Focus

MIGRATION AND PUBLIC POLICY IN A FRAGMENTING EUROPEAN UNION

Gerard McCann

Abstract: This article will assess the manner in which the principal of free movement within the European Union (EU), with particular reference to vulnerable people, has been re-construed since mid-2015 and the Mediterranean migrant crisis, and will suggest a role for public policy - including education - which will positively engage with the migrant experience. It will look at the migrant support framework as it has adapted to current geo-political changes and will reflect on how the treatment of refugees and asylum seekers has been dealt with through diverging policy interpretations and racial stereotyping. It will also review the changing system and policy architecture for the free movement of people with reference to the Geneva Convention on the Status of Refugees, the Stockholm Programme, the Dublin Protocol, the New York Declaration and the controversial March 2016 EU-Turkey action plan. The article will then reflect on the manner in which public policy within the EU needs to react to shifting mentalities regarding the recent flow of people, and suggests how the sensitive topic of forced migration - and the integration of the families and individuals who are subjected to this imposition - can be appropriately addressed through policy and institutional realignment (Lafleur and Stanek, 2017: 1-8; 215-224; Geddes and Scholten, 2016: 237-244).

Key words: European Union; Migration; Asylum-Seekers; Refugees; Free Movement; Policy Architecture; Education; Institutional Realignment.

The framework to date

The movement of people has been a policy concern for the institutions of the EU since its inception. Indeed, discussions on the management of the flow of
people can be charted as far back as the seminal Messina Conference of June 1955. As the policy framework evolved two parallel issues came into play; labour shifts and accommodating those looking for protection (see Boswell and Geddes, 2011: 23-28). While internal labour recruitment policies have been under scrutiny since the West German ‘gastarbeiter’ scheme came under stress in spring 1973 with the unrestricted flow of Turkish workers, uncoordinated attempts by the member states of the EU to address the challenges of people seeking sanctuary from persecution, genocide or hunger, came to a head in the summer of 2015. Vulnerable civilians, forced to flee and being used as a weapon of war in a sweep of conflicts across the Middle East and Africa, brought forward humanitarian challenges not witnessed in Europe since the last months of the Second World War. One result of this changing scenario has been that the agencies managing public policy across the EU have been totally unprepared in mobilising or informing civil society of the urgent need to provide support for persecuted families and individuals.

With this recent migrant flow, the EU - precious of its principle of free movement - has been faced with a crisis of purpose unprecedented in its history. While internal movement had in the past been relatively functional for labour needs within the confines of the single market and for EU citizens, the additional complication of free movement for refuge has exposed a fundamental fault-line (Ortega and Peri, 2014: 231-235). Arguably, solutions that have been constructed to integrate, resettle or return those who have attempted to enter EU member states since the summer of 2015 have been disparate, damaging and complacent in the deaths of thousands of innocent people (IOM, May 2016). Furthermore, the problems that have arisen have placed the very concept of free movement, most visibly applied within the Schengen zone since June 1985, into question.

Jörg Dräger and Aart De Geus commented in their 2016 article on the crisis that the outcome of policy changes towards the movement of vulnerable people escaping war and crippling poverty, primarily, must be beneficial for those moving, those hosting and for sustainable development in the country of origin (2016: 9-10). This three-way matrix gives some idea of
the transnational scale of the problem and the deeply sensitive nature of the solutions needed. In the event, it was leadership that was missing in managing the 2015 migration of people, leaving an anti-migrant vacuum to be filled by populist, nationalistic and racist platforms. Beyond non-governmental organisations (NGOs) working directly with migrant issues, other sympathetic voices have been critical and in direct opposition to racist populist media and political sceptics. The innovative Vision Europe Summit in Lisbon in November 2016 concluded its deliberations with options for a social justice response to the crisis, based on humanitarian policies, a ‘whole-of-society’ strategy and a concerted shift in social and state attitudes towards vulnerable people seeking integration into the apparent safety of Europe. This approach, along with others from academia and the development sector, anticipated profound implications for host societies, changes to political mentalities and substantial policy adaptation (see www.fmreview.org). This emerging lobby in support of migrants aims to reignite the humanitarian response against what has been labelled the ‘securitisation’ of policy (Boswell and Geddes, 2011: 39; Papademetriou and Benton, 2016). The struggle, however, has only just begun and already it is an uphill battle.

The twenty-first century has witnessed the largest movement of people globally since the period immediately after fighting stopped at the close of the Second World War. According to the EU ‘Labour Force Survey’ of migrants, 12.7 per cent of EU residents aged 15-74 are foreign-born or have at least one foreign-born parent. The EU-28 is host to about one fifth of the world’s migrants according to estimates from ‘Migrating out of Poverty’ (DFID, 2017). By 2060, persons of all nationalities with at least one foreign-born parent are expected to account for close to one third of the EU-28 population. An even larger percentage of the actual work-force will be of foreign descent. In ‘normal’ circumstances - periods outside conflict with its resultant refugee flows - the net balance between the population and the labour force should remain stable within the European Union. Indeed, as noted in the June 2016 Eurostat projections: ‘Increases in the employment rate, especially for women, older workers and young people, are needed to
compensate for the expected decline of the working-age population (aged 20 to 64) by 4.3 million people by 2020’ (European Commission, June 2016). That is, that many EU member states need migrants - internal or otherwise - to keep the economy on track for the purposes of sustained macro-economic development and to compliment the Europe Strategy 2020 economic development programme.

Post-war, it was the Geneva Convention on the Status of Refugees that provided guidance for hosting vulnerable migrants, establishing ‘protection regimes’ for states managing the inflow of people from conflict zones. The Convention carries a warning from the history that is very poignant in 2017, particularly with the deepening of anti-migration sentiment and policies within a number of EU member states:

“Developments in international human rights law also reinforce the principle that the Convention be applied without discrimination as to sex, age, disability, sexuality, or other prohibited grounds of discrimination… Importantly, the Convention contains various safeguards against the expulsion of refugees. The principle of nonrefoulement is so fundamental that no reservations or derogations may be made to it. It provides that no one shall expel or return (“refouler”) a refugee against his or her will, in any manner whatsoever, to a territory where he or she fears threats to life or freedom” (UN, 1951: 3).

In a normal political and economic scenario German Chancellor Angela Merkel would have been prudent to permit a managed, relatively open, migration policy in the summer of 2015. It had worked successfully in the mid-1960s for the West German economy when one million Turkish ‘gastarbeiter’ were given entry, or in 2004 in the United Kingdom and Ireland, when over a million eastern European workers were given access to a burgeoning, albeit credit based, economic boom. However, EU migrant projection strategies have seemingly been only functional under relatively stable circumstances (Mayda, 2006: 510-11; Boeri and Brucker, 2005: 629-
The erratic migration flow of 2015 onwards was exceptional, with many driven by terror from their countries of origin to seek refuge, and European states were unprepared for the spike in immigration.

The point cannot be lost, however, that migrants can - as actors in development - be an immense source of socio-economic regeneration for home and host countries. This is confirmed, significantly, by the United Nations’ *International Migration Report 2015*:

“Countries of destination can also benefit from migration. In countries of destination, migrants often fill critical labour shortages, create jobs as entrepreneurs, and contribute in terms of taxes and social security contributions. Migrants, as some of the most dynamic members of society, can also forge new paths in science, medicine and technology and enrich their host communities by promoting cultural diversity” (UN, 2015: 2; also see Stalker, 2001: 63-99).

This influence is apart from remittances going back to the country of origin, worth an estimated US $436 billion in 2014, with an average annual increase of over 4.4 per cent per year. Important in this process of movement and integration is the principle set out in the Agenda for Sustainable Development, which highlights the positive contribution of migrants for accelerated economic growth and sustainable development. Indeed, registering the importance of the issue, migration and mobility are addressed in 4 of the 17 Sustainable Development Goals (2015). High growth and development in its broadest sense cannot be secured without the movement of people. Ironically, this is the lesson of the economic success of the United States (US) and post-war Europe. The Agenda emphasises the point that international migration is ‘multi-dimensional’ in that it has development importance for the countries of origin, transit and the eventual destination, and - significantly - requires bespoke, targeted and humanitarian responses. On this, as the *International Migration Report 2015* noted: ‘International cooperation is critical to ensure safe, orderly and regular migration involving full respect for human rights and the humane treatment of migrants and
refugees’ (UN, 2015: 2). This again comes back to the policy architecture and how this can be adapted for successful migrant integration.

In the EU, apart from some erratic flows of people in the 2004-2007 period after the accession of the Eastern states, the movement of people had not only stabilised, but had declined. In 2013 only 1.7 million people had entered the member states from third countries, while there was 1.7 million migrating internally. That is, more EU citizens were actually leaving Europe than coming in (EC, 2015: 36). In order to manage these circumstances, the EU had put in place a series of Directives designed to enhance labour supply through demographic shifts. The strategy can be seen as the rationale behind the main directives adopted in the area of immigration through this period, emanating from the October 1999 Tampere Council on freedom and security, and reflecting issues pertinent to an evolving policy on movement:

- Directive 2005/71/EC for the facilitation of the admission of researchers into the EU.
- Directive 2009/50/EC concerning the admission of highly skilled migrants.

This framework was augmented by a number of agreements and initiatives targeted at the successful integration of new communities into member states of the Union. The approach also accommodated the global flow of vulnerable people through the 2005 Global Approach to Migration and
Mobility (GAMM), the overarching policy of the EU on external migration and asylum. Its four objectives were:

“better organising legal migration, and fostering well-managed mobility; preventing and combatting irregular migration, and eradicating trafficking in human beings; maximising the development impact of migration and mobility; promoting international protection, and enhancing the external dimension of asylum” (EC, 2005: 1).

Responding to crises
Something, arguably, shifted in the EU understanding of migration from the 2010 period onwards, in large part to do with the need to confront recessionary economics. The management of policies linked to migration had become immensely disjointed after responsibility shifted during the Lisbon Treaty shuffle from the Directorate-General for Humanitarian Aid (ECHO) to a position that was more politically and strategically worrying (Boswell and Geddes, 2011: 39-43). In effect migration was to become a security issue. The Stockholm Programme - adopted by 27 EU heads of state and government in December 2009 - set out a series of principles for the ongoing development of European policies on justice and home affairs for the period up to 2015. It had a specific reference to migration. Significantly, its 5-year plan came from the Directorate-General for Justice and Home Affairs, adapted from initial proposals put forward by the European Commission. In effect, the policy was very obviously security driven. The European Parliament - an institution habitually aware of and vocal regarding humanitarian issues - was merely consulted on the proposals. The security fixated Council had the final say as to content. Consequently, policy intentions shifted somewhat from free movement, residency and humanitarian support, to justice and security. Migration-related issues were, post 2009, being extracted from the precedents of the Geneva Convention. This was being flagged up by observers and actors alike, such as the Danish Government, Statewatch and individual Commission personnel, who in March 2012 all reported that human rights were not being adequately
protected through the policy framework and GAMM in particular (Martin, 2012: 5).

In order to bring about the agreed changes, the European Commission introduced an action plan to implement Stockholm, demarcating an area of freedom, security and justice for Europe’s citizens in 2010 (EC, COM (2010) 171 final). The plan set out a number of priority areas (giving some idea of the gravitation of the EU at that point) providing measures for: evaluating justice, freedom and security policies and mechanisms, training legal and security professionals as well as judicial and law enforcement authorities, new financial structures, public awareness-raising activities, and dialogue with civil society. Arguably the last two actions were to be neglected and remain under-resourced. Of Stockholm, Tony Bunyan, of Statewatch, commented that:

“The opening arguments use familiar concepts such as “the duty to protect and project our values and defend our interests” and to ensure that peoples’ “rights are fully respected and their security provided”. The problem is that while we can all agree on the “everlasting values” of freedom and privacy, the record of the EU is that it has put security before liberties and rights time and time again…” (Bunyan, 2010: 1).

With the civil war in Syria and North Africa in meltdown, and the enforced migration of millions of civilians towards Europe in the summer of 2015, the security drive of Stockholm could not cope with the humanitarian complexities of the situation. In attempts to cobble together a common policy the response was desperate, uncoordinated and increasingly disconnected. Confusion among the policy makers could be seen in the manner in which different countries reacted in wildly different ways, from building razor-wired fences and ‘containment camps’ to facilitating whole communities with innovative and generous support (for a comprehensive analysis of this breakdown in relations, see Forced Migration Review, January 2016).
The thousands of deaths of migrants seeking refuge in Europe throughout the summer of 2015 brought the policies into international focus and disrepute, and necessitated a panicked response that, arguably, further complicated an already frustrated policy base. As a consequence, *ad hoc* agreements were introduced and others adapted: the Dublin III Regulation on screening, fast-tracking or removing asylum seekers (EC, 19 July 2013), the United Nations’ New York Declaration, of which the EU was a key player (UN, 19 December 2016), and the *European Agenda on Migration* (EC, 15 May 2015). All give an indication of the levels of disconnectedness, but all recognise that there has been a deepening humanitarian crisis that would, if not confronted, destabilise regions across the globe. Article 1.3 of the New York Declaration presented the crisis very clearly:

“We are witnessing in today’s world an unprecedented level of human mobility. More people than ever before live in a country other than the one where they were born. Migrants are present in all countries in the world. Most of them move without incident. In 2015 their number surpassed 244 million, growing at a rate faster than the world’s population. However, there are roughly 65 million forcibly displaced persons, including over 21 million refugees, 3 million asylum-seekers and over 40 million internally displaced persons.”

In the *European Agenda* migration management was deemed to be a shared responsibility, even though the dialogue alone caused an almost total breakdown in relations between increasingly restrictive authorities, such as Hungary, Poland and Slovakia, and other EU states, such as Sweden and Germany, which - for humanitarian motives - opened borders to refugees. Beyond the extremes, the urgency of hosting new communities was generally recognised among EU member states. A xenophobic Hungarian government and the Brexit warped United Kingdom which voted to leave the EU in June 2016, were notable exceptions and stood in total contrast to the generosity and humanity of countries such as Greece and Italy (see *The Guardian*, 12 March 2016). Also included in the Agenda’s policy adaptation were most of the countries of transit and, crucially, the countries of origin of migrants.
The hope, driven through the institutions and most member states, was that by combining both internal and external policies, the Agenda could provide a new, comprehensive approach which could enhance mutual trust and solidarity among EU member states and institutions. (EC, May 2015). In the meantime, those fleeing into and through Europe were met with widely differing interpretations of migrant policy, support and strategies for integration.

The most telling representation of the fragmenting nature of policy-making on the movement of people and migration within the EU came with the critical flow of immensely vulnerable Syrian refugees through the summer of 2016. The EU-Turkey Joint Action Plan, activated on 29 November 2015 and the 7 March 2016 EU-Turkey statement, gives some indication of the humanitarian vacuum that had been created. The very clauses are problematic: ‘Irregular migrants may be held in closed reception centres... Asylum seekers will be accommodated in open reception centres’. Furthermore:

“All new irregular migrants crossing from Turkey to the Greek islands as of 20 March 2016 will be returned to Turkey... For every Syrian being returned to Turkey from the Greek islands, another Syrian will be resettled to the EU... Turkey will take any necessary measures to prevent new sea or land routes for irregular migration opening from Turkey to the EU” (EC, December 2016).

By the 28 February 2016, Turkey’s caseload of asylum seekers was more than 200,000, with only 38,595 having received protection. Hungary and the Slovak Republic erected razor fencing to keep migrants out and countries across the EU began in line up to erect physical and political barriers to the movement of these highly vulnerable people – the UK’s Brexit referendum result on 23 June 2016 was one such political action.

**Adapting migrant support**

Large-scale migration and cultural assimilation (interculturalism) are not new phenomena in the evolution of the EU. Past patterns have had a different
impact on the size and makeup of the population in most EU-28 member states, and they have contributed productively to a more cosmopolitan outlook among citizens. It is important to note that, while the scale of migration since 2004 has contributed to growing pressures on public services and political will, this must be set against the longitudinal, positive, social and economic benefits of such integration (Geddes and Scholten, 2016: 237-244; Cerna, 2013: 180-200; Stalker, 2001: 63-70). Furthermore, types of connectedness are important for intercultural development. For example, foreign ancestry and life choices bring a new sense of identity to those settling into a new country and to the host community. People who are arriving, particularly those who have been forced from their own countries, need social identification. Indeed, foreign ancestry is a major determinant of connectedness through friends and relatives, where links often continue with the country of origin. This determinant gives confidence to new communities. It also begs the question: how can public policy adapt to facilitate these determinants?

It is a perceived ‘strangeness’ that host communities find most challenging, where a confident culturally sensitive new community has settled in regions which may not have had a history of heterogeneity (see Schierup, Hansen and Castles, 2006). Interestingly also, new communities are more likely to be integrating through contact with other communities who are from abroad, people learning from other experiences. As Christina Boswell and Andrew Geddes point out in Migration and Mobility in the European Union, migration integration - including overcoming the perceived alienation of host communities - is closely linked to changes to public policies such as housing, health and education. Policy failures are where very visible sociological dislocation comes into play.

“Immigrant integration thus means different things in difference places at different points of time. More usually, it is seen in its absence - that is, as the perceived failure of policy to secure immigrant integration that tends to be a salient public policy concern” (2011: 207).
Before the economic recession, EU member state commitment to implementing the policy goals of their economic development plan, *Europe Strategy 2020*, had begun to show results in the form of increasing employment opportunities for young people, women, older workers and new communities. When the recession hit, the first groups to be affected were younger people and migrant communities. Governments faced increasing difficulties in balancing support for families, consolidating budgets, and assisting young people and migrants in a shrinking labour market (Galgóczi, Leschke and Watt, 2016: 19). With the 2015 crisis and the resultant inflow of millions of third country nationals from warzones, there was an acceleration and exponential increase in migrants seeking support. This brought forward a number of unforeseen challenges, such as accommodating vast numbers of vulnerable people in destination cities into existing housing stock, health provision and education. These circumstances enforced the rationalisation of public services to facilitate such a diverse and complex range of new communities with complex needs (ODI, 2015). This new reality was not managed well by regional authorities across the EU or communicated effectively to host communities. The discourse around health and migration in the run up to the EU referendum in the UK showed this disconnection up very clearly.

With service provision needing investment, there was lax and late appreciation at policy making levels that this peculiar forced migration process was a result of turbulent times which needed decisive, sensitive, innovative and transnational leadership. The New York Declaration of 2016 - a full year after the crisis started - could not make the imperative clearer:

“Refugees and migrants who are in large movements must have comprehensive policy support, assistance and protection consistent with States’ obligations under international law. We also recall our obligations to respect their human rights and fundamental freedoms fully, and we stress their need to live their lives in safety and dignity. We pledge our support to those affected today as well as to
those who will be part of future large movements” (UN, 2016, Article 1.11).

The stark reality of the situation was that public and social policy was increasingly stressed across Europe and globally. Health, housing, education and welfare provision would need to be more flexible to cope with new demographic exigencies.

They knew it was coming and recognised the integration process in terms of a Europe shaped by social cohesion. In the action points of Europe Strategy 2020, it stated that migration will play an important role in the future to meet skills shortages ‘by favouring mobility across the EU’ (EC, 2010: 14). It goes on: ‘What is needed is a strategy to turn the EU into a smart, sustainable and inclusive economy delivering high levels of employment, productivity and social cohesion’ (EC, 2010: 10). The Eurostat ‘Migration Flows’ findings of March 2015 highlighted the need for a better understanding of the movement of people, building bridges and sharing knowledge as core features of European recovery. The Schengen Agreement itself was premised on a co-relation between economic growth and free movement. Indeed, in May 2013, the European Commission’s ‘EU Citizenship Report 2013’ stated that free movement increases social and cultural interaction between those living and working in the EU. Movement generates mutual economic benefits as internal obstacles are steadily removed. Educational institutions, as with other public sector institutions, have a role in facilitating successful intercultural understanding, removing the obstacles and providing opportunities for the enriching processes of integration (Lafleur and Stanek, 2017: 215-224). Arguably, this is where humanitarian intervention has its most effective impact. Such changes – a welcoming, migrant sensitive public sector - would assist in changing the migratory experience and facilitate adaptation within public institutions for more flexible environments that can accommodate social, demographic and labour shifts beneficial to new and host communities alike.
Development education and migration

Education is a critical linchpin in the public sector and it is imperative that the schools’ curriculum adapt to the new realities of migration. Within the fields of Development Education and Intercultural Education, in particular, teaching and learning for diversity and mutual understanding are crucial for building an integrated, peaceful and welcoming society (Hainmueller and Hiscox, 2007:183-185). It is the perceived ‘strangeness’ that host communities find most challenging, where a confident culturally sensitive new community has settled in regions which may not have had a history of heterogeneity. Interestingly also, new communities are more likely to be integrating through contact with other communities who are from abroad, people learning from other experiences. The assimilative imperative of this process can only come through public awareness and pedagogy. As Christina Boswell and Andrew Geddes point out in *Migration and Mobility in the European Union*, migration integration - including overcoming the perceived alienation of host communities - is closely linked to changes to public policies. Policy failures are where very visible sociological dislocation comes into play. ‘Immigrant integration thus means different things in difference places at different points of time. More usually, it is seen in its absence - that is, as the perceived failure of policy to secure immigrant integration that tends to be a salient public policy concern’ (Boswell and Geddes, 2011: 207).

With service provision needing investment, there has been lax and late appreciation at policy making levels of the complexities of this current forced migration process. In this it needs assertive, innovative and transnational leadership. The New York Declaration - a full year after the crisis became evident - could not make the imperative clearer:

“Refugees and migrants who are in large movements must have comprehensive policy support, assistance and protection consistent with States’ obligations under international law. We also recall our obligations to respect their human rights and fundamental freedoms fully, and we stress their need to live their lives in safety and
dignity. We pledge our support to those affected today as well as to those who will be part of future large movements” (UN, 2016, Article 1.11).

The stark reality of the situation has been that public policies need to be more flexible to cope with the new demographic exigencies. Taking this into education provision, the state obligation is stated clearly in the United Nations’ 2015 Sustainable Development Goal (4) on education, ensuring ‘inclusive and equitable quality education’ to ‘promote lifelong learning opportunities for all’. The ‘for all’ is important here. Without doubt, educational institutions and organisations across Europe have a crucial role in facilitating a positive migrant experience within both the labour market and regional social/cultural environments. Exemplary educational experiences for new communities can be seen and have been at the fore of integration through confronting stereotyping, discrimination and frustration at perceived opportunity deficits. Schools, colleges and universities are perfectly positioned to strengthen assimilation, facilitate intercultural activities, knowledge induction for employment and present narratives that can register the many positive experiences of migration, while making these institutions more relevant to the needs of a rapidly changing society. This is where a fresh look at Development Education and Intercultural Education comes into play and a conversation that has only just begun.

**Conclusion**

Hannah Arendt wrote that discrimination against ‘others’ can be a weapon which can kill without any bloodshed. She sought refuge in the United States in the 1940s from the Nazis, and became an inspiration to many escaping oppression in the post-war world. Stripped back, the very idea of people fleeing war is about families and individuals seeking refuge, protection and ultimately peace. Questioning the very thought that we could stereotype or objectify people as ‘refugees’, Arendt poses the question that sanctuary can say more about those who host than those who arrive. Those who are forced to leave, for whatever reason - political, racial or economic - are in need of support and understanding at all levels. As with the people who were forced
to flee Europe in the 1940s, many today - again - are being presented with the same fate of exile, persecution or death. In the world today, where civil society and political leaders question the very concept of ‘refuge’, where is sanctuary to be found?

The ‘Geneva Convention on the Status of Refugees’ gives solid guidance on welcoming communities who are fleeing persecution. It calls for ‘protection’ for these people, for states to assist migrants into peaceful new lives. It carries a voice from the past that speaks very loudly in 2017 in Europe, urging people to listen to the experience of its own history. This Convention:

“contains various safeguards against the expulsion of refugees… It provides that no one shall expel or return a refugee against his or her will, in any manner whatsoever, to a territory where he or she fears threats to life or freedom” (UN, 1951).

The 1948 Universal Declaration of Human Rights is also resolutely clear on the treatment of vulnerable migrants. Article 14 states that: ‘Everyone has the right to seek and to enjoy in other countries asylum from persecution’. In this age of discrimination by the powerful against the powerless, actors in social development - such as those planning public services, educators and community activists - need to move to a humanitarian policy base, defend the vulnerable and utilise whatever resources that are available to ensure that society does not retreat again from its essential humanity. Stated simply, EU citizens need to circumvent the member state fixation with security controls and populism, to build a policy framework based on agendas of welcome and a positive integration experience. Education is central to this.

“Refugees driven from country to country represent the vanguard of their people - if they keep their identity… The comity of European peoples went to pieces when, and because, it allowed its weakest member to be excluded and persecuted” (Arendt, 1943: 119).
References


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