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The Truth About the Migrant Crisis

Tragic Choices, Moral Hazards, and Potential Solutions

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As the world watches wave after wave of migrants and refugees pour into and across Europe, what was once shocking now seems routine.

There can be no doubt that a major crisis, both humanitarian and political, is under way. Hundreds of thousands pay large sums to Libyan smugglers, risking their lives on unseaworthy boats to traverse the treacherous Mediterranean waters; the smugglers send distress signals to round-the-clock European rescue patrols, and when the aid vessels respond, smugglers ram the patrol vessels or scuttle their boats. Smugglers in Turkey overload clients onto small inflatable boats, point them toward nearby Greek tourist islands within sight of the Turkish coastline, and instruct them to puncture the boats upon arrival.

Hundreds of boat people camp on tourist beaches in the wealthy Italian Riviera. Thousands more trek across Italy and France to makeshift camps near the French port of Calais, where they wait to smuggle themselves onto trains and trucks entering the Channel Tunnel to the United Kingdom. Tens of thousands travel by foot, train, bus, taxi, and smuggler van across Serbia, Macedonia, and Hungary to claim asylum in Germany, Sweden, and Austria.

DAUNTING NUMBERS

The actual numbers of people crossing the Mediterranean into European Union territory, insofar as the limited available evidence is credible, are daunting. During the first eight months of 2015, well over 400,000 people successfully made the fraught journey. In the first part of this year, about 80 percent were departing from the now failed state of Libya and landing on Italian soil. More recently, migrant smuggling activities from Turkey to nearby Greek islands have increased.

In increasingly raucous political and press debates in Europe and elsewhere, recent movements are being described as new “disasters,” “policy failures,” and even “invasions” that the EU and its member states have proven incapable of addressing effectively. In fact, such “irregular” migration across the Mediterranean is hardly new, but the volumes are indeed far larger than in prior years. So, too, are the numbers dying in the attempt. The International Organization for Migration in Geneva estimates that during the first eight months of 2015, more than 2,700 would-be Mediterranean migrants perished at sea.

The stark and widely disseminated images of hundreds of thousands of men, women, and children transiting the Mediterranean in crumbling boats, and of the resulting humanitarian disasters at sea, are impossible to ignore. The heart-rending photos of a drowned three-year-old Syrian boy washed up on a Turkish beach were highlighted in print and online media worldwide. Such deeply disturbing images create daunting daily challenges for an EU already struggling with deep recessions, sustained high unemployment, terrorist attacks, economic and political instability in Greece, and challenges to the euro currency system. They provide useful political fodder for the strengthening populist and anti-EU parties and movements that have appeared in most of the 28 member countries. And they have stimulated a rising tide of violent attacks on facilities housing migrants—more than 200 such attacks in Germany this year, described by German Chancellor Angela Merkel as “unworthy of our country.”

TRAGIC CHOICES, MORAL HAZARDS

As they consider responses to these challenges, European government, advocacy, and media leaders need to keep in mind two important concepts: tragic choices and moral hazards.

The recent mass migrations pose deep moral dilemmas for European societies, of a kind that moral philosophers and theologians call “[tragic choices](#) [1].” These are decisions that bring into conflict the ultimate values by which societies define themselves, such as how to allocate scarce resources among very large numbers of desperate people.

The numbers of potential migrants now are exceptionally large. The United Nations High Commissioner for Refugees (UNHCR) estimates that by the end of 2014, nearly 60 million had been forcibly displaced owing to persecution, conflict, and human rights violations—the highest level on record—and of these, it classified nearly 20 million as “refugees.” To these huge numbers may plausibly be added tens or even hundreds of millions more who would likely be attracted by any available option to migrate away from conditions of deep poverty, starvation, or environmental disaster.

In a world of widespread tragedy, what choices should humanitarian societies make to allocate assistance among these potential migrants? Are they obliged by international law and their own values to admit all who wish to come, whatever the effects? Must they give priority to resettling refugees, as defined by international law, over other migrants? And if so, are they obliged to admit all the 20 million counted as “refugees” by the UNHCR? If not, how should they deal with mass casualties among others who risk their lives to gain access to European countries?

In fraught debates about such moral dilemmas, the legal definitions and everyday usage of “refugees,” “asylum seekers,” and “migrants” have become profoundly confused. There is a vast literature on these definitions; suffice it to say that the [1951 UN Refugee Convention](#) [2] defines a “refugee” as a person outside of his or her country of nationality who is unable or unwilling “to avail himself of the protection of that country . . . owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.” An “asylum-seeker” differs from a “refugee” only by geography, having already entered the country in which asylum or refugee status is being sought; those who are approved are called both “refugees” and “asylees,” injecting yet another source of confusion. Contrary to common usage, under the Refugee Convention, people who flee failed states, conflicts, or desperate economic

conditions do not qualify as refugees or asylees unless they have a legitimate fear of persecution based on one of the five grounds listed above. But such desperate migrants certainly still deserve humanitarian concern.

On top of tragic choices, European officials must contend with *moral hazards*. In finance and economics, these arise when incentives or guarantees provided by governments or insurers have the perverse effect of encouraging banks, corporations, and individuals to take dangerous risks such as high “leverage” through heavy borrowing, risks that most would otherwise prudently avoid.

International migration itself should now be understood as a highly leveraged phenomenon. Many millions migrate and settle lawfully each year, but they are dwarfed by the dramatically larger numbers of potential migrants created by immense global economic inequalities and the proliferation of failed states and civil wars. These realities, coupled with nearly global access to modern media and transportation, mean that the option of migrating to more peaceful and prosperous countries is increasingly both known and attractive to potentially massive numbers of people—as but one incomplete measure, more than 1 billion of the 7.3 billion human population currently live on less than \$1.25 per day [3].

With such a large pool of migrants waiting in the wings, even small policy shifts on the part of countries seen as desirable destinations—admirable statements of humanitarian welcome for migrants or policy changes intended to provide migration benefits to smaller groups—can cause great swings in the movement of people. To this may be added the perverse incentives facing people who are able to meet the UN refugee definition but unable to obtain visas to be resettled as refugees in a European country. At risk of their lives, they can force the issue by paying smugglers to transport them to that same country in order to claim asylum. Indeed, several EU governments have formally stated that even the humanitarian sea rescue missions are encouraging greater numbers to pursue such high-risk journeys.

EUROPEAN CHALLENGES AND SOLUTIONS

The large and visible flows of Mediterranean boat people raise profoundly difficult questions about the European project, including about the EU’s two foundational treaties—the 1957 Treaty of Rome and the 1992 Maastricht Treaty—and numerous other EU documents. These include the 2004 Directive on Free Movement of Citizens, the 1990 Schengen Convention, the 1997 Treaty of Amsterdam, and the 2014 Dublin Regulation. Taken together, these EU treaties, conventions, regulations, and directives have transformed the movement of people within Europe. They have guaranteed freedom of movement across the EU for citizen workers; they have dismantled border controls within the EU, a change described by the European Commission as “one of the greatest achievements of the EU”; and they have required asylum claims to be registered and reviewed in the first EU country claimants reach. According to a July statement by UN High Commissioner for Refugees (and former Premier of Portugal) António Guterres, to deny its responsibility to help those seeking protection from war and persecution “is to threaten the very building blocks of the humanitarian system Europe worked so hard to build.”

It is apparent, however, that even this large EU architecture of law and regulation on migration is not working. The outcomes are neither effective nor humanitarian and are

creating deep fissures in the European Union itself. Increasing numbers of EU member states are taking legislative, executive, and judicial actions that ignore or contravene EU-level agreements, such as the Dublin Regulation and the Schengen Agreement, by re-creating border controls, failing to register or provide decent conditions for asylum seekers, and encouraging migrants to move on to other EU countries to claim asylum. Political and opinion leaders in many of its 28 member states have become strenuously critical of EU migration policies from different perspectives and are calling for rapid changes.

These challenges are hardly limited to Europe. Uncontrolled migration has roiled domestic politics and international relations in the Middle East and Africa, South and Southeast Asia, Australia, and North America. These cases have thrown into stark relief some of the long-standing ambiguities and contradictions of international and domestic law and, in turn, may be inflicting real damage to political and public support for the core provisions of the 1951 UN Refugee Convention itself.

To be sure, any friendly advice from outside the European Union requires large doses of caution and humility. The issues involved are morally challenging and politically sensitive, and only EU leaders really can understand the internal dynamics of the EU: what is possible and impossible, what conflicts cannot be solved but might be muddled through. In this spirit, though, five ideas are worth considering.

First, given the moral hazards involved, there are real limits upon what European leaders can say and do that will be constructive. The government of Germany has for decades been one of the most humanitarian of countries in addressing issues of asylum and temporary protection, and recent official statements are admirable in their humanitarian intent. Yet we know from much past experience that well-intentioned but incautious statements and gestures can communicate unintended signals that stimulate surprisingly large migratory movements. The chaotic 1980 Mariel boatlift of nearly 125,000 Cubans to Florida was unintentionally stimulated by U.S. President Jimmy Carter's humanitarian statements. All agree that this episode contributed substantially to his defeat later that year by Ronald Reagan. Though denied by the White House, there is considerable evidence that U.S. President Barack Obama's "executive action" in 2012 that created a new temporary legal status for unauthorized migrant children may have encouraged tens of thousands more to migrate to the United States in 2013 and 2014.

In Europe, it seems likely that recent German and Swedish humanitarian assurances to favorably consider asylum claims from all Syrian nationals will have similar effects, both for Syrians and for others such as Iraqis, some of whom are already claiming to be Syrian. The German government's forecast that "up to 800,000" asylum seekers will arrive in 2015 appears to be based on questionable assumptions and methods; many in Germany expect the ultimate number to be far higher. In these situations with high leverage, leaders should be very cautious in the signals they convey, which may actually increase suffering by encouraging more people to take life-threatening risks.

Second, migration that is large and uncontrolled can inflict real damage on governments and political parties. In the 1990s, the center-left Social Democrats in Germany reportedly paid a heavy electoral price for their sustained opposition to reforms proposed by the governing center-right Christian Democrats in response to a previous chaotic surge of asylum claims. Only a decade or so later, the center-left Labour government in the United Kingdom was deeply wounded by its decision to allow immediate and unlimited labor

migration from eastern European countries that joined the EU in 2004; its estimate that this decision would lead to only about 13,000 additional net migrants was proved to be wildly mistaken when more than 750,000 took advantage of the opportunity. If European voters conclude that their governments and the EU are unable to reestablish control over current migration, the most likely outcome will be more votes for political movements opposed to such trends—mostly still minority parties, but strengthening in many countries—which might further undermine support for humanitarian assistance.

Third, wealthy countries have not been offering adequate financial support for the humanitarian efforts by UN agencies and by the three states neighboring Syria—Turkey, Jordan, and Lebanon—that are providing temporary protection for nearly four million Syrians. They have funded only 41 percent of the \$1.3 billion requested by the UNHCR for its Syria regional response plan. Similar shortfalls have forced the UN World Food Program to sharply reduce the food rations it had been providing for 1.6 million Syrian refugees to a paltry \$13 per month per person, and the World Health Organization was forced to close 184 health clinics in Iraq, thereby leaving three million people without access to health care.

The UN High Commissioner for Refugees recently described the global humanitarian system as “financially broke.” This seems a false economy, and hardly a humanitarian one, even in times of European austerity. It is well established that most refugees would prefer to stay near their home countries in hopes of returning when conditions stabilize. Generous support for such temporary protection in the region could do much to moderate the numbers of Syrians embarking on life-threatening journeys to claim asylum in Europe. The same large funds now being made available for asylum could protect far more people in need. For comparison, the German government recently announced it was allocating an impressive \$6.7 billion to accommodate the 800,000 asylum seekers it is forecasting for this year.

Fourth, EU leaders would be wise to place strong emphasis upon effective police actions against people smugglers who now are making huge profits while callously sending thousands to their deaths. It should be a high priority to disrupt the burgeoning smuggler networks in Bulgaria, Greece, Serbia, Turkey, and elsewhere before they follow the model of Latin American smuggler networks by deploying part of their vast profits to corrupt police, military, and civilian officials. What kind of action might be effective against smuggler networks in the failed state of Libya is far less clear.

Fifth and finally, it should now be apparent to all that the complex architecture of EU agreements on migration and refugees, like that embodied in the recently vulnerable euro currency system, is not working in the way its architects had expected or at least hoped. These agreements will need thoughtful scrutiny and careful adjustments. An initial focus might be changes to incentivize countries such as Greece and Italy to desist in encouraging migrants to move northward, such as recent proposals to create EU-supported facilities to provide humane protection for migrants who reach these countries.

In revising the architecture, European governments and refugee advocates alike must pause and think more carefully about the unintended tragic choices and moral hazards that seem to have emerged. The European project that began in the 1950s and evolved into the 28-member European Union has achieved spectacular success in the primary goal of its foresighted founders: to prevent any recurrence of the two disastrous world

wars that began in Europe. Greater prosperity and freedom have followed. No one wants to see these successes compromised by failed policies on migration.

This unfolding and dangerous tragedy is by no means solely a problem for Europe. Russia, Turkey, the United States, and many wealthy countries of the Middle East all need to pay urgent attention to the source of these increasing streams of desperate people from Syria and elsewhere in the region. At a minimum, this means creating safe zones for innocent civilians fleeing the catastrophic civil wars in Syria and Iraq, while pursuing far more energetic diplomatic and other efforts toward stabilization over the longer term.

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Links

[1] http://www.amazon.com/Tragic-Choices-Lectures-Public-Analysis/dp/039309085X/ref=asap_bc?ie=UTF8

[2] <http://www.unhcr.org/3b66c2aa10.html>

[3] <http://povertydata.worldbank.org/poverty/home/>