The Future of Global Mobility

Why We Need a Debate about Multilateral and Digital Solutions to Prevent the Global South from Being Excluded from International Travel

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The Covid-19 pandemic has greatly reduced international travel. The economic, social and human consequences of border closures and travel restrictions cannot be fully estimated yet, but they are dramatic. The gap is widening between countries of the Global North, which want to control travel and prevent unregulated mobility, and those of the Global South, which are demanding more legal mobility for their citizens. The freedom to travel is a desirable good that all should be able to access, and is also the object of political negotiations. Unilateral decisions should be complemented or superseded by international agreements between countries about common rules and procedures for a trust-based system. In the meantime, countries should modernise their visa processes and build digital identification systems that create trust. This applies to Germany as well, especially since the coalition government has decided to speed up the issuing of visas.

Many European Union (EU) citizens now to have to show their vaccination certificate to board a plane or cross a border. Proof of vaccination status as a requirement for entry is nothing new: travel to tropical countries, for example, has long been conditional on being vaccinated against yellow fever, which had to be proved by a paper document. However, electronic documentation, for instance in the form of smartphone apps, is gaining in importance now — and not just for vaccinations. Travellers to North America are familiar with such systems, which were introduced after the attacks of 11 September 2001 as part of the Smart Borders Initiative.

International Efforts to Create "Smart" Borders

These US security measures contain new security standards for travel documents, the systematic recording of flight passenger data (PNR), the introduction of an electronic entry permit (ESTA), an entry and exit register (EES) with biometric visa and a screening system to prevent the boarding and arrival of terrorism suspects. Nevertheless, to facilitate travel, the US has initiated the Trusted Traveller programmes. These include among others the Global Entry programme, under which pre-approved travellers who are considered a low security risk by the authorities can have their interview after ar-

rival instead. Participants in the programme can also use — like US nationals or green card holders — the PreCheck programme, which speeds up security checks at US airports.

The US is undoubtedly a pioneer in "intelligent" border efforts; however, since 2008 the EU commission has been driving forwards its own visa information system, which works with biometric data, as well as an entry and exit register and a system for flight passenger data. The European Travel Information and Authorisation System (ETIAS) is expected to be operational in 2022. Similar to the US's ESTA, it is intended for conducting security checks on travellers from currently over 60 countries that do not need a visa for the Schengen area. The electronic Entry Exit System (EES) should also be put into service soon, and automatically monitor the travel movements of third state nationals at the external borders of the Schengen area. This IT system is intended to match those entering with those exiting and thus catch potential visa overstayers. Therefore, data sets including biometrics will be established for first-time arrivals in the Schengen area.

For decades, public health played only a minor role in international mobility management. The Covid-19 pandemic and associated containment measures, such as the designation of high risk areas and virus variant areas, have changed this for an unforeseeable duration. Over the course of the Covid pandemic, international mobility has collapsed: in 2019, the year before the pandemic, the global aviation industry carried more than 4.5 billion passengers. In the first year of the pandemic, over 108,000 travel restrictions linked to Covid-19 were imposed across the world. The number of flight passengers fell by 60 percent. Numbers of new international migrants also remained well below previous estimates until mid-2020, and worldwide the pandemic is believed to have reduced their total by 2 million.

Such travel restrictions risk generating new distortions and a further widening of the gap between the Global North and the Global South. The (legitimate) wish to pro-

tect populations in industrialised countries against the risk of infection can lead to a blanket disadvantaging of and discrimination against people from countries which do not have the means to vaccinate their populations as successfully as the countries of the Global North, despite all the difficulties, have done. Moreover, the governments of developing nations also want to protect their populations against the risk of infection. But they have fewer options — especially because of their inadequate access to vaccines.

In the context of the pandemic, questions over the legitimacy of mobility controls are particularly pressing. The most recent reform proposals to the Schengen rules, which the EU intends to apply in the event of a pandemic to impose common entry bans, can therefore appear ambiguous. The planned formalisation could reinforce entry bans but also force the authorities to justify them.

The Issuing of Visas as the Key to International Mobility

At the heart of international mobility is the issuing of visas. This primarily serves to regulate tourism and business travel, as well as justifications for stays (such as labour migration, family reunification and asylum). To pre-empt undesired immigration, EU members and many other destination countries pursue a parallel strategy. They resort to unilateral measures and technologies to control numbers, and they use political pressure to induce countries of origin to cooperate on reducing irregular migration. However, many countries of origin now make their cooperation in migration regulation conditional on destination countries taking seriously their demands for easier international mobility (for instance through free-of-charge visas or a generalised visa waiver for their citizens). This is the case with Turkey, for example, which has long been pressing the EU for a visa exemption and has repeatedly linked its demand to the threat of suspending its collaboration on migration control.

In 2020 EU member embassies and consulates received around 3.5 million visa applications for stays of up to three months in the Schengen area, a marked Covid-linked drop compared to 2019, when there were approximately 17 million applications. Of the applications submitted in 2020, around 85 percent were granted, slightly fewer than in 2019 (88 percent). However, rejection rates for certain regions of origin, especially sub-Saharan Africa, were far higher. And these numbers only offer a partial picture of the mobility blockages since they only take into account processed applications; the many visa applications that were abandoned or not even submitted for reasons of hopelessness are not included in the statistics.

Mobility for Germans looks entirely different. German travellers are at the very top of global passport rankings; they have outstanding travel opportunities and access to almost all countries without needing to go through visa procedures. The Henley Passport Index currently has Germany in joint second place with South Korea; their citizens can enter 190 states without a visa. Only the passports of Singapore and Japan had higher rankings (192 states). Citizens of African, Middle Eastern and South Asian countries have a noticeably experience. African passports generally permit visa-free travel to only 20 to 25 percent of countries, mostly to neighbouring African nations.

In her thesis on the birthright lottery, Ayelet Shachar, the former director of the Max Planck Institute for the Study of Religious and Ethnic Diversity in Göttingen, points to the privileges and disadvantages that result from acquiring citizenship. She argues that the acquisition of such political membership today corresponds to the acquisition of private property in times past.

Public Order or Structural Discrimination?

The EU's 2001 Regulation on visas stipulates that the visa requirement is the standard mechanism of its mobility system and that any potential exemption is merely a unilaterally granted exception and a privilege. The Regulation, last revised in summer 2021, also explains that all abuse of visa exemptions by nationals of a third country must be combated "where they [the nationals] pose a threat to the public policy (ordre public) and the internal security of the Member State concerned". In the event of inadequate cooperation by countries of origin, visa exemptions can be suspended. Thresholds have been set for this, for instance where a country of origin rejects over half of the EU's readmission applications, or where fewer than four percent of asylum applications from the country are approved.

The Regulation indicates that greater migratory pressure is to be avoided, and it is obvious that EU members consider the European mobility regime as an instrument to regulate migration. The Regulation, which entered into force in 2009 and was last revised in 2019, also allows the issuing of visas to be used as an instrument to reward good cooperation on readmissions, or to sanction inadequate cooperation.

Nanjala Nyabola, a Kenyan commentator on current affairs and politics who gave one of the opening speeches at the May 2019 Future Affairs Forum on the digital revolution organised by the German Foreign Office in Berlin, considers the visa regime of developed countries to be structural racism, aiming to exclude the populations of the Global South from global mobility. The issuing of visas, she argues, reflects neo-colonial structures. It would seem that large swathes of the elites in Africa, the Arab world and South Asia share Nyabola's position. The local press — and travel blogs — criticise not only the visa policies of the Global North but also the procedures employed in embassies and at borders. These commentators raise accusations of institutional racism and racial profiling. Many complain about the humiliating nature of the procedures that applicants and those wishing to travel have to undergo. Such perceptions are counterproductive for win-

ning over the Global South to the essential cooperation needed to meet the challenges of migration and forced displacement.

Elements of an International Framework

Discriminating mobility regulations are used to control migration not least because countries mistrust the identity documents and visa decisions of other governments. The Israeli historian and political analyst Yuval Noah Harari speaks of trust being the most important capital of any human society, referring to small communities as well as countries and international politics as a whole. To build trust, we need to strengthen multilateralism.

Two elements are required for a set of rules that shape international mobility: multilaterally negotiated objectives, strategies and procedures; and digital technologies that facilitate mobility — as long as they are not an end in themselves but pursue political objectives. This need for a set of political rules derives inter alia from the risk that technologies might be used as substitutes for such rules — for instance, when important actors such as the US rely on specific techniques, these are subsequently adopted by international bodies such as the International Civil Aviation Organisation (ICAO), and other countries then have to follow suit to avoid being left behind.

Building Block 1: The Political Definition of Goals

Cross-border mobility is still a policy area in which — except for zones with internal freedom of movement, such as the Schengen area — national sovereignty is given greater importance than multilateral efforts for joint regulations that are beneficial to all. At the centre of current mobility regulations is unilateralism — which also falls short of the goal of the Global Compact for Safe, Orderly and Regular Migration, adopted by Germany in 2018, to improve international cooperation on migration.

Lessons on changes in mobility systems can be learned from history, especially from the political transformation in Europe from the Cold War to German reunification in 1989. This transformation was also inspired by a political declaration of intent. In 1975 the representatives of 35 countries from West and East signed the Final Act of the Conference on Security and Cooperation in Europe (CSCE) in Helsinki, which stipulated many simplifications of cross-border mobility, especially for family contact. It also wanted to enable travel applications for personal or professional reasons, and promote conferences, youth exchanges and tourism.

Of course, this specific historical constellation cannot simply be transferred to today's circumstances: the Warsaw Pact countries did not want to grant their citizens freedom of movement, whereas the West saw free movement in particular as the leverage for change, chiefly for inter-system contact. This change in turn was meant to lead to détente and the dismantling of threat perceptions. Indeed, when the Iron Curtain fell, the result was not total freedom of travel; the latter remained linked to visas and (transitional) rules for work permits.

Nevertheless, a process similar to the Helsinki Conference — which would ideally result in a Global Compact for International Mobility — could be a useful complement to existing international law and political agreements on migration and displacement. The process could be based on the idea of a modernised and rule-based international mobility that is a win-win for all participating countries — and thus counter the accusation that the North is only interested in reducing irregular immigration.

In such a mobility regime, signatory countries would, as in the Helsinki Final Act, commit to facilitating international mobility for nationals of all countries, including those of the Global South, and in the process exclude discrimination. Countries would also politically commit themselves to developing and applying technological innovations — particularly digital

identity and trust systems — so as to create the technical conditions for a global mobility that is both legal and in accordance with the rules.

Building Block 2: Digital Technologies

This kind of rule-supported international mobility system could only be implemented using digitalisation. Currently 19th and 20th century tools continue to determine international travel control — with a great deal of effort, uncertainty, vulnerability to forgery and corruption: passports and visas; stamps and stickers; personal interviews and paper pushing. The experiences from the Covid pandemic could be helpful in modernising the system. For example, the rapid introduction of a digital vaccine certificate (although not forgery-proof) in the EU member states showed that digitalisation can contribute to upholding freedom of movement.

However, the pandemic has also revealed that current instruments are too unwieldy to react to rapidly changing framework conditions, and that trust in traditional regulatory instruments is low. Any new mobility system must therefore modernise certification and identification instruments.

Such modernisation is necessary in Germany as well, as the National Regulatory Control Council (NKR) regularly makes clear, inter alia in its annual monitoring reports on the state of digitalisation in Germany, published since 2016. The NKR also illustrates how this could be achieved at the national level: by the Council calling on the administration to make data-based decisions and treating it as a service provider, which responds to needs and allows the state's performance to be measured qualitatively from the perspective of those concerned.

Of course, the NKR has a domestic mandate and its recommendations refer to Germany. Nevertheless, if its key concern — namely to attend to the interests of those affected — is transferred to international mobility rules, it becomes clear that the current fixation on nationality as the decisive criterion for the issuing of visas is problematic. If visa decisions were instead primarily founded on other characteristics — such as profession, qualifications, age, integrity and health — then the international mobility regime would be more efficient as well as fairer.

The mobility regime of the future must be based on digital trust systems which can certify the identity of persons and attributes in a forgery-proof manner. An example is the EU's digital vaccination pass, despite the concerns we have raised above: it confirms the identity of the vaccinated person, that the vaccine has been approved, that the vaccination was carried out by authorised medical staff and that the issuer of the certificate is competent to do so.

The German government is already promoting such "trust systems" through its research policy. They are intended as the future foundation for trustworthy digital interactions and to secure the access to digital services, such as telemedicine and digital prescriptions, the gig economy, online banking and e-government. These intentions primarily concern German citizens, but the federal government should also pursue this approach for travellers from third countries.

The Role of Private Service Providers

Private companies have already taken on important functions in international mobility management. This does not have to be a contradiction of the state's sovereignty and control. On the contrary, states have brought in the private sector for support in providing their consular services but also in securing their borders. This concerns airlines in particular: under threat of substantial fines for omission, they carry out the relevant mobility control tasks for states at whose airports they land. Commercial migration services providers, such as CIBT (from the US) and the market leader VFS Global (founded in India, domiciled in

Dubai), are now established, and are commissioned by states to assume parts of visa processing or delivery functions. Technology companies offer the requisite hardware, software and data analysis.

In all cases, these companies act as data brokers, which means that they possess large amounts of data on rejected and approved visa applications, regular travellers and irregular migrants. This can lead to controversy since it is unclear under what jurisdiction these service providers might fall, and what legal avenues might be available for complaints. However, the EU has at least pointed out that its General Data Protection Regulation (GDPR) also applies to companies that carry out visa services for nationals of third countries, and that these companies have to ensure an appropriate level of protection for personal data.

The Canadian and Dutch governments along with the technology company Accenture and the World Economic Forum (WEF) are currently testing the Known Traveller Digital Identity system (KTDI) for flight passengers. Travellers using this system register biometric and cryptographic data about themselves, for instance on their mobile phones. On request and at their own discretion, these travellers then grant the authorities access to their verified personal biometric, biographical and historical travel data to enable them to conduct risk assessments and pre-screening. KTDI allows journeys to be depicted and traced, with travellers interacting with authorities and private companies via mobile devices by making available historical and real-time data ("identity attributes").

The project for a hotel check-in for business travellers — which the German government is using to test the construction of an infrastructure for the secure exchange of identity attributes, not just for the digital identities of humans but equally of institutions and objects (Internet of Things) — pursues similar objectives. Pilot projects would clarify if this approach can also be applied to nationals of third countries.

It will be indispensable to integrate the private sector into any international mobility regime. Airlines, hotel chains, banks and financial service providers as well as insurances should act jointly with consulates and registry offices on a platform that not only offers travellers from third countries services under internationally agreed rules and processes them, but that can also issue verified identity attributes.

Ethical Issues

The most pressing ethical issue that concerns all "wallet" applications in which individuals save information on their identity derives from the imbalance in power between the representatives of state bodies and the owners of the data, in this case the travellers. It is debatable whether the latter ultimately retain control over their own personal data and whether they will be allowed to pass on the data exclusively of their own free will and at their own discretion — given immigration and control practices that demand personal data and at times empower agents to ask for passwords or even download the contents of mobile phones, computers or other devices.

This imbalance of power undoubtedly exists. It must be countered through binding and actionable rules. This also applies to the data of travellers stored by authorities and private service providers. Today they are inaccessible for those concerned (the data subjects): biometric data are stored at the consulate or by the company to which this service has been outsourced. The traveller's digital self is controlled by others.

In the United Kingdom civil society organisations have sued the Home Office, accusing the algorithms of the artificial intelligence employed by this ministry of being racist and discriminatory. Such risks must not be underestimated. It is also true, however, that digital processes, when correctly conceived, can reduce the influence of discriminatory prejudices in decision-making.

An ethical debate about the details of the mobility system becomes necessary precisely when digital technologies are to be employed. One criticism will be that a digital

identity and trust system based on the imbalance of power between poorer and richer nations will not facilitate the mobility of people from the poorer countries. Objections such as this must be taken seriously since people wishing to travel will probably continue to be rejected — and the suspicion of discriminatory prejudices, whether by natural persons or by algorithms, cannot be eliminated.

Beyond this, further fundamental issues will have to be clarified. How to deal with the tension between the travellers' agency over their data and the requirement that a trust system, to be effective, must contain enough data? When has anyone attained "sufficient trust" — or will the expansion of certification and identification create a "spiral of distrust", in other words an uncapped need for ever more, even better verified but never sufficient data? How to define a "key area" in which no data are collected, such as bank accounts? How to prevent an accountable person's control being transferred to a machine when artificial intelligence is used and the decision-making process is automated? Are the guarantees contained in Article 22 GDPR sufficient? And how to design effective objection and appeal processes?

The fundamental ethical issues also include the objection that millions of people in the Global South will probably not attain a sufficiently high degree of trust due to their inadequate socioeconomic resources and limited access to digital resources, and will therefore continue to be excluded from travel to Germany and the EU. A counter-argument is the fact that in Germany and other OECD countries the unequal distribution of resources also constrains citizens' mobility: a high passport ranking is of little use for those who cannot afford to travel. Ultimately the objective is to develop technical solutions that correspond to the political modernisation targets; safeguard individual rights from an ethical perspective; prioritise data protection; coincide with Chapter 3 of the GDPR; and endow everyone with rights, such as the right to transparent decisions, appeal, correction and compensation.

Political Objections

There needs to be a debate about political issues as well as ethical ones. They include the argument that governments tend to view decisions about access to the national territory as central to their activity and do not want to give up any competency in this regard. The counter-argument runs as follows: a modernised travel system would not make decisions about longer stays, for instance for work purposes; such decisions would remain the countries' "domaine réservé". At least the debate would address the problem that a travel regime which is frustrating for the Global South would be counterproductive since it would thwart cooperation on other topics as well. In contrast, a transparent process aiming to facilitate global mobility for everyone would put cooperation before unilateralism and create new opportunities for cooperation so as to better manage irregular migration and the unjustified onward migration of asylum-seekers.

An international mobility policy would also be generally economically advantageous for all participating actors; we could therefore expect enough countries to join in such a project. Germany has the political leeway and technical competence to contribute to modernising international mobility. It also has the will, as the December 2021 coalition agreement has shown in reference to the issuing of visas.

Recommended Actions

- The German government should launch a national strategy to digitally modernise international mobility with its partners from business, technology and civil society.
- The government should also verify whether a trust system with a digital platform can be established as a public-private partnership and as a public body.
- Moreover, the German government should initiate an international policy dialogue that could result in negotiations on a

Global Compact for International Mobility, and one that enumerates the weaknesses of technical processes such as Trusted Traveller.

- Industry, service providers and social partners should participate: first, in the strategy dialogue; second, in building a digital platform to support mobility policy through the provision of services (e.g. insurance, monetary transactions, travel and tourism, consumer advice); and third, in the supervisory bodies of a trust system with a digital platform.

- Finally, it is important to include civil society, both in this dialogue and in the supervisory bodies of the trust system. There could, for example, be a digital platform that offers civil society services in information, advice and cooperation. Not least, this platform could serve as a means of exchanging with foreign civil society actors on issues of international mobility.

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