

# briefing

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## Mainstreaming a minority rights-based approach to refugee and migrant communities in Europe

Stephanie E. Berry





A Yezidi refugee boy protects himself against rain with a cardboard box at the Idomeni migrants' camp in Greece.

Iva Zimova / Panos.

### Acknowledgements

MRG is grateful for support and cooperation of our partner Centre Maurits Coppeliers in the production of this report.

This publication is financed with the support of the European Parliament (EP). The EP is not responsible for any use made of the content of this publication. The editor of the publication is the sole person liable.



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**ISBN 978-1-907919-95-4. Published** December 2017.

**Mainstreaming a minority rights-based approach to refugee and migrant communities in Europe** is published by MRG as a contribution to public understanding of the issue which forms its subject. The text and views of the author do not necessarily represent in every detail and all its aspects, the collective view of MRG.

# Mainstreaming a minority rights-based approach to refugee and migrant communities in Europe

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# Introduction

The combination of the migration crisis, the poor economic climate and the continued threat from terrorism has been blamed for increased hostility towards migration and migrants throughout Europe. Since the beginning of the crisis, with hundreds of thousands of asylum-seekers and migrants attempting to enter the European Union (EU) by land and sea, an increase in intolerance, xenophobia and hate crime has been reported, even in countries that have traditionally been tolerant towards migration such as Sweden. The EU's Fundamental Rights Agency (FRA) has reported an increase in discrimination and hate crime towards migrants and their descendants, particularly those of Muslim origin.<sup>1</sup> However, the growth of intolerance has also directly impacted settled communities and traditional minorities including Jews and Roma.

Some research suggests that opposition to immigration has remained relatively stable throughout Europe,<sup>2</sup> despite the increasing prominence of the issue in political debate. However, opinion polls have shown that public attitudes are increasingly polarized along ideological lines.<sup>3</sup> States such as Germany and Sweden, which have traditionally adopted generous protection regimes, have witnessed an increasing public backlash against migration as a result of the scale of the current crisis. Against this background, far-right populist parties, which have been marginalized in Europe since the Second World War, are gaining increasing influence within domestic politics. Even in states such as Hungary, where levels of immigration have traditionally been low, the migration crisis has been successfully instrumentalized by politicians to win support.

Research has shown that political narratives and media representations directly shape the public's perception of the threat posed by migration.<sup>4</sup> The UN High Commissioner for Human Rights has expressed particular concern at 'lurid public narratives which appear deliberately aimed at stirring up public fear and panic, by depicting these vulnerable people as criminal invading hordes'.<sup>5</sup> Notably, migrants are often viewed as a terrorist threat, a burden on the state and a threat to societal cohesion and the culture of the majority. According to a study conducted by the Pew Research Center in 2016, a median of 59 per cent of respondents across ten EU member states expressed concern that the migration crisis

would lead to an increased likelihood of terrorism. The highest percentages – over 70 per cent – expressing such concerns were in Hungary and Poland.<sup>6</sup> The perception that migrants do not integrate sufficiently, by learning to speak the language and adopting local customs and cultures, is also a key driver of anti-migrant attitudes. Rather than opposing anti-migrant rhetoric, mainstream political parties throughout Europe have sought to appease public sentiment and have adopted increasingly oppressive policies in response to the challenges posed by the migration crisis. In some instances, politicians have directly linked the migration crisis to the threat of terrorism. However, by focusing on deterrence and the containment of migrants rather than protection and inclusion, policy responses to the migration crisis have the potential to increase public perceptions of insecurity and fail to challenge the root causes of intolerance.

The migration crisis has brought to the fore the challenges faced by European states confronted with mass influxes of vulnerable individuals who differ from the majority population in terms of ethnicity, religion and/or language. This briefing argues that the approach adopted by the majority of European states in response to these challenges not only violates the human rights of migrants, but that it inhibits successful integration and undermines societal cohesion more broadly.

International human rights bodies have called upon European states to adopt a human rights-led approach to the migration crisis.<sup>7</sup> As noted by François Crépeau, the UN Special Rapporteur on the human rights of migrants: 'large-scale suffering is experienced at each stage of migration'.<sup>8</sup> The measures adopted by European states in order to deter migration exacerbates the vulnerability of those fleeing conflict, persecution and acute poverty, rejects their presence in society and creates further patterns of insecurity. Yet, it is important to also recognize the relevance of ethnic, linguistic and religious identity to the development of effective migration policies, particularly in relation to mass expulsions, immigration detention and integration. Notably, within Europe, both the EU and the Council of Europe (CoE) have recognized the need to adopt integration policies that develop cohesive societies.<sup>9</sup> However, in practice, migrant integration policies do not address identity as a cause of vulnerability, despite the identification of discrimination, prejudice and xenophobia

as a barrier to integration. The increase in intolerance and hate crime associated with the migration crisis also impacts settled migrants and traditional minorities, and endangers societal cohesion.

The first section of this briefing sets out the impact of current policy responses to the migration crisis on migrants themselves and on public opinion, specifically focusing on the implications for integration and societal cohesion. The

second section introduces the case for a minority rights-based approach to migrant inclusion, drawing on the expertise of minority rights bodies in order to demonstrate that current policies are likely to be counterproductive and undermine societal cohesion in the long term. Finally, the third section sets out what a minority rights-based approach to inclusion would look like in practical terms, identifying key policy recommendations.

### **Migrants, refugees and asylum-seekers: terminology**

The terms migrants, refugees and asylum-seekers are frequently adopted in the context of the migration crisis without a great deal of specificity. This publication adopts 'migrants' as an umbrella term that encompasses refugees, asylum-seekers, economic migrants and undocumented migrants. The term 'refugees' is used to refer to individuals fleeing persecution in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol.<sup>10</sup> For the purpose of this briefing, the term 'refugees' also encompasses those

persons who do not meet the Convention criteria but are still in need of protection, for instance those fleeing war or other mass violence who qualify for protection under the EU Temporary Humanitarian Protection Directive or the EU Qualification Directive.<sup>11</sup> The term 'asylum-seekers' is used to denote individuals seeking protection under either the UN or EU regimes. The term 'migrants' is also used to denote migrants, such as economic migrants, who are not able or do not seek to benefit from international protection.

# Migration policies and their impact

State policies towards migrants and refugees, at all stages of the migration process, pose significant barriers to their immediate well-being and, in the longer term, their successful inclusion in European societies. UN human rights monitoring bodies have singled out push-backs and violence at borders, as well as mass expulsions to Turkey, as policies that violate the human rights of migrants. States have also sought to deter migrants through inhospitable reception facilities and long term or indefinite detention. The failure to adequately resettle migrants from overstretched border countries such as Greece and Italy has left migrants vulnerable to smugglers even within Europe's borders. Once settled within a country, migrants are faced with a lack of social care including health care provision, reduced employment opportunities, compulsory confiscation of valuables, limited welfare support, poverty, poor education (including language) provision and violent attacks. As noted by the Overseas Development Institute (ODI) and Chatham House, 'Government policy sets the context in which public attitudes towards migration are formed, whether in terms of immigration, asylum and integration policies, or broader economic and social policies'.<sup>12</sup> Thus, the current approach of European governments to the challenges posed by the migration crisis has the potential to exacerbate and harden the perception that migrants pose a threat to the economy, security and national identity.

Many migrants and especially refugees are vulnerable due to the 'extreme psychological and physical trauma' experienced as a result of persecution, conflict or poverty. However, the migration process, not least ill-treatment in the hands of smugglers, perilous crossings of the Mediterranean and the hostile actions of authorities in transit or receiving states all compound this vulnerability. From the perspective of migrants with a minority identity, expulsion to a third country without an individualized assessment of risk has the potential to expose them to significant harm. The UN High Commissioner for Human Rights has specifically expressed concern, in the context of mass expulsions to Turkey, about whether Turkey is 'in legal and practical terms, a "safe third country" for many people whose return is envisaged'.<sup>13</sup> For example, the lack of individualized assessment of undocumented migrants means that Syrian-Kurdish asylum-seekers can be expelled from Greece to Turkey

without any consideration of the ill-treatment of the Kurdish minority in Turkey. Immigration detention and reception facilities pose similar concerns, when individuals belonging to a persecuted minority in their home country are housed with individuals belonging to the wider group associated with their persecution. For example, members of the Yezidi minority are reportedly housed with Muslim asylum-seekers in reception facilities in Greece.<sup>14</sup> These individuals may not have participated in the persecution of the minority. However, when combined with the violence often prevalent in reception facilities, this insensitivity to the minority identity of asylum-seekers has the potential to exacerbate insecurity.

In 2016, the European Commission Against Racism and Intolerance noted that there had been a shift in emphasis 'from receiving and accommodating refugees to planning and facilitating the integration of migrants'.<sup>15</sup> Yet states such as Croatia, Hungary, Italy and Greece have not adopted long-term integration policies as they intend to remain countries of transit.<sup>16</sup> Yet, in practice, state policies continue to undermine rather than facilitate integration. The use of prolonged asylum detention during status determination, for instance, means that migrants are excluded from the rest of society. The CoE High Commissioner for Human Rights has specifically noted that containment policies within European states 'characterized by prolonged uncertainty about one's fate and lack of contacts with the outside world, adversely affect migrants' physical and mental health'.<sup>17</sup> The lack of available basic services including health care provision is particularly problematic as issues including malnutrition and extreme psychological and physical trauma not only remain unaddressed, but are also exacerbated by detention. Long-term health issues in turn prevent integration, as they undermine the ability of migrants to enter the workforce, learn the host state's language and enter education or further training. The lack of language provision within reception centres poses an additional practical barrier to integration, as noted by the UN High Commissioner for Refugees (UNHCR) and the Organization for Economic Co-operation and Development (OECD): 'Asylum seekers frequently have to wait months, if not years, before they receive language training and other integration support. And when they are eventually granted humanitarian status, their ability to

integrate may have suffered long-term damage'.<sup>18</sup> These combined issues associated with reception facilities lead to a sense of abandonment and breed disillusionment and anger amongst migrants, which in turn pose barriers to successful inclusion.

Outside reception facilities, state policies tend to focus on functional integration, such as access to the labour market and language proficiency, whilst ignoring other barriers to inclusion such as isolation, separation from family and longing for 'home'. State policies that restrict or delay family reunification, and exclusionary residence and citizenship policies, have been identified as factors undermining effective inclusion. However, states such as Sweden that have traditionally adopted generous migration policies have now responded to the migration crisis by scaling back protections: for example, by offering temporary residency rather than permanent residency and reducing the availability of family reunification.<sup>19</sup> Resettlement policies tend to focus on the dispersal of migrants, in order to avoid 'segregation', spread the burden, take advantage of affordable housing and facilitate access to the labour market. Yet, such policies overlook the importance of community ties for the safety and reduced isolation of migrants, particularly in the current climate of intolerance. The dispersal of migrants without attention to their cultural backgrounds may also reduce access to cultural resources and undermine integration efforts, as research has demonstrated that community ties provide an entry point for migrants into the host society.<sup>20</sup>

Functional integration is undoubtedly central to migrant inclusion, as language, entry into the labour market and education facilitate interaction with the majority. UNHCR and OECD have stressed that '[t]he earlier migrants enter the labour market, the better their integration prospects in the long run'.<sup>21</sup> Yet, the EU has expressed concern 'that third-country nationals continue to face barriers in the education system, on the labour market, and in accessing decent housing. They are more at risk of poverty or social exclusion compared to host-country nationals, even when they are in employment'.<sup>22</sup> Migrants often face restricted access to employment opportunities, as a result of official policy or discrimination. Furthermore, they are frequently placed in low-cost accommodation in areas of high unemployment. Inadequate language provision and failure to recognize qualifications pose further barriers to migrants entering the regular workforce. As noted by the CoE, 'language training is rarely flexible or professional enough to guarantee that most migrants attain the level and type of language fluency required for their work or their full participation in public life'.<sup>23</sup> Inadequate provision is likely to particularly impact female migrants who have caring responsibilities or low-levels of education. Furthermore,

whilst a number of states set language requirements as a prerequisite for residence and citizenship, they do not all offer guaranteed free language education. Notably, in response to the migration crisis, Sweden has reduced welfare provision and measures to encourage integration, which had previously included 'a two-year integration program that offers language classes, help finding a job, and a monthly stipend'<sup>24</sup> – the rolling back of this policy is likely to undermine the inclusion of refugees.

Lack of language proficiency reduces the opportunities for migrants to interact with mainstream society but also has the potential to drive migrants into the irregular workforce, and so increase the risk of exploitation and ill-treatment. Limited interaction with the majority population in everyday life, alongside a lack of civic or social integration course, in almost half of CoE member states, means that in some instances migrants have a limited knowledge of the society they are living in.<sup>25</sup> Whilst these courses have the potential to facilitate societal cohesion if implemented sensitively, in many cases colonialist and assimilationist agendas have the potential to undermine integration and reinforce division.<sup>26</sup>

Cutting across all of these issues that inhibit the successful inclusion of migrants is the polarization of European societies and the associated growth of intolerance. The UN Special Rapporteur on migrants has specifically expressed concern that:

*'Against the backdrop of a poor economic climate, the rise in nationalist populist parties and the tragic terrorist attacks around the world, xenophobia and hate speech have increased, causing a significant upward trend in negative perceptions of migrants and creating a stumbling block in the development of more efficient evidence- and human rights-based policies.'*<sup>27</sup>

Politicians throughout Europe have successfully instrumentalized the migration crisis in order to increase electoral support, including the Prime Minister of Hungary, Viktor Orbán. States that have typically adopted liberal migration policies, such as Germany and Sweden, have been overwhelmed by the number of arrivals and, despite an initially positive response, have witnessed a growth in opposition to migration and a commensurate growth of the far right. Resentment of migration has been linked to the ethnic origin and religion of migrants, with Roma and Muslims perceived to be particularly undesirable.<sup>28</sup> The European Network Against Racism (ENAR) has notably reported that '[s]ome political groups have launched adverts either at home or abroad (Denmark, Hungary, Sweden) to make it as obvious as possible that certain migrants are not welcome'.<sup>29</sup> Central and Eastern

European states, including the Czech Republic, Poland and Slovakia, have opposed the resettlement of non-Christian migrants.<sup>30</sup> While opposition to migration is linked to concerns such as the economy, security and national identity, public attitudes to migration are also frequently linked to the identity of migrants.

Rather than challenging rising intolerance and xenophobia, mainstream political parties have adopted increasingly hostile migration policies, whilst failing to challenge the myths and misconceptions that pervade discourse surrounding migration. Yet, research has shown that public support for migration is directly linked to migration policies: 'more inclusive policies tend to improve attitudes towards immigrants among the general public across European countries, while exclusionary policies tend to harden anti-immigrant sentiments in the population'.<sup>31</sup> In particular, the establishment of unrealistic targets for migration 'increase public unease by cementing a belief that migration is "out of control"'.<sup>32</sup> Consequently, the current policy response of European governments to the migration crisis is likely to harden public attitudes against immigration and legitimize intolerance.

Opposition to migration is also underpinned by the perception that migrants are not integrating into European societies and do not share European values. Whilst European regional bodies have placed a greater emphasis on integration strategies in response to the crisis, in practice these policies often conflate integration with assimilation.<sup>33</sup> The Pew Research Center has revealed that the majority of Europeans do not see the value of increased societal diversity,<sup>34</sup> a perspective that is often accompanied by the perception of migrants as a threat to the culture of the majority. Thus, migrants are expected to functionally integrate by learning the language of the state and contributing to the local economy, but the visible presence of diversity is not welcomed. Such expectations are unrealistic and counterproductive: '[t]hose who feel threatened or excluded from the host society instead of striving to belong, may seek to emphasize their difference through isolating themselves in their own communities and may also be more open to radical influences'.<sup>35</sup>

Increased discrimination, hate speech and hate crime not only have a detrimental effect on the inclusion of recent migrants, they also impact pre-existing migrant communities and citizens of European states who differ from the majority. As noted by the Advisory Committee to the Framework Convention for the Protection of National Minorities (AC-FCNM): 'Minorities cannot thrive in a society in which diversity is not tolerated or even serves as a pretext for hate crimes and discrimination'.<sup>36</sup> In Europe, the vulnerability of migrants,

which is exacerbated by the migration policies of European states, means that such hostility places an even greater barrier to their successful inclusion. This also impacts settled migrants and minorities. The AC-FCNM has specifically highlighted the impact of the growth in intolerance on the protection of the rights of Jews and Roma.<sup>37</sup> Deepening public hostility towards the Roma community has been reported throughout Europe. Notably, in Germany, for example, the media often associate Roma with criminality and poverty.<sup>38</sup>

The AC-FCNM has also identified a connection between Islamophobia and negative attitudes towards migrants.<sup>39</sup> Research carried out by the Pew Research Center has shown that migrants are often conflated with Muslims and, specifically, 'people who have a more negative view of Muslims are also much more concerned about the threat of refugees to their country'.<sup>40</sup> Far right movements such as Pegida ('Patriotic Europeans against the Islamization of the West') have held anti-Islam demonstrations throughout Germany, creating 'a climate in which Muslims and persons with a migration or minority background feel unsafe'.<sup>41</sup> The FRA 2017 *Minorities and Discrimination Survey* reported that one in four Muslim respondents reported experiencing harassment on a common basis, with almost half of this group having faced six or more incidents of harassment in the previous year.<sup>42</sup> Visible markers of difference, including clothing, skin colour and appearance, were identified as important sources of harassment and discrimination. Notably, Muslim women who wear the headscarf or *niqab* are more likely to face harassment than Muslim men and Muslim women who do not wear such visible markers. The impact of this on integration is clear:

*'Experiencing discrimination affects Muslims' social inclusion: those who felt discriminated against and/or experienced harassment or violence show lower levels of trust in the country's legal system and the police. They also expressed lower levels of attachment to their country of residence.'*<sup>43</sup>

European responses to the ongoing migration crisis consistently fail to recognize that ethnic, religious and linguistic identity may be the cause of insecurity for migrants. The growth in intolerance within European societies undermines successful inclusion, alongside state policies, from mass expulsions to integration policies, that fail to recognize the impact of this insecurity on the successful inclusion of migrants in European societies. If migrant integration policies are to be successful, there is a need to mainstream minority rights into migrant policies.

## The nexus between migrants and minorities

Minorities of concern to MRG are disadvantaged ethnic, national, religious, linguistic or cultural groups who are fewer in number than the rest of the population and who may wish to maintain and develop their identity.

Yet, within Europe, the term 'minorities' is often used to denote groups with a longstanding or permanent presence in the state. States have frequently objected to the inclusion of recent groups, including migrants, within the scope of application of minority rights instruments such as the CoE's FCNM. Often differential treatment on this basis is justified by the perceived temporary nature of migration and the expectation of eventual return to the country of origin. However, in practice, 'the myth of return' often undermines the successful inclusion of migrants, who will eventually settle in the host state. Notably, there has been a marked shift towards the recognition of the relevance of minority rights for settled migrant communities by states and international mechanisms, including the UN Human Rights Committee and the CoE's AC-FCNM.<sup>44</sup>

The migration crisis has highlighted the overlapping and intersecting issues faced by migrants and minorities. Migrants, much like minorities, are often treated as a homogenous group. However, migrants frequently face obstacles to inclusion on the basis of a number of intersecting identities, including race, religion and gender. In the current context, there is significant opposition to Muslim and Roma migration throughout Europe.

Further, some groups, such as Yazidis and Kurds, have been subject to persecution on the basis of their minority identity in their homeland both historically and during current conflicts. If migrants are treated as a homogenous group the specific needs of minorities subject to historical

persecution are not recognized and, in some instances, may result in further ill-treatment in the country of refuge.

In contrast, other migrants are members of the majority in their country of origin but now find themselves in a minoritized situation as a result of fleeing conflict or poverty. Adaptation to this situation will not be immediate and will require support if integration strategies are to be successful. Distinctions made between migrants, settled migrant communities and minorities are likely to be made on the basis of arbitrary criteria and overlook the needs of the individuals concerned. Recent migrants may join pre-existing settled migrant communities that are already recognized as minorities in the host state. Rather than being a source of arbitrary distinction, such overlaps can be used to aid the inclusion of recent migrants.

Finally, the impact of the migration crisis and, specifically, the associated increase in xenophobia, intolerance and hate crime, has had broader implications for the protection of the rights of minorities within European states. The current climate has a direct impact on settled migrants and minorities as well as more recent migrants. The AC-FCNM has not only noted that there has been an increase in intolerance towards national minorities, including Roma and Jews, but also that this may impact the ability of these communities to exercise their rights, as they 'are occasionally forced to hide their identities to avoid harassment, threats and violence'.<sup>45</sup>

Thus, the current climate impacts all groups that differ from the majority in terms of ethnic, religious or linguistic identity. It is not possible to protect the rights of traditional minorities, without also seeking to tackle the increase in hostility towards 'the other' that also impacts migrants.

# The alternative - a minority rights-based approach to migrant inclusion

The rise in ‘hate speech and racist, xenophobic and extremist discourse’ throughout Europe, coupled with ‘a deepening polarization along ethnic and linguistic, and at times religious lines’,<sup>46</sup> demonstrates that the cultural identity of migrants is an important factor in European responses to the migration crisis. Opposition to immigration is often underpinned by concerns about security, the economy and cultural identity, which mirror historical concerns about traditional minorities. Notably, the AC-FCNM has emphasized the relevance of the Framework Convention in the context of the challenges posed by the migration crisis, economic dislocation and security concerns.<sup>47</sup>

Thus, a minority rights-based approach to migrant inclusion uses the knowledge gathered under the banner of ‘minority rights’ in order to identify a more positive approach. Minority rights standards were specifically developed to ‘create stable and sustainable societies where difference is expressed and affirmed’.<sup>48</sup> Rather than restricting the rights of migrants in response to societal polarization and divisive politics, a minority rights-based approach aims to facilitate the creation of inclusive societies that are open to diversity. Integration strategies must seek to develop societies in which migrants feel welcome and are able to participate in all areas of life. Although functional integration strategies go some way towards achieving this by allowing participation in the labour market, other factors such as intolerance and hostility towards diversity create a sense of insecurity and undermine the ability of migrants to thrive. Well-integrated migrants are more likely to make a positive economic and social contribution to their host society.

Whilst the ethnic, religious and linguistic identities of migrants is central to their well-being, state policies tend to treat migrants as a monolith and fail to appreciate the relevance of migrant identity to policies adopted in response to mass migration. Cultural identity is not factored into mass expulsion policies, placement in detention or reception facilities, or resettlement policies. Furthermore, the importance of cultural ties to human dignity, well-being and overcoming isolation are not recognized in integration policies. It is increasingly accepted that if the inclusion of migrants is to be successful, then integration policies must move past functional integration and seek to foster a sense of

belonging. For example, the EU has recently suggested ‘that integration should go beyond participation in the labour market and mastering the language of the host country: integration is most effective when it is anchored in what it means to live in diverse European societies’.<sup>49</sup> However, in practice, migrant integration strategies at a national and supranational level continue to focus on labour market access and language proficiency. A minority rights-based approach to inclusion builds upon pre-existing functional integration approaches but adds to these strategies to deal with the specific challenges posed by diversity. It acknowledges that migrants are not only vulnerable as a result of their immigration status but also as a result of their ethnic, linguistic and religious differences.

A minority rights-based approach recognizes the relevance of migrant identity to successful inclusion. Rather than requiring the assimilation of migrants into the culture of the host state, it emphasizes that:

*‘The integration of refugees is a dynamic and multifaceted two-way process which requires efforts by all parties concerned, including a preparedness on the part of refugees to adapt to the host society without having to forego their own cultural identity, and a corresponding readiness on the part of host communities and public institutions to welcome refugees and meet the needs of a diverse population.’<sup>50</sup>*

Current migrant integration strategies tend to pay lip service to the concept of the mutual adaptation of all members of society, whilst in practice identifying strategies only pertaining to the integration of migrants into broader society.<sup>51</sup> Hostility to diversity and the expectation of assimilation places the burden of adaptation on migrants and refugees to the detriment of their well-being. As is widely recognized within minority rights, forced or unwanted assimilation is a human rights violation and is likely to be counter-productive.<sup>52</sup>

Mutual adaptation is a prerequisite for successful integration. However, the recognition of the importance of the ethnic, linguistic and religious identities of migrants and a demand for mutual adaptation is insufficient to ensure that host populations will view diversity positively. A particular challenge in this respect is that majority

populations often view the cultural backgrounds of migrants as a threat to national identity and societal cohesion. Thus, key drivers of intolerance and xenophobia must be challenged if societal cohesion is to become a reality. While concerns about the economic burden on the state underpin opposition to migration, discrimination and hate crime pose barriers to migrant education and employment and, thus, prevent migrants from becoming contributing members of society.

Research has suggested that politicians and the media influence the formation of negative perceptions of migrants.<sup>53</sup> In the context of the migration crisis, dehumanizing and stereotyped media portrayals present migrants as a threat. A minority rights-based approach emphasizes the importance of accurate and impartial reporting on immigration. However, it is unlikely that this will be sufficient to overcome public concerns about the threat posed by migration. Contact and interactions between migrants and the majority are central to creating mutual trust and understanding between the majority and migrant communities. A meta-analysis of more than 500

studies has demonstrated a correlation between intergroup contact and prejudice reduction.<sup>54</sup> While it is difficult to demonstrate causality, opinion polls have demonstrated that those who live in diverse areas in the United Kingdom are more likely to hold favourable views about diversity than those who live in homogenous areas.<sup>55</sup> While state integration policies have frequently sought to reduce ethnic segregation in neighbourhoods, research suggests that workplace diversity plays a more important role in ensuring integration. In particular, those who work in diverse workplaces are more likely to form friendships with immigrants than those who work in homogenous workplaces.<sup>56</sup>

Thus, a minority rights-based approach to migrant inclusion aims to build welcoming and cohesive societies that recognize the salience of ethnic, linguistic and religious identity to the experience of migrants. This requires that barriers to participation in society are overcome, including discrimination and hate crime alongside the removal of practical obstacles to employment and further education.

# How can a minority rights-based approach be achieved in practice?

A minority rights-based approach to the inclusion of migrants builds upon (rather than replaces) pre-existing strategies relating to functional integration. By responding to the societal challenges posed by diversity, this approach to integration facilitates the creation of an environment in which it is possible for migrants to develop into participating members of European societies, by fostering a sense of belonging. A minority rights-based approach is underpinned by four interconnected issues: the recognition and preservation of migrant identity; non-discrimination and equality; intercultural dialogue and tolerance; and the participation of migrants in society. However, awareness of migrant identity must also be mainstreamed into functional integration policies. The latter three areas have increasingly been recognized, although under-elaborated, in migrant and refugee integration strategies, such as the CoE's Issue Paper, 'Time For Europe to Get Migrant Integration Right', and the EU's 'Action Plan on the Integration of Third Country Nationals'. However, the importance of cultural, linguistic and religious identity to successful integration strategies is consistently overlooked. Without this final element, migrant integration is likely to be (and frequently is) conflated with migrant assimilation. This leads to insecurity, increased vulnerability and undermines a sense of belonging to the host society. Thus, this section develops inclusionary migrant integration strategies, using two documents that have sought to establish the broader relevance of minority rights standards in contemporary Europe: the Organization for Security and Cooperation in Europe (OSCE)'s 'The Ljubljana Guidelines on Integration of Diverse Societies' and the CoE's AC-FCNM, 'Fourth Thematic Commentary on the Scope of Application "The Framework Convention: a key tool to managing diversity through minority rights"'.

## Recognition and preservation of migrant identity

In practice, the cultural, linguistic and religious identities of migrants is perceived to be a threat to national identity and societal cohesion, leading to hostility and intolerance. However, cultural identity is central to human dignity and the rejection of the cultural identity of migrants is likely to lead to withdrawal from society rather than inclusion. Yet,

cultural identity may also be a source of insecurity and persecution for migrants, leading them to 'keep within their comfort zones in terms of culture, religion and language' in order to feel safe.<sup>57</sup> State policies, at all stages of the migration process, must be sensitive to the cultural identity of migrants. Whereas alienation and exclusion fuel radicalization and result in polarized societies,<sup>58</sup> the recognition of the cultural identity of migrants facilitates a sense of being welcome and of belonging.<sup>59</sup>

Key strategies in order to facilitate the recognition and preservation of migrant identity include the following:

- EU states should refrain from expelling migrants to third countries, without carrying out an individualized assessment of whether migrants are at risk, particularly (but not exclusively) on the basis of their ethnic, religious or linguistic identities.
- States should ensure that migrants fleeing persecution are not placed with members of the group associated with their persecution in detention or reception facilities.
- Resettlement or dispersal policies should bear in mind that migrants may choose to live in close proximity to others of a similar ethnic, religious or linguistic background on the basis of safety, access to cultural resources and access to support networks.
- Actors at all levels must respect and support the preservation of the cultural, linguistic and religious heritage of migrants, whilst simultaneously recognizing that culture is not static.
- Actors at all levels must avoid negative rhetoric and stereotyping in relation to migrant cultural practices.
- Migrant communities must be consulted in relation to all policies and legislation that have the potential to impact the preservation of their identity.
- Migrants must be permitted to manifest and practice their religion without interference from state and non-state actors, including the general public.
- The use of migrant languages must not be prohibited, especially in the private sphere.
- Actors should adopt measures to support the preservation of migrant languages, for example, by providing space for language classes for children, supporting the development of online learning tools and/or supporting the development of minority media.

- Actors at the level of national, regional and local government, alongside civil society actors, should support the development of media to facilitate the promotion of migrant language and culture.
- Actors at the level of national, regional and local government, alongside civil society actors, should provide support for cultural activities and events, in particular those activities that provide opportunities for intercultural dialogue.
- The recognition and preservation of migrant identity should be mainstreamed into other integration strategies, not least those relating to functional integration.

## Non-discrimination and equality

The recognition and preservation of migrant identity is, however, insufficient to facilitate the integration of European societies as this focuses on difference rather than commonality. Measures are also required to enable migrants to become members of the host society.

Discrimination and a lack of equality in relation to employment, education and access to social care prevents migrants from achieving functional integration.<sup>60</sup> In turn, this may result in an unwillingness to invest in education and training.<sup>61</sup> It is significant that migrants are likely to face intersectional discrimination, on the basis of both their immigration status and their ethnic, religious or linguistic identity/ies (as well as of course other grounds, such as gender, if relevant). Discrimination and inequality not only prevent migrants from accessing key services, they also pose barriers to their participation in society. Key strategies in this respect include:

- A comprehensive anti-discrimination and equality legislative framework must be adopted and respected by the authorities. Such frameworks must recognize the particular challenges posed by intersectional discrimination.
- Legislation must be enforced in practice by the courts and reinforced by an independent institutional structure, with a mandate to develop, implement and monitor anti-discrimination policies.
- Migrants must be made aware of the legal framework, how to exercise their rights and civil society organisations that are able to provide support.
- Formal equality may not be sufficient and states may need to adopt special measures in order to facilitate *de facto* equality. This may include the removal of legal, economic and social obstacles to full equality such as the recognition of migrant qualifications and prior work experience and the provision of education, training opportunities and appropriate healthcare.

## Intercultural dialogue and tolerance

Intercultural dialogue and tolerance are central to a minority rights-based approach to migrant inclusion. This is based on the understanding that lack of knowledge of ‘the other’ underpins hostility towards diversity and contributes to an environment of fear. As discussed earlier, European societies have become increasingly hostile to migration, viewing diversity negatively and associating migration with terrorism. The perpetuation of myths about migration by the media and policy-makers has legitimized intolerance and increased hostility to diversity in Europe. Yet, as noted by UNHCR, ‘[e]ffective integration requires a society that is both diverse and open, where people can form a community and sense of safety, regardless of differences’.<sup>62</sup> Further, OECD’s Indicators of Immigrant Integration show that:

*‘Social cohesion can ... be measured by analyzing the host country’s degree of acceptance of immigration. A high level of acceptance will indirectly promote the conditions for successful integration – if the immigrant population is welcomed, it will be better able to contribute to the life of the community.’<sup>63</sup>*

Intercultural dialogue uses education alongside interactions between migrants and the majority to facilitate tolerance, openness and positivity towards diversity. While it has become increasingly central to integration policies in Europe, much less emphasis has been placed on intercultural dialogue by integration policies adopted in the context of the migration crisis, despite the reported growth of intolerance and xenophobia. Notably, migrant integration strategies, such as the CoE’s ‘Time for Europe to Get Migrant Integration Right’ and the EU’s ‘Action Plan on the Integration of Third Country Nationals’ focus on developing migrants’ knowledge of the receiving society rather than the majorities’ understanding of migrants and migration. Lack of understanding of migrants and their situation will inhibit successful interactions and has the potential to reinforce myths about the other. However, at least some politicians and sections of the media continue to perpetuate myths and misconceptions about migrants and minorities that have the potential to undermine societal integration.

Strategies to improve intercultural dialogue and tolerance include the following:

- Migrants must be given the opportunity to learn about the society that they are joining, preferably prior to arrival. Societal integration education should be

provided alongside language education, but must not be conflated with cultural assimilation.

- Society must be educated about the causes of migration, the value of migration and diversity to society, and the culture of migrants. This can be through formal education (such as mainstreaming into the general curriculum or citizenship classes), public information campaigns or through the media.
- Intercultural education (in the context of both majority and migrant education) must avoid stereotyping migrant cultures as incompatible with European values.
- Teacher training must be provided in relation to both teaching about diversity and the challenges and benefits associated with diverse classrooms.
- There must be opportunities for intercultural interactions. These include:
  - the workplace or educational institutions,
  - social community activities,
  - youth and sports events,
  - volunteering opportunities.
- Support should be provided for civil society organizations that aim to create spaces and opportunities for intercultural interactions.
- Effective hate speech and hate crime legislation must be introduced and enforced. Particular attention should be paid to the challenges posed by social media.
- Migrants must be informed of ways to report hate speech and hate crimes, and these complaints mechanisms should be easily accessible to migrant communities. Prompt follow-up and action, including investigation and prosecution of alleged perpetrators, is important in order for such mechanisms to be credible in the eyes of migrant communities.
- Politicians must not reinforce negative stereotypes regarding migration, migrants or migrant groups. Furthermore, politicians must condemn hate speech and hate crime in all its forms.
- The media must refrain from perpetuating myths about migration and migrants. While the right to freedom of expression must be respected, legislation prohibiting hate speech must be enforced against the media. The media should develop effective self-regulatory mechanisms.
- There must be space for a counter-narrative within the media that provides objective information about migration.
- Migrants should be represented in the media and migrants must be consulted in order to avoid stereotyping and misrecognition.

## Participation in society

Finally, the ability to participate in all areas of society is central to a minority rights-based approach to migration, as recognized in the EU 'Action Plan on the Integration of Third Country Nationals' and the CoE's Issues Paper. However, participation in society is only possible if society embraces rather than rejects migrant identity, discrimination is tackled and barriers between migrants and the majority are broken down. Participation in education and the labour market allows migrants to become self-reliant, develop a sense of self-worth and continue their life with dignity. Further, functional integration, through the workplace and education, provides opportunities for interaction between migrants and the rest of society. By reducing poverty, employment facilitates the participation of migrants in social and community life, creating further opportunities for intercultural dialogue. Similarly, the ability to engage with political structures facilitates a sense of belonging and ownership, and allows migrants to participate in decisions that directly impact them. Key strategies in this respect include the following:

- Migrants must have adequate opportunity to learn the language of the majority but this must not be to the detriment of their own language. Language classes must be tailored to educational level and sufficiently flexible to accommodate work and family commitments, with a specific emphasis on the inclusion of migrant women.
- Migrant qualifications and prior work experience must be recognized, in order to aid the transition into the workplace.
- Adequate opportunities for education and training must be provided.
- Poverty and ill-health significantly impact the ability of migrants to participate in society. States must adopt measures to enable migrants to overcome these hurdles, such as providing access to adequate housing, healthcare, social protection (social insurance and social benefits) and social welfare services.
- A comprehensive anti-discrimination and equality legislative framework must be adopted and respected by the authorities. Specific measures should be adopted in order to prevent discrimination against migrants in employment and education.
- Citizenship, permanent residence and family reunification facilitate a sense of belonging and contribute to the well-being of migrants. Pathways to citizenship, permanent residence and family reunification should not be unduly burdensome. Cultural assimilation must not be a prerequisite of citizenship or family reunification. Furthermore, states

that establish language and cultural awareness as a prerequisite for citizenship, permanent residence or family reunification must guarantee free-of-charge access to appropriate education.

- States should allow participation in political decision-making processes at all levels of government. This

might be through electoral arrangements, specialized governmental bodies, consultative mechanisms, participatory decision-making procedures and awareness-raising campaigns. Migrant participation in decision-making processes that directly impact them must be prioritized.

## Case study: The EU Action Plan on the Integration of Third Country Nationals

The EU's 'Action Plan on the Integration of Third Country Nationals', adopted in 2016, builds upon the EU's 'Common Basic Principles for Immigrant Integration Policy' (adopted in 2004, reaffirmed in 2014). These principles establish, in addition to measures to facilitate functional integration, that states should view integration as a two-way process (Principle 10). Principle 8 recognizes the value of diversity and the importance of safeguarding cultural and religious practices, providing that they do not violate 'other inviolable European rights or with national law'. The Principles identify intercultural education for both migrants (Principle 3) and majorities (Principle 6) as a priority, alongside the ability to participate in the democratic process (Principle 9). Consequently, the EU Common Basic Principles for Immigrant Integration Policy appear to provide a solid basis from which to develop a minority rights-based approach to the inclusion of migrants, although key concepts such as majority education about migration and migrants and the safeguarding of migrant cultures are underdeveloped.

Yet, in translating these principles into the EU's Plan, these key issues remain under-elaborated. This can be attributed to an understanding of the 'two-way' process of integration that, in fact, places the burden of adaptation on migrants: 'This dynamic two-way process on integration means not only expecting third-country nationals to embrace EU fundamental values and learn the host language but also offering them meaningful opportunities to participate in the economy and society of the Member State where they settle'.<sup>66</sup> This suggests that the majority, whilst providing opportunities for migrants to participate in society, is not required to take active steps to adapt to the presence of an increasingly diverse society. The emphasis on the integration of migrants 'into the host society', further supports this view. The key policy priorities elaborated in the Action Plan focus on functional integration, in relation to employment, education, access to accommodation and basic services, alongside the education of migrants about their host-society, rather than the corresponding adaptation of the majority. Without efforts to facilitate the adaptation of the majority, prejudice and intolerance are likely to increase.

Importantly, the Action Plan highlights that '[i]n times when discrimination, prejudice, racism and xenophobia are rising, there are legal, moral and economic imperatives to upholding the EU's fundamental rights, values and freedoms and continuing to work for a more cohesive society overall'.<sup>67</sup> Despite recognizing that intolerance has the potential to undermine societal cohesion and integration, the Action Plan places very little emphasis on this in terms of practical steps. For example, in relation to 'pre-arrival measures', the Action Plan identifies the importance of preparing 'receiving communities for the arrival of third country nationals, contributing to building empathy and understanding to overcome prejudices and fostering an open and welcoming attitude'. Yet this is not reflected in the steps to be undertaken by the EU Commission or member states in furtherance of the Action Plan.

The final point, 'active participation and social inclusion', only briefly identifies the role of the majority in successful intercultural interactions: 'It can have benefits both on newly arrived third country nationals (by making them feeling part of their new community and helping the understanding of key values and norms), and on the host society, increasing acceptance and helping building a welcoming attitude'. In setting out concrete steps to facilitate this, the Action Plan encourages member states to '[i]nvest in projects and measures aimed at combating prejudice and stereotypes (e.g. awareness-raising campaigns, education programmes)' and to '[f]ully implement legislation on combating racism and xenophobia'. The implementation of legislation to combat hate speech is a prerequisite of any integration policy, but practical steps are also required to ensure that the root causes of intolerance are addressed and that the intolerance of the majority does not inhibit migrants from manifesting their identity in public spaces. The education of the majority is key in this respect, but so too are steps to facilitate the preservation of migrant identity, in order to ensure that they feel a sense of belonging. Yet, the majority of discussion under this point in the Action Plan, focuses on the participation and integration of migrants. It is vital that integration policies emphasize that integration requires all members of society to adapt and that the burden of integration does not lie exclusively with migrants.

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## Mainstreaming a minority rights-based approach to refugee and migrant communities in Europe

The combination of the migration crisis, the poor economic climate and the continued threat from terrorism has been blamed for increased hostility towards migration and migrants throughout Europe. Since the beginning of the crisis, with hundreds of thousands of asylum-seekers and migrants attempting to enter the European Union (EU) by land and sea, an increase in intolerance, xenophobia and hate crime has been reported, even in countries that have traditionally been tolerant towards migration. Discrimination and hate crime towards migrants and their descendants, particularly those of Muslim origin, is now on the rise – and this growing intolerance is also directly affecting settled communities and traditional minorities such as Jews and Roma.

Against this background, far-right populist parties are gaining increasing influence within domestic politics, even in states where levels of immigration have traditionally been low. Negative political narratives and media representations directly shape the public's perception of the threat posed by migration, and have driven the resurgence of a strongly anti-migrant politics across Europe even among centrist parties. However, by

focusing on deterrence and the containment of migrants rather than protection and inclusion, policy responses to the migration crisis have the potential to increase public perceptions of insecurity and fail to challenge the root causes of intolerance.

The migration crisis has brought to the fore the challenges faced by European states confronted with mass influxes of vulnerable individuals who differ from the majority population in terms of ethnicity, religion or language. This briefing argues that the approach adopted by the majority of European states in response to these challenges not only violates the human rights of migrants, but that it inhibits successful integration and undermines societal cohesion more broadly. While the need to adopt integration policies that develop cohesive societies is widely acknowledged, in practice, migrant integration policies do not address identity as a cause of vulnerability, despite the identification of discrimination, prejudice and xenophobia as a barrier to integration. This publication therefore makes the case for a minority rights-based approach to migrant inclusion to support the development of diverse, unified and open societies across Europe.

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ISBN 978-1-907919-95-4

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