

The Challenge of Illegal Immigration in Europe

Written by Martin A. Schain

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MARTIN A. SCHAIN, DEC 14 2013

The Problem

Has the process of European unity diminished the ability of states within the EU to control their own borders with regard to immigration or has the process enhanced the security of the joint European frontier? Certainly, some of the recent crises on the Italian island of Lampedusa, the Spanish enclaves in North Africa, and at the land border between Greece and Turkey all seem to indicate that the borders of Europe are being stormed by desperate migrants and refugees from North Africa, the Middle East and Africa south of the Sahara. The Arab Spring that began in 2010, and the chain reaction of a breakdown of political order across North Africa and the Middle East, has increased the pressure on European borders, but the political reaction across the European area (Schengen, as well as non-Schengen EU countries) has indicated a broad reaction to immigration that goes well beyond illegal immigration.

Between December 2010 and April 2011, more than twenty thousand migrants (mostly Tunisians) arrived on the small Italian island of Lampedusa, setting off a broader crisis within the EU-Schengen system. Italian authorities moved large numbers of migrants to camps on the mainland, from which many then went on to France with papers provided by the Italian authorities. When French authorities then sent some of these back to Italy, and the Italians retaliated by reducing security at the camps even further, the interior ministries of both countries agreed to enhance cooperation to reduce the flow of migrants across the Mediterranean (Donadio 2011).

But, even before the Arab Spring, there had been serious and continuing refugee crises at the Spanish land borders between Morocco and the enclaves of Ceuta and Melilla. As early as 1993, the flow of illegal immigration was serious enough for the Spanish authorities to construct a network of fences that were enhanced in 1995, 1998, and again after incidents in 2005. More recently, in 2012, Greece has built a 12.5K fence along its part of its border with Turkey, and Bulgaria is in the process of erecting a 30K fence along its border with Turkey (Vincent, 2013: 2).

All of this activity (and more) has been in localities at which demands for entry by land and sea into Europe have been high, and have created a sense of continuing crisis. However, it is important to note, that there is a difference between where most people enter into Europe and where most are rejected for entry. Although the majority of people (third country nationals—TCNs) who enter Europe do so at airports, the vast majority of the TCNs who are rejected from entry into the European area are turned back at seaports and land crossings. Thus, in 2011, of the 344,165 refusals at the border, more than 83 percent were at a land crossing. In 2012, Spain alone accounted for 63 percent of total rejections, including 78 percent of the rejections by land (at Ceuta and Melilla). As the pressure on the Spanish enclaves diminished between 2007 and 2012, rejections at other European land borders—particularly those of Poland and Greece—began to increase. In 2012, Poland rejected almost 30 thousand applicants for entry, all but a few hundred by land. Similarly, Greece rejected almost 10 thousand, also, almost all by land. For both Poland and Greece, these rejections represented increases of several hundred percent more of what they had been in 2008 (EUROSTAT, 2013).

The literature on European borders often seems to present two contradictory visions. On one hand, there is the image of an “embedded liberalism” that has left Europe without means to control its borders against the challenge of Islam. Christopher Caldwell, for example, carries the open border argument to its logical conclusion, by arguing that Europe appears to be without means to combat this rising “menace,” and without the political will to find the means.

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Europe can neither limit immigration, he writes, nor is it capable of shaping the lives of those who get past the gates. Instead, Europeans seem committed to protecting the very trends that would destroy European values, European liberties, and perhaps worse (Caldwell, 2009). On the other hand, there is a considerable academic literature that generally analyzes a movement towards a border policy in Europe that has been characterized as a new “fortress Europe” (Geddes, 2000).

The first analysis tends to focus on cultural conflicts resulting from changing population patterns, while the second focuses on the expanding instruments of member states, as well as the European Union that have been developed both to reinforce the border and to define new means for exclusion. The permeability of the European border has generally been demonstrated by the policy gap between exclusionary policies and continuing immigration. The tightening of the controls of fortress Europe, on the other hand, has been seen in the institutional developments at the EU level, generally linked to policies of exclusion, although this has been challenged by some recent research (Thielmann and El-Enany, 2009). Generally, both sides note the development of state instruments to control the border, but they disagree on the effectiveness of these instruments. Thus, we seem to have more state, but there is little agreement on either the role played or the effectiveness of the more muscular state in controlling the border.

Illegal Immigration

This leaves us with the question of undocumented or “illegal” immigration. The political question of immigration has focused increasingly on illegal immigrants in Europe, as it has in the United States, but in Europe, the question is far more complicated. Thus, there are undocumented immigrants (TCNs) within the European area who have entered illegally; those TCNs who have overstayed their visas; and those European citizens who have moved from one European country to another, under EU freedom of movement (and therefore do not require a visa), but have overstayed their right to abode under EU law. There appear to be very few of the first, somewhat more of the second, and relatively few of the third. As one scholar has emphasized, immigrants in a legal situation can fall into illegality over night. For many immigrants, the situation of illegality can be a phase of the migration cycle, before obtaining legal residency. This has been the case in numerous countries that have permitted periodic amnesties (Tapinos, 1999).

Estimating the number of undocumented migrants in any country is a formidable task, which always comes with political overtones. The task is complicated by a lack of any good way of knowing how many illegal immigrants have left the country. The difficulty is fully elaborated in the comparative report for the European Commission *Clandestino Project* (Triandafyllidou 2009). These estimates vary between 1.9 and 3.8 million for the EU 27 in 2008, relatively close to the more political figures released by governments during the past decade.

Government estimates vary with the political climate, and whether it is more politically advantageous to maximize the estimate (for instance to attract new budget allocations), or minimize the estimate (for instance, to demonstrate the effectiveness of border controls). What is striking about both the scholarly and the political estimates for illegal immigration in Europe is that they are relatively low compared with the United States, even if we consider variations by country. The estimate that illegal immigrants make up at most 0.68 percent of the population for France is considerably lower than in Britain (approximately 1.4 percent), and far lower than that of the United States where the 11–12 million undocumented immigrants, which make up roughly 3.8 percent of the population.^[1]

More generally, during the past decade the number of undocumented immigrants in Europe seems to have been declining (by at least 40 percent), both at the European level and among most of the Member States. The most notable exception is the UK, where the clearing of backlogs of asylum seekers has resulted in a sharp increase due to a change in status of the same people. In the United States, the undocumented immigrant population peaked around 2007, and has steadily diminished particularly in the wake of the economic crisis that led many undocumented workers leaving the country due to a lack of job opportunities.

However, it is not the border that is generally at issue in most parts of Europe, since it is widely conceded that the border was crossed legally in most cases (90%, according to the French Ministry of the Interior), but the ability of the state to keep track of immigrants once they are already in Europe. In the US case, the border is clearly at issue. The

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Pew Hispanic Center estimates that only 40-50 percent of those in US illegally originally entered legally through various ports of entry (and are mostly visa-overstayers) (Pew Hispanic Center, 2006).

In both Europe and the United States resources devoted to border control, as well internal control of immigrant populations have increased substantially during the past decade, but US internal efforts have tended to be more sporadic, and focused on a series of short-lived “operations.” Although European border cooperation has grown in important ways, the most effective cooperation has been among police forces that track and round up migrants after they are already in the countries of the EU. The Schengen Information System (now in its second phase) has supported EU-wide tracking and investigation in ways that are far more difficult in the US federal system because of the lack of national identity cards in the United States.

One result is that at least some European countries expel undocumented immigrants (TCNs) at rates that are far higher than those of the United States. During the first three years of the Obama administration, formal removals mounted to about 400 thousand people a year (these removals had been rising since 2006). This was about 3.6 percent of the estimated undocumented population of about 11 million. However, during this same period, the British expelled, through enforced removals, 25 thousand people a year, about 4-5 percent of its estimated undocumented population; and the French 25-32 thousand people a year, about 7.5 percent.[2] Thus, it seems that, for Europe, the control of illegal immigration is a relatively small problem. The flow and stock of illegal migrants is small, compared with the United States, and effective controls of the common frontier seem to be in place.

A New Illegal Population?

As Europe now goes through a series of electoral cycles, however, a different dimension of legal-illegal immigration is emerging. Internal migration in 2012 represents approximately 30 percent of the annual migrant movement, although this percentage has fallen slightly during the financial crisis. Nevertheless, 50 percent of the foreign residents of all EU countries in 2012 are from other EU27 countries. This percentage has grown slightly since the onset of the financial crisis, and is well above half in the larger immigration countries, such as the UK, France and Germany (EUROSTAT, 2013). With this in mind, there has been a great deal of discussion among political leaders in the winter of 2013 to limit the legality of free movement of EU citizens within the EU. In just a single week, Prime Minister David Cameron of the UK proposed sharp limits on the claims of EU residents in the UK (from “poorer countries,” while the French minister of labor (Michel Sapin) initiated a campaign against what he called “the unfair competition” of workers from countries with lower social charges—the reference was to workers from Poland, Romania and Bulgaria—taking jobs in France (Cameron, 2013; Sapin, 2013). Both statement, which gained considerable support on both the right and the left, would effectively create a group of illegal immigrants from the EU27. At least until now, these EU illegals had been limited mostly to Roma, who had moved to Western Europe from Romania and Bulgaria.

Some Parting Thoughts

This brings us back to the question posed at the beginning: Has the process of European unity diminished the ability of states within the EU to control their own borders, particularly against undocumented or illegal immigrants? The answer is probably not, if the migrants are TCNs. Indeed, the ability of Europe to control its external borders has been strengthened by increasingly dense cooperation. However, the right of citizens of the European Union to move and reside freely within other Member States, which has become increasingly established during the past decade, has certainly limited the ability of EU countries to limit unwanted, even if documented and legal, internal migrants from entering and remaining on their territory. Nevertheless, the British initiative once again demonstrates the power of member states to alter the rules of the game, and, in the process, create new criteria of illegality.

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Martin A. Schain is Professor of Politics at New York University, and author of *The Politics of Immigration in France, Britain and the United States*, 2nd edition (New York: Palgrave, 2012).

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[1] The French estimate was given by the minister of the interior in an interview in the *Figaro*, May 11, 2005, and has been repeated from time to time since; the British figures were quoted by Professor John Salt in *The Sunday Times* as estimates that he did for the Home Office, on April 17, 2005; these figures have been confirmed by *Clandestino* reports (Triandafyllidou, 2009). The American figure is from the most recent Pew reports. (Pew, 2013) In general, the comparison among France, Britain, and the United States—if not the exact figures—is confirmed in a massive report by the French Senate in April 2006 (Sénat 2006). In particular, see the testimony of François Héran in Volume II, and cited on p. 47 of Volume I. He also cites the United State as one of the countries where the informal labor market is most important. The data cited by the report (Vol. I, p. 47), indicates that no country in Europe has a lower rate of irregular immigration than France.

[2] These percentages are based on the estimates of undocumented immigrants made in the *Clandestino* reports (Triandafyllidou, 2009), and the removal and expulsion reports published by the US Department of Homeland Security, the U.K. Home Office and the French Ministry of the Interior.

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