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The Refugee and Coronavirus Crises in the European Union

How does COVID-19 affect the European Union's response to refugees and asylum seekers?

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Attacking Global Problems at EU Level

Final assignment

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Introduction

The world today is going through a serious health crisis caused by the novel coronavirus and the illness it creates - COVID-19, with increasing prospects of it degenerating into an economic, political, and even social crisis. While the virus has made its way on all continents with equally disastrous effects, these similarities did not lead to a united response. On the contrary, states pursued individualistic incentives and resorted to economic protectionism, travel bans, and limited aid in their relationship with one another.

The European Union is a unique structure. It combines supranational and intergovernmental elements in a way that allows it to act as a single body on the international stage. Before the coronavirus, its most famous figures and advocates, like Angela Merkel and Emmanuel Macron, argued for a move away from the United States' influence and towards the Union's international interests and also for continuous integration in the form of a unified armed force. In the face of the COVID-19 challenge, however, even the European Union seems to be crumbling. Its member states failed to work together to help the first victims of the coronavirus and the Union's basic policies ceased to be effective. One such example is the migration and asylum policies. In particular, the asylum policy was suspended by various European Union member states in violation of international law (Bremmer, 2020). While the irregular migration and return policy were already contested on humanitarian grounds, it gains new perspectives during these times as refugees are no longer an imminent problem (Feroz, 2020). While deportations are on hold, the coronavirus is not. Those in packed refugee camps across Europe and those afraid to go to the doctor in fear of deportation face increasing dangers (Feroz, 2020). Beyond these mere observations, this paper aims to discover the detailed way in which the new global crisis affects refugees and asylum seekers in the European Union, therefore it asks the question: How does COVID-19 affect the European Union's response to refugees and asylum seekers?

To answer the research enquiry this paper will analyse the European Union's codified migration and asylum policies and will compare them to the empirical evidence on the topic in the context of the global pandemic. While the European Union's written policy goals always manifest concern towards the refugees and asylum seekers, this paper believes that their consideration will not translate into real actions in the context of the coronavirus crisis. Hence the expectation:

H1: The European Union will fail to honour its commitment towards refugees and asylum seekers during the COVID-19 crisis

Theoretical framework

This study is concerned with the lives and wellbeing of refugees and asylum seekers in the European Union during the ongoing global pandemic. A refugee is a displaced person who has been forced to cross national boundaries and who cannot return home safely. An asylum seeker is a person that similarly fled their home country because of life endangering factors and that has entered another country and applied for asylum there. All refugees that managed to arrive in the European Union ultimately seek asylum status in one of its member states so they can start a new life for themselves and their families.

This paper will focus on three specific policies that are part of the European Union's migration and asylum approach. Firstly, its external border control policy that aims to secure the Union's external borders while also saving lives at sea (European Commission, 2019). It is implemented by the Frontex agency which coordinates surveillance and risk analysis (European Commission, 2019). Secondly, the European Union's irregular migration and return policy that counters migrants' smuggling networks and addresses the migration crisis in the Mediterranean (European Commission, 2019). Thirdly, the Union's asylum policy that led to the creation of a Common European Asylum System (CEAS) to the benefit of refugees and EU member states (European Commission, 2019). Taken together, these policies should contribute towards a secure and well-organised system of refugees and asylum seekers management.

During the coronavirus crisis, however, these policies failed to attract the support of the European Union's member states. Giving up on their solidarity with the refugees and asylum seekers was extremely inopportune during a global medical emergency. Those stuck in cramped refugee camps at Greece's border or in shared refugee homes across Europe are at increased risk of contracting the virus and not getting due medical help. Member state's reluctance to commit to their obligation towards the vulnerable as listed in the European Union's migration and asylum policy makes sense from a realist perspective. States exclusively prioritise their security and self-interest (Waltz, 2001), therefore, will not go out of their way in helping others unless it yields long-term benefits or contributes to their international reputation (Keohane, 2005). European Union membership is economically beneficial and its recipients are generally willing to engage in humanitarian actions in return. Germany was the leading voice in the European Union during the 2015 refugee crisis calling for the other member states to also accept refugees. In times of crisis, however, European states adjust their behaviour. Humanitarian concerns ceased to be a priority and the European Unions' migration and asylum policies are no longer effective. For example, Austria and Greece have suspended the right of asylum at

their borders in violation of international law (Bremmer, 2020; Feroz, 2020). Nonetheless, no European leader condemned their actions. On the contrary, this behaviour was backed by Brussels which placed the continent's territorial sovereignty above international law (Bremmer, 2020). The European Union's reputation as a humanitarian leader may suffer irreparable damages during the COVID-19 crisis. While the European Parliament's civil liberties, justice and home affairs committee has called for the Greek camps' 42,000 inhabitants to be evacuated, there is no feasible way of doing it in sight (Lane, 2020). Europe's major powers have refused to accommodate any extra refugees, even children, and pandemic-stroke Italy even enforced stringent containment measures, including the closure of ports (Lane, 2020). In French refugee camps, poor sanitation and shelter have become the rule, but the virus has brought a new threat: food shortages (Lane, 2020). Therefore, while the European Union's members struggle with the coronavirus' containment, refugees and asylum seekers are out of the picture. It is however unclear if after the medical emergency is gone there will be any trust left from those endangered communities or if the states ignoring them today will try to somehow repay them afterwards.

A less critical and functionalist perspective could argue that cooperation inside the European Union is based indeed on the state's self-interest. But member state's concerns are what allows the Union to foster economic, political and social cooperation and take up more value-based approaches, like its soft power and philanthropist mechanisms. While the coronavirus has disturbed the usual balance inside the European Union it is only natural that countries cannot uphold their international commitments. However, with things getting back to normal the refugees' situation shall be addressed again. Successful examples even during these troublesome times come from Portugal where migrants and asylum seekers will be treated as permanent residents for the duration of the pandemic. As long as they can prove an ongoing residency request, the needy, regardless of nationality, will have access to the country's health service, the welfare system, and other public provisions (Lane, 2020).

This paper will adopt the realist, more critical perspective because even if the COVID-19 situation is exceptional, migrant's and refugee's one is not. Stuffed, non-sanitary refugee camps and homes have been the rule rather than the exception and European Union's member states were always reluctant in accepting these vulnerable communities. The coronavirus only shines a light on the shortcoming of the Unions' migrants and asylum policies, while unfortunately also threatening to harm the disadvantaged.

Decision-making process & multi-level characteristics

The European Union's migration and asylum policies have over time developed from being part of states' national jurisdictions to being under the Union's supranational control. These changes happened gradually and were codified in the European Union's key treaties. This means that member states have eventually found a consensus around their refugees and asylum seekers response. COVID-19's negative impact on those seeking protection in Europe, however, has proved that even increasing supranational authority is not enough to honour the European Union's commitment to these communities in times of a global pandemic.

In the case of immigration policy, the European Union controls regular immigration, fights irregular immigration, and determines readmission agreements. Hence, at the supranational level, Brussels decides the conditions governing entry into and legal residence in a member state, the working of an effective return policy, and on the agreements with third countries for the readmission to their country of origin of third-country nationals who do not or no longer fulfil the conditions for entry into, or the presence or residence in, a member state (European Parliament, 2018). States retain, at the national jurisdiction level, the right to determine the volumes of admission for people coming from third countries to seek work and their subsequent integration. The 2009 Lisbon Treaty introduced co-decision and qualified majority voting on regular immigration and a new legal basis for integration measures. The ordinary legislative procedure now applies to policies on both irregular and regular immigration, making Parliament a co-legislator on an equal footing with the Council (European Parliament, 2018). Still, the provisional measures to be taken in the event of a sudden inflow of third-country nationals are adopted by the Council alone, after consulting the Parliament (Article 78(3) TFEU). In this sense, the immigration policy manifests an intergovernmental character as well. All in all, the European Union's immigration policy has reached co-decision as a decision-making mechanism and engages all three levels of governance in its functioning.

When it comes to asylum policy, it was an element of multiple treaties over the years that ultimately determined its current form. Under the 1993 Treaty of Maastricht, the previous intergovernmental cooperation on asylum was brought into the European Union's institutional framework. In 1999, the Treaty of Amsterdam granted the European Union institutions new powers to draw up legislation in the area of asylum using a specific institutional mechanism: a five-year transitional period with a shared right of the initiative between the Commission and member states and decision by unanimity in the Council after consultation with Parliament; the Court of Justice also gained jurisdiction in specific instances for the first time (European Parliament, 2018). The Treaty of Lisbon created a common asylum system comprising a uniform status and uniform procedures. The Treaty also significantly altered the decision-

making procedure on asylum matters, by introducing co-decision as the standard procedure (European Parliament, 2018). At the global level, the European Parliament encouraged the European Union and its member states to take a leading role in the ongoing talks ultimately codified in the United Nation's New York Declaration for Refugees and Migrants. The European Union's asylum policy moved towards supranational authority and co-decision, but the intergovernmental aspect dominates instances like the 2016 European Union-Turkey Statement.

Lastly, the management of external borders requires external management because of the Schengen Area. The Union, therefore, establishes common standards concerning controls at its external borders and has gradually put in place an integrated system for the management of those borders (European Parliament, 2018). However, not all member states are part of the Schengen Area and some of them threatened to close their borders even at the beginning of the 2015 refugee crisis. States' individualistic incentives were only encouraged by the coronavirus crisis. That is why Greece, Austria, and Italy could suspend their asylum policies and close their borders without much opposition from Brussels.

All in all, in normal times, the European Union possesses a high degree of supranational authority over its immigration and asylum policies. The decision-making process is largely based on co-decision in consideration of the intergovernmental element. Lastly, member states decide on matters inside their territories once the asylum seekers get accepted. During the coronavirus crisis, however, all these complex multi-level aspects have collapsed in favour of the exclusive national rule. Brussels has no incentives of calling for a different response from the states as the circumstance are already strained. Refugees are not a European Union priority today despite the rules codified in its treaties.

Solution — theoretical & practical justification

A lot can be suggested regarding the reform of the European Union's response to refugees and asylum seekers, both in regular times, as well as during the ongoing global pandemic. This paper believes that European states' response should be efficiently coordinated regardless of circumstances. Since COVID-19 has caused states to disregard the European Union's position on asylum and migration policies and to pursue their interests, a viable solution has to make sure states' interests are aligned with those of the asylum seekers at all times. If a supranational approach fails in times of crisis, maybe it should be replaced by an intergovernmental or even national one that always works.

In case of a global crisis like COVID-19 states should assume full responsibility for the vulnerable communities they host. Their response should be a variation of what Portugal is doing today. Portugal's authorities decided to legalise all undocumented refugees and migrants, therefore, providing them with the same medical attention and support as its citizens (Lane, 2020). Spain, Belgium, or the Netherlands suspending deportations of refugees to their own countries is not enough. European states should also provide resources for supporting these people escaping poverty and war and now faced with a medical emergency. Italy and France's response is simply unacceptable where the Italian governments suspended all hearings and appeals relevant to asylum seekers and the French authorities did nothing to protect its child refugees from the coronavirus (Rubeo & Baroud, 2020). Germany's refugee homes became outbreaks of coronavirus infection shedding light on the inappropriate conditions their resident live in. All in all, in times of crisis, European states ought to make sure asylum seekers' rights to health and public service are respected regardless of the status of their application. This is a decision that must be discussed at the European Union level as today's situation has made clear that not all member states visualise their responsibilities to their immigrant communities. However, once that topic is discussed, each state should put in place its own rules for future emergencies. A nearly continental structure like the European Union is being proved to be less effective during crises that restrain communication, travel, and economic activities.

Another problem the European Union faces when addressing its immigrants and asylum seekers during the global pandemic is the political aspect of the issue. Government leaders outside the Union concerned solely with their approval ratings have used refugees as leverage in this sense. These actions are always highly inappropriate, more so during a medical crisis directly threatening these communities. Turkey is engaging in this immoral activities by pushing more refugees towards Europe in fear of a new wave of displaced people fleeing Syria in the face of the coronavirus. This might happen in case Putin's Russia and Assad's regime in Syria see the global pandemic as an opportunity to make a final push to secure total victory in the region, thus, creating a new wave of refugees. Because Greece has closed its borders, the refugees are stuck between a European Union willing to use violence to protect its borders and Erdogan who is pressured by a hostile electorate in Turkey (Bremmer, 2020). A solution for this situation is building solidarity among European Union member states and with non-European countries, like Turkey, that hosts refugees. For this, the European Commission should establish a monitoring mechanism to collect information on each member state's exposure and contribution to all elements of migration and asylum policy (MEDAM, 2019). This approach would emphasise the common interest of European Union member states in managing the

European Union's external border effectively and humanely and helping to protect refugees worldwide, while also contributing to the common task in line with their capacities. Well-designed and carefully coordinated actions are required in all migration and asylum policy fields to overcome the current deficiencies in the management of the European Union's external border and build the capacity of the European Union asylum system, both at the European Union and member state levels so that the European Union can respond adequately to future refugee situations as they may arise. International solidarity on the topic of refugees would have significantly contributed to their protection in times of the coronavirus crisis. It is a pity that states cannot visualise the importance of cooperation beforehand. The global pandemic should not have been used as a reason for pushing the refugees around as leverage, but it will serve as an important humanitarian lesson in the future. While the European Union cannot pass legislation on this issue during the COVID-19 emergency, it will likely have to come back to it when the international situation improves. The Union's objective forward should be improving its internal integration and external solidarity in peaceful times so when rough ones come to an answer to arising problems is already in place.

All in all, the harm has already been done. The European Union as a supranational entity, its member states at the intergovernmental and national levels, have all failed the asylum seekers during the coronavirus crisis. A solution in real-time should be along the lines of Portugal's approach. Refugees' human rights must take precedence in times when everything else is unclear. After the pandemic ameliorates, however, the European Union at all its levels will have to rethink its migration and asylum policies so they work even, and especially, in times of global medical emergencies. International solidarity should be reinforced so Turkey does not use its vulnerable refugee community as a leverage mechanism ever again. Asylum seekers' situation today is a shame to Europe, the best it can be expected from it is a learned lesson.

Consequences

It is hard to outline the consequences of hypothetical solutions, however, given the example of Portugal, an alternative reality of a pandemic that does not disadvantage refugees and asylum seekers is possible. First of all, European Union member states will have to start by treating immigrant communities better regardless of circumstances. That means that Germany's refugee homes would have the necessary sanitary and privacy conditions at all times and will be guaranteed free testing and protective equipment immediately in the case of a pandemic. It also means that France will treat its refugees better overall, mainly the unaccompanied children.

This suggests that Italy, Greece, and Austria would not ever close their borders and suspend the right for an asylum application. On the contrary, these states would seek a solution to transfer those waiting at their borders to safe locations, regardless of their application status. Ideally, all European states would treat the refugees as citizens with full rights in case of a medical emergency endangering their lives. Such way no minority would be afraid to go to the doctor because they could be deported or would have to fear for their life at the European Union's borders. Member states having the morality to prioritise refugees' lives would prove that the Union is indeed a proponent of humanitarian values globally.

If there would be solidarity between the European Union, the states refugees transit on their way to Europe, and the home states of these asylum seekers, their journey would be less uncertain and violent. The proposed above monitoring mechanism would enable transparency and constructive debate among member states on how responsibility for implementing European Union asylum and migration policies should be shared fairly; how member states should contribute to closer cooperation with countries of origin and transit, including by expanding opportunities for legal labour migration; and how member states should contribute to refugee protection worldwide through humanitarian and development cooperation and by hosting refugees resettled by UNHCR (MEDAM, 2019). This means that situations like Turkey threatening to push the refugees towards the European Union in times of utmost medical danger to these communities would never arise. And even if they do, Brussels would be able to call upon previous international agreements and in such way shame Turkey for its selfish political interests valued more than human lives. Ideally, a global consensus would be built around the idea of refugees and asylum seekers being subjects with full rights under international law. This way no state would be able to use them as leverage during crises of any kind without suffering considerable damages to their reputation and legitimacy.

In case the European Union's migration and asylum policies are upgraded in the ways mentioned above the positive consequences could exceed the ones already mentioned. Not only will the refugees and asylum seekers be treated equally in time of a pandemic, but they will be treated as such always. These communities suffer the same and usually worse during the coronavirus crisis. If the light is shed on them and their current suffering, we can expect the society to naturally integrate them later. While the European public has not always been the most welcoming to refugees, the latest events might contribute to a greater feeling of unity. Once the world learns to treat refugees as people with full human rights in the first place, then international solidarity and support for them will lead to better results for all. Educated societies will stop seeing refugees as a threat, the asylum seekers will have an easier time assimilating

and re-starting their lives in host states, transition states would protect those fleeing wars or poverty, while home states will try to support their communities abroad or recreate living conditions themselves. This should be the world's and the European Union's ideal concerning the situation of refugees and asylum seekers and it can only be achieved someday if these people are not left out in times of crisis and are met with sympathetic solidarity by the international community.

Conclusion

In conclusion, after analysing the European Union's migration and asylum policies and their effectiveness during the COVID-19 crisis, this paper has to confirm its hypothesis. The migration, asylum, and external border control policies have all failed to safeguard the vulnerable communities of refugees and asylum seekers at the European Union's borders as well as inside its member states. European states have walked back on their codified responsibilities towards these communities such a way of violating international law. Brussels, on the other hand, could not prevent this unfortunate course of action. The only way forward, with the COVID-19 crisis still unfolding, is to immediately offer full support to refugees and consider them as nationals regardless of their application status so they can benefit from medical services. The European Union as a whole should work to improve solidarity with refugees' home states as well as third parties so all of them contribute to their livelihoods. While the European Union is well equipped to assist its refugee community on the treaties level, it failed to do so in practice. Its intricate decision-making procedures proved useless in times when member states made their decision individually without any regard for international norms and European values. Therefore, its future or reformed policies must include provisions for migrants' protection during medical crises and in their anticipation. Ideally, packed and unsanitary refugee camps would be dealt with, as well as unfit for living refugee camps. Politically, no state will use refugees as bargaining leverage in such way violating their human rights. Internally, European member states will learn to look past differences in providing safety for its vulnerable groups. Globally, the world will learn that while crises like the coronavirus are serious everywhere, they disproportionately affect refugees and asylum seekers. Such realisations and reforms would give hope to refugees to start a new life and to political structures like the European Union to be truly representative and humanitarian in all their future endeavours.

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