



Post-deportation risks

PEOPLE FACE INSECURITY AND THREATS AFTER FORCED RETURNS

Growing perceptions of international migration as a security issue have led to increasing criminalization of migration, not only in migrant receiving countries, but also in countries of transit and origin, where rejected and forcibly returned migrants risk becoming 'illegal at home'. Post-deportation monitoring can help improve migrant security and hence migration and refugee policy.

In the hope of containing and reducing the flow of asylum seekers and irregular immigrants, European Union member states have introduced various mechanisms, including the 'effective and humane return' of people. Critics have argued that deportation can never be 'humane' but rather represents the

RECOMMENDATIONS

- Effective forced return monitoring must be put in place.
- Extraterritorial complaint mechanisms and legal aid for out-of-country appeals should be put in place.
- Memoranda of understanding and agreements with readmission clauses should be negotiated with the participation of parliamentarians and civil society and be made publicly available.
- Cooperation with countries of origin should strengthen local judicial systems and secure the confidentiality of information on prior irregular status, asylum claims, health and sexual orientation.

States and international organizations do not systematically collect information about the human rights situation of returned persons

Depending on the respective country of origin, a deported person can be associated with wealth, treason or moral inadequacies.

ultimate form of forced migration, which is deemed legitimate when carried out by states under readmission agreements. Questions about the costs and capability of deportations to bring down migration pressure have also been raised.

POST-DEPORTATION RISKS

Post-deportation risks can be divided into three forms:

1. Economic and psychosocial risks

Upon arrival in a country of origin, all forced returnees are at risk of economic and psychosocial harm, including those who opt for assisted return programs due to a lack of legal alternatives. A deported person often becomes stigmatized and may not have family or friends upon arrival. Consequently, secure shelter, access to housing and employment can be challenging. Deportation may also interrupt a person's educational trajectory, professional skills might no longer be of relevance and social security payments in departing countries may not be retrievable. Depression and even suicide may occur.

After forced returns, people have particular protection needs when requiring specialized medical care or when deported to a country where they have lived only as toddlers, as is the case with former non-accompanied minors. Severe harm to family life is done when deportation tears apart family members. Deported pregnant women face specific health risks before and during delivery, and possibly years of separation from their partner with only meagre hopes for family reunification.

2. Insecurities in the hands of state agents

Police officers verify the identity of forced returnees upon arrival at the airport, particularly when travel documents were issued by departing states. Depending on the respective country of origin, a deported person can be associated with wealth, treason or moral inadequacies. While the risk of monetary extractions, confiscation of luggage, arbitrary detention and criminal prosecution may happen to any returned person, ethnic, religious, linguistic and sexual minorities are particularly vulnerable to such practices.

INTERNATIONAL COOPERATION AND THE CRIMINALIZATION OF DEPARTURE

Three years after the Euro-Mediterranean Association Agreement and two years after a series of bilateral readmission agreements with EU member states, Morocco passed a law criminalizing irregular exit attempts in 2003.

Tunisia amended its legislation in December 2003 and March 2004, shortly after signing in 2003 a police collaboration agreement with Italy.

Algeria passed a law in 2008 criminalizing irregular exit attempts. This law came three years after the signing and entry into force of the Euro-Mediterranean

Association Agreement in 2005 and respectively one, two, four or five years after bilateral readmission agreements with Malta, France, Spain, Germany, Switzerland and the UK.

In Cameroon, the offence of "attempting to emigrate illegally" can be traced back in case law to 2013.

This follows the signature of a French Cameroonian bilateral agreement on migration and development in 2009, foreseeing financial and technical support for the Cameroonian police in its combat against illegal migration.

The insecurities people face in the hands of state agents have repercussions beyond the forced returnee when wider family networks are relied upon for negotiating release and buying protection.

3. Inhumane and degrading treatment

In some cases, readmission entails a risk of persecution and torture, inhumane and degrading treatment as encompassed by the 1951 Convention Relating to the Status of Refugees and Article 3 of the European Convention on Human Rights. Such a risk may arise from state officials in countries of origin who arbitrarily detain and mistreat forced returnees, and from non-state actors, such as criminal gangs and loan sharks issuing (death) threats to force the repayment of debts incurred to finance the original travel.

Countries of origin with weak judiciary systems and systemic impunity offer little protection to forced returnees from such treatment. Forcibly returning individuals to inhumane and degrading treatment amounts to *refoulement*.

The groups of risks highlighted above explain why many people attempt to re-migrate after deportation.

MIGRATION MANAGEMENT CREATES DIFFERENT POST-DEPORTATION RISKS

Post deportation risks are specific to different categories of forced returns:

1. Non-admission at borders

Border authorities decide whether people will be

admitted or not. Whilst non-admitted individuals strictly speaking not are deportees, they nonetheless are forced to return after rejections. Without the possibility to apply for asylum, such returns violate the principle of non-refoulement, as widely documented for the case of pushbacks in the Mediterranean Sea. In the case of air borders, EU carrier sanctions oblige airlines to return individuals to their last transit point, i.e. not country of nationality, where they often do not fulfil entry requirements either.

Because of new legislation in departure and transit countries, non-admitted people risk criminal prosecution for the offence of having attempted to travel through irregular means. In such countries, forced returnees can become subject to detention in slow and corrupted justice systems.

2. Readmission agreements with clauses for third country nationals

Since 2005, all EU readmission agreements oblige signatory countries to accept third country nationals who have transited through their territories when deported from the EU. Practices and laws in transit countries can result in detention and secondary deportation. Lack of legal safeguards for deportees in transit countries are of great concern.

3. Accelerated asylum procedures with insufficient legal aid for applicants

Although the decision to forcibly return a person can constitute refoulement, states and international organizations do not systematically collect

Country examples of post-deportation risks

Forced Returnees	Country examples	Risk examples
Non-admitted travellers	Cameroon, Morocco, Tunisia, Algeria, Macedonia, Senegal	Criminal prosecution for the offence of having attempted to emigrate illegally, detention
Third country nationals deported to transit countries under EU readmission agreements	Turkey, Serbia, Ukraine	Secondary deportation, non-access to asylum, detention
Failed asylum seekers	Democratic Republic of the Congo, Sri Lanka, Eritrea, Sudan	Detention, torture, disappearances
Dublin Returnees	Hungary, Bulgaria, Greece	Detention
Former unaccompanied minors	Afghanistan	Attacks based on association with Western culture, inability to unite with family

information about the human rights situation of returned persons. Failed asylum seekers can be at risk upon return if seeking asylum is considered an act of treason, when fraudulent documents were used in the asylum claim, or when authorities object to a returnees' use of their freedom of expression or political mobilization while abroad.

The increasingly close cooperation between EU member states and countries of origin on issues of migration control weakens the confidentiality of asylum applications. During identification missions of police officers of countries of origin to detention centres in deporting countries there is little oversight and control on the data shared.

4. Dublin regulations

Since the Dublin Convention came into force in 1997, EU member states forcibly return asylum seekers to the member state where he or she first arrived. Dublin returns often cut asylum seekers off from social networks. Reception conditions in some countries imply the de facto detention of forced returnees. In 2011, the European Court of Human Rights and the Court of Justice qualified forced returns to Greece as inhumane and degrading treatment.

SUGGESTED LINKS

- Post-Deportation Monitoring Network
<http://www.refugeelegalaidinformation.org/post-deportation-monitoring>
- Declaration of the Rights of Expelled and Deported Persons
<http://www.bc.edu/content/dam/files/centers/humanrights/pdf/DRAFT%20Declaration%20on%20the%20Rights%20of%20Expelled%20and%20Deported%20Persons.pdf>
- Refugee Support Network, (2016), After Return: documenting the experiences of young people forcibly removed to Afghanistan
<http://dev-wfm-rsn.pantheonsite.io/resources/after-return>

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Cover photo: Cover of the book *Karkotetut (The Deported)* by Katja Tähjä & Kaisa Viitanen, published in Finland in September 2016. The book uncovers what happens with people after deportation © Katja Tähjä

