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Migration into Southern Europe:

Non-legality and labour markets in the region

by Martin Baldwin-Edwards

MIGRATION INTO SOUTHERN EUROPE: NON-LEGALITY AND LABOUR MARKETS IN THE REGION[□]

Martin Baldwin-Edwards

This paper collates the limited empirical evidence concerning illegal boat migrations into southern Europe, in order to identify the migrants' possible role in local, southern or European labour markets. Drawing upon my previous work, it is shown that immigration policies in southern Europe have exhibited a complex and varying mix of responses to non-legal migrations: the three policy instruments available are toleration, legalization and expulsion. Increasingly, the EU has been promoting expulsion as the major solution, and southern EU countries have become more interested in this policy instrument in recent years. However, the "learned" message to North Africa and beyond is clear: come as illegal migrants, and work is available for you. Essentially, the security paradigm of "Sieve Europe" contradicts much of Europe's labour market and demographic requirements: as of 2005, the EU has failed to conclude any meaningful policy texts on managing immigration into the territory, let alone enact policy. This incoherent approach puts the responsibility for immigration solely onto first state of arrival [e.g. Dublin Convention], whilst the concept of "burden-sharing" and refugees concerns only fiscal burdens. The paper concludes that the problem of non-legal immigration into the southern countries is the direct consequence of mismanagement of EU immigration policy, and can be solved only at the EU level.

Introduction

What was once a tolerated income supplement for cash-starved Spanish fishermen with their *pateras* [small fishing boats], has turned since the mid-1990s into a more serious phenomenon of organised smuggling or individual attempts to cross the Mediterranean and reach prosperous 'Europe'. One of the earliest accounts of "Mediterranean Boat People" (Pugh 2001) gives a figure of illegal migrants intercepted by Spain for 1996 as 1.573, but rapidly escalating to 15.000 in 2000 (Baldwin-Edwards, 2002). Furthermore, the number of corpses and missing persons from wrecks in Spanish waters increased from 14 in 1996, to 89 for the first 6 months of 2000.

By 2003, ICMPD was estimating that some 100-120.000 migrants were crossing the Mediterranean every year, with about 80% of departures from Libya. The Spanish coastguard estimates some 2.000 persons drown every year, with apprehensions at sea in 2002/3 of 14.000 by Italy, 11.000 by Spain, 4.750 by Cyprus, 4.000 by Greece, and 1.700 by Malta (Baldwin-Edwards, 2005:17). These rates seem to have remained more or less stable since 2002, although Spain (unlike all other countries) claims a detection rate of 100% with its SIVE system of electronic surveillance of territorial waters (Baldwin-Edwards, 2004b).

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The nationalities of the migrants are not so well documented (and are frequently concealed to avoid deportation), but ICMPD estimated for 2003 that about 25% were sub-Saharan, another 25% from other countries, mainly Asian, and about 50% from the south or east Mediterranean (ICMPD 2004). 2004 data for Italy show an increasing proportion of Egyptians (60%) and about 28% sub-Saharans (EC 2005a:38), whilst for Malta the principal nationality in 2004 was Somali (40%) followed by Egyptian (15%) and Eritrean (15%).

Figure 1 shows the four principal maritime migration zones used by illegal migrants to Europe, identified by ICMPD research. They consist of arrivals at Canary Islands, the Gibraltar Straits, Sicily Islands and Malta, and Cyprus and the Aegean Sea. As mentioned previously, the major identified routes are via Libya, and arriving in Italy or Malta: however, smuggling routes and strategies change rapidly, and although the Spanish waters are well policed, this is not the case with Cyprus and the Aegean. There is, therefore, potential for these routes to increase in usage. Figure 2 shows the detailed sea routes in the 4 main zones.

There are also increasingly air routes used by migrants from China, India, Pakistan and Bangladesh; these use transit airports in Jordan, Mali, Morocco, Ghana, Chad and Turkey in order to gain access to EU territory.

The problem of Libya

Libya is currently the transit point for most illegal boat migrations to southern Europe, and Italy is collaborating in several ways in order to limit this; the EU is also considering collaborations and funded projects (EC 2005a and b). However, Libya has not signed the Geneva Convention, does not recognise the UNHCR, has no formal relations with the EU, and has no system of protection for refugees or asylum seekers.

Libya believes that it has a stock of illegal immigrants of 750.000 – 1,2m, out of a total population of 5,5m people (EC 2005a:10). In 2003, it expelled some 43.000 illegal immigrants, of which 38% were Egyptian, 15% Nigers, and over 33% sub-Saharan. In 2004, this increased to 54.000 with notable increases in the proportion of sub-Saharans and Egyptians (EC 2005a:14). Not all of these people are transit migrants: many Nigers are simply looking for work in Libya, and similarly with some Egyptians. However, most of the other nationalities – particularly sub-Saharan ones – are most likely transit migrants trying to get to Europe.



Immigration policy and labour markets in southern Europe

Compared with the rest of the EU, the southern European countries have some quite distinctive features of both labour market and immigration policy. The detailed specificities of this have been published elsewhere (e.g. Baldwin-Edwards 2001), but can be summarised as the following.

Labour markets

- Traditions of large informal economies (18-30%), which increasingly have incorporated immigrants rather than natives (Baldwin-Edwards and Arango, 1999)
- Lowish participation rates (especially female) leaving labour market shortages
- Demographic decline has already started to reduce labour supply
- High social insurance costs in low-productivity sectors have led to employers seeking illegal labour
- A social trend of bourgeoisification has led to natives seeking middle class employment, and preferring unemployment or continued education to low-wage employment
- Rural-urban migration of the young has left agricultural areas with no workforce, so illegal temporary labour is most welcome

Immigration policies

- Spontaneous [often illegal] immigration, as opposed to recruitment of skilled workers, family reunification or acceptance of asylum-seekers in most of northern Europe
- Response to illegal foreign workers has been a changing and complex mix of toleration, legalisation and expulsion [the latter mainly in Greece] (Baldwin-Edwards, 2004a)
- The “normal” route to legal status is through legalisation programmes: i.e. almost all (some reports suggest 70% or more) immigrants either arrived illegally, overstayed or broke their visa conditions
- Legalisations have given only temporary status (usually 6 months to 1 year) and many immigrants soon lapse into illegality again (Levinson, 2005)
- Numbers in the legalisation programmes recently have been very high: 700.000 in Italy, 700.000 in Spain, 360.000 in Greece (Arango and Jachimowicz 2005; Levinson, 2005)

Since the destination of most southern Mediterranean migrants is, at least initially, southern Europe, the structural patterns of employment and immigration regulation give a clear message of tolerated illegality. Furthermore, until very recently there have been no legal avenues for recruitment of workers. Even now, these routes are restricted and unlikely to impact on illegal migration.

The EU and immigration management

Throughout the history of the EU there has been a remarkable one-sided emphasis on the security aspects of immigration control [borders, asylum, expulsion of illegal migrants] and an almost complete absence of even co-ordination of policy on immigration for employment, issues of legalisation of illegal immigrants, and until recently on the rights of long-term immigrants (Baldwin-Edwards, 1997). Looking specifically at three issues relevant to southern Europe, by 2005 there is no EU policy on admission of immigrants (other than the Schengen rules), substantial policy on removal of illegal immigrants (but nothing on legalisation), and substantial policy on asylum-seeking. On the latter, van Selm identifies five pillars of a common asylum policy:

- A system of temporary protection, in case of mass influx into a member state
- An arrangement for deciding which member state is responsible for determining a specific asylum application (Dublin II Convention)
- Agreement on common standards for the reception of asylum seekers
- Agreement on common understandings of the qualifications required for refugee and subsidiary protection status
- Agreements on common asylum procedures

(van Selm, 2005:11)

However, van Selm also notes that the EC has no refugee policy: only a policy on asylum. Rather, the basis of European and international practices is to a great extent based on the Council of Europe, and most particularly the European Convention on Human Rights (van Selm, 2005:1-2).

In 2003 the UK started to suggest a new vision of refugee protection, which included the notion of 'transit camps' (van Selm, 2005:16). Most of these ideas were withdrawn in the European Council meeting in Thessaloniki, but by June 2004 the European Commission had made clear its intent to propose a new policy regime. The UK and also German/Italian proposals were rejected in 2004 by the European Parliament (Schuster, 2005:5): those proposals essentially consisted of keeping the majority of refugees outside of Europe, and in particular, in North Africa.

Following opposition not only from the EP but also from many EU member states, Italy has independently pursued bilateral arrangements with Morocco, Tunisia and Libya – essentially linking re-admission agreements with development aid and small-scale immigration quotas (Baldwin-Edwards, 2005: 32-35). In October 2004, Italy returned 1.000 people, without allowing them to claim asylum, to Libya, which in turn, deported them to Egypt and Nigeria (Schuester, 2005:12). As Libya does not recognise the Geneva Convention or apply the OAU asylum procedures (EC

2005a:52), this meant that effectively the migrants were denied the right to asylum even though they had arrived in an EU country. The European Parliament in April 2005 passed a resolution effectively condemning as illegal the Italian expulsions from Lampedusa carried out between October 2004 and March 2005. Similarly, UNHCR condemned an incident with 180 people on 17 March 2005.

The recent report of the Commission (EC 2005b) makes no mention of these serious problems with “safe third countries” such as Libya, whilst admitting that “the EU has no formal relations with Libya...Libya is not a member of the Barcelona Process...and there is no avenue for a formal dialogue on migration management” (EC 2005b:5). The report also notes that Tunisia has no functioning asylum system, but nevertheless the EC intends to include it in the European Neighbourhood Policy Action Plan. In the case of Morocco, the main concern of the Commission seems to be that they have been unable to conclude a re-admission agreement to cover non-nationals (unlike Spain, which has concluded such).

Some conclusions...

The immigration regime of the EU cannot be described as a coherent body of policy. Especially, it emphasises the control aspects of immigration, whilst regulating not at all on substantive issues such as who is admitted to European territory for employment, or how to deal with problematic labour markets which attract – even require – illegal immigrants. Furthermore, the Barcelona Process has no real migration component, it does not include Libya, and has largely been supplanted by the EU Neighbourhood Policy. The two strong themes of EU policy concern the expulsion of illegal immigrants, and detailed rules on the co-ordination of asylum seeking. Both of these are contradictory to the interests of southern European countries, which have undertaken continuous and recent temporary legalisations of their immigrant workers, and generally try to avoid or limit claims of political asylum. However, southern Europe is distinctly the first port of call for African and many Asian asylum-seekers arriving in Europe: under the Dublin Convention, northern Europe will return them to southern countries.

For the new EU members, such as Malta and Cyprus, inclusion in the EU regime has made them attractive for illegal migrants and/or asylum-seekers not so much in their own right, but as transit stages to northern Europe. Thus, the asymmetrical EU policy simultaneously places extra burdens of immigration onto these states, offers no possibility of relocating asylum-seekers, and demands acceptance of minimum standards for evaluation and treatment of asylum-seekers. The so-called burden sharing provisions are merely fiscal matters: the real burdens remain where they arrive!

The new trend of creating a buffer zone in North Africa would obviously benefit southern Europe, but the serious problems pertaining to human rights, the rule of law, refugee and asylum issues in North Africa are very great. In particular, it is inconceivable that the EU can expel asylum seekers to Libya: thus, the unilateral actions of a few countries (Italy, Spain) are simply tolerated as a necessary evil. However, there has to be some longer term structural solution, which presumably is where the European Commission is slowly going, with aid and modernisation incentives for all of North Africa. It is not clear, though, how this will benefit small countries like Malta and Cyprus: the cost of EU membership will be very high, if illegal migration continues to increase and the EU offers no solutions.

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