

European Union-Mexico Think Tanks Dialogue Initiative

Third dialogue:

“Migration as a Global Challenge: Trends and Policy Approaches for Mexico and the European Union”

20 January 2020

CHRONICLE

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EXECUTIVE SUMMARY

As migration has become a global challenge, the European Union and Mexico need to respond to specific regional migration dynamics while advancing policies based on the international standards they promote. European and Mexican think tanks analysed migration trends and the challenges faced by both regions, sharing the possible convergence of approaches in dealing with the same phenomenon while remaining mindful of geopolitical differences. This dialogue was an effort to foster an open debate between experts to discuss a pressing global issue and to exchange ideas for developing more comprehensive policies on both sides of the Atlantic.

I. Recommendations to advance migration policies centred on human rights

The EU has a well-developed supra-national asylum system which includes mechanisms of checks and balances to implement scrutiny over state practices, although weaknesses in the system remain, as evidenced by divisions in recent years within the EU on how to share the burden of dealing with a large number of asylum seekers. Nevertheless, the EU showed progressive leadership by recently reaffirming commitments that make it the largest contributor to global resettlement efforts. Mexico has developed laws and institutions to address the changing migration dynamics in its territory and has had multiple local responses with varying levels of success, as managing increased flows under strong US pressure becomes very challenging. However, several challenges remain in the light

of the ongoing crisis in the region. With this, there is a need to analyse current efforts and find better solutions that guarantee the protection of human rights in asylum and migration policies.

Strengthening asylum systems

By 2015, the ongoing war in Syria produced close to 5 million refugees. While Lebanon, Turkey and Jordan still hosted the majority of them, in 2015 the European Union (EU) received 1.25 million first-time asylum applications (double the number of 0.6 million in 2014). Experts have questioned the term ‘European refugee crisis,’ as the EU has not been the main, nor the most pressured, destination of asylum applicants. Nevertheless, in a number of EU member states, xenophobic narratives managed to create controversy within public opinion and produced the various crisis-led approaches to migration and asylum. According to experts, the EU moved away from its evidence-based policy making to one driven by a more alarmist narrative.

The Syrian refugee crisis brought the shortcomings of the EU asylum system and the need to reform it to the forefront. The lack of solidarity and fair responsibility-sharing among EU Member States (namely the ‘first entry rule,’ whereby responsibility for treating asylum applicants lies with frontier EU Member States) is currently one of the area’s most crucial unresolved structural weaknesses. The emergency relocation mechanism proposed by the EU was an interesting attempt to share the responsibility with frontier states. Nevertheless, only 35,000 out of 160,000 asylum seekers that the EU Member States agreed to

relocate in 2 years were actually relocated. Only a few countries fulfilled their pledges, while others have not relocated a single person. This has eroded trust between EU Member States and EU institutions and led them to begin shifting responsibility to third countries.

A policy choice towards more restrictive policies led to agreements with third countries in strategic geographical positions to control migration flows, like the Western Balkans, Turkey and Libya. However, these agreements have caused several repercussions, including violations of human rights standards, especially in European border regions and neighbouring countries, and created an excessive dependence on these partners. Furthermore, the system of conditionalities underlying cooperation with third countries, with facilitated access to EU funds in exchange for supporting the EU migration agenda, undermines development goals. The EU also strengthened its external border control agency (Frontex) and will establish a force of 10,000 border guards.

In Mexico, between 2012 and 2019, the number of asylum seekers increased 70 times and their country of origin varied due to changes in migration flows in North and Central America, with migrants being uprooted mostly due to poverty, violence and institutional weaknesses rather than economic reasons. As Mexico has increasingly become a destination country, it requires strategies to manage increased irregular arrivals and migrants who end up staying within its territory due to their inability to reach the US.

Considering the upcoming Multiannual Financial Framework of the European Commission (2021-2027), solidarity in the European asylum system could be promoted by earmarking budget funds to support relocations from border areas, such as the Greek islands, a measure which could also restore mutual trust inside the EU. Furthermore, part of the EU asylum funding could be assigned to enhance human rights compliance in asylum procedures and reception conditions in frontline states. The EU could invest in legal assistance for people in the initial stages of the asylum process to support them in navigating complex legal systems. Resources could also be allocated for carrying out vulnerability assessments, which are crucial in emergency scenarios that involve unaccompanied minors or other vulnerable adults. These could be complemented with reforms to the asylum system or additional case lawyers in national asylum commissions. It could help to speed up the asylum process by maintaining the individual nature of the assessment and respecting procedural guarantees, with the

positive effect of reducing the number of pending cases that overburden domestic systems.

The Global Compact for Safe, Orderly and Regular Migration (GCM) is the first international and non-legally binding cooperative framework on migration supported by Mexico and the EU¹ which can serve as inspiration to advance new solutions. Nineteen EU Member States have committed to developing a migrant-centred, human rights and labour rights-based approach to migration. The GCM objectives include facilitating legal migration, enhancing family reunion, creating new legal pathways, and finding solutions to populations that cannot be returned due to the non-refoulement principle. Reintegration programs in Central America must consider policies and long-term strategies for returnees. In the EU there is a need for a single binding migration code, which is applicable for all third-country nationals.

Specific local responses could be considered as creative solutions. In Germany, for example, visa programs were designed to alleviate pressure on the asylum system created by migrants from Balkan countries since asylum had been the only opportunity to access the German labour market. This response to regulating migration relieved the immediate pressure and addressed the core issue of the absence of accessible legal migration channels.

Third country partnerships

There is a need to provide more support to neighbouring regions of the EU to ensure that border management practices comply with international standards, that fair and efficient asylum procedures are implemented, and that reception capacity outside the EU is guaranteed. EU funding is already allocated and used with this purpose in mind, but more could be done. In the case of the Central American region, efforts should be concentrated on addressing the structural causes of migration.

Partnership between the EU and third countries must be based on a stronger commitment to the rule of law and protection of human rights standards. The external migration policy of the EU must move away from its current approach, which tends to measure success through a

¹ Nevertheless, it should be noted that 9 EU Member States did not sign or abstained from signing the GCM at the UN General Assembly.

decrease in the number of arrivals or asylum seekers' applications, and instead make efforts to strengthen the fundamental right to seek asylum in the EU.

For EU partnerships with non-EU countries, comprehensive reporting regarding funding to enhance transparency, accountability and democratic control is needed. European external funding, especially development assistance and visa facilitation agreements or trade agreements, should not be made conditional on the willingness of third countries to cooperate on migration policy. Conditionality in accessing EU funds should be based instead on human rights protection and considerations. All partnership agreements between the EU and third countries should contain legally binding clauses that make it obligatory to guarantee dignified living conditions, protection of fundamental rights, and full compliance with the right to asylum.

Partnering with civil society

In 2015, at the beginning of the 'refugee crisis' in Europe, the humanitarian response by Civil Society Organizations (CSOs), individual volunteers, and local communities was welcomed and was viewed positively around Europe. When the efforts to relocate migrants from Italy and Greece failed, the approach changed to a more restrictive and repressive one that promoted the strengthening of anti-smuggling policies at the EU level and allowed for a new phenomenon to emerge, known as the "criminalisation of solidarity" or "policing humanitarianism." Suspicion of humanitarian actors by law enforcement authorities increased and escalated to actions of harassment and intimidation, disciplining (i.e. Code of Conduct in Italy, Lex NGOs in Hungary) and also led to criminal prosecutions. From 2015 to mid-2019, more than 150 individuals who assisted refugees and other migrants in 11 EU Member States, faced criminal prosecutions for migrant smuggling and related crimes with the majority of them in Italy, Greece and France. Although the majority of cases ended with acquittals, it had pervasive negative effects on humanitarian efforts and created broader chilling effects.

Some actions to counter the criminalisation of solidarity are the following: creation of a European Search and Rescue mission, as currently there are only *ad hoc* approaches to disembarkations of rescued refugees and migrants and

increasing reliance on 'pull-back' operations conducted by Turkish or Libyan coastguards; increasing the internal-external EU policy coherence to protect human rights defenders inside Europe, as is done by EU's External Action in conflict or developing countries as they play an important role in ensuring EU standards, as well as the democratic and financial accountability of governments; creating a robust rule of law mechanism that could monitor whether EU member states and other areas are upholding EU human rights standards in their migration policies and operations; and launching a parliamentary inquiry into misguided prosecutions against human rights defenders and humanitarian actors.

The EU Facilitation Directive needs to be brought in line with the UN Smuggling Protocol. Law enforcement authorities need to differentiate migrant smuggling from activities that do not qualify as such and instead obstruct the work of civil society.

The 'firewall approach' (which separates the provision of basic services, such as health, shelter, food, access to justice, from immigration enforcement activities) should be more generally promoted. For example, doctors should not be requested to check and denounce the migratory status of their patients (i.e. the Docs not Cops campaign in the UK led by doctors). A number of local authorities, for example those participating in the project EURO CITIES, also implemented actions to protect rights of undocumented migrants and to prevent their further exploitation by human traffickers or other criminals. These cities have worked together with civil society and managed to reduce broader societal insecurities that are produced by hostile environments.

Dialogue between the Mexican government and civil society, which often has first-hand information and knowledge of people's needs, should be promoted. International organisations can be key in fostering dialogue between CSOs and governmental institutions. This could be particularly useful to exchange best practices between both parts in Mexico.

Partnerships between civil society organisations (CSOs) in Mexico, Central America, and the United States have been key in exchanging information and implementing legal assistance programs. Collaboration between CSOs must be promoted on specific areas of reception and integration of

migrants. In the North and Central American region, there is a wide network of shelters, CSOs and international organisms that provide direct humanitarian aid. However, there is a need to strengthen the understanding and implementation of human rights. International organisations can support governments by providing information on how to incorporate human rights protection into migration legislation. Receiving societies must be involved in policy formulation to promote a stronger buy-in for integration efforts.

II. Development and migration nexus: towards stronger synergies

The development and migration nexus needs further inquiry and consideration to fully understand its possibilities and limitations. This nexus has been questioned for over-emphasizing economic factors to the detriment of other causes of migration and for subordinating development aid to migration policy. This has often implied a diversion of development priorities (from reducing poverty to reducing migration) and has often taken the shape of asymmetrical agreements between donors and receiving countries, where the perspective of the former prevails. Development policies must address structural factors of poverty and inequality while targeting migration's various causes and migrants' specific profiles with evidence-based solutions.

The nexus between migration and development should consider the inclusion of migrants and asylum seekers into the receiving societies. Governments need to start talking about a type of development that solves the structural drivers of migration and does not exacerbate the conditions that incentivise people to migrate.

Addressing the root causes of migration

The root causes of migration are complex and varied, and include violence and climate change. In this sense, the development and migration nexus must approach these through a wide perspective, including social policy and human rights. Solutions must respond to the specific circumstances that are motivating people to migrate in each context. Long-term causes, such as corruption or the collapse of the rule of law, must also be addressed to foster accountability and to empower citizens. In particular, social policies need to identify the specific needs of each community and offer hope and dignity to people. Migration policy could be employed to foster development, for instance

through circular migration mechanisms or through voluntary return schemes.

Better conceptual constructs and methodological tools are also needed. The empirical analysis must be improved in terms of the quantity and the quality of data in order to ensure cross-national comparability. Evidence-based research must drive programs and policies from their preliminary design to the final assessment of their impact. Furthermore, programs addressing the root causes of migration must consider the diverse and diverging interests of destination countries, the interests of countries of origin and transit, as well as the interests and needs of migrants.

Programs need to consider the diverse profiles of migrants and include a gender perspective that addresses the most vulnerable groups to ensure their inclusion in the labour market and integration into society. There should also be target measures to address schooling, housing and care needs of migrants that will provide the foundation for integrating into a host society.

EU agricultural aid programs have been more efficient in favouring development and in tackling the root causes of migration than aid programs in urban areas, since aid in rural areas seems to have a positive impact on rural employment. Other successful EU development actions have been those that provide incentives for the empowerment of women and gender equality along with incentives for conflict prevention (rather than conflict resolution).

Collaboration

Migration is a phenomenon no country can solve on its own. A multi-level governance model must be promoted in the EU at both the horizontal and the vertical levels, including key EU institutions in charge of migration and development, along with supra-national, national and local actors, civil society, public-private partners and the diaspora community.

Mexico must develop a migration policy that provides for the integration of its returning migrants and people in transit who settle its territory. Regional dialogue, in light of the migration phenomenon in Central and North America and the US stance on the issue, is vital. Bilateral, trilateral and multilateral agreements in the region must be advanced.

FINAL CONSIDERATIONS

- Providing education on and raising awareness of the mutual benefits of migration among receiving communities is essential to preventing xenophobia and helping to integrate migrants.
- Integration at the local level is easier, but the federal government must evaluate national policies and develop indicators to measure the efficiency of integration programs.
- Listening to the perspectives of migrants and giving them agency is key to their successful integration and positive contribution to the societies that welcome them.
- Countries of origin need to play a more prominent role in addressing outward migration and the humanitarian challenges their citizens face.
- The ageing population, particularly in the EU but eventually also in Mexico, represents an opportunity for implementing more inclusive policies in managing migration.

ABOUT THE EU-MEXICO THINK TANK DIALOGUE INITIATIVE

The initiative is part of the public diplomacy and outreach strategy in support of the EU's foreign policy. It aims to promote strategic discussions and practical steps to deepen EU-Mexico cooperation. Engaging with the expert community, enhancing mutual understanding, and exchanging opportunities are key elements for consolidating EU-Mexico relations within the framework of the future modernised EU-Mexico Global Agreement. The five dialogues foreseen under this initiative will bring together European and Mexican Think Tanks to debate around priority topics for the EU-Mexico bilateral agenda.

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