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Is Governing Migration a Utopia?

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Climate change-related displacements is attracting increasing attention. They are gradually making their way onto the agenda of the bodies in charge of this global challenge. In addition, the response to the pandemic has resulted in an explosion of measures restricting travel, both internally and internationally. The question of the governance of human mobility has thus been revisited. And the answer is far from obvious. To formulate it, we first need to define its purpose. A detour through the European experience, unique at this stage, will illustrate the difficulty before outlining a reflection which will above all show the limits of the exercise in the current context.

WHAT IS INVOLVED?

A few reminders and clarifications are in order when faced with an issue whose nature is obscured by a discourse in the form of hyperbole.

First, a few facts and figures, even if this is not the best way to whet the appetite.

According to the IOM's World Migration Report 2022, migrants, numbering 84.5 million, represented 2.3% of the world's population in 1970. By 2020, their numbers had risen to 280.5 million, or 3.5% of humanity. The main countries of origin were India, Mexico, Russia, and China; as for the countries of destination, the United States, Germany, Saudi Arabia and Russia came top. We should also bear in mind the volume of financial transfers from migrants to their countries of origin, which was USD 702 billion still in 2020.

As for displaced persons, by the end of 2021 the UNHCR counted 21.3 million refugees (compared with 16 million in 2001), 4.4 million asylum seekers (950,000 in 2001), 53.2 million internally displaced persons (25 million in 2001), 5.8 million Palestinians under UNRWA status and 4.4 million Venezuelan nationals displaced in various Latin American countries (to which should be added the 4 million Ukrainians under temporary protection following the invasion of their country by Russia). Unsurprisingly, again in 2021, the main countries of origin of people in need of international protection were Syria, Venezuela, and Afghanistan, while the three main host countries were Turkey, Colombia, and Uganda. More generally, 83% of people fleeing danger or persecution were staying in low- or middle-income countries and 72% in the immediate vicinity of their country of origin.

THE NATION-STATE AS A FOCAL POINT

Beyond the figures and definitions corresponding to distinct legal situations, the figure of the migrant and that of the refugee have one factor in common: the State.

On the one hand, the Westphalian State is the legitimate and sovereign authority exercised over a population gathered in a territory. It therefore sets the boundary between "us" and "them". It does this by guarding a border delimited by a series of international treaties. It does so by granting nationality in accordance with its own laws. A migrant is someone who enters a territory and joins a national community to which he or she is a stranger.

On the other hand, a refugee is someone who obtains protection from a State of which he is not a national, in

the face of persecution from which the State of which he is a national is unable or unwilling to protect him.

So, the question is: if we want to manage migration, is there any other relevant level of governance than the State? The answer could be straightforward and negative. But the (geo)political reality and the data cited above call for a degree of modesty on the part of States if they still claim to control access to their territory and secure the cohesion of the populations living there.

THE EUROPEAN LABORATORY...

The European Union is an interesting laboratory in this respect.

It began with Schengen, a revolutionary project to establish an area of free movement and mutual control of the external borders of the participating States based on solidarity and mutual trust. An essential condition: to agree on who can enter this area, and for what reasons. In other words, to define a common immigration and asylum policy.

Initially, an intergovernmental construction, Schengen was fully integrated into the EU framework by the Treaty of Amsterdam, and the Treaty of Lisbon consolidates the basis for common policies in this area. Reflected in the conclusions of the special meeting of the European Council in Tampere on 15 and 16 October 1999, the ambition was high from the outset: beyond simply strengthening the very intergovernmental cooperation in the fields of justice and home affairs, the aim is to fully achieve the area of freedom, security and justice called for by Article 3 of the TEU, an area “in which the free movement of persons is assured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime”. And these measures will be adopted under the ordinary legislative procedure, by a qualified majority and in co-decision with the European Parliament. It is not incongruous to see this as a significant shift in sovereignty.

In just over twenty years, significant progress will certainly have been made with the development of legislative,

administrative, and budgetary instruments to frame and support these policies, in the perpetual search for a balance between Institutions and States, inherent in the progress of the Community agenda.

...AND THE LIMITS OF EXPERIMENTATION

But the momentum now seems to have gone, or at least slowed considerably. The increasingly frequent reintroduction of long-term controls at internal borders on the pretext of combating terrorism or illegal migration was already a sign of growing unease. But the crisis erupted in 2015 and 2016, illustrating a serious breakdown in trust and solidarity and creating a stalemate from which we now seem to be struggling to break. Put back in the saddle by the response to the pandemic, at least in its first phase (which also got people used to border controls again), the States seem to want to regain control for the long term. Without at this stage calling into question the legitimacy of common governance, they are only committing themselves to it from a strictly transactional perspective, aimed above all at maximising their own interests and ultimately subject to the logic of consensus around the lowest common denominator. And this silting-up is not without consequences at more global levels.

On the one hand, while the establishment of partnerships with the countries of origin and transit of migratory flows towards Europe was identified from the outset as an essential component of the management of these flows, the Union and the Member States are still seeking the terms of a balanced dialogue. The mistrust of interlocutors who feel that a unilateral agenda is being imposed on them, dominated solely by the concern to control illegal immigration (with its corollary: the return of illegal migrants), is palpable. And this feeling is all the stronger because they have the impression that they are facing a regional organisation which is making them pay for its negligence in developing and implementing its own policies.

The stubborn pursuit of this toxic relationship also seems counter-intuitive at a time when major geopolitical changes are leading Europe to become more aware of

its dependencies and to seek new forms of solidarity if it wants to consolidate its strategic autonomy, as it claims. It is hardly surprising, then, to note the difficulties encountered in the search, through concerted migration, for a response to growing demographic imbalances and the need for ‘talents’ capable of implementing new growth models.

On the other hand, the incompleteness and lack of coherence of common policies themselves have negative consequences for other processes of governance. For example, the European Union was unable to adopt a common position when the Global Compact for Safe, Orderly and Regular Migration was signed, or in the context of the process governing its implementation. Furthermore, the increasingly restrictive interpretation by some Member States of their obligations in terms of international protection, and even the unjustified violation of these obligations, are likely to encourage a general slackening in this area, as denounced by the United Nations High Commissioner for Refugees.

The situation is no better at the local level. Migration is an urban phenomenon, within the same state or in a transnational context. Cities polarise mobile populations, and the authorities in charge are faced with the challenge of managing a diversity that they neither created nor desired. With a few rare exceptions, such as community sponsorship initiatives linked to resettlement programmes for families under international protection, local officials are more often than not left to their own devices. Populist tendencies are not necessarily the rule: the urgent need to ensure the coexistence of diverse communities, and even to make the most of them, goes hand in hand with a pragmatism that offers promising solutions.

WHAT CAN WE DO?

Are we at an impasse?

Yes, if migration continues to be perceived as a “sui generis” phenomenon at the centre of its own debate. No, if it is approached in the context of the threefold climate, demographic and digital transition that is now affecting our global world. Each of these transitions is linked to phenomena of human mobility. This link is just as obvious in the case of the first two as it is in the case of the third: the dazzling progress of information and communication technologies is having a major impact on the location of communities, both in terms of consolidating their local roots and in terms of their aspiration to be part of an international context that is now immediately accessible to them.

Facing up to this challenge is no longer a matter for the nation state. And experience shows that, so far, regional and global processes are not up to the task. As mentioned above, the temptation could be to “throw down the gauntlet”: mobility is the essence of humanity and cannot be governed. This escape route is no longer possible, insofar as it ever was: migration is at the centre of a multi-level (geo)political debate, and responses are expected at every level.

The line would therefore be clear: consider migration not as an adjustment variable but as a component of the management of these structural transitions. However, there is a technocratic danger lurking, which would deny the essence of what is human: mobility would be approached as a means of balancing a globalised mode of production and market, of reorganising the occupation of spaces in the light of rising temperatures and the resulting upheavals, or even of revitalising ageing societies. Inspired by the quest for collective well-being, the governance of trajectories and flows would be a matter of controlling objective determinants, once labelled ‘root causes’, independently of collective identities and individual aspirations.



But we are still a long way from achieving this, as a simple comparison will show. Despite its wanderings, the global agenda to combat climate change is consolidated by the gradual recognition that controlling climate change is an essential “common good”. The same cannot be said for migration and mobility. The terms of the debate are still those of opposition between countries of origin, transit and destination, whose interests are irreconcilable. The problem runs deep, and its symptoms are manifold: from the sacking of reception centres for asylum seekers to the “instrumentalisation” of migration, now seen as a “hybrid threat”, from the multiplication of walls to the outsourcing of the processing of applications for international protection, from pushbacks at the border to the establishment of a conditionality between the granting of development aid and cooperation for the return of illegal residents.

The challenge is therefore clear, and it is an ethical one: is it possible to restore the human factor as a fundamental value at the heart of any policy dedicated to migration? And thus contribute to the best possible adjustment to the structural changes affecting our global world?

The answer is undoubtedly utopian at a time when power politics, and therefore state politics, are making a comeback. And the European Union, proud to set itself up as an area of freedom, security, and justice, cannot escape its historic responsibility.

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