been growing since last year. Turkey expects to receive at least 600,000 more Syrian refugees in the spring of 2016. The number of asylum-seekers may grow to up to 3 million with the delaying of the proximity talks and the implemention of the cease-fire. The EU plan to relocate a lower number of Syrian refugees staying in Turkey to the European Union does not help Turkey in this respect. Turkey's aims are thus two-fold. It would prefer to establish safe humanitarian zones for civilians in northern Syria. These safe zones may help to keep internally displaced persons inside Syria. With the establishment of the safe zones Turkey may also launch a ground military intervention across the border, and at the same time secure its interests against the Kurdish People's Protection Units demanding autonomy

in northern Syria. Turkey regularly attacks the Kurdish *peshmerga* forces along the Turkish-Syrian border to prevent any *fait accompli* of a Kurdish autonomy. Turkey also has a major interest in convincing the European Union to consider new asylum-seekers from Syria for relocation in European territory. Using a compulsory quota system, the EU for its part intends to consider for resettlement only those Syrian refugees who are already staying in the territory of Turkey.

One of the short-term benefits of the EU-Turkish agreement is the consideration of opening the job market for Syrian refugees registered in Turkey. It would help to convince the refugees that long-term stay in Turkey can be an option that is financially sustainable. However, by giving job permits to Syrian refugees Turkey risks increasing political tensions within Turkish society. The unemployment rate is quite high in the country, especially in southeastern parts of Turkey where most of the refugees are concentrated. The same problematic implications apply if Turkey considers integrating Syrian refugees going beyond the measures taken thus far. For example, Turkey may offer citizenship to registered Syrian refugees. However, this decision would clearly jeopardise the weak social harmony there is within Turkish society.

Turkey's approach toward the Syrian refugee crisis also clashes with its political interests in Syria. With its open-door policy, Turkey had an interest in supporting the Syrian refugees. But Turkey's influence in Syria and its role in supporting the moderate rebel groups, with the ambivalent relations the latter have with the jihadist and salafist elements inside Syria, does not help to bring peace and stability to the country.

For the European Union it is a fundamental interest to provide Syrian refugees in Turkey with a basic standard of living in order to stop new waves of illegal migrants departing for Europe. Turkey is thus due to receive the promised financial support from the EU in the first part of 2016. Yet, although the help of the European Union will be significant, it does not offer a long-term solution to the refugee crisis.

The European Union's agreement with Turkey serves only a short-term interest of the European countries inasmuch as it may help to prevent a major new refugee wave in the summer of 2016. However, the expectations on the part of the EU may be too high with respect to Turkey's ability to stop illegal migration, and may at the same time overestimate its interest in doing so even if it had the ability.

It may be noteworthy in this respect that, at the time of writing this, even upon the declaration of a cease-fire in Syria thousands are fleeing from the country to set up a better future elsewhere.

Conclusion

The unprecedented wave of migration that reached Europe in 2015 will most likely remain at a similar level in 2016 despite the recent attempts by the international community to force the Syrian stakeholders to initiate proximity talks. The 18-month transition period launched by the Vienna initiative in November 2015 fails to offer any short-term benefits for the civilians who have become refugees. The only positive benefit for IDPs in Syria is the agreed humanitarian access to besieged urban or rural areas.

Re-establishing an effective and legitimate state in Syria may take several years at least. The current attempt to strengthen the Assad regime by Russia, Iran, and Shia militias cannot directly lead to it. Therefore the migration crisis can only be handled in the neighbouring countries at the moment. Its geopolitical location makes Turkey the most important host country in this respect, as the main transit route for the refugees.

The Turkish state has not enough capacity to integrate Syrian migrants. The EU-Turkey agreement is an important step forward but it reflects only the short-term interests of European countries: namely, that they wish to keep refugees out of the territory of the EU. A more comprehensive international approach is needed to address all the issues connected to the Syrian refugee crisis.

In the meantime, Turkey's foreign policy goals in Syria are in contradiction with the requirements of effectively handling the refugee issue. Turkey is at a major historical crossroads at the moment, with the presence of terrorist networks in its territory rendering the choices it makes in this respect even more extraordinary.

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Call for submissions

The *Corvinus Journal of International Affairs (COJOURN)* is calling for submissions of original manuscripts for its next thematic issue on Geoeconomics. (See our submission guidelines below.)

A quarter of a century after Edward N. Luttwak wrote of a transition from Geopolitics to Geoeconomics, for this issue we are inviting scholarly assessments of actors, institutions, events and processes of world politics that speak to the questions of where we are in terms of (1) the precedence of Geoeconomics over Geopolitics, and (2) to what extent the contemporary world of politics may be seen as dominated by states – key assumptions of Luttwak's work.

At a time of military tension in Eastern Europe, can we still speak of the „waning" significance of military power? In the wake of the global financial crisis of 2007-08, at a time of armed intra-state conflicts with global implications, and in the context of large-scale movements of migration, global public health crises and climate change, can we still see states as the predominant actors of world affairs?

With these and similar questions, as well as Edward Luttwak's original thesis in mind, we encourage submissions in particular related to the following topics:

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- Begin articles with a one-paragraph abstract outlining the concept of the article, including the basic questions it seeks to answer.
- Provide a few „keywords" below the abstract.
- Articles should reference supporting material, matching appropriate academic standards, where warranted.
- Generally we seek brief contributions of 3,000 words. Lengthier pieces can be accomodated only if there are substantial grounds for requiring extra space and if the manuscript concerned is in appropriate shape in terms of writing, grammar and spelling.
- Please provide an author bio in a footnote. Here you need to briefly mention all relevant academic/professional credentials you have.
- Please consider arranging proofreading for your manuscript before submission. The Editorial Team carefully provides copy-editing of accepted articles but due to our limited existing capacities for this purpose we may be forced to reject submissions if they fall behind appropriate standards in terms of writing, grammar and/or spelling.

Formatting guidelines

- Chapter headings should be in bold.
- Referencing must be via in-text citations in any variant of the Harvard System (in-text references to author name, publication year and page numbers* + bibliographical references** at the end of the article under „References"). You may use footnotes primarily to provide additional information and not for the purpose of referencing.

* Example: (Smith, 2008: 52).

**The information required in bibliographical references, where applicable: full author name, year of publication (in brackets), title, date of publication, URL, date of access. (See a sample of references in the present issue.)

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