Human Rights and State Security: The Conflicting Features of International Migration

https://www.e-ir.info/2012/09/19/human-rights-and-state-security-the-conflicting-features-of-international-migration/

JALIL ABDALLAH, SEP 19 2012

The tragic sinking of a boat off the coast of Izmir, Turkey that killed dozens of irregular migrants has yet again brought to the forefront the issue of two conflicting features of international migration. Human rights are implicated in the reasons why migrants leave their countries. They are the main features of inhuman and degrading treatments migrants face in their countries of transit as well as destinations and upon return (Taran 2000, 85; Grant 2005, 4; Zard 2005, 1). Moreover, states, in their quest to protect their people and sovereign borders, infringe upon the rights of irregular migrants; which in turn leads them to fall in the hands of unscrupulous human traffickers/smugglers.

The incident mentioned above was partly due to irregular migrants' quest for alternate routes away from the main 'traditional' routes across the border-river of Evros between Greece and Turkey. The move away from this 'traditional' route was a result of the continuous securitization and militarization of the Greek-Turkish border in recent times. These vulnerable migrants fleeing mainly from Syria and other Middle Eastern and Asian countries have turned to the west coast of Turkey as the route by which to enter Europe to seek international protection.

As this is the case, Greece is building a 12.5 kilometres long and 4 metreshigh anti-migrant wall topped with razor wire across the land border between Greece and Turkey (Papoutsis 2012). This estimated €5.5 million anti-migrant wall is expected to be completed this September (Nielson 2012). In addition, construction of a Border Surveillance Operational Center with thermal cameras funded by the EU has been operational in the region of the Evros River since February 2012 (Papoutsis 2012). Greek Public Order Minister, Nikos Dendias, according to a Today's Zaman article from July 30th said that Greece will add 1,800 guards to the 600 guards already at its northern border with Turkey. The largest part of the border area between the two countries stretches along the Evros River; which serves as the main entry point for irregular migrants from the Middle East, Asia and Africa. In order to further block the entry of irregular migrants, Nikos Dendias went further to add that "26 floating barriers" are being put in place along the Evros River (Today's Zaman 2012). This according to him is to "seal the river so that Greece is no longer used as an 'open gate.'"

In agreement with Nikos Dendias' statement, the Turkish Prime Minister (PM) – Recep Tayyip Erdoğan at a joint news conference in Ankara with the Greek PM last year said: "This is not a measure taken against Turkey or Greece." He added that: "It's wrong to see this as a wall, it's just a barrier. We fully trust each other on this (Today's Zaman 2011)." These above-mentioned developments are representative of states placing a greater priority on state security issues rather than human rights or human security of irregular migrants. These actions infringe upon irregular migrants' human rights.

Human rights organizations, support groups and individuals have spoken vehemently against the building of this wall and forewarned of the dangers ahead. On 7th February 2011, the office of the United Nations High Commissioner for Refugees (UNHCR 2011), cautioned at a press briefing that:

Building fences rarely solves the underlying problem of migratory pressures, including those of persons seeking protection. As with other measures which indiscriminately block arrivals, there is a risk that those seeking asylum will resort to even riskier routes to safety – a reason why large numbers of asylum-seekers today find themselves in the

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hands of people-smuggling rings.

Giacomo Santini – Chair of the Immigration Committee at the Parliamentary Assembly of the Council of Europe (PACE), on 10th February 2012 reiterated that the wall: "will not solve anything at all. People attempting to reach Europe will look for alternative routes. We have already seen this in the Mediterranean region: when obstacles are increased, migration routes shift. Migratory flows now go through Turkey" (Council of Europe 2012). Furthermore, in his 7 February 2012 *Eu Observer* article "Greeks build fence to ward off asylum seekers," Nikolaj Nielson quoted the head of the European Council on Refugees and Exiles (ECRC) as saying that: "It would be a tragedy if this actually worked as it would prevent refugees from seeking protection and this would constitute a violation of their human rights." Obviously, the above-mentioned boat incident near Izmir was a tragedy that is in keeping with the concerns expressed by critics of the fence between Greece and Turkey. Dozens of irregular migrants lost their lives in the hands of unscrupulous human traffickers who took advantage of their vulnerability.

Now, how can this conflicting issue be resolved? We have witnessed over the decades that there has been a shift away from the traditional concept of state security towards people-centered security after the Cold War and the fall of the Berlin Wall. Thus, promoting and protecting the security or respecting the human rights of any person is paramount to the central tenets of the Universal Declaration of Human Rights (UDHR), which is a peremptory international law. In other words, the UDHR is so fundamental that no nation may ignore or derogate from it. Furthermore, in spite of the fact that states have the rights and obligation to secure their borders as to who enters, who stays and for how long; and who exits under international law, states are also obliged to protect the rights of everyone under their jurisdiction (Hammarberg 2009, 96; Koser 2005, 10; Martin 2005, 6-7). In view of that, the exercise of a state's rights should not be compromised with migrants' rights. The UNHCR highlighted that: "while every state has the right to control its borders, it is clear that among the many people crossing Turkey toward the European Union, there are a significant number who are fleeing violence and persecution." These vulnerable ones who are fleeing violence and persecution have the right under international law to be protected. They should not be restricted, refouled, nor sent back to where they are coming from, so as to protect their human security.

In conclusion, in his message on the 2011 International Day for Migrants, the UN Secretary General – Ban Ki-Moon – reiterated this concern that: "States have the sovereign prerogative to manage their borders. But they also have the duty to abide by their international legal obligations. Under international human rights law, all persons, without discrimination and regardless of nationality or legal status, are entitled to enjoy fundamental human rights." We should therefore address migration related issues through the lens of human rights and not through the lens of state security such as militarization of borders. Respecting the rights of irregular migrants at and within borders will not in any way undermine state security, but will enhance it instead. By pursuing this course of action, states will be able to identify and sort out forced-migrants from voluntary migrants, refugees, asylum seekers and victims of human trafficking or smuggling and be able to keep records of those migrants which are major inadequacies of irregular migration related today.

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Jalil Abdallah *holds a M.A. in International relations from Zirve University, Turkey and a diploma in Arabic and Diplomacy from Ain Shams University, Cairo. His area of emphasis is in Child Labour, Forced Labour, Migration and Human Trafficking related issues.*

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