

A Comparative Human Rights Analysis of the Securitization of Migration in the Fight against Terrorism in Europe: An Evaluation of Belgium

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Abstract : The last quarter of the twentieth century was characterized by the emergence of a new kind of terrorism: religiously-inspired terrorism. Islam finds itself at the heart of this new wave, considering the number of international attacks committed by Islamic-inspired perpetrators. With religiously inspired terrorism as an operating framework, governments increasingly rely on immigration law to counter such terrorism. Immigration law seems particularly useful because its core task consists of keeping 'unwanted' people out. Islamic terrorists more often than not have an immigrant background and will be subject to immigration law. As a result, immigration law becomes more and more 'securitized'. The European migration crisis has reinforced this trend. The research explores the human rights consequences of immigration law's securitization in Europe. For this, the author selected four European countries for a comparative study: Belgium, France, the United Kingdom and Sweden. All these countries face similar social and security issues but respond very differently to them. The United Kingdom positions itself on the repressive side of the spectrum. Sweden on the other hand also introduced restrictions to its immigration policy but remains on the tolerant side of the spectrum. Belgium and France are situated in between. This contribution evaluates the situation in Belgium. Through a series of legislative changes, the Belgian parliament (i) greatly expanded the possibilities of expelling foreign nationals for (vaguely defined) reasons of 'national security'; (ii) abolished almost all procedural protection associated with this decision (iii) broadened, as an extra security measure, the possibility of depriving individuals condemned of terrorism of their Belgian nationality. Measures such as these are obviously problematic from a human rights perspective; they jeopardize the principle of legality, the presumption of innocence, the right to protection of private and family life and the prohibition on torture. Moreover, this contribution also raises questions about the efficacy of immigration law's suitability as a counterterrorism instrument. Is it a legitimate step, considering the type of terrorism we face today? Or, is it merely a strategic move, considering the broader maneuvering space immigration law offers and the lack of political resistance governments receive when infringing the rights of foreigners? Even more so, figures demonstrate that today's terrorist threat does not necessarily stem from outside our borders. Does immigration law then still absorb - if it has ever done so (completely) - the threat? The study's goal is to critically assess, from a human rights perspective, the counterterrorism strategies European governments have adopted. As most governments adopt a variation of the same core concepts, the study's findings will hold true even beyond the four countries addressed.

Keywords : Belgium, counterterrorism strategies, human rights, immigration law

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