

What demands EU law to assist and integrate refugees and asylum seekers? by Eberhard Eichenhofer



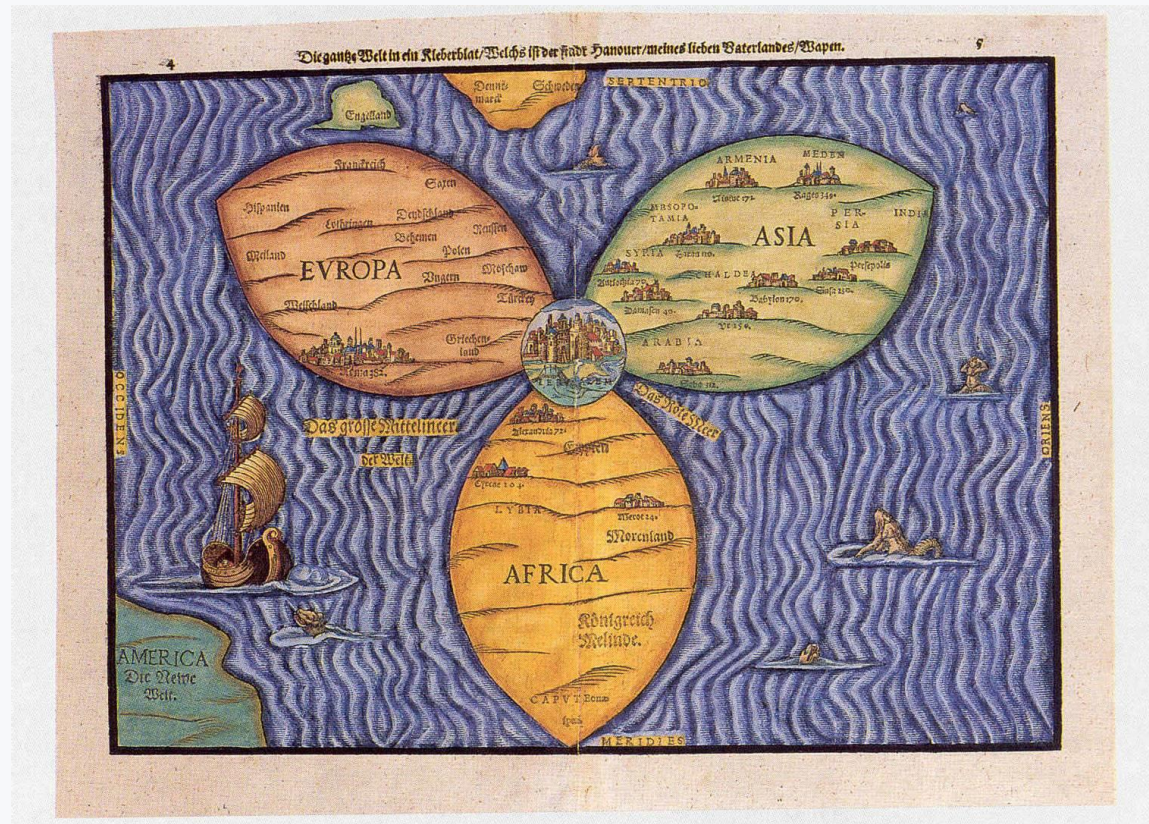
Refugees and asylum seekers in
national(istic) perception - **Widespread
sayings** :

- Sovereignty,
- Democracy,
- Generosity !
- EU and UN demand from the states too much !

EU = Europe without Borders (1570)



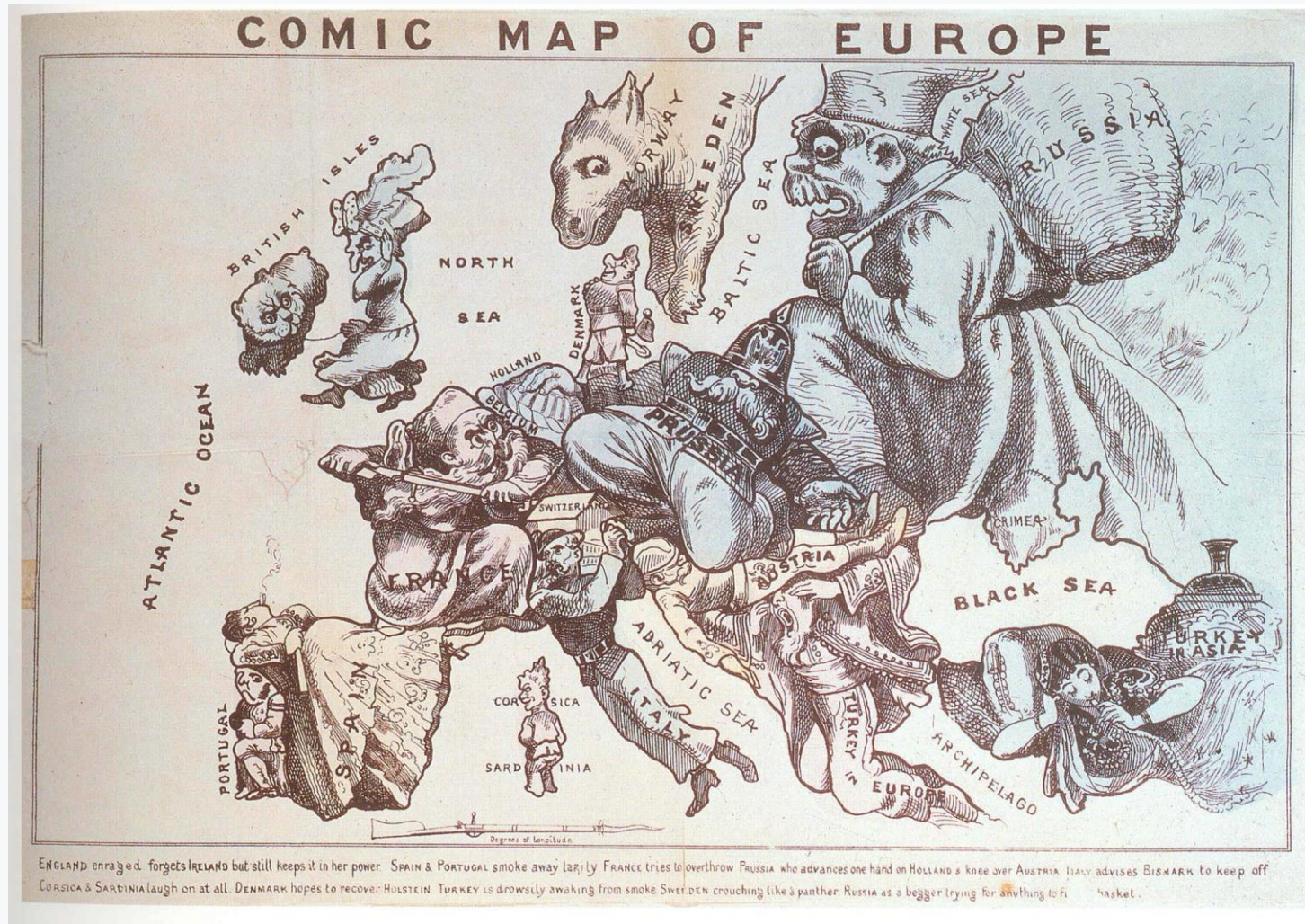
Europe a part of the World (16. century.)



Migration issues are not national , but international ones as international law

- Endows refugees and asylum seekers with a status.
- This lays the fundament to give rise to international human rights.
- These rights impose the states the commitments to be respected, protected and fulfilled!

Current state of Europe ?(1870)



The Europe Vision of the Formative Era !



Félix Vallotton, Mythological Reveries (The rape of Europa),
1908 (Kunstmuseum Bern)

EU law and Migration of Third States'

Nationals:

Art. 3 III TEU The Single Market is an economic device to foster social justice .

Social justice is not to be restricted to EU citizens but extended to EU residents!

- EU law facilitated and protected since the beginning in **internal** mobility = freedom of movement (economically active, later all).
- The **Schengen** rule transformed Europe to the Area of **Freedom, Security and Justice**.
- EU became competent for the **external** migration.

Three Dimensions of EU Migration Law:

- **General** : Visa, long-term-residence, family unification ,and return;
- **Work**: researchers, seasonal workers, highly qualified personnell(Blue Card);
- **Humanitarian Migration** : Refugees and Asylum Seekers.

Common European **Asylum System**:

- Directive 2001/95/EU refugees and subsidiarily protected persons.
- Based on the 1951 Geneva Refugee Convention.
- Directive 2013/33/EU Status of Asylum Seekers.

Refugee

- Living **outside** the state of **origin**,
- **No** return possible or acceptable,
- Due to **persecution** – or **well-founded fear** thereof -
- because of race, religion, nationality, class or political opinion.

SUBSIDIARY PROTECTION

- Persons who are exposed to violence,
- Without being a refugee,
- But in need for protection either.
- **COMMON IDEA: BOTH GROUP SUFFER FROM THE DEPRIVATION OF HUMAN RIGHTS UNDER DOMESTIC LAW;**
- **PROTECTION UNDER INTERNATIONAL LAW**

Social Rights for refugees and subsidiarily protected:
Basis: Art 2 I ICCPR = **Equality** among all residents;
Legal Basis Dir. 2011/95 , articles 23 – 34,
especially: family unity, documentation of the status,
employment, education, acknowledged
qualifications, social welfare and health care to equal
conditions, special treatment for persecution –
consequences, unaccompanied minors, freedom of
movement and integration.

Social Rights for **Asylum Seekers**

Directive 2013/33/EU

Articles 12 – 18, **especially**

Family, documentation, administrative procedure with accompanying rights, medical screening, schooling, employment and vocational training, adequate living standards and health care.

Conclusion: EU /UN Law identifies **shortcomings** in national law, to be **corrected** by the states ,

- Sovereignty and democracy **cannot outweigh human rights**;
- Social rights for refugees , subsidiarily protected persons and asylum seekers have to bring about **equality** , because:
- Social rights are **human**, not **citizen's rights**!

THANKS FOR YOUR INTEREST!
QUESTIONS OR COMMENTS ?

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