

EDITORIAL

IMMIGRATION AND HUMAN RIGHTS

SALVO ANDÒ

The problem of illegal immigration in European countries is no longer an emergency which only concerns governments, but also an issue of widespread social concern. Until now, Europe has not managed to express a strong common policy capable of addressing this phenomenon at its roots. At the basis of this migratory phenomenon lies the ever-broadening gap in levels of development and consequently in standards of living between the North and the South of the world. We are talking about distortions in development which should be addressed at a political level by summoning world leaders to confront the “new invasions” produced by hunger and sickness, by the forgotten wars which disrupt large regions of our planet and by the exploitation by some humans of others, who become the object of new forms of slavery.

The Mediterranean is too small a sea to constitute an impassable barrier to those who escape from their country of origin to look for opportunities to live an acceptable life. The Mediterranean is a small sea on different shores of which are to be found some of the most developed and democratic countries of the world as well as some of the poorest and most dictatorial ones. It is this contradiction that makes the Mediterranean the epicentre of new migrations of biblical proportions, which no state political or military force is capable of halting.

It is a mistake to think of blocking the flow of migrants through police instruments which render the sea impassable to illegal

migrants and which render the countries they manage to reach inaccessible if and when they step on the "coastline of hope". Those who flee to avoid death and other offences against human dignity will certainly not be stopped either by an army in full battle array or by forms of repression of clandestine entry which can be hard to the point of brutality.

Either one promotes peace and stability in the territories from which migrants have fled or the exodus will never come to an end. And together with this exodus we will witness an increase in the forms of exploitation that so many traffickers in human beings impose on the miserable families which organise themselves to escape. If the reasons for this exodus are political, then the solution to prevent it must also be political in nature.

However there are also other causes that reduce the credibility of a solution based purely on police-work. Clandestine migrants do not suddenly materialise out of thin air on the coasts of Malta, Italy and Spain. There certainly exists a harbour from which they depart and these unfortunate people undertake a fairly lengthy journey from their countries of origin to those in which they disembark. It is not possible to believe that such a massive flow of people can easily escape the control of governments. If they cannot evade governmental controls during their journeys, these migrants certainly cannot evade the controls which receiving countries could put into effect through the use of their intelligence and diplomatic machinery. It is not possible to believe that there exist merchants of death, the so-called "boatmen" who transport clandestine immigrants and who escape from all controls and are not known to the national police or to anyone else, while they recruit migrants in the broad daylight! Nor is it possible to believe that this trade in immigrants takes place in ways that are impenetrable to modern instruments of intelligence. It is clear therefore that there are "legal rings" that permit the formation of a chain of complicity through which clandestine immigrants arrive on European shores.

What confounds us is the inability shown by important states, which are endowed with sophisticated police and intelligence apparatuses, to understand what lies behind this traffic in migrants. Inter-state collaboration in this area might well produce surprising results and in any case a serious investigation should not make it difficult to prevent clandestine migrants from embarking. So much impotence on the part of European states is suspect. It might well

disguise the complicity of the governments of the sending countries as well as the heavy complicity of organisations which are not necessarily of a criminal nature and located in countries on the Northern shores of the Mediterranean that are interested in using low-cost workers who can easily be blackmailed, given that clandestine immigrants can only work in the black economy. All in all, it is clearly not only in the Southern Mediterranean countries that people pretend not to know or to see.

Instead of confronting this phenomenon at its roots by investigating the organisational machinery of the great exodus, European states prefer to lay down sanctions for those who organise illegal migration if captured in Europe and to punish the victims of this trade by means of the sanction of expulsion. However, in this way, the victims of the migrant trade are punished twice over: they are punished by the exploitation of the traffickers who organise the racket of clandestine immigration and they are punished by the various European authorities who limit themselves to verifying the irregularity of entry into their countries without seriously examining whether these immigrants satisfy the requirements for the granting of refugee status. It is certainly easier to see the clandestine immigrant as a potential criminal rather than as an individual who flees his country of origin to acquire his liberty. But it is important to know how to make such distinctions in this field even if this is not always convenient. After all, it is very possible that those who flee from poverty and disease are also escaping from environments in which they would be persecuted on the basis of their political opinions, their ethnic origin or their religious beliefs. Poverty, under-development and discriminatory policies may often co-exist in the same society.

Consequently it is important not to stop at the assessment of the existence of political or racial discrimination in order to establish whether an asylum claim is valid, but to explore whether the various emergencies that influence the decision to flee are objectively linked to one another. There is a clear connection between intolerance and under-development. Denying this connection means denying an asylum policy that is clearly envisaged in the Constitutions of various European states. These are the reasons for which Italy, for example, is no longer a country that produces emigrants, although it has been the country of origin of so many emigrants who have been hosted in the most diverse regions of the world. Thus, it is clear that the

requisites for granting asylum should not be assessed solely through a repressive and restrictive approach.

The same argument holds for reception policies. The best possible effort should be made to stop the masses of clandestine immigrants from leaving, but once they reach European countries, which are among the most developed and democratic in the world, it is not acceptable that they should be consigned to what are really and truly concentration camps.¹ It is even less acceptable that they should be placed on trial by attributing responsibilities to them that belong exclusively to the organizers of the illegal trade in human beings, who are never to be found. The organisers of this exodus are not to be found on the boats, which are often entrusted to these same clandestine immigrants who navigate by sight and have no maritime experience, with all the dramatic consequences that this implies. To prosecute a presumed "pilot" or "boatman" means to prosecute one or more clandestine immigrants, who have not organised anything but have had the boat entrusted to them by the ringleaders of the racket. Even if the individuals prosecuted were involved in the criminal organisation, would increased prison sentences be sufficient to stop this trafficking?

The answer is clearly no. Prohibitions alone are not sufficient. These raise the threshold of risk for the traffickers, who must be compensated for this added "danger" by the victims who entrust themselves to them. If the trade in human beings were to be stopped solely through the punishments imposed by the judges, it is inevitable that human rights would themselves acquire an exchange value. The more costly the violation of rights at the level of risk, the more profitable must human trafficking be. The final effects of the punishment would thus be felt more by the victims than by those responsible for the racket. While one would not want to go so far as

¹ The European Court of Human Rights through certain recent leading decisions has highlighted the violations of human rights carried out by states that are "threatened" by illegal immigration. The court has focused on the procedures for granting political asylum, particularly the over-speedy systems adopted by states like Italy to deny the right to asylum. It has also focused on the inhumane conditions of the reception centres for immigrants, as well as the lack of collaboration and reticence of national authorities in revealing the true number of individuals hosted in these centres and in permitting access to inspectors to assess the living conditions in these centres.

to say that it is impossible to prosecute offences of human trafficking, it is clear that a criminal trial requires a defendant with a clear personal identity. One cannot prosecute a citizen without an identity. Yet many clandestine immigrants declare false identities and avoid disclosing their countries of origin so as to make their repatriation impossible. In any case, it is unjust to repatriate individuals who cannot return to their countries of origin because they would be subject to violations of all types committed by their own public authorities. The international conventions that bind European countries in the field of human rights oblige these countries not only to avoid violating human rights, but also to do everything in their power to prevent the commission of such violations in other countries.

The need to prevent more than to repress the trafficking of human beings is further confirmed by the organisational anomalies that this trafficking implies, particularly that relating to the coverage of the travel costs of the clandestine migrants. Who pays and who travels? One fact is clear. If the cost of a passage from the African to the European coasts ranges from 1,500 to 2,000 dollars, it is difficult to believe that an average Ethiopian or Eritrean family can dispose of 6,000-8,000 dollars for the journey. This represents an "impossible" sum. Someone pays and we are talking about people, organisations, that operate either at the points of departure or arrival. Here too it should not prove impossible to trace the flows of money nourished by the traffic of human beings. And what is the interest of those who pay? Is it a political or an economic interest (engaging new slaves for the European labour market?) Wouldn't NGO's be in a position to understand something more than they say in regard to this issue? In this field, it is important to avoid generalisations. While the traffic in Chinese workers is propelled (even financially), by a community which operates as such even in the West by providing for all the needs of immigrants (we are talking about a community which disposes of immense resources), the traffic from Africa to Europe does not seem to be carried out by organisations which are sufficiently wealthy and efficient to provide for the full financing of this exodus. Europe has the means not only to develop humanitarian action in this field which is capable of programming and directing the influx of migrants wherever work exists, but also to carry out an activity of policing which would allow us to better understand these phenomena in the countries of departure.

The conclusion of our argument is the following: In a region like the Mediterranean, which is relatively small but also divided by historically embedded rivalries between peoples and cultures, especially those which are more directly founded on the three monotheistic religions which are dominant in the region, any imbalance which arises either internally within a particular State or in the system of relationships between States, threatens to destabilise the entire area. The demographic factor has aggravated the poverty differentials which characterise the relationships between countries of the northern and southern shores of the sea. We are talking about a situation which will aggravate more and more in the coming twenty years. Europe cannot continue to produce less and less children and to witness the increase in demand for flexible labour in its labour markets while refusing to welcome the exiles who flee from the more impoverished zones of the Mediterranean region to find better opportunities of an acceptable life in the northern areas.

These policies should clearly be based on a sharing of the immigrant population which takes into account the sustainability of the quotas assigned to the various European states, the compatibility of immigrants with the institutions and societies of host countries and which respects the rules established at the European level for migratory flows, which cannot be permitted to have a totally spontaneous character where anyone goes wherever s/he likes, and which must be administered on the basis of specific treaties stipulated between the EU and the countries of origin. As long as the EU does not have a common policy in this field, it will objectively justify the chaotic exodus of substantial populations from the southern to the northern Mediterranean.

The alternative to a politics of reception is a politics of development of the southern Mediterranean countries pursued through regional understandings that in the first place however start from the opening of European markets to the goods produced by countries on the southern shore. After all the right to development asserted by European countries in the United Nations, will remain on many occasions a purely rhetorical claim if one does not fight through concrete measures the factors originating from under-development by generating wealth in these countries and promoting a vigorous civil society capable of acting as the protagonist of a genuine bourgeois revolution and, once this has been accomplished, accepting

the excess population and using it to confront the demographic imbalance in the only possible way, that is by inserting in the empty spaces of the labour market of developed countries those workers who see the European countries as their only opportunity to ensure a decent life. Making migration legal by realistically confronting the causes which produce it and accompanying this with adequate policies of solidarity aimed at dealing within our own national boundaries with part of the humanitarian emergency that afflicts African countries is also the best way to deal with the merchants of death, to put an end to a traffic in human beings that finds its only basis for prosperity in prohibitionist policies.

The history of emigration over the last two centuries shows us that no frontier or army exists which is capable of halting migratory flows and that emigration has been a formidable factor of development in those countries in which it has been organised through far-seeing policies of integration. This has involved not only knowing how to extend classical citizenship rights to the new arrivals, but also recognising in regard to groups that are socially homogeneous due to shared origins or culture, a collective identity, that is to say a cultural dignity which goes beyond the purely individual rights of citizenship. What was wise to do yesterday may be even more wise today in a world in which fundamentalist cultures incite hatred towards a "colonising" West, which condemns the poor of the world to under development.

Thanks to her traditions of openness towards human rights claims, Europe can aspire to play the role of a gentle power, which offers hospitality to the exiles and disinherited of the world in ways which naturally do not endanger her own social tranquillity. To do this, Europe must learn how to free herself from the fear of a threatened identity, from the fear of submitting to the influence of an Islamic civilization which could, in twenty or fifty years, become hegemonic, from the fear of a Western Islam which, once having achieved prosperity, might guarantee resources and political legitimacy to a revolutionary Islam which exists in the Southern shores of the Mediterranean. These fears are not based on concrete facts, but are veritable phobias. There is no unitary Islam which is rushing to conquer the West, which aims to colonise Europe. There is no Islam against which one must prepare for a new battle of Lepanto (1571), to fight in the name of a threatened Christianity. Islamic terrorists kill Moslems just as they kill Westerners. If we feel threatened by

the powerful grip which the Islamic religion has over Moslems, what we must do as Europeans is to affirm the values which form our identity through the way in which we behave. We cannot reprove Moslems for being too observant of their religious faith (if it were truly the case that Moslem believers were as widespread and closed to external influences as some would have us believe) while we on our part are not firm upholders of those elements of our identity that have traditionally constituted the common cultural heritage of Europe. We cannot ask Moslems to be less Islamic. We should ask ourselves to be more European, keeping in mind our cultural traditions based on humanism, on rational thought and on values of solidarity which are spread also by means of the Christian religion within European countries and on the rigorous separation between civil and religious law.