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Is this the way to go?

Handling immigration in a global era

As Europe's borders become more and more fortified against immigrants, illegal human trafficking becomes ever more common. By criminalizing immigration, Europe not only ignores a moral problem: it hits those hardest who are desperate enough to escape their home countries and contributes to the enormous profits that smugglers make in the process. Saskia Sassen asks what price Europe is paying for these shortsighted and unsustainable policies.

Over the last decade it is estimated that more than 2500 would-be immigrants died trying to get into Europe. That is many dead, but not many immigrants for a continent of over 350 million people. Whom is it we are determined to keep out to the point that they risk their lives to get in: an equally determined but tiny minority of men, women, and children from mostly poor countries who will come no matter what, in search of work or refuge. They are not criminals. Yet the result of our determination is that we are feeding a criminal trade. There has been a sharp growth in illegal trafficking of people as receiving countries have clamped down on entries and semi-militarized more and more borders.

These developments raise two issues. One concerns the old trade-off between policies that criminalize what may not intrinsically be a criminal act in the name of controlling a somewhat untenable situation; this in turn raises the incentives for genuinely criminal actors to promote the forbidden activity. A familiar instance of this trade-off concerns the marihuana control policy. Does the criminalizing of marihuana in the US — and the UK — really work better as a policy to control its use than the controlled legality of marihuana in the Netherlands, which leaves very little room for profit making by drug dealers and hence no incentive to expand its use.

The second policy issue raised by these developments is that the deaths of these hundreds of people attempting to enter Europe affect us all, not only those directly concerned. The fact that these people lack the proper documents for entry is easily represented in policy and media circles as exempting us from any responsibility as societies for these deaths. The lack of proper documents somehow seems to make these deaths less human and reduce whatever might be our responsibility contributing to these deaths.

I want to argue that the direction we are taking in our immigration policies towards greater police and military control and growing disregard for international human rights codes as well as our own civil liberties laws is promoting illegal trafficking and weakening our rule of law and thereby our democracies. These policies are adding to an already growing mix of what I

would describe as negative incentives, or incentives with negative outcomes for significant sectors of our societies. Illegal trafficking and the deaths of men, women and children who are not criminals, and who die on our "soil" eventually touches the fabric of *our* societies and distorts or weakens the rule of law. In the long run it will affect us all. Yes, the central victims are the men and women who are trafficked and especially those who die. But we would be foolish to think that we can allow these abuses and deaths to happen in the name of maintaining control, and remain untouched. The growth in illegal trafficking and the sharpening of extreme anti-immigrant politics willing to sacrifice some civil liberties in the name of control are indications of this broader negative effect.

Interconnected forms of violence

Part of the challenge is to recognize the interconnectedness of forms of violence that we do not always recognize as being connected or for that matter, as being forms of violence. The sharp growth of government debt, poverty, unemployment, and closing of traditional economic sectors in the global south, partly due to neoliberal economic globalization, has created whole new migrations as well as fed an exploding illegal trade in people. We now have growing evidence that IMF policy has sharpened these conditions even as it has brought great prosperity to about 20 per cent of residents in many countries in the global south¹.

Our governments by supporting IMF policies are partly contributing to those conditions that are going to stimulate emigration and illegal trafficking in people. Further, as the rich economies become richer partly because of these same IMF policies, they also become more desirable destinations. This in turn creates a source for hard currency for the governments of the sending countries in a context where they face mounting debt and declines in national revenues as neoliberal globalization weakens and often destroys many of the national economic sectors in these countries. Thus these governments are not interested particularly in regulating emigration either. Finally, as these same policies have also raised inequality and unemployment inside the rich economies, the disadvantaged have become radicalized, often taking on extreme right wing politics.

The tragedy is that those most affected negatively, those to whom violence has been done both in the global south and in the rich economies, the victims of it all, now confront each other as enemies inside our countries. Anti-immigrant sentiment probably runs highest among those who have been hurt from the same policies that have hurt the poor and the middle classes (though not the upper 20 per cent) from where the immigrants and would-be immigrants come. And as the rich countries raise their walls to keep immigrants and refugees out, they feed the illegal trade in people and raise the profits to be made as despair rises in the global south and fear in the global north. This is not sound policy. This is a vicious policy cycle.

The same infrastructure, both technical and institutional, that has enabled global flows of capital and goods, services and the new transnational managerial and professional class, also enables migrations and illegal trafficking. And they facilitate the flow of remittances back to sending countries, a major incentive for not doing anything on the part of these governments. These various entanglements raise the complexity of the challenge of how to regulate immigration. But these entanglements and this type of complexity are going in the wrong direction. We need to reverse this

dynamic.

When globalization policies go wrong they really go very wrong for countries in the global south. Thereby these policies sharpen the incentives for both emigration and trafficking for emigrants, traffickers, and governments in the global south, given growing government indebtedness and lack of opportunity for workers and would-be entrepreneurs in much of the global south.

Emigrants enter the macrolevel of development strategies for sending countries through their remittances. In many countries, these represent a major source of foreign exchange reserves for the government. While the flows of remittances may be minor compared to the massive daily capital flows in various financial markets, they are often very significant for developing or struggling economies.

In 1998 — the last year for which comprehensive data is available — global remittances sent by immigrants to their home countries reached over US\$ 70 billion. To understand the significance of this figure, it should be related to the GDP and foreign currency reserves in the specific countries involved, rather than compared to the global flow of capital. For instance, in the Philippines, a key sender of migrants generally and of women for the entertainment industry in several countries, remittances were the third largest source of foreign exchange over the last several years. In Bangladesh, another country with significant numbers of its workers in the Middle East, Japan, and several European countries, remittances represent about a third of foreign exchange. Exporting workers and remittances are means for governments coping with unemployment and foreign debt².

This would also seem to be the case given the growing interdependencies brought on by globalization which also enable illegal trafficking. Cross-border business travel, global tourism, the Internet, and other conditions integral to globalization enable multiple global flows not foreseen by the framers and developers of economic globalization. This creates a difficult trade-off in a context where September 11 has further sharpened the will to control immigration and resident immigrants. Increased illegal trafficking and the reduction in civil liberties will not facilitate the need to learn how to accommodate more immigration to respond to the future demographic turn. Let me focus next with some detail on one specific flow which brings many of these issues together.

Illegal trafficking

Trafficking in workers for both licit and illegal work (e.g. unauthorized sex work) illuminates a number of intersections between the negative conditions in the global south and some of the tensions in the immigration regime³. Trafficking is a violation of several distinct types of rights: human, civil, and political. Trafficking in people appears to be mainly related to the sex market, to labor markets, and to illegal migration. Much legislative work has been done to address trafficking: international treaties and charters, UN resolutions, and various bodies and commissions. Trafficking has become sufficiently recognized as an issue that it was also addressed in the G8 meeting in Birmingham in May 1998 (IOM 1998). The heads of the 8 major industrialized countries stressed the importance of cooperation against international organized crime and trafficking in persons. US President Bill Clinton issued a set of directives to his administration in order to strengthen and increase efforts against trafficking in women and girls. This in turn generated the legislation

initiative by Senator Paul Wellstone; bill S.600 was introduced in the senate in 1999. NGOs are also playing an increasingly important role. For instance, the Coalition Against Trafficking in Women has centers and representatives in Australia, Bangladesh, Europe, Latin America, North America, Africa, and Asia Pacific. The Women's Rights Advocacy Program has established the Initiative Against Trafficking in Persons to combat the global trade in persons. This type of trafficking shows us one of the meanings of interdependence in the current global system. There are two distinct issues here: one is that globalization has produced new conditions and dynamics, especially the growing demand for these types of workers by the expanding high-income professional workforce associated largely, though not exclusively, with globalization⁴. The second issue is that globalization has enabled older trafficking networks and practices which used to be national or regional to become global.

Here I want to focus on some of the data on the trafficking of women, especially for the sex industries and the growing weight of this trafficking as a profit making option for the traffickers, especially it would seem from the global south. This then adds to the role of emigrants' remittances generally, whether from lawful, unauthorized, or trafficked immigrants in the account balance of many of the impoverished governments of sending countries. Profits and revenues are, clearly, a disincentive to attack this trade. Insofar as the countries of the global north are one of the key destinations, they do not escape the consequences of this illegal trade either.

Trafficking in migrants is a profitable business. According to a UN report, criminal organizations in the 1990s generated an estimated 3.5 billion US\$ per year in profits from trafficking migrants (excluding most of the women trafficked for the sex industry). The entry of organized crime is a recent development in the case of migrant trafficking; in the past it was mostly petty criminals who engaged in this type of trafficking. The Central Intelligence Agency of the US (1999) reports that organized crime groups are creating intercontinental strategic alliances through networks of co-ethnics throughout several countries; this facilitates transport, local contact and distribution, provision of false documents, etc. The Global Survival Network (1997) reported on these practices after a two-year investigation using the establishment of a dummy company to enter the illegal trade. Such networks also facilitate the organized circulation of trafficked women among third countries — not only from sending to receiving countries. Traffickers may move women from Burma, Laos, Vietnam, and China to Thailand, while Thai women may have been moved to Japan and the US.

Although there is no exhaustive data, the available information suggests that trafficking in women, including minors, for the sex industry is highly profitable for those running the trade. The United Nations estimates that 4 million women were trafficked in 1998, producing a profit of US\$ 7 billion for criminal groups. These funds include remittances from prostitutes' earnings and payments to organizers and facilitators in these countries. In Japan, where the so-called entertainment industry is legal, profits were about 4.2 trillion yen per year over the last few years; there is growing evidence that illegally trafficked women are a growing share of sex workers. In Poland, police estimate that for each Polish woman delivered, the trafficker receives about US\$ 700. In Australia, the Federal Police estimate that the cash flow from 200 prostitutes is up to \$900 000 a week. Ukrainian and Russian women, in high demand in the sex market, earn the criminal gangs involved about \$500 to \$1000 per woman delivered. These women can be expected to service on

average 15 clients a day, and each can be expected to make about \$US 215 000 per month for the gang.

It is estimated that in recent years, several million women and girls are trafficked within and out of Asia and the former Soviet Union, two major trafficking areas. Increases in trafficking in both these areas can be linked to women being pushed into poverty or sold to brokers due to the poverty of their households or parents. High unemployment in the former Soviet republics has been one factor promoting growth of criminal gangs as well as growth of trafficking in women. Unemployment rates among women in Armenia, Russia, Bulgaria, and Croatia reached 70 per cent and in Ukraine 80 per cent with the implementation of market policies. There is some research indicating that economic need is the bottom line for entry into prostitution.⁵

Some of the features of immigration policy and enforcement may well contribute to making women who are victims of trafficking even more vulnerable and to give them little recourse to the law. If they are undocumented, which they are likely to be, they will not be treated as victims of abuse but as violators of the law insofar as they have violated entry, residence, and work laws. The attempt to address undocumented immigration and trafficking through greater border controls over entry raises the likelihood that women will use traffickers to cross the border, and some of these may turn out to belong to criminal organizations linked to the sex industry.

Further, in many countries prostitution is forbidden for foreign women, which enhances the role of criminal gangs in prostitution. It also diminishes one of the survival options of foreign women who may have limited access to jobs generally. Prostitution is tolerated for foreign women in many countries while regular labor market jobs are less so — this is the case for instance in the Netherlands and in Switzerland. According to IOM data, the number of migrant women prostitutes in many EU countries is far higher than that for nationals: 75 per cent in Germany, 80 per cent in the case of Milan in Italy, etc.

While some women know that they are being trafficked for prostitution, for many the conditions of their recruitment and the extent of abuse and bondage only become evident after they arrive in the receiving country. The conditions of confinement are often extreme, akin to slavery, and so are the conditions of abuse, including rape and other forms of sexual violence, and physical punishments. They are severely underpaid, and wages are often withheld. They are prevented from using protection methods against AIDS, and typically have no right to medical treatment. If they seek police help, they may be taken into detention because they are in violation of immigration laws; if they have been provided with false documents there are criminal charges.⁶

As tourism has grown sharply over the last decade and become a major development strategy for cities, regions, and whole countries, the entertainment sector has seen a parallel growth and recognition as a key development strategy. In many places, the sex trade is part of the entertainment industry and has similarly grown. At some point it becomes clear that the sex trade itself can become a development strategy in areas with high unemployment and poverty and governments desperate for revenue and foreign exchange reserves. When local manufacturing and agriculture can no longer function as sources of employment, of profits, and of government revenue, what was once a marginal source of earnings, profits, and revenues now becomes a far more important one. The increased importance of these sectors in development generates growing tie-ins. For instance, when the IMF and the

World Bank see tourism as a solution to some of the growth challenges in many poor countries and provide loans for its development or expansion, they may well be contributing to the development of a broader institutional setting for the expansion of the entertainment industry and indirectly of the sex trade.

This tie-in with development strategies signals that trafficking in women may well see further expansion. It is a worrisome possibility especially in the context of growing numbers of women with few if any employment options. And such growing numbers are to be expected given high unemployment and poverty, the shrinking of a world of work opportunities that were embedded in the more traditional sectors of these economies, and the growing debt burden of governments rendering them incapable of providing social services and support to the poor. Under these conditions, women in the sex industry also can become a source of government revenue. These tie-ins are structural, not a function of conspiracies. Their weight in an economy will be raised by the absence or limitations of other sources for securing a livelihood, profits, and revenues for workers, enterprises, and governments, respectively.

The coming demographic crisis in the north

Even as the rich countries try harder and harder to keep would-be immigrants and refugees out, they face a growing demographic deficit and rapidly aging populations. According to a major study (Austrian Institute of Demography 2001), at the end of the current century and under current fertility and immigration patterns, population size in western Europe will have shrunk by 75 million, and almost 50 percent of the population will be over 60 years old — a first in its history⁷. Europe, perhaps more so than the U.S. given its relatively larger intake of immigrants, faces some difficult decisions. Where will they get the new young workers needed to support the growing elderly population and to do jobs considered unattractive by the native born, particularly in a context of rising educational attainment? The numbers of these jobs are not declining, even if the incidence of some of them is; one sector that is likely to add jobs is home and institutional care for the growing numbers of old people. Export of older people and of economic activities is one option being considered now. But there is a limit to how many old people and low wage jobs an economy can export and a society can tolerate. Immigration is expected to be part of the solution.

In the U.S. the evidence suggests a slightly different pattern. By century's end, the forecasted fall for the U.S. is 34 million people, though this represents a point in the upward slope which will not be completed until after the end of this century. The evidence is fairly clear that a significant component of population growth in the US over the last two decades as well as labor force growth is accounted for by immigrants, both second generation and foreign born. In both cases, immigrants account for a larger component of growth than their share in the general population and the total labor force, respectively.

Yet the way the countries in the global north are proceeding is not preparing them to handle this future scenario. They are building walls to keep would-be immigrants out. At a time of growing refugee flows, the UN High Commissioner for Refugees faces an even greater shortage of funds than usual. Given an effective demand for immigrant workers, and indeed families for demographic purposes, both of these policy preferences are likely to have negative repercussions for Europe. They construct the immigrant and the refugee as a negative and undesirable subject, thereby encumbering integration. Further, given firms and households interested in hiring

immigrants or determined to do so, for whatever reasons, restrictive policies and racialized representations of the immigrant and the refugee can be expected to feed the already growing illegal trafficking of people.

Conclusion: The need for a more enlightened immigration policy

The large and looming issue confronting societies under the rule of law is whether policies that brutalize people — no matter what their nationality — and promote criminalized profit-making through the trade in people, are desirable and indeed sustainable if we are to keep up our systems based on the rule of law for which our forebears fought so hard and spilled so much blood.

Allowing this sort of brutalization and criminality is a very high price to pay for maintaining border control, and sooner or later it begins to tear at the fabric of the lawful state and of civil society.

The risks to our societies and to us — citizens — fully documented, are well illustrated by what is happening today in the US. The events of September 11 and the subsequent restrictions on the civil liberties of particular immigration groups in the US is tearing at, and some would say weakening the rule of law as it affects all US residents. The government in the US is granting itself more and more authority to deal directly, in an extrajudicial way, with matters that used to run through judiciaries or that would not be considered a matter for the government to get involved with. In so doing, the US government is violating basic rights not only of those it has profiled as possibly dangerous but also of its citizens, all citizens, not just those who might be suspect.

Are there ways of regulating the flow of people into our societies that could strengthen, rather than weaken, its civic fabric? The repeated incidents of would-be immigrants dying at the hands of illegal traffickers surely do not. They risk producing indifference when they happen over and over again. And they risk promoting acceptance of these deaths among ourselves and our children, all in the name of maintaining control over entry.

We are not only paying a price for those who die on our soil; we are also paying a price for those who are smuggled into our countries alive. The price we pay for allowing the abuse that is human smuggling is much higher than the "price" we pay for accommodating these people who just want a chance to work — and work they do. Indeed, much research suggests that we actually gain from the presence of these immigrants. For instance, seventeen percent of entrepreneurs in London belong to ethnic communities, a far higher share than their population share.

Continuing to use policies that make possible the brutalization of would-be migrants and the profit-making of criminal smugglers is a cancer deep inside our states and societies. It is the price we pay for criminalizing undocumented immigrants and, more generally, for resorting to policing and militarization as the way of regulating immigration. The US illustrates this to some extent. In the name of effective control, the new U.S. 1996 Immigration Act strengthened policing by reducing judiciary review of immigration police actions. A crucial issue here is the object of the expanded policing: It is not known criminals or firms suspected of violating environmental regulations or drug dealers. It is a population sector, not even select individuals, but a fairly broad spectrum of men, women and children.

There are consequences to this tension between, on the one hand, the strengthening of police approaches to immigrant regulation and, on the other, the strengthening of civil and human rights and the civic empowerment associated with a stronger sense of civil society. Sooner or later this policing will get caught in the expanding web of civil and human rights. And these rights will include those of citizens. Policing, when unchecked by civil review, can easily violate such rights and interfere with the functioning of civil society.

If my son decided to go write the great American novel by spending time with farm workers or in garment sweatshops, and there were an INS raid, he could well be one of the suspects — because I know he would not be carrying his US passport with him. Or worse, if he were among the farmworkers in California running away from the INS police and pushed towards jumping in one of the water levies, as has happened a number of times over the last few years, he might have been one of those who drowned. The most dramatic account of these incidents has it that the turbulent waters seemed less threatening than the INS police with their guns and shouting, and that, indeed, these farmworkers may have been pressured in terror into the waters and drowned. After the new 1996 law, many of these INS actions can escape review and accountability in front of a judge if the persecuted were merely suspected of being undocumented. Sooner or later abusive or excess policing and the weakening of judicial review of such police actions will interfere with the aspiration towards the rule of law that is such a deep part of our inheritance and our lived reality. Sooner or later, this type of police action will touch us, the documented. We need to find another way of regulating entry: now we are strengthening modes of regulation that carry a high cost not only in immigrant deaths but also to the rule of law.

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- ¹ For evidence on these sets of issues please refer to the author's *The Global City* (New updated edition, Princeton University Press 2001). See also her "Governance Hotspots in the Post–September 11 world" in Booth and Dunne *World In Collision* (Palgrave 2002).
 - ² There are two ways in which governments have secured benefits through these strategies. One of these is highly formalized and the other is simply a by–product of the migration process itself. Among the strongest examples of a formal labor export program today is the Philippines.
 - ³ Trafficking involves the forced recruitment and/or transportation of people within and across states for work or services through a variety of forms all involving coercion.
 - ⁴ One process that captures this specific type of interdependence is the global migration of maids, nannies, and nurses.
 - ⁵ There is also a growing trade in children for the sex industry — this has long been the case in Thailand but now is also present in several other Asian countries, in eastern Europe, and in Latin America.
 - ⁶ A fact–sheet by the Coalition to Abolish Slavery and Trafficking reports that one survey of Asian sex workers found that rape often preceded their being sold into prostitution and that about one third had been falsely led to becoming sold into prostitution.
 - ⁷ As is well known, several large European countries are now below reproduction levels, notably Italy and France.

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