

RETURNING AND DEPORTING IRREGULAR MIGRANTS: NOT A SOLUTION TO THE ‘REFUGEE CRISIS’

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Abstract

This article questions whether the presentation of the return and deportation of irregular migrants as a *solution* to the so-called ‘refugee crisis’ is ethical. Legally, the return of irregular migrants may be a legitimate activity by the state, but the current pressure by the European Commission on member-states to increase the current 40 percent rate of effective returns can lead them to operate returns below minimal human rights standards in a bid to increase the rate. Detailed knowledge of the impact of returns – including deportation from and to different countries – on migrants’ welfare and human rights is scarce. Based on studies on returns from EU member-states to different countries, I make three arguments. First, due to the complexity of the return process, statistics need to be unpacked better. Second, there are key conceptual problems underpinning current EU returns policy. Third, research strongly indicates that returns can render people vulnerable. In the absence of in-depth knowledge on the effects of return on migrants, I conclude with an appeal for returns to be treated with caution and their linking to the refugee crisis to be avoided.

Keywords: Irregular migration, migrant returns, European migration policy, human rights, refugee ‘crisis’, deportation

Retornando y deportando migrantes irregulares: no es una solución a la “crisis de refugiados”

Resumen

Este artículo cuestiona si la presentación del retorno y de la deportación de los migrantes irregulares como una *solución* a la llamada “crisis de refugiados” es ética. Legalmente, el retorno de los migrantes irregulares puede ser una actividad legítima por parte del Estado, pero la presión actual por la Comisión Europea sobre los Estados miembros de aumentar la tasa actual del 40 por ciento de retornos efectivos puede conducirlos a que operen retornos por debajo de los estándares mínimos de derechos humanos en un intento de aumentar la tasa. El conocimiento detallado del impacto de los retornos – incluyendo la deportación desde y hacia diferentes países – sobre el bienestar de los migrantes y los derechos humanos es escaso. Basado en estudios sobre retornos desde Estados miembros de la UE hacia diferentes países,

presento tres argumentos. En primer lugar, debido a la complejidad del proceso de retorno, las estadísticas deben de ser analizadas con más profundidad. En segundo lugar, hay problemas conceptuales claves que sustentan la política actual de los retornos en la UE. En tercer lugar, la investigación indica fuertemente que los retornos pueden rendir vulnerables a las personas. En ausencia de un conocimiento profundo sobre los efectos del retorno de los migrantes, concluyo con un llamado para que los retornos sean tratados con precaución y que su vinculación con la crisis de refugiados sea evitada.

Palabras clave: migración irregular, retorno de migrantes, política migratoria europea, derechos humanos, “crisis” de refugiados, deportación

Introduction

The EU Commission has presented returns and deportation as an intrinsic part of solution packages to the contemporary so-called refugee crisis. The proposal is to increase the rate of returns, voluntary and forced, in order to be able to better control the EU management crisis brought about by the inflows of refugees. The current rate of return of irregular migrants is less than 40 percent of all migrants who are given a decision to leave the EU. This has been an area of concern to the authorities in its own right, distinct from the refugee crisis. Indeed, an EU Action Plan on Return, prepared by the Commission, was endorsed in August 2015. It is a comprehensive document describing the various areas of activity that need to become more effective in order to raise the return rate. Whilst the Commission pledges to take all measures necessary in order to strengthen the EU return system, it appeals to EU member-states, in a tone of reprimand, that effective returns require ‘political will and prioritisation’ and that, whilst the EU Return Directive enables effective action on return, ‘its implementation by the Member States leaves room for improvement’ (European Commission 2015a: 15).

This paper does not question whether the voluntary or forced returns of irregularly resident migrants are legitimate activities on the part of the state; instead it starts from the premise that they are. What this paper

contests is the presentation of returns, including deportations, as part of the solution to the management of the elevated refugee flows – the so-called ‘refugee crisis’. This has nothing to do with state strategies and programs to facilitate the return of refugees – one of the UNHCR’s ‘durable solutions’ – but refers to the so-called ‘removal’ of irregular migrants who do not have a permit to stay in European countries, which has been a long-standing concern for the EU. The argument developed here shows that, from a migrant-welfare and human rights perspective, the EU’s linking of the issue of returns to the refugee crisis is, first, potentially unethical and, secondly, can lead states seeking to increase the rate of returns to operate below minimal human rights standards – thus potentially having serious repercussions on migrants. Furthermore, I intend to show that research in and around this area has already demonstrated why irregular migrant returns should be handled with caution and certainly not flaunted as a solution to a very complex phenomenon.

The current elevated refugee flows primarily constitute a *human* crisis of notable dimensions, due to the large number of people who have been forced to move and the protracted nature of the origin-country conflicts. The human rights violations that refugees face, starting from the root causes of their initial move, are manifold. This article looks at the increase in human rights violations on another group of people: migrants who are irregularly resident in a member-state of the EU. Irregular migrants are simply people who for various reasons do not have a permit to stay in the EU. They could be failed asylum-seekers, visa overstayers or people who have not renewed or obtained their permits. The risk of their treatment falling below agreed-to human rights standards is high, since they are seen as ‘less deserving’ by both state actors and the public. The state-fueled portrayal of this situation as primarily a crisis for states is of particular concern. Crises have, as Agamben (2008) has powerfully argued, often been used by states to justify exceptional behavior and policies. In the area of returns, where there is a risk of human rights violations by states, ‘crisis talk’ might justify the loosening of policies, to the detriment of irregular migrants.

Linking the elevated rates of refugee flows with the return and deportation of irregular migrants exacerbates this human rights crisis and exposes the superficiality of the humanitarian approach utilised by the EU authorities in public presentations of the refugee crisis. Indeed what is being proposed, in simple terms, is a trade-off between the human rights of irregular migrants and those of asylum-seekers because, even though, in theory, the removal of irregular migrants can be conducted according to accepted norms of treatment, in practice the risk of violations remains extremely high. It is for this reason that returns, and particularly deportations, are difficult to conduct. The outcome of public promises and increased pressure by EU and state authorities to raise rates of return and deportation will inevitably increase the risks of human rights violations. As pessimistic and deterministic as this may sound, this paper uses research from Europe to put forward the argument that returns – conceptualised broadly as a process that includes reception by the receiving state – are imbued with the risk of human rights violation at every implementation stage. The issue is therefore approached here from a human rights perspective, making a case against the public and policy presentation of returns as a ‘solution’ to the elevated rates of asylum applicants. I round off the paper with an appeal to policymakers and politicians to increase their knowledge on the effects of return and deportation on migrants and to treat returns policy with the necessary caution.

The returns gap and the European Commission’s ‘solution’ to the current refugee crisis

A European Agenda on Migration was endorsed on 13 May 2015, followed by two packages which set out updated implementation strategies, progress reports and proposals for legal changes under the umbrella title of ‘*Communication: Managing the Refugee Crisis*’. I have earmarked three documents which serve to demonstrate how the Commission presents returns and deportation as a solution to the refugee crisis. The first is the *Letter to Ministers* sent by the European Commissioner for Migration and Home Affairs on 1 June 2015, following the first increases in refugee flows and a series of tragedies resulting in migrant deaths at sea. The Commissioner states:

An effective return policy is also important to maintain public support for protecting persons in need. Efforts to increase the rate of return of irregular migrants should therefore be seen in conjunction with our renewed efforts to protect those in need, including the initiatives taken by the Commission on relocation and resettlement (European Commission 2015b: 1).

A second document was issued on 9 September 2015. The summer months had been characterized by higher-density migrant flows and clear and public disagreements by member-states on the reception of refugees. The document constituted a ‘comprehensive package’ that the European Commission proposed in response to ‘the current refugee crisis and in order to prepare for future challenges’ (European Commission 2015c: 1). Two of the seven ‘concrete measures’ deal with the administration of returns; they are highlighted in italics in the list below:

1. an emergency relocation proposal for 120,000 persons from Greece, Hungary and Italy who are in clear need of protection and a temporary solidarity clause;
2. a permanent crisis relocation mechanism for all member-states;
3. *a common European list of Safe Countries of Origin in order to ‘allow for swifter returns of those applicants who do not qualify for asylum’;*
4. *a more effective return policy through a common Return Handbook and an EU Action Plan on Return;*
5. communication on Public Procurement rules for Refugee Support Measures;
6. communication on addressing the external dimension of the refugee crisis;
7. an Emergency Trust Fund for Africa.

A third document, of a different nature to the previous two in that it is a Declaration and Action Plan agreed jointly by all EU member-states and 29 African states, was drawn up during the Valletta Summit held in Malta, 11–12 November 2015 – the first EU meeting of its kind that specifically addressed migration. It demonstrates the EU's policy direction of increasing returns. In the Declaration the countries jointly pronounced the following:

We are determined to strengthen the fight against irregular migration in line with existing agreements and obligations under international law, as well as mutually agreed arrangements on return and readmission. We agree to give preference to voluntary return and reaffirm that all returns must be carried out in full respect of human rights and human dignity. We will improve cooperation on return and sustainable reintegration which can only enhance migration and mobility policy and make it more effective and comprehensive (European Council/Council of the European Union 2015: 2).

Five priority areas were agreed at this summit – of these, only one (in italics below) dealt specifically with the return of irregular migrants:

- addressing the root causes of migration;
- enhancing cooperation on legal migration and mobility;
- reinforcing the protection of displaced persons;
- preventing and fighting against migrant smuggling and trafficking in human beings;
- *making progress on returning those not entitled to stay in Europe.*

To recap, these documents tell us that the Commission is encouraging member-states to increase the rate of migrant returns in order to both maintain public support for humanitarian activity and demon-

strate the integrity of the asylum system. Added to these are the motivating factors for policies of return of irregular migrants. Foremost amongst these are the state's need to manage and regularize immigration, and the belief that such returns constitute effective deterrence policies for potential migrants or those contemplating living in an irregular situation.

Why is the focus on returns and its presentation as a solution to the refugee crisis problematic from a human rights perspective?

It is problematic for three reasons: the uncritical and unexplained presentation of statistics, the conceptual issues on which returns policy is based and which have been incisively and repeatedly questioned by migration scholars, and the little available knowledge that points to a spectrum of migrant experiences of return in which even the least problematic carry an elevated risk of human rights violations. Indeed several guidelines have been published by international organizations to enable states to respect the human rights of returned persons – for example, Council of Europe (2005) on forced return, OSCE (2014) on the return of trafficked persons, and OHCHR (2001, 2014) on the rights of returnees, and human rights at international borders respectively.

Understanding the gap

The gap between decisions to leave and effective returns represents, in Eurostat's (2015) words, 'the unknown cases', such as 'voluntary returns without the authorities being informed, disappearances of persons after issuance of the leave order or cases not properly recorded or not confirmed by the border authorities'. These 'unknown cases' are those who have not left the country voluntarily or were forcibly removed. Voluntary return in 2013 made up around 40 percent of effective returns, up from 14 percent in 2009 (European Commission 2015a: 3). Voluntary return programmes often include re-integration assistance and financial incentives, and can be managed directly by the state or by a private entity or organization on behalf of the state. It is clear in recent EU policies that voluntary return should be prioritized by member-states. From a human rights perspective this

is good, since voluntary return carries much less risk of human rights violation than forced return.

There are many reasons why some migrants are not returned. Some may be similar in different EU member-states; others country-specific. Many cases are due to the migrants' unwillingness to return and refusal to cooperate with the authorities in the organization of their return, as discussed below. However, there are other factors external to the migrants which might bring about status change or impede the implementation of the return decision. One of the main stumbling blocks is the verification of nationality – an often lengthy, problematic process involving the country of origin. One of the failed objectives of the Valletta Summit was a plan to provide African asylum-seekers with makeshift passports to facilitate deportation, a proposal not accepted by African leaders. This notwithstanding, and demonstrating what a serious issue the verification of nationality is, the Valletta Action Plan states that African countries who cooperate closely 'on identification and travel documentation' will receive 'support for the individual reintegration of its own nationals, visa facilitation and a tailor-made package of support, including on other policy areas' (European Council/Council of the European Union 2015: 16). Other reasons are, *inter alia*, the relapse into conflict of post-conflict areas – as a result of which returns to a particular country or city are again suspended – and, less common but still possible, changes in readmission agreements – another priority area of the Valletta Summit.

Experts and practitioners of the voluntary and return migration of irregular migrants understand that this is a long and complex procedure involving various state and non-state actors. Every return is fraught with uncertainties, and procedures are often put into place at every stage to try to minimize the risk of something going wrong. Nor does return end following physical removal from EU territory. The Return Directive additionally requires the EU member-state effecting the return to ensure that there are adequate reception facilities organized by the receiving state. Deportations, which involve returning people against their will and/or by force to countries outside the EU, are even more delicate and challenging.

External reasons why migrants are not returned may be changes in the situation in the return country that would put the sending state at risk of breaching the international principle of non-refoulement. Migrants who have a return decision, but whose country lapses into conflict again, should not be returned. Some member-states change the status of the migrants by, for example, giving them a temporary residence permit, a process which can take months; other member-states temporarily suspend the migrants' return decision – the case for many Afghans in different EU member-states in 2015 when the situation in Kabul deteriorated. A similar example involved the return of Sri Lankans who had links to the Tamil Tigers – evidence showed that there was a high risk of returnees being tortured, although some Sri Lankans *were* returning voluntarily from the UK and other EU countries. The increased risks came to light during a highly publicized court case which resulted in the last-minute halting of the deportation of a group of Tamils from the UK to Sri Lanka (Malik 2012).

Another example of why a migrant's status may change and the state might delay return or even suspend it indefinitely, is illness. In 2007 there was an interesting case in the UK where the children's charity, Barnardo's, made a public appeal to the Home Office – on the basis of children's welfare – for a family of failed asylum-seekers from Malawi who were scheduled for deportation. Both parents of seven-year-old Dumisani Lungu had contracted HIV/AIDS, and the mother was seriously ill. Martin Narey, chief executive of Barnardo's, argued that return would hasten their death because of the lack of medical treatment available in Malawi, leaving the young Dumisani an orphan in one of the poorest countries in the world (McVeigh 2007). Under Article 3 of the European Convention of Human Rights, which outlaws torture and inhumane treatment, states have an obligation to stop return if there is evidence that, due to a complete absence of medical treatment in the country concerned, deportation would 'significantly reduce' the applicant's life expectancy.

These rather random and far from comprehensive examples show that there are many reasons why a return decision might be suspended or even revoked,

according to the particularities of each case. Statistics often do not capture these nuances, either because they are not included or because the data are not disaggregated.

Other migrants who are not returned are those who refuse to collaborate with the authorities and generally abscond. It is very important to understand why people with a return decision opt to stay on irregularly, living with the continual risk of forced return. It is widely known that irregularity makes migrants vulnerable, with conditions varying in different EU countries and influenced by factors such as the availability and conditions of work on the black market, the regulation of daily life and access to health care etc. A Jesuit Refugee Service study which looked at ten different countries in Europe showed how irregular and deportable migrants are particularly at risk of destitution and unable to claim their fundamental human right to health services, social and cultural support and education etc. The study showed that, in spite of the legal and social differences between member-states, destitution is a European phenomenon that gets worse with time, as tellingly described by migrants through metaphors such as 'living in limbo' or 'on a downward spiral' (JRS Europe 2010: 140).

People who refuse to return, preferring to stay on irregularly, are hopeful that the reasons for their return might change or be revoked – as shown in an ethnographic study which I coordinated on the experiences of deportable migrants in Sweden. Of the 26 migrants interviewed, the vast majority – in spite of the fact that most had been unsuccessful in the asylum process and appeal procedures – believed that a return to the country of origin would be gravely detrimental to them. Most decided to wait it out until they could re-submit or procure more evidence to revoke the return decision. One of the issues which surfaced in this study was that migrants who resisted and refused to cooperate with the authorities did so not as an organized revolt against the system and the state, as was often perceived by the authorities, but as a result of a 'choice' primarily fueled by fear (DeBono *et al.* 2015). Many of the findings in this study resonate quite strongly with other research on deportable,

irregular migrants conducted in other member-states (Camilleri 2015).

Once an attempt is made to unravel the complex reasons behind the non-return of migrants, we can start to understand the procedural, administrative and, at times, moral difficulties of putting undue pressure on the authorities to boost the return statistics. In practice, a push for more returns will require the allocation of more resources with the risk of little return on investment. Returns and, in particular, deportations need time to be organized. People also need time to accept a return decision, which can often constitute a life-changing event. The best example of this can be found in the statistics on unescorted deportations, many of whom are individuals who had originally absconded and resisted the decision to leave but, once apprehended by the police (generally after sufficient time has passed for them to become aware of their choices), offer no resistance to their return, so that the police take them directly to the plane without the use of force and without escorting them to the country of origin.¹

Research challenges key concepts on which contemporary policy is based

Current returns policy is based on the concept that migrants have a fixed 'home', a critical concept in that 'home' is, in the vast majority of cases, the country and place to which migrants are sent back. Getting this right is fundamental in any returns process. 'Home' for policymakers is conceptualized politically and legally as the state to which the person is linked, often assumed to be where they were brought up, a place which they know and are able to navigate well. It is imbued with a false belief that every person is legally and politically connected to a state which is also his/her natural place, culture and community, and that it is the wish of everyone to return to this 'natural' state – a very simplistic conceptualization which contemporary research shows to be false.

Migrants' lives are often more complicated. They have often lived in several countries over their

¹ For statistics on unescorted deportations in 18 different EU member-states, see European Migration Network (2013).

lifetime. At times, their legal citizenship links them to a country which they might have left years before, leaving them with little or no connection to it. 'Home', for different migrants, is a highly subjective and contested concept (Ghanem 2003; Hammond 1999, 2004; Oeppen 2013). Home has been more appropriately defined as 'the affective and conceptual space in which community, identity, and political and cultural membership intersect' (Hammond 2004: 10). Home is therefore conceptualized as the place where a person's social interactions are present and/or enabled to some degree, a place which is known, a social safe space. In much the same way, 'belonging' is also an elusive concept in migration studies because migrants often end up in situations where they feel they do not belong in the place they call home.

Researchers have suggested that a more appropriate alternative to 'home' is 'country of origin', a term which carries less socio-political and cultural baggage. However, in many cases, country of origin does not suffice as a concept because it fails to take into consideration the migratory process. Take, for example, an Afghani who lived in Kabul until the age of 12, subsequently moved to Pakistan until age 20, from where he moved to Turkey before making it to Germany age 28. Country of origin, although preferable to home, is still built on the naturalistic and simplistic settler worldview that people are brought up in one place, where they naturally belong and would like to return to.

Linked to the problematic notion of 'home' is the concept of 'return' itself, also built on the simplistic settler worldview. For many migrants, a state-organized return programme – voluntary or forced – to their 'home' or country of origin is not seen as a return, but as yet another move (Monsutti 2008; Omata 2013). As a result, state-organized return migration – which assumes a mono-local place of origin – often results in migrants' re-emigration, thereby challenging the idea that these programs return migrants back to their 'natural' place.

Return policy is built on the dichotomy between voluntary and forced return, a terminology which is, however, misleading. *Voluntary return* is generally

understood as a return process that does not require the use of force, since the migrants' willingness to cooperate with the authorities is assured. However, the terminology also suggests that there is an element of free will in the decision taken by the migrant. This might be the case for people with some status in the sending/host country; however, most studies show that the vast majority of irregular migrants who participate in voluntary return programs from Europe do not feel that their return was out of choice. Rather they opted for voluntary return, individually organized or as part of programs because they had no other choice, the alternative being varying degrees of social exclusion and destitution, severely limited social rights, no hope of obtaining asylum and the threat of being forcibly returned (Webber 2011). Echoing this, the European Council on Refugees and Exiles (ECRE), an umbrella organization of refugee organizations, argues that voluntary repatriation should only be used to describe the return of Convention refugees, persons with complementary or temporary protection, or persons still in the asylum procedure who freely decide to return, since those at risk of forced return do not have the range of options to allow a genuinely voluntary choice (ECRE 2006).

Moving to the other end of the voluntary–forced dichotomy, we find the concept of forced return or deportation, and a concept that is becoming increasingly popular in political jargon – *dignified* or human rights-friendly deportation. Just as it is agreed that states have a right to remove from their territory a person who lacks the necessary permits to stay, liberal democratic states are also committed to the mainstreaming of human rights within all their activities. The European Return Directive itself obliges EU member-states to conduct returns in a manner that is consistent with fundamental human rights. However the idea of a dignified deportation should be strictly limited to the technical notion that the state will do all within its means to ensure that the basic minimum standards of dignified treatment are maintained throughout the process. It should not be used to paint a rosy picture of deportation which, irrespective of all attempts by the state to mainstream human rights, remains a devastating experience for migrants (DeBono *et al.* 2015).

What does research on the effects on migrants of returns and deportation say?

The short answer is that there has been very little research which specifically focuses on the effects of return on migrants. There are key collections and texts dealing with various aspects of deportation which allow us to contextualize deportation within modern political systems; two such examples are De Genova and Peutz (2010) and Anderson *et al.* (2013). On voluntary return, a recent key study which is quite comprehensive is Koser and Kuschminder (2015), which focuses on the migrant return decision-making process. Among the publications emanating from a large-scale project carried out by researchers in Norway entitled 'Possibilities and Realities of Return Migration' (PREMIG), Carling *et al.* (2015) help us to understand migrants' aspirations and trajectories of return, while Paasche (2014) makes a case for the monitoring and evaluation of assisted voluntary return programs, since little is known about how well they work and whether the promised support is given.

Larger-scale research on the longer-term effects of returns and deportation from Europe on migrants is difficult to find. Instead one can, in a piecemeal fashion, attempt to reconstruct the picture from projects which focus on one aspect of the return process and which are generally limited to a single sending or a receiving country. These rather disconnected fragments of research have nevertheless generated enough knowledge to indicate that both voluntary and forced returns increase migrants' psychological and social vulnerability, and that the return process itself puts migrants at greater risk of human rights violations by different actors.

The following is a short review of some of the findings from research carried out with migrants who have been voluntarily or forcibly returned back to their origin country from EU countries. These can be categorized in two (or three) stages: the first is the pre-return phase where the main issues are the threat of return and deportation, the negative effects on migrants' lives and wellbeing at pre-removal stage, and the effect of detention on migrants. The second is the post-return phase where research highlights problem-

atic areas of social and cultural issues characterizing life after return, and difficulties re-integrating the labour market and building a sustainable livelihood. There is a critical missing stage – the return journey itself – on which there is hardly any research focusing on the impact on migrants. For forced returnees, and particularly those who are deported back, the short- and long-term effects need to be further investigated.

Irregular migrants' lives are generally conditioned by the *threat* of return and deportation. This takes place in two ways: on the one hand, irregular migrants go about their daily lives with the ever-present threat of deportation and, on the other, states use the delimitation of irregular migrants' social rights as a political instrument to prevent people from avoiding deportation (Khosravi 2009; Sager 2011). Detention and deportation are used by states as deterrents to other potential migrants, and permit states to apply pressure on people to return in a so-called 'voluntary' manner (Gibney and Hansen 2003: 17). Therefore even migrants who would never normally receive a return decision are influenced by its potential threat, exacerbating their feelings of vulnerability, and making them potential targets of blackmail.

Once a person receives the return decision and crosses over to the official pre-removal stage, return and/or deportation become very real and the detrimental effects on their psychosocial wellbeing, on how they lead their lives, and their care of dependent persons such as children are felt very rapidly. The threat of deportation also contributes to the criminalization of irregular migrants – already widespread in this pre-removal stage – which can, in turn, have severe consequences on migrants' wellbeing and the choices they make (Council of Europe 2010).

Migrants who return back on voluntary schemes are generally not detained unless they signed up to the scheme whilst in detention. Forced migrants, on the other hand, tend to experience detention for varying periods of time. Detention is one of the primary causes of mental-health problems. A pan-European study carried out in 23 member-states by JRS Europe (2010) concludes that detention causes vulnerability in people with no previously recognized vulnerabilities

or special needs. Despite the varying conditions inside detention centers in member-states, detention is still a traumatizing experience for migrants.²

The post-removal phase can also be fraught with difficulties. Returnees are often rendered more vulnerable by the return. In conflict or post-conflict areas, they tend to be treated as strangers, but might also be treated with suspicion or accused of being spies; children appear to be particularly targeted in this regard (Oeppen 2013; Schuster and Majidi 2013). However, even in non-conflict areas, vulnerabilities can be created. For example the life after return of people previously involved in sex work can be particularly problematic (Plambech 2014). Migrants' unwillingness to return, even under voluntary schemes, does not help them to overcome these vulnerabilities. In a study with returned Sri Lankans, Collyer notes that most interviewees (100 over a period of two years) who had returned under voluntary schemes felt they had no other choice whereas, of those who said they made a positive choice to return, some were under the false impression that they would be able to come and go to the UK (Collyer 2012: 287).

Linked to the socio-cultural and political aspects of re-integration into the community is the issue of work and the ability to build a sustainable livelihood. Collyer (2015), in a study looking at Sri Lankan returnees from the UK on so-called 'assisted voluntary return' programs, found that, out of 46 returnees, only four ran profitable businesses after 12 months. Many voluntary return programs operate with the use of financial or in-kind incentives which include the matching of migrants with the necessary skills or aptitude to learn, training in the sending state and support measures in the receiving state. In spite of this, the so-called 'success rate' is rather low. This is not an entirely new finding: Black and Koser (1999) questioned whether repatriation for refugees (not irregular migrants) is really a 'durable solution' and, in particular, challenged the idea that, once repatriated, migrants settle down automatically.

² See, for example, on Malta, DeBono (2013); on the UK, Hasselberg (2014); on Sweden, Puthoopparambil *et al.* (2015); and on France, Fischer (2013).

In brief, there is ample research showing that the impact of return and deportation on migrants' lives can be devastating, from the pre- to the post-removal stage. The effects of deportation can be even more dramatic, inasmuch as it often includes a period of detention and forced restraint during the implementation of the decision. The deportation process breaks people. In both return and deportation, research reveals the likelihood of increased vulnerability in the country to which migrants are returned.

Concluding remarks

The presentation of return as a 'solution' to the refugee crisis is nothing short of abominable. What this means is that EU member-states will be encouraged to increase their rates of voluntary and forced returns. This will be supported by EU policy and agencies, as well as by EU-wide initiatives. Contrary to popular knowledge, this is not a new development – witness the enactment of the Return Directive in 2009, with the aim of harmonizing procedures and facilitating collaboration between member-states. Indeed there are elements of collaboration in this area that are already in place, such as Joint FRONTEX return flights and the sharing of biometric information held under EURODAC – the EU database for asylum-seekers and irregular migrants – and ViS – Visa Information System (and soon SIS – Schengen Information System). What is new and being challenged in this paper is the instrumentalization of the refugee crisis in order to increase the rate of returns and, in so doing, gain popular support for returns and promote a state image of control.

In spite of the many measures in place, returns and deportation remain notoriously difficult to implement while respecting human dignity and human rights, leading to the next question: Is this push for an increase in the rate of returns really a smokescreen for reducing agreed standards of respect for human rights? In an Agambenian perspective (Agamben 2008), crisis talks which are critical in enacting states of exception would, in this case, enable the lowering of human rights standards during return processes – a clear avenue to ensure the increase in the rate of returns.

Even when human rights standards are adhered to, migrant returns remain problematic. The state enforcement of a decision to send a person back to another country against their will – where the onus of responsibility for making a living, connecting with the community etc., rests solely on the migrant – is a grave activity in itself. This is true even for those irregular migrants (rather few in number) who are categorized as making use of ‘voluntary’ schemes. Deportations, the forced removal of a person who adamantly does not want to be sent to the country in question, constitute nothing less than a biopolitical process of international migration management (Collyer 2012) and embodied state violence.

Let us not believe, either, the state-generated illusion that migrant removals are simply about returning people to where they originally came from, as though there was a natural social and political order in people being tied to a territory. Nor that removals constitute but ephemeral experiences for migrants, which they will soon forget and move on; that, once removed from the ‘unhospitable’ territory, migrants will be enveloped in a ‘hospitable’ experience, just because they were deemed to have an ethnic, political, legal or other connection with the latter country. The explanation behind the return and deportation of these people is best illustrated by Bauman’s (2003: 5) ‘outcasts of modernity’ – ‘the inevitable outcome of modernization and an inseparable accompaniment of modernity’ is to produce waste, human waste, which needs to be disposed of, preferably beyond EU borders.

Yet, as I have tried to show in this paper, these are not new or unknown issues. In order to enable a better understanding of the factors at play, comprehensive research is needed on the effects of the return process on migrants. This will allow policymakers and human rights activists to judge which return processes, or which stage of a process, need(s) reformulation in order to avoid harming migrants. Existing research clearly shows that there is a gross misconception of some of the basic tenets on which current return policy is based. Policymakers and politicians would do well to engage in dialogue with researchers on these issues.

Returns and deportation entail a high risk of human rights violations and possible life-threatening consequences. EU member-states should only resort to them with caution and should not attempt to justify them by using other human rights and humanitarian discourses on the need to offer protection to new refugees. The universality and inalienable nature of human rights demand that there should not be a trade-off between the human rights of irregular migrants and those of refugees. Both are equally deserving of the same minimal standards of treatment.

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