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**A necessary complement to human rights:
a human security perspective on migration to Europe**

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Abstract

Today many European citizens and many migrants into Europe live under fear and anxiety. Existing political structures dichotomize the two sets of insecurities and so contribute to perpetuate them. The insecurity of citizens is seen as attainable independent of and despite the insecurity of migrants, rather than as part of a common (shared) human security. In response, this essay presents ideas from human security analysis, as a partner, complement and extension of human rights thinking in relation to migration. It is argued that such an analysis, with concrete practical options, can contribute to the creation of structures through which interdependency of EU citizens' security and that of migrants is recognised and upheld. Section 2 outlines the migration crisis that has been felt in Europe and some reasons behind it. Section 3 considers the responses of securitization of migration and militarization at the EU's southern borders, and of supplementary humanitarianism. We analyse why the EU migration policy system, conceived outside of a conception of common human security, produces negative feedback and is counterproductive. In Section 4 we argue in general terms why human security analysis is a required partner to human rights thinking and practice. Section 5 then concretely suggests how a human security perspective could help to frame, balance and extend human rights analysis and contribute in migration policy and practice. These suggestions include generating legal channels for migration, addressing the conceptual confusions revolving around migration through introducing a more comprehensive concept of 'protection-seeker', developing a European-wide regularisation mechanism, using human security as a meta-legal figure in migration cases, and developing a perspective that combines human rights criteria with enlightened self-interest. Finally, Section 6 discusses the partial reflection of such a perspective in the 2018 Global Compact on Migration.

Keywords

Human security; human rights; migration; securitization; European Union; Global Compact on Migration

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1 Introduction

International migration, while always politically relevant, has in the new millennium become a policy focus bound up with regimes of securitisation and policing. This trend is seen across continents and within each of the Global South and North, as well as for South to North migration movements. This article focuses on migration, especially irregular migration, to the European Union (EU), which has involved migrants seeking political, social, and economic protection in EU member states via clandestine routes, not least through the Mediterranean Sea. The EU's approach has been to develop a migration management system that refers to a human rights perspective but within a security logic.¹ While the rights perspective aims to uphold the rights of migrants deriving from the European Convention of Human Rights, the security logic prioritises EU border security. In some cases, a third perspective, that of humanitarianism, shapes EU and member states' discourses and policies on migration. The paper asks how these three perspectives clash and conflict with each other and explores how such clashes can be addressed. It will be argued that a human security perspective can fruitfully replace the predominance of border security logic and complement the human rights perspective. In other words, we present a case for human security as an analytical perspective and policy-oriented frame in relation to issues of migration and migrants; in particular a perspective of common (shared) human security for migrants, European citizens and Europe's global neighbours.

Human rights thought provides much of value for action in regard to migration and for just and constructive co-existence. However, its standard framework brings a focus on specific direct acts of rights-violation against specific individuals and is not sufficient. It also accepts state sovereignty, even though not as unlimited. In some sections of human rights theory or international human rights law, migrants share many rights with citizens of their resident state. These 'non-derogable' rights, such as the right to life or freedom from slavery, are *jus cogens* since all states are obliged to uphold them, even in times of national emergencies. Other derogable human rights, such as the right to education, can be - and often are - denied to migrants by states who override international law with their own national legislation or treaties. In most practice, and in some other sections of political theory, strong nationalist priority to a state's citizens applies, and most migrant rights can be overridden by claims of national security (Huysmans and Squire 2009). Human rights energies sometimes become channelled instead into humanitarian aid to protection-seekers, but, as we will show, often in ways that treat them as

¹ In this article, 'Europe' means both the European Union and its member states. While each EU member state has its own immigration and asylum policy regime, for managing migration movements at the borders of Europe the EU is the most relevant authority and most appropriate policy-making body.

passive recipients of ‘grace’ and prevent or hinder them seeking entry to Europe. Human rights analyses need partnership with other theoretical perspectives, that examine structural contexts and interconnections, to more adequately consider the lives and problems of undocumented migrants and asylum seekers and how these interact with the lives and prospects of citizens.

In this paper we outline contributions from human security analysis as partner, complement and extension of human rights thinking. Following the agreed UN General Assembly resolution 66/290 in 2012, human security refers to individuals’ freedom from fear (threats such as physical and direct violence), from want (meaning unemployment, poverty, sickness), and from indignity (including exclusion, exploitation, and discrimination) (United Nations General Assembly 2012). A human security approach attempts to understand the systemic factors and interactions which influence the degrees of fulfilment or non-fulfilment of these freedoms. It helps us to conceive political communities in which political, economic and social systems do not inflict physical and structural violence on individuals. States’ security is essential but not sufficient for human security, which in turn is essential for long-term security of states.

First, we indicate features of the migration crisis felt in Europe and some reasons behind it. Second, we consider the responses of securitization of migration, militarization at the southern borders of the EU, and a supplementary role for conventional humanitarianism; and analyse why the EU migration policy system as a whole, conceived outside of a conception of common human security, has involved a family of negative feedbacks and been counterproductive. Third, we outline aspects of human security analysis, and the potential complementarity with human rights. Then in the longest section of the paper we suggest how a human security perspective could frame, balance and extend human rights analysis and contribute in migration policy and practice. Finally, we review the partial reflection of such a perspective in the 2018 Global Compact for Migration, that became hotly disputed in parts of Europe.

2 Europe's migration crisis

For diverse commentators, Europe faces existential crises in relation to immigration, including weak integration of past entrants and/or hostility directed at immigrants by some EU citizens. In particular though, the ongoing situation in the Mediterranean Sea since 2011 is often described as a crisis. For some, this is a European border crisis, seen in terms of the arrival of migrants. According to EU figures, there were around 1.5 million detected irregular border crossings in 2015 and 2016 in total; and in this period, over 2 million first asylum claims were made in the EU member states (European Union 2017). During this time, around half of first-time applications were rejected, around one third were granted refugee status under the Geneva Convention and the remainder were granted subsidiary or temporary protection status (European Asylum Support Office 2019, 53–54). Others claim it has been a humanitarian crisis, referring to the suffering and death of many. Even in 2016, past the peak of the crisis, 5143 migrants are on record as dying during the passage to Europe in the Mediterranean alone (Black, Laczko, and Singleton 2017).

However, what we witness is not merely a border crisis or humanitarian crisis. Europe as a political community is also in crisis (De Genova 2017). How Europe responds to immigration in the 21st century will fundamentally shape the kind of Europe there will be (Bilgic and Pace 2017). There are signs that, overall, Europeans are becoming more concerned with border control and less tolerant of race and/or religious diversity. According to Eurobarometer in 2005, 14% of EU citizens rated migration as a concern (Eurobarometer 2006); in 2017 Eurobarometer reported that 86% of EU citizens were now concerned over the EU's external borders (Eurobarometer 2017). Moreover, reports of race and religion-based hate crimes in several EU states rose steadily after 2013. For example, in England and Wales, reported hate crime increased by 28% between 2013 and 2017 and in Greece the increase over the same time was 67.5% (European Centre for Democracy and Development 2018). In 2016 the European Union Agency for Fundamental Rights (2016) identified 'racist incidents such as demonstrations, online hate speech or hate crime' as one of five fundamental problems needing urgent policy response. How did Europe come to this point?

Many migrants coming to Europe do not fit the narrow legal definition of 'refugee' set out in the 1951 Geneva Convention: those with 'a well-founded fear of being persecuted because of his or her race, religion, nationality, membership of a particular social group or political opinion' (United Nations 1951). Yet structural violence, such as social exclusion, environmental degradation, poverty, unemployment and discrimination, can drive individuals to choose migration in order to live not just exist. Mobility is many people's

human security strategy.² The unwillingness to acknowledge this and to legislate for it has led such migrants into ‘illegal’ or ‘irregular’ identities.

Furthermore, many migrants autonomously navigate the systems of asylum governance in their pursuit of human security. The ‘autonomy of migration’ approach shows how peoples’ reasons for, and practices during, migration frequently diverge from those assumed in state policies (Papadopoulos and Tsianos 2007, 223). Often, for example, someone will not find the protection she seeks in North Africa, because of insufficient economic opportunities, conflicts, exclusion and discrimination (Baldwin-Edwards 2006; Andersson 2016). Further, she might not feel she should settle in Greece or Italy just because they are first countries of asylum as stipulated in the Dublin regulations. If she could live in dignity with her family somewhere else in the EU, then she would choose that option. In refusing to play the border game in the way that the EU has specified, such migrants have become criminalized.

The increased numbers of forced migrants, their exclusion from narrow and dated legal protections, combined with their tendency to autonomously navigate around migration control systems, has led to their irregularisation. Especially when politicians and media conceal such complexities, these migrants are identified by large portions of the EU public as ‘bogus asylum seekers’ who arrive to abuse welfare systems (Dempster and Hargrave 2017, 10). In a global survey in 2016 by Ipsos MORI (2016), over half of those surveyed agreed with the statement that ‘most foreigners who want to get into my country as a refugee really aren’t refugees. They want to come here for economic reasons or to take advantage of our welfare systems’. While figures were as low as 30% in Spain and Sweden, they were more than 60% in Italy, Poland and Hungary (Dempster and Hargrave 2017, 10). The spectre of the ‘bogus asylum seeker’ is especially powerful in a context of economic instability within the EU: youth unemployment hit record levels in 2014 (23.8%) and overall unemployment was recorded as 12%; plus in 2016, 23.4% of the EU population reportedly lived at risk of poverty and social exclusion (Eurostat 2016). The criminalization and irregularisation of migrants has fed into anti-migrant, racist and xenophobic populism (Wodak 2013; Kinnvall 2018).

² See for example a projection of over 140 million internal climate migrants within the South by 2050 (World Bank 2018).

3 European reactions: restriction, securitization, humanitarianism

The reaction of the European Union and its member states to its felt crises--of inflows driven by both pull and push factors, in situations of economic difficulty for many citizens--can in some respects be seen as asserting logics of human rights which have been conceived in ways that take no cognizance of inter-group interconnections across as well as within borders. The EU claims to secure the human rights of EU citizens by militarizing EU borders, and it claims to secure the human rights of excluded potential migrants by enacting humanitarian interventions and anti-smuggling operations. As suggested above and shown further in this section, both of these policy strategies, while declaring respect for human rights, have resulted in increased common insecurity, including by encouraging irregular migration and upholding the narrative of the threatening 'bad migrant'. While acknowledging considerable variations at member-state level, we concentrate here on the shared EU framework and the typical dynamics.

3.1 The regime of 'Super-Frontex': restriction accompanied by irregularization and securitization

In a bellicose climate of constructing 'defence lines' for Europe, the Frontex agency was created in 2005 to coordinate member states and carry out risk analyses of immigration controls. Soon its roles grew to include coordinating coastguard operations and responding to migrants' changing routes (Neal 2009). The current system of EU migration management and control, constructed in the so-called 'Area of Freedom, Security, and Justice', can be called 'the Super-Frontex regime'. A regime involves ideas, norms, principles, institutions, material capabilities, laws and policies. Here, 'securing' EU citizens to enjoy freedom and justice where conventional internal borders have been removed has led to the proliferation of *de facto* borders inside and outside the EU's *de jure* borders. In 2005 EU commissioner Franco Frattini called this outside-bordering 'building up defence lines' (Bialasiewicz 2011). Practices include the outsourcing of immigration management to neighbouring states and third countries via the European Neighbourhood Policy and the Mobility Partnership agreements, (Bialasiewicz 2012; Del Sarto 2016). In addition, border technologies with cross-cutting databases enable data-sharing among European states and their neighbours (Gammeltoft-Hansen 2016). As part of outsourcing, in 2005, the EU started Regional Protection Programmes, which aimed 'to improve refugee protection through durable solutions (return, local integration or resettlement in a non-EU country)' in addition to funding establishment of migrant camps and detention centres (Bilgic 2013, 113–21).

In their attempts to protect their citizens through increased securitization of migration, EU members have restricted or removed legal migration channels, especially for low-income workers. This has happened

despite persistently high demand for various forms of labour from abroad (Farris 2015). Widespread denial of in-migration needs (for example in the policy-fantasy turned into binding policy-commitment of David Cameron and Theresa May to reduce net in-migration to the UK below 100,000 p.a. (The Conservative Party 2015, 29), despite the realities of in-country social and demographic trends and work preferences), creates a nether-world of undocumented immigrant workers (some with dependents) who are cheap, flexible, abusable, and blameable. The set-up is relatively stable, since it can be convenient for many employers; but the image of the handout-seeking ‘bad migrant’ reinforces fantasy denials of needed migration and fuels the reduction of permissible entry. This not only creates illegality but also reinforces and intensifies an image of a lurking danger and an affront that must be expunged.

In the name of securing EU citizens, the cutting back of legal migration routes, combined with the continued demand for overseas labour, has had profound undesirable consequences. First, it has led to an increase in irregular migration, including the use of clandestine migration paths, boosting smuggling and the sometimes resultant human trafficking (Jansen, Celikates, and Bloois 2015; De Vries, Carrera, and Guild 2016; Guild et al. 2016; Tinti and Reitano 2017). This has fed anxiety over infiltration of ‘bad migrants’ and precipitated a cycle of mistrust between the European political community and those entering as migrants (McLaren 2012; Bilgic, Hoogensen Gjörv, and Wilcock 2019). To existing residents, ‘irregular migrants’ are presented as the ultimate ‘bad migrants’: they violate sovereign borders and feed the black economy using unobserved and unrecorded channels. In 2015, ‘around nine Europeans in ten say that additional measures should be taken to fight the illegal immigration of people from outside the EU (89%)’ (Eurobarometer 2015, 28). Second, it has constructed the dichotomy between ‘good migrants’ and ‘bad migrants’ and necessitated a system designed to tell them apart (Cranston 2017). The former category includes the kinds of labour migrants that Europe openly wants, as well as those fitting the narrow category of ‘refugee’. The latter category includes most ‘economic migrants’, ‘bogus asylum-seekers’, irregular border-crossers, visa over-stayers, and those who move quickly onwards from entry hotspots such as the Greek islands (Szczepanik 2016). The complexities of human mobility are reduced to categories that are defined by Europe in the terms of the dreamt self-image of Europe.

As such, irregular migration has become seen as a security threat by many EU citizens. In order to police the borders, the EU has invested massively in the militarization of the Mediterranean. EU Commissioner Frattini’s ‘three defence lines’ in 2005 were: first, formal borders equipped with cutting-edge technologies; second, the cooperation of North African states in helping control EU borders; third, bilateral agreements with countries of origin. Since then, the Mediterranean itself emerged as a fourth defence line (Bilgic 2013, 111, 117). In addition, the ‘hotspots’ approach now carries out processing and returns at the sites with highest number of ‘illegal’ arrivals. Frontex monitors and interrogates asylum-seekers and decides who can be passed to the European Asylum Support Office and who should be returned.

Overall, while human mobility has become more complex, Europe has looked for simple solutions. EU states have tried militarising borders, punishing irregular migrants and asylum-seekers by preventing them from working, privatising visa processing and outsourcing border controls to agencies where rejection decisions can be incentivised through profit motives. However, the situation defies simplifications like ‘good migrant’ vs. ‘bad migrant’ and the dichotomy of ‘refugee’ vs. ‘economic migrant’, just as it defies quick ‘solutions’. The supposed prioritization of the rights and security of EU citizens has failed to stop irregular migration, and arguably encouraged its rise. Severe restrictions and enhanced securitization may well have made both European citizens and migrants more insecure.

3.2 Supplementary humanitarianism

The deepening of border securitization has also been defended on human rights grounds with respect to the migrants themselves. Since its launch, the EU border regime has included a declared humanitarian logic supposed to protect the human rights of those crossing the Mediterranean. The Tampere Programme of 1999 emphasised that the system should protect migrants from smuggling and trafficking, and it made clear that aspiring migrants too have rights to ‘freedom, security and justice’. Although the initial humanitarian logic lost its prominence and was subsumed into a securitarian one after the terrorist attacks of the early 2000s, it has not disappeared (Carrera and Balzacq 2013, 1), and, indeed, made a return following the migration movements associated with the Arab uprisings in 2011. The EU Commission’s Global Approach to Migration and Mobility (2011) declared that the EU is committed to saving migrants’ lives as much as it is to securing Europe against the risks of irregular migration (European Commission 2011).

Vaughan-Williams argues that the securitarian and humanitarian logics can be seen as not contradictory but complementary dimensions of EU border governance (Vaughan-Williams 2015; Little and Vaughan-Williams 2017). The regime is a performative blend of the two. The humanitarian logic extends the securitization regime by reifying the good/bad migrant dichotomy. Humanitarian actors have the privilege of defining what constitutes a ‘crisis’ or ‘emergency’ and then, in a declared humanitarian ‘crisis’, categorising migrants into those who need temporary ‘saving’ and those who do not (De Genova 2017). Cuttita (2018) shows that in the Mediterranean this inclusion is presented as an act of ‘grace’. Those to be saved are ‘confined to a specific humanitarian space’ of ‘global victimhood’ (Debrix 1998, 827). In this space, contemporary humanitarianism ‘creates and privileges non-rights-bearing, apolitical, non-agentive victims’ (Ticktin 2005, 346). The victim identity is reinforced through sensationalist images. In the migration management regime, images circulate of racialised non-white bodies dying on the borders of ‘Europe’, waiting to be rescued (Ticktin 2011). The racialised bodies are objects of compassion by ‘Europe,’ that also has power to withdraw this compassion (Cuttitta 2018).

The concept of ‘illegal migration’ and the associated combative rhetoric justify and normalise securitarian and violent border practices, such as push-back, detention and forced deportation. Humanitarianism conceived as an act of grace to save ‘victims’ and reprimand ‘smugglers’ does not illuminate the system of illegalisation and its concomitant criminalisation of European immigration, in which scapegoating of many migrants as ‘bogus asylum-seekers’ and ‘criminals’ is for some political actors a convenient way to face their citizens whose life standards and employment prospects have been in decline (Askanius and Mylonas 2015; Tsoukala 2017). Push-back is explained as an economic ‘defence’, as much as a political and legal one, to ‘save’ the desired jobs and welfare for European citizens. Through separating the ‘good migrant’ from the ‘bad migrant’, humanitarianism may reinforce the securitarian logic in border management. Within predominant political and popular discourses as opposed to legal discourse, the good migrants are those identified as ‘victims’, who become temporarily the object of humanitarian ‘grace’. But if they use their agency and continue their movements further, they leave the humanitarian space and, with that, their entitlement to humanitarian compassion.

Humanitarianism is sometimes presented as a policy alternative to securitarian policies (Panebianco 2016; De Vries, Carrera, and Guild 2016; Human Rights Watch 2016). However, besides presenting bodies and subjectivities as hapless victims waiting for protection, its ‘apolitical’ ‘urgency-focused’ approach distracts from the politics underlying the criminalisation of migration. ‘Smugglers’, ‘third country states that are not complying with international conventions’, ‘untrained coast guards’ and other agencies are blamed for humanitarian emergencies, without asking how these emergencies have become a ‘new normal’. In the absence of broader explanatory scope and political awareness, human rights-based concerns for the individual can become channelled into palliative maintenance within questionable and counterproductive policy systems.

So, much current humanitarian thinking and practice does not challenge the Super-Frontex border regime. It has even become a constitutive element, at least in public declarations. ‘Securing EU borders’ becomes marketed as ‘Saving lives’ by keeping some migrants immobilised in the borderscapes, turning them at best into the rightless recipients of Europe’s compassion (Andersson 2017). The current policy logic when applied by Frontex to a) protect EU citizens from the economic and social threats of irregular migration and b) provide humanitarian aid to migrants themselves, has resulted in an overall increase in both real and felt insecurity among EU citizens and migrants. The present status quo is disturbed and dangerous for both.

The EU needs a perspective of global human security instead of an overwhelming preoccupation with border control, argued the high-level Human Security Study Group in a 2016 report to the EU Foreign Affairs High Representative. Relying on methods of exclusion, force and attempted self-isolation, ‘the striving for “security” tends to produce “insecurity” ad infinitum. A different systemic approach is needed, replacing the current “frontline” security model with a global and systemic strategy’ (Andersson et al. 2016, 7).

We will suggest that such a human security framework offers a chance of rethinking the regime, through adding a macro-systems perspective and a perspective on individuals' lives both as subjects of the intersecting systemic forces and as purposeful responsive agents.

4 Human security analysis in relation to human rights

Burgess (2011, 133) argues that ‘security and insecurity are implicitly connected to what we value, an expression of a value constellation that expresses a certain perspective on life, of individual and collective anxieties and aspirations, of expectations about what to sacrifice and what is worth preserving’. Humans imagine communities, small and/or big, local and/or global, in which they will feel secure politically, economically, and socially. We then take actions to try to construct that imagined community and protect it against conceived ‘risks’ and ‘threats’, via security policies. Politics concerns the contestation over imagined communities in which individuals feel secure. Security thinking thus reflects fundamental political questions: What types of communities do we want to live in and be part of? Where do the boundaries of our community start and end? Who would be included and who excluded? How do we relate to other communities, as fellows in a bigger community or as mistrusted aliens? Each blueprint of security favours one type of community over others.

The human security conception shifts political and analytical attention from states to individuals, seen as the subjects whose security must be prioritized and as also agents who seek that security and who have some autonomy for doing so. Teitel (2011) notes how human rights law was originally implicitly conceived in relation to the conduct of states within their own territories during peacetime. Her influential book *Humanity’s Law* (2011) traces the gradual extension of principles, to consider foreign nationals, wartime, the stateless, and the structural vulnerabilities of some groups also in peacetime and in non-war emergencies such as famines and economic crises. This worldwide legal evolution represents a response to human interconnection in a politically non-integrated world (Teitel 2011, 214). She shows the increasing mutual influence of human rights law, international criminal justice, the laws of war, and wider humanist discourses, in grappling with modern realities. The outcome ‘can be summed up as amounting to [a perspective of] “human security”’, which has become, she suggests, ‘the guiding concept’ (Teitel 2011, 254, 163). The emergent ‘humanity law’ framework reconceives security in terms of the protection and preservation of persons and peoples’ and ‘aims to construct a bridge between the discourse of state power and that of transpolitical moralism’ (Teitel 2011, 13).

Amongst writers who have considered empirically rather than polemically what a human security approach may add, the work of Estrada-Tanck is especially relevant here.³ Her 2016 book *Human Security and Human Rights Under International Law* examines in detail both general theoretical and public policy discussions and many law cases, with special attention to undocumented migrants. It highlights that human security analysis goes beyond a focus on individuals and damage-incidents viewed in relative isolation, to consider ‘the contextual and structural elements that facilitate or present obstacles to the

³ See also e.g. Edwards and Ferstman (2010), Jolly and Basu Ray (2007) and Tigerstrom (2007).

enjoyment of human rights’ and that can produce vulnerability: ‘the structural risks to rights ... [and] their compounded combination’ (Estrada-Tanck 2016, 252, 254). Attention to the accumulation and interrelation of many influences identifies serious harms (e.g., related to climate change) that are not covered adequately or at all by existing human rights instruments, and brings awareness of structurally disabling environments and structural vulnerability not just occasional violations. Legal irregularity of migrants, for example, leads to economic and social disadvantages of many sorts, including proneness to physical and financial victimization, which reinforce their inability to achieve legal status. Within refugee law, recognition has grown of situations of vulnerability due to generalized violence and systemic human rights violation, not only specified direct threats against particular individuals. Estrada-Tanck concludes that human security analysis provides a necessary integrating perspective on people’s lives in the round, with attention to protection of core contents of rights and promotion of an enabling environment for rights fulfilment.

The analytical perspective thus contributes to a policy perspective that includes attention to risks and protection. Recognition of environments that seriously disrupt core human rights fulfilment for some groups establishes a reason for states to seek to act pre-emptively, not wait for major damage to arise. This has been recognised in some cases by the Inter-American Court of Human Rights and the Human Rights Council as well as in public policy theory (Drèze and Sen 1989). A principle in law of due-diligence where a state knows or should know about severe risks has also emerged. This policy perspective fits problems of a widespread and/or collective nature not only individual rights-violations; and includes ‘paths to analyse the role of non-State actors in causing and maintaining vulnerability and exploitation’, not only State actors (Estrada-Tanck 2016, 252).

Estrada-Tanck proposes that while the preceding points indicate how a human security approach enriches and adds to the human rights framework, the latter in turn provides essential services in human security analyses: a clear normative grounding; a source of indicators and red-lines corresponding to the established non-derogable core contents of human rights; and thus, tools for measuring and pursuing human security. Legal embodiment gives strength to the protection-strand in human security oriented policy, while non-legal ‘human rights based’ work supports the empowerment-strand. All this reduces scope for claiming that a human security approach is too vague and for its co-optation by other agendas (Duffield 2007; MacFarlane and Khong 2006). In sum, Estrada-Tanck’s book argues that the approach combines a focus on core human rights contents with an integrating perspective that averts blindspots regarding relevant actors, pathways and impacts. It in effect considers the enabling environment for human rights that is specified in Article 28 of the 1948 Universal Declaration. States are responsible to work towards such an environment, including through carrying out duties of reasonable prevention.

Over time the human security approach has been revised and enriched, including as seen in the consensus adopted in the United Nations General Assembly in 2012 after years of research, practice and negotiation. For the

purposes of this paper, we treat human security thinking as not a specific detailed theory but ‘a paradigm and a concept that allows recognition of threats and vulnerabilities’ (Tadjbakhsh 2013, 43; see also Gasper and Sinatti 2016). Beyond articulating ‘humans’ as the referent of security, there is much variety across versions, with a spectrum of debate and answers on what constitutes ‘human’, what threats target it, and what means would be suitable to safeguard it. Security scholars drawing on feminism, for example, have problematised gendered identities and power relations in order to advance a way of thinking about human security that is bottom-up and pluralist (Hoogensen and Stuvøy 2006; Robinson 2011; Tripp, Ferree, and Ewig 2013).

Commonalities across the variants can be identified: first, opening up the concept of security to include actors beyond states and to include practices beyond the militarised, exclusionary, and force-centred; second, conceptualising and justifying human security through emphasis on the core contents of the human rights of vulnerable populations; and third, problematising local and transnational structures, both as sources of insecurities and as potential solution-elements (Gasper 2013, 28). The operationalization of human security cannot be one-size-fits-all but should be crafted around contextual realities and political dynamics.⁴ It is not an exclusively structuralist approach, but a ‘person-centred’ one that explores how structures are understood, experienced, produced and challenged by people (Gasper and Sinatti 2016, 14).

Such analysis reveals that the (in)security of those who are disadvantaged and marginalised and the (in)security of those who are more privileged are inherently connected (Burgess 2007). Today, political and economic structures in the European Union and its member states dichotomise the human security of its citizens and that of migrants from the global South, operating as if one group would be, or would feel, secure when the other one faces insecurities. The human security paradigm instead uses the analytical, moral and policy principles that the lives and well-being of all persons in a shared system are interconnected.

⁴ For extensive illustration see Jolly and Basu Ray (2007); also Oscar A. Gomez, Des Gasper and Yoichi Mine (2016).

5 Using a human security perspective in rethinking migration policy and management

The critical literature on the EU's migration regime, touched on above, demonstrates the processes of securitisation by European actors, the proliferation, technologisation and militarisation of borders, as well as the political and cultural consequences of such securitarian logic. While its contributions are acknowledged, this critical security studies literature has been limited by its overwhelming preoccupation with the sovereign logic of states and by a shortage of politically and operationally relevant ideas for change (Bilgic 2013, 6–8).

Human security research on migration in Europe must ask the following questions. First, how does the interaction between economic and political structures produce violence, fear and anxiety for individuals? There is something systemic and structural that is responsible for the persistent violations of the human security of both migrants and EU citizens. An important element is the economic insecurities of European citizens, which provide fertile ground for racist and xenophobic ideologies to grow (European Centre for Democracy and Development 2018). Unlike variants of humanitarianism that refuse to ask structural political questions and focus only on 'crises', the human security paradigm understands 'crises' as consequences of political and economic structures and relations. The dialectics described earlier partly result from Europe's political and economic choices in past generations. These choices also set the parameters of Europe's external relations.

This leads to a second question: how do European external relations produce or endanger human security? In the last thirty years, Europe has developed the policy of containing migrants 'in the region' by transforming neighbouring states into 'Europe's border guards': the 'externalisation' of migration management (Akkerman 2018). However, political, economic, and social problems in the neighbouring states, plus reckless interventions, now encourage many migrants to continue their journeys to Europe, from countries which had previously been their intended destinations (Brachet 2011, 57).

A third question follows: how can the human security of migrants, EU citizens and citizens of neighbouring regions be addressed together and not opposed to each other? Human security of one social group cannot – sustainably and successfully – be pursued at the expense of another group. This principle of 'common human security' (e.g. Lester 2010) dates back at least to the foundation of the United Nations, and has been rearticulated from around 1980 onwards, not least in the historic series of 1980s reports chaired by (respectively) Willy Brandt, Olof Palme and Gro Harlem Brundtland that

recognized that we live on one closely interconnected planet.⁵ This is not to argue that European authorities are not responsible for the security of EU citizens. On the contrary, European sovereign authorities should take the human insecurities of EU citizens seriously by acknowledging that their security depends on the human security of non-EU citizens, including in the Euro-Mediterranean migration system.

With these questions in mind, we use a human security perspective to comment on relevant possibilities regarding migration to Europe. Two obvious recommendations are: to invest thoughtfully and generously in neighbouring regions (though the term ‘Marshall Plan for Africa’ does not fit well); and not to do things which exacerbate problems—a responsibility not to destroy (including not only through brash interventions but through excessive greenhouse gas emissions). In this spirit, the UN Special Rapporteur on the Human Rights of Migrants, François Crépeau, advised the EU to accept a responsibility for managing push and pull factors associated with the 2015 migration crisis (Crépeau 2015, 18–20); and the 2018 Global Migration Compact includes as Objective 2: ‘Minimize the adverse drivers and structural factors that compel people to leave their country of origin’ (United Nations 2018, 3). In this discussion we concentrate though on matters conventionally recognized as migration policy.

Proposals to a) control illegal migration by having more adequate legal channels, b) to elaborate regularisation and voluntary return mechanisms and c) to popularise the concept of protection-seeker, all aim to address the dialectics of migration mismanagement. They also take into account each of: EU citizens’ needs and wants revealed in market demands, their fears and anxieties about migration, and the autonomy of migration. To a large extent this orientation matches that agreed in the 2018 Global Compact on Migration. This, however, has encountered short-sighted and intense resistance from right-wing parties in several European countries.

5.1 Substituting legal for illegal migration

Crépeau advised that the way to remove the basis for the smuggling industry and to prevent a problematic netherworld of illegal migrants in Europe was to plan for legal migration corresponding to evident demands for labour (Crépeau 2015, 19). The European Commission and many others have called for opening ‘more safe, legal ways into the EU’ (European Commission 2015); and the Commissioner for Migration reports continuing pressure by the Commission on member-states to act on this (Avramopoulos 2019). One way to address irregular migration by protection-seekers is through creating mechanisms that go some way towards rendering illegal migration unnecessary.

⁵ Brandt Report: *North-South: A Programme for Survival* (Independent Commission on International Development Issues 1980); Palme Report: *Common Security, Report of Independent Commission on Disarmament and Security Issues* (Independent Commission on Disarmament and Security Issues 1982); Brundtland Report: *Our Common Future* (World Commission on Environment and Development 1990).

The final report of the UN Secretary-General's Special Representative on Migration during 2006 to 2017, Peter Sutherland, concluded:

it is in everyone's interest for migration to happen safely and legally, in a regulated rather than a clandestine way. The latter not only exposes other workers to unfair competition, provoking resentment and lowering overall standards of welfare, safety and public health, but also puts migrants at the mercy of unscrupulous employers and traffickers (United Nations 2017, 4).

Countries should respect 'the lessons learned from fighting other forms of illicit trade and avoid the criminalization of victims and the reliance on border and law enforcement alone'; indeed: 'States have acknowledged, in the [2016] New York Declaration, that they can only hope to curtail irregular migration, with all its attendant risks, if they provide alternative, legal pathways for migrants' (United Nations 2017, para 32). The Global Compact thus commits 'to promote safe, orderly and regular migration, as well as to highlight the risks associated with irregular and unsafe migration' (United Nations 2018, 10). Its Objective 5 spells out many relevant steps, including various forms of labour mobility agreement and fast-track visa arrangement (United Nations 2018, 5).

5.2 Exploring the concept of 'protection seeker'

Europe's current migration management regime is not responsive to contemporary realities of migration: what motivates people to migrate, what are they seeking outside (what were) their own communities, and what are they seeking to avoid? The established migration concepts reflect a Euro-centric point of view on human mobility circa 1950. Refugees, those fleeing political persecution or violence are (officially) considered 'good migrants', whereas migrants who have escaped from economic and social insecurities easily become 'unwanted', 'undesirable' migrants. The only way for these to get sympathetic recognition from Europe is through becoming objects of its humanitarianism as non-agentive, rightless victims.

In contemporary contexts, people migrate in order to remove themselves from conflicts, political crises, systems of bad governance, poverty, and exclusion. It is worth noting that these drivers are, in part, a consequence of how these countries have been incorporated into global power systems. The combination of such structural drivers and individual initiatives to migrate problematises the distinction between forced and voluntary migration. Already in 1984 the Cartagena Declaration at Inter-American level adopted a human security perspective to broaden the definition of 'refugee' beyond individual risk of persecution, to all persons whose 'lives, safety, or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order', and to assert states' obligation to help and protect such people (Estrada-Tanck 2016, 267).

Similarly, the concept of 'protection-seeker' has recently emerged to reflect such realities. It refers to a person who is forced to choose to leave the community in which s/he lives due to political, social, environmental and

economic structures, processes and relations that violate or threaten an individual's rights to life, well-being, and dignity, or those of her family (Bilgic 2013, 52). The term covers refugees in terms of the 1951 Refugee Convention but also includes migrants from countries where political and economic problems are chronically entangled but who do not meet the 1951 Convention's political criterion. The 2018 Global Compact points in this direction: 'We commit to adapt options and pathways for regular migration in a manner that ... responds to the needs of migrants in a situation of vulnerability' (United Nations 2018, 11); and the Sutherland Report was emphatic that 'The most essential and urgent task is to clarify the responsibilities of States towards migrants who are in vulnerable situations and may not be able to return home, but do not qualify for protection under the 1951 Convention' (United Nations 2017, 8). It noted that several constructive sets of guidelines exist, and that States have now committed to seek a common understanding.⁶

The EU Commission often underlines the necessity of developing 'a migrant-centred approach' that protects and promotes the human rights of migrants (European Commission 2011). But is it possible to develop a migrant-centred approach when migrants are myopically labelled as legal/illegal and good/bad? The European border management regime objectifies migrants; often seeing them only as arrows in Frontex maps or points in border statistics graphs. Without building any trust or confidence, the regime operates under the expectation that migrants will act in accordance with its legal categories and regulations; the 'autonomy of migration' literature indicates otherwise (De Genova 2017). Instead the European political community needs to communicate persuasive messages to protection-seekers that 'you can trust us'. One such message should concern regularization mechanisms, which together with facilitated return mechanisms could help to make EU citizens too feel more secure.

5.3 Regularisation mechanisms and facilitated voluntary return

Regularisation means amnesty for undocumented migrants already inside the EU who satisfy specified requirements, for example about societal contribution and local integration. So far, Europe punishes those who facilitate irregular migration, as well as migrants who use irregular channels. This punitive response persists despite legal channels of migration to Europe being drastically limited. Possibilities for regularisation mechanisms deserve attention (Bilgic 2013). Regularisation policy has been proposed in Europe, but was abandoned because of fears it would become a pull factor for irregular migrants. This dismissal went ahead even though scientific research has indicated that irregular migration is far more likely to be motivated by the other

⁶ Relevant here are the 1969 OAU (Organisation of African Unity) Refugee Convention, the use of the concept of 'vulnerability' in Common European Asylum System instruments, and the EU's 'subsidiary protection' status.

economic, social and legal factors of receiving states such as demand for labour, economic opportunities, presence of family members and migrant networks, and language skills of migrants that are compatible with the receiving country (Levinson 2005; Düvell 2011; Lazaridis 2015).

Ideally, regularisation would become an individual-oriented process. Case-by-case regularisation enables protection-seekers to explain how and why they came to Europe and why they chose irregular ways of travelling and living. The EU Commission argued in 2008 for case-by-case regulation (European Commission 2008); and the Global Compact commits to 'Build on existing practices' that facilitate this (United Nations 2018, para 23, item 1, para 28). Such regularisation should be through ongoing mechanisms, not massive one-off programmes. These ongoing processes of integration depend on cooperation between the authorities and irregularised migrants; they are more formal and principled than programmes. The relevant principles should include regularisation for protection reasons. In 2004, the Commission called for 'protection regularizations aimed at granting a right of residence to specific categories of persons who are not eligible to claim international protection' under the 1951 Convention (European Commission 2004). The current EU subsidiary protection status is relevant but insufficient. An important challenge is to marry this attention to irregularised protection-seekers with Europe's interest in skilled workers and fillers of priority gaps.

Regularisation must be combined with opportunities for legal migration. Regularisation combined with almost no legal entry channels will not remove the fear-inducing and crime-promoting irregular flows and internal pool. Irregular migration should be partly addressed via regularisation plus legal immigration opportunities in a context of attention to push and pull factors. National-level specification will though be an essential element in anxiety reduction. Citizenship policies remain largely a national level topic, and the anti-immigrant rhetoric in some European countries, for example Hungary, make an EU-level mechanism anyway very improbable. plus.

A relevant partner to regularization is facilitated voluntary return for irregular migrants who have not established themselves or who now are ready to return but find this difficult given their irregular status (United Nations 2018, Objective 21). The Sutherland Report warned that restricting trade and development aid, to try to induce origin-country cooperation in repatriation schemes, would be counterproductive and more likely to feed out-migration. It suggested instead schemes for short-term in-migration to rich countries combined with incentives for return: a share of wages could be contingent on return, or return followed by a period at home could bring a priority status for later re-entry (United Nations 2017, 14, 9).

5.4 Human security as a meta-legal figure in migration court cases

Estrada-Tanck acknowledges that some people consider human security a concept for public policy rather than for the practice of law and human rights. From study of a large number of cases in international law, she disagrees,

showing how in many cases regarding undocumented migrants a human security perspective was proposed, endorsed and influential. Foreignness remains a key exclusionary dimension in legal systems; undocumented migrants, often undocumented through no fault of their own, have heightened vulnerabilities but can be the people who receive the least protection, due to the threat of deportation should they attempt to claim rights. This forms a fundamental tension in contemporary liberal democracies, she argues. Meta-legal and human rights principles of equal treatment under law and of equal right to protection imply they should be protected; thus, for example, employed migrants have certain rights as employees (and also as indirect-tax payers), regardless of whether the migrants are documented or not (Estrada-Tanck 2016, chapter 6). The Inter-American Court of Human Rights has given the most—and the most sympathetic—attention to undocumented migrants. Other international bodies have been more restrictive, with some exceptions in cases in Europe, including some in the European Court of Human Rights; for example in a case where the tribunal accepted the relevance of assessing a migrant’s personal circumstances to adjudge whether he could realistically have accessed the legal channels he was supposed to use (Estrada-Tanck 2016, 236). The human security principle of looking at structural context – notably for people experiencing multiple dimensions of disadvantage and risk – was followed. Similarly, the principle of a due diligence obligation of States to counter rights violations, in relation to known protectable severe risks, is spreading (Estrada-Tanck 2016, 55, 220).

Estrada-Tanck concludes that the human security concept serves as a ‘meta-legal figure’, a foundational legal notion.⁷ Teitel argues similarly, that ‘there is a minimum substantive normativity inherent in the international legal order—a floor, grounding the aspirations and efforts of the international legal system. The notion of human security reflects this minimum.’ (Teitel 2011, 156–57).

5.5 Combining human rights criteria with consequentialist calculation and enlightened self-interest

Estrada-Tanck recognizes though the restricted scope and impact of even broadminded individual law-case judgements, and the central importance therefore of policy frameworks that use similar insights. In public policy analyses, let alone in seeking influence within political dynamics, we require more than only to show implications of some existing normative commitments and past judgements. We need attention also to the range of other, often competing, commitments and to the requirements of attracting and maintaining enough support for policies to be accepted, respected and applied. We need thus to persuade enough stakeholders, including sometimes through influencing their mental maps, even seeking to influence their perceptions of ‘self’ and ‘interests’. Here human security analysis helps by combining a stress

⁷ Meta-legal may be defined as: ‘Of, belonging to, or designating the basic principles underlying legal systems, or upon which laws are formulated’ (Oxford Online Dictionaries 2020).

on human rights values with a non-absolutist flexibility, paying attention to consequences, alternatives and feasible sequences of change, within a picture of human interconnectedness.

A deontological insistence on inviolability of each human right may fit at the level of individual law cases; for in direct dealing with specific persons, values such as the obligations to safeguard migrant life and to ensure equality before the law must be lived out (Estrada-Tanck 2016, 240, 246). At the same time, given the conflicting pulls of different rights, especially over time, reiteration that all we need is the policy guideline ‘Fulfil all human rights’ (Howard-Hassmann 2012; Roznai 2014) becomes counterproductive. Its absolutism scares away groups who must be persuaded not commanded. Human security analyses, in contrast, explore actual policy choices and likely chains of consequences. It is more convincing, for example, to refute an ‘opening the floodgates’ argument about migration by a better consequentialist analysis than to reject consequentialism, notes Estrada-Tanck (2016, 241).

An approach of ‘rule consequentialism’ may support an insistence on inviolability of human rights in individual decision-cases, but will combine that with trying to design systems of rules that best promote overall human rights fulfilment over time but do not oblige attempted immediate fulfilment of every human right (Hooker 2016). Interpretation and operation of such an approach raises many further questions, beyond what we can address here: which rights have which degrees of priority when, what degree of context-specific interpretation is left for judges, and more. Teitel observes similarly that human security analysis is ‘an attempt to bridge deontologist and consequentialist discourses’, both of which are necessary but insufficient. She continues: ‘Where rights are framed in human security terms, their articulation and meaning will be highly contextual, shaped by a particular crisis or emergency, or by the constraints and opportunities posed by the stage of development of a particular society’ (Teitel 2011, 145). Thus humanity law is a set of provisional and pragmatic measures of governance, not of ‘ideal rights norms’.

So policy-relevant analyses must explore also what constitutes ‘enlightened self-interest’. The Human Security Study Group, in an earlier report commissioned by the EU High Representative for Common Foreign and Security Policy, argued that: ‘the whole point of a human security approach is that Europeans cannot be secure while others in the world live in severe insecurity’ (Glasius and Kaldor 2009, 9). This approach faded from explicit view in EU discussions of migration and borders, and has only partly revived after 2015-16. We have argued here for its reinvigoration and elaboration.

6 Concluding reflections

The human security paradigm does not offer a detailed blueprint of community, for what violates human security is differently conceived and experienced across and within different places and times. The perspective on migration suggested here is however an invitation to reconsider our political communities and re-examine how humans inside and outside these communities can be secured or can feel secure. The European political community is not a finished entity, a fortress, but is always a community in the making. Resistance to its evolution makes both European citizens and migrants more insecure.

There will be obstacles to imagining and constructing an alternative European political community. Not least of these obstacles are the ideological and economic structures, including the vested economic interests of those business sectors invested in ‘securing Europe’ and the political groupings who have defined themselves in fortress terms. Framing alternative policy proposals as human security policies is relevant here, for human security is a deeply examined and practiced policy philosophy that underlies the conception of the United Nations and the format and much of the thinking in the 2018 Global Compact for Migration.

The Global Compact is a non-legally binding cooperative framework that recognizes that no State can address migration on its own due to the inherently transnational nature of the phenomenon. It requires international, regional and bilateral cooperation and dialogue ... taking into account different national realities, capacities, and levels of development, and respecting national policies and priorities. (United Nations 2018, 4, 32)

The related 2016 New York Declaration of the General Assembly and the 2017 Sutherland Report that preceded the Compact likewise aimed ‘to place migration and human mobility on the international agenda in ways that foster trust, cooperation and progress’ (United Nations 2017, 1). These plans emerged through years of trust-building discussions since at least the 2006 High Level Dialogue on Migration in New York, continuing in the Global Forum for Migration and Development, the various Regional Consultative Processes, the work of the UN Special Representative on Migration, and other fora. The EU and many European governments have been to the fore in these discussions, together with many governments and civil society organizations from around the world.

The Compact generated major Right-populist opposition across much of Europe in late 2018, especially in Eastern Europe. For Western European countries like Italy, the Netherlands, Austria, Belgium and Germany, in which Right-populist opposition became serious too, the Global Compact is in fact a restatement of existing declarations and commitments. It serves as an accessible public synthesis and reminder which renders commitments (for example, to allow portability of migrant social security entitlements and earned benefits) more likely to be honoured, and as a token of good faith globally. All

countries are to avow the same commitments; and what Europe expects from others it re-avows itself and is reminded to support. For mistrustful nationalists such a reminder is dangerous; since they do not support existing commitments and they reject the good faith of others, it is declared a betrayal of the nation. To the wider publics who know little or nothing of the long worked-on web of international cooperation it is presented as a mad concession.

While trust has been built over the past decade between migration agencies, government officials and many civil society organizations, trust has been undermined amongst general publics. Fanned by alt-news, social media and jihadists, fear and scapegoating have intensified. The Global Compact itself aims to ‘promote evidence-based public discourse to shape perceptions of migration’ (Objective 17) and to ‘Invest in research on the impact of non-financial contributions of migrants and diasporas to sustainable development in countries of origin and destination’ (United Nations 2018, 28). The UN essays a small campaign entitled TOGETHER, ‘that aims to change negative perceptions and attitudes towards refugees and migrants’ (Civil Society Unit 2017). The Sutherland Report warned though that:

at no time in recent history have the bonds of trust been so frayed, particularly on issues surrounding migration, about which the general public is fearful and badly informed. In such an environment, progress can be made only incrementally. That is why I suggest tackling problems at the lowest level of governance, where they can be solved. Sometimes that means the local or national level, but on some issues States need to work together, bilaterally, at the regional or even the global level, seizing on the initiatives of pioneers and champions, and working through what has been called “minilateralism” [small coalitions of willing partners] (United Nations 2017, para 89).

Rethinking the relations between Europe and migration, and by extension the kind of European political community, will be a long journey, but the prospective prize is vital for both EU citizens and migrants. To secure EU citizens, Europe and the EU should abandon Euro-centric perspectives on human mobility and security. European security must be conceived as part of shared human security.

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