

BEYOND BORDERS: MIGRATION AND (IN)EQUALITY IN CENTRAL EUROPE IN COMPARISON

Conference Proceeds: Selected Papers

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INTRODUCTION: MIGRATION TO THE CENTER PROJECT OPENS EUROPE *BEYOND BORDERS*

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The presented papers are a collection of conference contributions. The conference titled Beyond Borders: Migration and (In)Equality in Central Europe in Comparison was both the major and closing event of an 18-month international project Migration to the Center funded by the EU program Europe for Citizens, the International Visegrad Fund, and the Ministry of Foreign Affairs of the Czech Republic. The project examined how the EU Community *acquis* and other instruments impact migration and integration policies, practices, and lives of migrants in Central Europe and beyond. The participatory countries were represented by the following institutions: The Center for Independent Journalism (Hungary), the Institute of Public Affairs (Poland), the Peace Institute (Slovenia), the Human Rights League (Slovakia), and People in Need and the Multicultural Center (Czech Republic), the latter serving as the project coordinator. The project aimed to create an active network of Central European partners and their counterparts from the rest of Europe focused on migration and integration while drawing the attention of policy makers, experts, and the public to the common and country-specific challenges and successes in the implementation of migration legislation across the region. Its objective was to contribute to the cultivation of the migration-related issues debate and create conditions for inclusion of

migrants into the policy-making process. The project covered the following themes considered crucial by the participating countries in the migration and integration process: (a) work and residence permit, (b) family reunification, and (c) study and training in the EU. The themes were explored by each of the project partners via two expert analysis articles, five migrant outputs related to the theme (in a variety of forms ranging from a recorded interview to photo stories, poetry, and short articles), and a national public debate in each country that was recorded and provided with English subtitles. These outcomes have been publicized on the project's web pages www.migrationtothecentre.migraceonline.cz.¹

While the three areas were the basis for the conference theme formation, the objective of the conference was to expand beyond these core topics and bring together research presenting the impact of migration, and migration policy and law application in specific geographical locations and spheres of life. The panelists who ultimately came together at FHS UK shared remarkable success in presenting a selection of case studies representative of the currently most pressing issues in the area of EU migration. These included – the complex relationship between the migrants and employment agencies, both health care related migration and health care access by migrants, defining migrants' human rights in the face of heightened state security control, and migrants' sentiment of social equality and cultural belonging not only to the host society but also to their home community. Also the themes of the right to asylum, free mobility, and the principle of non-discrimination within the EU were explored. The following section offers a comprehensive overview of the selected contributions.

Plan of the Collection

The first two contributions form an important addition to migrant labor studies. In specific ways, the authors explored the dynamic relation between work/employment agencies, migrants, and the character of the EU labor force. **Rutvica Andrijasevic and Devi Sacchetto's** article "Migrant Labor and Temporary Work Agencies: The Case of Foxconn in the Czech Republic" explores the role of the Temporary Employment Agencies (TWAs) in shaping the current work force in supranational plants, namely the electronics producer Foxconn factories situated in Pardubice, Kutná Hora, and Prague. Based on

¹ The MKC web portal's English section includes also video recordings of all conference contributions at: migrationonline.cz/en/e-library?q=Beyond+Borders.

a three-month ethnographic work among the temp workers, the study sheds light on the TWAs' growing impact on both workers' private and professional life and on the current re-formation of cross-border employment and workforce mobility in the EU that goes hand in hand with re-defining the current relationship between the EU national states, transnational firms, and workers. Today temp agency workers present 40%–60% of the entire Foxconn workforce and the authors expect the number only to grow as the market in electronics fluctuates, which contributes to a 25%–30% annual turnover of the core workers leaving job vacancies to be filled. The range of TWAs' activities encompasses all the stages of the labor migration process – from recruitment of the workers in their home countries (Slovakia, Poland, Romania, and Bulgaria) to overseeing their selection, based on penal and medical records as well as work-specific intellectual testing. TWAs are also in charge of the workers' transportation and living arrangements that entail assigning people to different quality dormitories.

By implication of exacting rules and regulations in the dorms (no children permitted, restricted visitation, lack of privacy, and isolation from the outside society) and exercising supreme power over the employment (the workers are employed by the TWA, not by Foxconn), the TWAs play an increasingly determining role both in the agency workers' life experience and in changing the EU production character. The separation of temp agency workers from the outside society is reproduced inside the plants where they are mainly distributed to assembly lines and excluded from the possibility of promotion. Unlike the core workers, they are paid only when working and 2.5 EUR per hour in comparison to 3.5 EUR earned by core workers. The TWAs' coordinators work closely with Foxconn leadership and attend to their needs by customized distribution, re-distribution or withdrawal of their workers. The authors conclude that this expansion of TWAs' responsibilities and privileges fundamentally blurs and redefines the traditional boundaries which placed the managerial responsibilities strictly within the supranational firms (who abide by national regulations) and only the legal matters within the work agencies, thus leaving an ever growing space for TWAs' radius of experience.

Petra Ezzeddine's ethnography “Who Cares? (Ageing, Care, and Migration)”² examines commoditization of carework for Czech senior citizens in the context of gender, migration, and ethnicity while also focusing on the mediating role of employment agencies that sell foreign female labor (carework) to Czech

² Ezzeddine's text is included in the “Articles” section of this volume.

families (employers). She opens up with a brief history of the social context of hiring foreign labor for carework asserting that the Czech society is in the process of social system transformation and is largely perceived as incapable of providing quality institutional care for its senior citizens. Ezzeddine's data analysis first focuses on the exploration of the gendered nature of family care in general. While the post-revolution migration wave from Ukraine was dominated by men, today women make up 42% of the Ukrainian migrants becoming (together with males) the largest group of transnational parents in the Czech Republic, often leaving their own children behind. The fact that it is females in the Czech families who are primarily burdened with the full responsibility of managing care for children and elderly motivates the hiring of female workers when caretaking comes to be beyond the Czechs' physical, emotional, and professional capability. While Czech caretakers may be preferred, Ukrainian workers are more affordable.

The Czech female employers are divided along the economic line in terms of the type of care they buy (the out-of-home care being typically afforded by middle class and the less common in-home care by upper class families) and in terms of the sentiments they display (guilt and dilemma being expressed by the middle-class women as opposed to pride for providing the best standard of care for family expressed by the upper-class women). The Ukrainian ethnicity is preferred over non-European careworkers (i.e., Filipino) as seniors tend to be conservative in having to deal with physical and linguistic otherness. Despite the ethnic familiarity, some of the Czech clients abuse the perceived inferiority of Ukrainians by placing blame on them for mishaps in the domestic environment (i.e., accusation of stealing money, etc.). The last section of Ezzeddine's paper problematizes the migrant and economic status of carework in the Czech Republic. The agencies advertise Ukrainian female services as domestic rather than professional work due to the existing protection of the Czech labor market by requiring locally verified/nostrified professional certification. This creates a social paradox where professionalism and specialized qualifications of the workers (who often possess specialized, but foreign and hard to nostrif degrees) is the foundation of the agencies' success in selling the female labor to Czech employers while the work is compensated only as domestic, unskilled labor. At the same time, the author observes, this de-qualification is in some cases turned by the careworkers into empowerment by perceiving it as a stepping stone to a future medical career despite the fact that the current position involves domestic chores. The second area in which the author views the carework status

problematic is the fluidity and volatility of work and private life boundaries. While giving the careworkers the advantage of reducing living expenses, living with the client may lead to abuse of (often vaguely) defined expectation of work hours and extension of personal emotions to the elderly on the spur of employer's need. Ezzeddine stresses that, despite the hegemonic power relations, the Ukrainian migrants tend to “stick out” the work conditions as their legal residency is preconditioned by a valid employment contract exacerbating their economic and social dependence on both the employment agency and the employer's family fondness.

The theme of health care connects the second set of contributions by Ślęzak and Pěničková depicting migrant experience on the two sides of health – on one hand Polish medical personnel migrating to give health care under more favorable circumstances and on the other non-EU nationals struggling to receive it as migrants in the Czech Republic.

Ewa Ślęzak's study “The Polish Medical Migrants in the United Kingdom”³ explores the nature and socio-psychological effects induced by Polish doctors' and nurses' temp, circular, and permanent (e)migration to British cities such as Plymouth, London, and Glasgow in the period of 2004–2011. The study is divided into three sections. The first part describes the interviewing process and offers a characterization of the participants. Ślęzak suggests that, while the medical personnel vary in type of migration, they display a certain set of strategic planning patterns and socio-cultural commonalities. These include gendered professional segregation (males being doctors and females working typically as nurses and anesthetists; males being the leaders in migration-related decisions, etc.), yearning to maximize professional resources and human capital and being highly skilled in mapping and organizing their work around regular and prolonged visits of families. As the common goal tends to be a complete exhaustion of favorable work conditions, any long-term planning is rare.

In the second section Ślęzak offers a comprehensive overview of existing social theories and their applicability to the process of medical migration. While the classical Wallerstein's world system theory cannot apply, both the neoclassical macro and micro-theories are deemed (partly) relevant. As the medical profession requires active participation in (inter)national professional networks, which greatly enhance successful job, housing, and schooling search, the author illuminates the value of the network and institutional theories (Massey, Arango,

³ Ślęzak's text is included in the “Articles” section of this volume.

etc.), as well as the theory of multidimensional framework (Greco), in which the migration process is regarded as a system of stabilized networks linking two or more countries by the exchange of migrants. The exchange is then explained as an effect of interaction between these countries' macrostructures (i.e., EU migration laws), mezzo-structures (i.e., medical staff networking), and microstructures (i.e., kinship patterns, community ties, etc., affecting the decision-making process).

The third part of the study analyzes the socio-cultural and psychological factors that impact a sense of belonging and integration into both the domestic and hosting society. Ślęzak points out that, while medical migrants enjoy a relatively high economic status, they experience social and cultural marginalization on multiple levels (inability to vote, failure to create a cohort of doctors including the Brits that would interact outside work, etc.). The inability to integrate in the out-of-work social world emerges from the collected testimonies as a particularly strong theme. While some of the migrant doctors identify migration as a source of bonding, they admit this bonding to be primarily with other Polish medical personnel. In addition the temp and circular migrants who often live in the UK without their families seem to experience a double-edged marginalization when both their life in the UK and in Poland is marked by temporality and limited social powers due to continuous transition from one society to the other. The other phenomenon explored under the theme of belonging and integration is the transnational character of the migrants' families. As family members are scattered across multiple countries, the time needed for socialization and upbringing of children by (both) parents becomes severely limited (children being turned into so called Euro-orphans). The absenting emotional support often resulting in parent-child alienation is compensated by material goods and/or by intensive virtual communication. At the same time some of the interviewed migrant parents expressed anxiety about their children's loss of national and cultural identity when the children came to live with them in the UK. Ślęzak concludes that this resistance to assimilation in conjunction with the attempts to integrate into the receiving society on predominantly Polish terms, while utilizing the advantages of transnational employment, in fact, characterizes the overall adaptation processes among the Polish medical personnel.

Daniela Pěničková's contribution "Political Economy of Migrant Health Care in the Czech Republic" explores the historical development of and resistance to change the current legal access to the Czech public health care system by non-EU nationals with long-term residency in the Czech Republic. She opens

her article by stressing that the last two decades have witnessed fundamental changes in health insurance systems worldwide. While nations of Western Europe have come to face unprecedented challenges to their historic traditions of social insurances combined with the private sector, the Central and Eastern European nations have largely followed the suit of adopting private-sector reforms to their formerly socialist health-care systems while retaining the principle of national health care. However, Pěničková claims that the overall trend of change can be characterized by an increasing push for conversion of health into a privately purchased commodity. In the Czech Republic this effort is most vividly demonstrated in the state policies towards migrants from non-EU countries. While general public health insurance is available to all EU citizens and migrants with permanent residency, other migrants from non-EU countries who do not have an “employee status” and who typically work in low-paid, high-risk jobs, or who are students not covered by international agreements, are excluded from participation in the Czech national public-health care (the total estimated number is about 100,000 migrants). They are obliged to purchase commercial health insurance that is often beyond their financial means and due to inability to pay for “extras” it severely limits the extent of their health-care coverage creating an ever-growing pool of uninsurable and underinsured migrants. Drawing on ethnographic testimonies carried out among Russian-speaking migrant families living in the Czech Republic, this paper opens a crucial debate on the role of ethnographic/qualitative research in revealing how the notion of individual responsibility for health has become enmeshed with privatization and commodification of health care. Paying special attention to the life experiences of migrant mothers whose families are burdened with high-cost low-effect commercial health insurance of their children, Pěničková’s contribution highlights the efficiency of anthropological analysis as a tool in paying critical attention to how the notion of health as a fundamental right is asserted, contested, and co-opted and how states and various interest groups within them have coded the notion of restricted health care as a “personal choice” rather than a means of political and racial repression and exclusion.

The following two analyses by Doornik and Gabrielli share the pressing issue of increasing internal division and external separation of EU society by newly defined social and physical borders. While the first account lays out the intriguing history of Dutch formation of the national categorization system through which the society came to be divided along the autochtoon/allochtoon lines, the second contribution focuses on externalization of the EU borders

through the processes of securitization and militarization of the European-African borderland.

In “Beyond Dutch Borders: A Nation in Times of Europeanization,” **Jeroen Doomernik**⁴ points out that the Dutch nation could survive the significant religious, political, and ethnic pluralism of the 20th century only thanks to the consociational democracy. One of the prerequisites for the peaceful coexistence of self-contained denominations, parties, and ethnic communities (formed by post-colonial Indonesian and Surinamese “repatriates” and Mediterranean “guest workers”) was the relatively equal access to state resources. While the perceived significance of belonging to a certain social pillar came to an end with the ascent of individualism in the 1970s, the past decade brought a new wave of “othering” and rhetoric of “imported social deviation” especially in relation to the second and third generation of Muslim migrants. Doomernik analyzes this process in relation to the conscious action by Dutch neoliberal political entrepreneurs abusing the historical system of categorization adopted by past governments to mark migrants eligible for governmental assistance programs. Central in Doomernik’s arguments is the socio-political distinction between those who are included and those who are excluded by immigration policies – a social phenomenon reflected in the *allochtoon v. autochtoon* concept.

The 1980s’ generous funding by the state brought along governmental interest in monitoring the long-term effect of the funded programs. Descent thus became a statistical marker dividing the population into the *allochtoon v. autochtoon* groups. The *allochthonous* people are currently defined as residents who are born abroad and have at least one foreign-born parent or born in the Netherlands and have at least one foreign-born parent. By default, those who are not in this category are *autochthonous*. Doomernik stresses that the category *allochthonous* is largely imprecise, inflated, and consequentially negated. For instance under the “Surinamese” label, the government lists all heterogeneous people with a variety of African, American, Dutch, and Asian roots. Non-Western (third-country) *allochtoons* (as opposed to Western EU *allochtoons*) are often regarded as a category also including their children (despite the fact they were born in the Netherlands), which doubles the official figure to 2 million people. Citing Jacobs and Rea, the author brings forward evidence that the term *allochtoon* has been gradually bestowed with a connotation

4 Doomernik’s text is included in the “Articles” section of this volume.

of the non-White, non-European, and Other. In addition, the term has been increasingly used as an exclusive label for the Turkish and Moroccan immigrants and their children.

This public discourse has been largely perpetuated by the recently emerged populist parties, such as the former party of Pim Fortuyn (LPF) and their current followers (VVD, PVV) who have built their success on the fact that their anti-Islam agenda strongly resonates with a considerable part of the current electorate. The politicians intimately link Islam as an assumed threat to modern society to the term *allochtoon*, which they further associate with a sort of primordial proclivity to crime, backwardness, and “street terrorism.” The author asserts that the pressure parties like PVV exert on the government has contributed to the recently set goals in immigration policies, such as the complete ban on burka wearing, turning illegal residence into a crime or offense, or cutting third-country nationals’ migration by half. In his conclusion, Doomernik contextualizes the situation in the Netherlands within the larger state of European immigration policies. While the European Commission proclaims Europe an area of justice, freedom, and security, with free mobility inside, the unification necessitates a synchronized position toward the rest of the world. In reality progressive integration policies are rare, and the main EU joint effort focuses on restrictions, external border enforcement, and defining those outside the EU area as potential suspects and trespassers. Doomernik offers a view that the reason why the process of “othering” is currently gaining so much momentum might be paradoxically the disappearance of visible internal territorial borders (and hence national sovereignty) in conjunction with economic insecurity and the weakening of the welfare state.

The external border enforcement, its historical development and impact are explored in **Lorenzo Gabrielli’s** contribution “Securization of Migration and Human Rights: Frictions at the Southern EU Borders and Beyond.” His article that exemplifies Doomernik’s theoretical points made in the previous text’s conclusion, examines the recent securitization of migration in the context of the Euro-African border. Gabrielli investigates the interactions between migration flows and the development of external European migration policies in Northern Africa and the barriers they present for application of human rights, specifically the right of political asylum. He states that, while the view of immigration as a trans-border security issue was reinforced with the 9/11 events, the genesis of this phenomena has deeper roots going all the way to the 1970s and 1980s when the EU Western member states’ officials began to

engage in transnational discourse linking immigration to state security, paralleling migration to transnational criminality and terrorism. The discourse became formalized and incorporated first in the regulations of the Schengen Area (1990) and then into the EU *acquis* via documents such as the Amsterdam Treaty of 1999. The author divides the process of migration securitization into two areas. The first involves production and militarization of the new common “external border” that protects and separates the EU member states from the third country nationals. While the control of the external border used to be an exclusive competence of the individual states it is now turned into a common EU policy and large funds (i.e., External Borders Funds) are allocated for its military control (via programs such as the European Border Surveillance System building). Gabrielli emphasizes that, despite major negative consequences of the military reinforcement of border control (e.g., increasing rates of human trafficking and fatalities, etc.), securitization of migration remains the only official approach. This, he claims, is due to the self-reinforcing rhetorical dynamic that sustains the high level of perceived security risk caused by third-country nationals. As a consequence, the external border is becoming a theatrical spot where the EU governments focus the representation of the state control.

The second area of securitization of migration plays out in the form of delegation of migration control into the so-called transit spaces and countries on the African continent, creating a variety of buffer zones displacing the southern European border further south (i.e., police assistance and technical support to reinforce the borders of Northern African countries and creation of agreements controlling migrant mobility by, for example, seasonal migration quotas). In the last part the author sums up the three main areas of impact of securitization of migration on human rights. They include an intensified push for illegal border crossing, shift of migratory paths to areas marked by harsh topographical and climatic conditions, and the inability of applying for political asylum because the exile seekers have a hard time leaving the African continent and cannot apply for refugee status unless on European soil.

The last two pieces of the paper selection offer an important insight into the ambivalence and inconsistency in applying migrant rights. In fact, Hrnčárová’s account of failure to grant asylum seekers free mobility and security, exemplifies the impact of expending social security and militarization of the EU borders explored by Gabrielli. Scheu’s paper then explores the specific case of the non-discrimination principle in migration law and the ambivalent implications of its changing bases.

Nataša Hrnčárová's contribution "Violating the Right to Liberty and Security in the Assessment of Claims for Asylum" examines the contemporary politics surrounding detention of undocumented asylum seekers from countries outside the European Union. It first offers an overview of legally recognized conditions that make a claim for protection under the EU's Asylum Acquis plausible. The author gives detailed definitions of such conditions which center around two situations – "fear of prosecution" and "the risk of suffering serious harm" in the country the seeker is fleeing. The stipulations for asylum seekers' protection are defined by two primary legal documents: The 1951 Geneva Convention and the 1950 Convention for the Protection of Human Rights. The thesis that the paper builds on asserts that the times when the conventions were drafted and came into effect were radically different from the present situation in terms of the level of difficulty to obtain refugee status. While the legal validity and instrumentality of the documents has not changed, the EU member states are increasingly reluctant to grant asylum to people coming from the so-called third countries. Hrnčárová's text makes a comprehensive summary of the most controversial practices debated and contested in regard to the process of assessing applications for asylum.

She underlines that in principle no refugee who has entered an EU state without a valid permit or even under potentially suspicious circumstances should suffer any administrative sanctions and restrictions of freedom of movement should be applied only under exceptional circumstances. However, the legal cases she lists show that it is not infrequent that applicants are detained and deprived of basic human rights, specifically their right to liberty and security, while waiting for their situation to be resolved. By these giving specific examples, her paper points out the variability in interpretation of the purpose for detention across the EU states and courts, as well as the challenge of synchronizing the convention's stipulations of protection with the states' domestic law. The court cases reveal the frequent failure to inform the detainees of their rights, including their right to access the judge and to obtain information about their situation's development. Often it is not seen to it that the principle of keeping the time of detention to the shortest period possible is observed. A special section of Hrnčárová's contribution is dedicated to children who are either threatened to become victims of detention or suffer from separation upon the detention of their immediate relatives. The examination of the efficacy in applying the non-arbitrary character in detention and the necessity to distinguish between an asylum seeker and an irregular migrant bring the list of the most pressing issues

in the recent processes of asylum-granting to a close. Hrnčárová concludes that, if the current tendency to tighten the EU external borders continues, the number of unlawful, questionable, and unnecessarily prolonged detentions of undocumented migrants can be only expected to escalate.

Harald Scheu's paper "The Status of Citizens and Migrants in Light of the Non-Discrimination Principle" illustrates on the example of the *non-discrimination principle* that migration presents one of the most complex human rights issues in our time. The non-discrimination principle then directly impacts the standards of European migration law. In 2009, the United Nations' Committee on Economic, Social and Cultural Rights confirmed non-discrimination and equality to be two fundamental components of the international human rights law applying to everyone including refugees, asylum seekers, stateless persons, migrant workers, victims of trafficking, and other non-nationals regardless of their legal status. However, the author points out that the application of the principle in the legal framework of the EU is even more complex than in the arena of traditional international human rights law. He asserts that this is due to the two generations of anti-discrimination standards. While the first generation was based on economic considerations (fundamental market freedoms) and pragmatic considerations of reciprocity among the EU member states, the second generation of non-discrimination rules is rooted in human rights law. The intergenerational dividing lines are the Maastricht Treaty of 1993 and the Amsterdam Treaty of 1997.

Scheu's account offers a depiction of the shift between the two generations and its impact on the rights of migrants in the EU. For one, the EU law has changed the dichotomy of citizens and foreigners in favor of Union citizens and since 1993 it expanded the privilege of free movement from economically active citizens (workers, businessmen) to students, retirees, and unemployed EU members. Furthermore, while national citizenship still yields some privileges (i.e., certain job positions, voting rights in national elections) the legal status of Union citizens has been approximated to it. He points out that the Amsterdam Treaty widened the prohibition of discrimination on grounds of nationality to all human beings, including third-country nationals. At the same time problems with applying the principle remain. While the Committee on the Elimination of Racial Discrimination's General Comment No. 30 calls for avoiding the expulsion of non-citizens and granting equal rights to citizens and non-citizens in the areas of education, housing, work, and health (based on the Directive 2000/43/EC), it admits that EU states may refuse to offer jobs to non-citizens

without a work permit, which, however, presents a precondition to the migrants' right to residency in the EU. Concluding with a case study in which the Belgian Center for Equal Opportunities and Opposition to Racism brought proceedings against the Feryn Company due to their refusal to employ Moroccan workers, the author points that conceptual consideration of the second generation of the human rights based on non-discrimination principle leaves out a large space for privileging Union citizens in practice.

The presented paper selection addresses the key areas of migration in Central Europe and the larger EU region. It reflects the most pressing issues generated by the process of economic and political migration while disclosing the roles and responsibilities of the most influential agents – the extending powers of employments agencies, discriminatory private employers (Foxconn, Czech families, Belgium Feryn Company, etc.), divisive state policies (the Dutch *allochtoon v. autochtoon*), and EU member states' laws excluding migrants from national health care or violating international human rights to free mobility and security. Transcending the territorial boundaries of states these issues instill a deeper understanding of how global, national, and supranational factors converge on the lives of migrants in particular local contexts. In this sense the papers contribute to the body of political economy and global studies research and literature and call upon the expansion of cross-national human solidarity.