A Sociological View on The Impacts of Minority Rights in EU and Migration

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Abstract

After the fall of communism in Albania, migration destinations occurred toward neighbouring states such as Italy, Greece, European countries (Germany, Switzerland, England, Belgium, etc) and also all over the world (US, Canada Australia, etc.). The flow of Albanian migration was expended in a huge amount from different social classes to other states. Because of different social, cultural, economic and political reasons, the migration flow can be identified as a complex migration phenomenon. Consequently, for these reasons, sometimes the Albanian migrants have been discriminated against. This research paper is going to be focused on the Albanian migrants and their minorities' rights in European states. Another aspect of this paper will be focused on the problem of the well of functions of minority rights causing the anomies to the social and personal identities of migrants.

Keywords: *Migration; Albanian Migrations; Minorities Rights; EU*

1. Introduction

Until relatively recently, few scholars were working on migration issues but also the number of contemporary studies had been limited by the fact that any research on immigration almost certainly flows over disciplinary boundaries. The migration process is as old as the world is, but the migration phenomenon is so influential in society and a non-recently detailed study. The flow of Albanian migration was expended in a huge amount from different social classes to other states. Because of different social, cultural, economic and political reasons, the migration flow can be identified as a complex migration phenomenon. Consequently, for these reasons, sometimes the Albanian migrants have been discriminated against. This paper focuses on the explanation of migration phenomena in the world. Also, in the following parts of this paper, we will find a brief explanation of Albanian migration after the 1990's, Migrants' rights and the EU, and Albanian migrants' rights in the EU. Another aspect of this paper will be focused on the problem of non-well functions of minority rights that cause the anomies to social and personal identities of migrants

2. Migration

Migration all over the world is accepted as a documented or undocumented people movement, which is affected by political incorporation, economics, politics or historical associations. Until relatively recently, few scholars were working on migration issues but also the number of contemporary studies had been limited by the fact that any research on immigration almost certainly flows over disciplinary boundaries.

The term 'migrant' shares an underlying definitional imprecision that blurs the respective fields of study and policy-

making as well as the linkages between the two. Consequently, to this, we can say that migration is the moving internally within countries, or internationally between countries (from sending to receiving country). This moving of people may be for the short or long term, for economic, political or social reasons. May be regular (conforming to legal requirements) or irregular. According to a widely used definition, migrants are persons who have been outside their country of birth or citizenship for twelve months or longer. On the migrant side, one can usefully distinguish three main groups: economic, forced and family migrants, which is a distinction based on the motivations for leaving one's country of origin. Joly and Reeves said that migration is often cast as a "problem" to "control" in the domestic politics of richer countries, heightened by recent concerns with "national security'[1]. The prevailing approach of national policymakers is accordingly one of managing the flow of migrants[2] driven by domestic concerns rather than more global interests or the interests and rights of migrants. The intergovernmental body, the International Organization for Migration (IOM), works under the banner of 'Managing migration for the benefit of all' and has gained significant support from governments[3].

The main policy focus of the European Union is on managing inward migration, governments may also restrict internal movements and outward migration. The literature on migration remains very much state-centred, focused on developed countries and economic development, with little attention to social development and gender issues. Consequently, we can say that Gwendolyn and Thielemann stressed that for economic migrants, a common distinction is made between legal and illegal migrants, the former entering their new host country through a legal route (such as a temporary or permanent immigrant visa or a work permit), the latter often being associated with illegal human trafficking. It is often overlooked that a substantial number of so-called illegal migrants entered their new country legally, but lost their legal status by overstaying their visa[4]. But it is very important to mention that Remittances can have a huge development impact on sending societies, whether they are purely economic or take the form of a transfer of skills or new ideas. There has been increasing attention paid to remittances as a motor of development, including by development policymakers[5] Remittances from overseas workers add up to more than US$100 billion a year. About US$60 billion goes to developing countries, exceeding funds from all overseas development assistance[6].

So, is very important to say that emigration plays a very important role not just in the reorganization of life, but in society's cultural, social, economic and political perspective.

3. Albanian Migrations

Migration is a very complex phenomenon from the perspective of socio-cultural and economic life. Human migration is the movement of people from one place in the world to another to take up permanent or semi-permanent residence, usually across a political boundary. For thousands of years, people have migrated to search for food, survive conquer frontiers, colonize new territories, escape from war zones or political authorities and look for new and more rewarding and existing opportunities. People can either choose to move or voluntary migration and be forced to move or involuntary migration. In Albania during the post-communist period, people migration was obliged by many factors such as political, cultural and economic transition. Because of these factors, it is not wrong to say that this type of migration has been as voluntary as involuntary. Different factors push and pull people to migrate to different countries. As we can see the following framework of immigration experiences formed from these factors, it is easier to analyze the Albanian migration:

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[1] *L. Engle, The World In Motion; Short Essays on Migration and Gender, Geneva: International Organization for Migration, 2004, p. 25*

[2] *R. Lucas, International Migration and Economic Development: Lessons from Low-Income Countries, Edward Elgar Publishing, 2005, p.71*

[3] *S. Jolly & H. R. Bridge, Gender and Migration, Overview Report, Institute of Development Studies, 2005, p. 29*

[4] *G. Sasse & E.Thielemann, A Research Agenda for the Study of Migrants and Minorities in Europe, JCMS: Volume 43, Number: 4, 2005, p. 656*

[5] *A.de Haan, 'Migrants, Livelihoods and Rights: The Relevance of Migration in Development Policies', Social Development Working Paper No: 4, London: Department for International Development, 2000, p 63*

[6] *S. Jolly & H. R. Bridge, Gender and Migration, Overview Report Institute of Development Studies, 2005, p. 26*
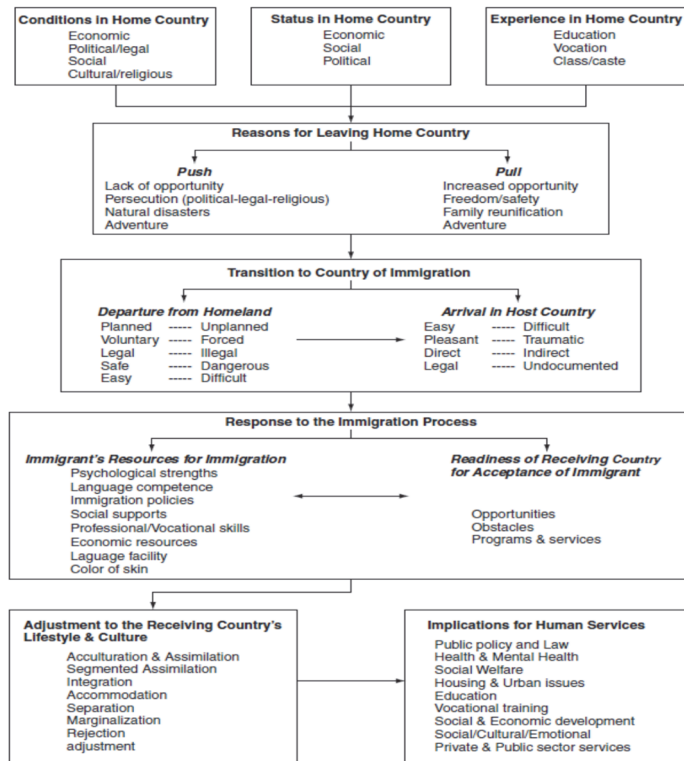
Fig.1: Model/Framework of the Immigration Experience [7]
Source: Umma, Nazneen, Mayadas; 201

By analyzing the above Model/Framework of the Immigration Experience, we can say that conditions in Albanian society after the 1990s were very low controlled according to the economy, political and socio–cultural perspectives. The outflow of Albanian migration expanded rapidly in the early 1990s due to several factors. Because of the fall of communism and the change of political regime, there was brought out a very huge lack in economic budget, low incomes a high rate of unemployment and the abounded of industry, farms (ferm), cooperation (koperative) and all factories. The economic situation at that time had all the signs of a crisis, the unemployment rate was rising rapidly and "rapid migration" favoured the emigration of people of different social classes. Exiting the lack of policies to encourage and discourage too, illegal and legal immigration including informing and assisting potential emigrants about legal migration opportunities, as well as encouraging decentralized cooperation between the local authorities of inter-border areas. Albanian authorities were not strong enough to stop engaging in facilitating the entry, instalment into the labour market, legal regulation, and social integration of Albanian emigrants in host countries. They have made persistent efforts to negotiate with these receiving-country governments and ensure compliance with international conventions on labour and migration. Today Albania, after 21 years (according to the study by the World Bank shows that the number of migrants abroad Albania is around 860,485 persons, or about 27.5% of the population.) is still facing some migration problems. Still, there are formal policies for bringing social control over migration and its situations.

'Flows can be controlled or managed to a degree, people will migrate, especially where there is war and persecution, where economic opportunities are distributed unevenly across borders, or where there are large inequalities in standards of living around the world. In the last few decades, there has been significant growth in the number of

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[7] A.S. Umma, D. E. Nazneen ,S. Mayadas, Immigration worldwide, Policies, Practices and Trends, Oxford University Press, New York, 2010, p. 4

international migrants especially in developed countries. [8] According to this definition, we can analyze Albanian migration after the 1990's. In these decades, Albanians found behind the new consciousness of creating a new reorganization of society structure occurred by the collapse of communism and the foundation of a pluralist democratic regime. During the hermetic period of communism, curiosity about 'what is around us' and knowing the 'outside world' were the main factors of migration in the post-Albanian communism period. The potential for migration from Albania remains high due to push factors (lack of opportunities for a future life, escape from the transition and adventure of facing 'utopias' Western societies etc) and pull factors (increased opportunities for a better life, being safe and free according to the democratic political system of western country etc) that we explained above and search for the 'new ideal' life seems to be as utopias, especially in European countries.

Albanian migration seems to be a lake of opportunities and challenges not just for migrants but also for Albanian society. Selecting the destination for migrating is related to push and pull factors such as ease of finding work, geographical proximity, ease of entry into the host country, relatives who live in places where they migrate, recognizing the opportunities for education and improvement of professional skills, opportunity to work in their profession and better salaries compared to other countries. [9]

National Migration Strategy has analyzed the impact of migration on these main areas:

– Emigration and Demography
– Impact in economy
– Impact on the labour market
– Impact on the domestic policy
– Impact on foreign policy [10]

These impacts form new challenges and opportunities that occur from the migration process. Albania has been affected from the 1990's till nowadays from these impacts**.**

It is very important to say that the integration of Albania into the European Union is bringing new reconstruction of the migration process. According to Brody, the process of migration integration appears to follow one of several patterns. Each of these patterns of integration confronts the issues of culture, language, identity and citizenship in entirely different ways and can be envisioned as lying on a continuum with assimilation falling on one end of the 'integration continuum' and 'non-incorporation' or separation falling at the opposite end.[11]

The integration of migration within a host country is faced with the 'integration continuum' which is the process of assimilation and the acculturation of society. This process brings challenges to the migrant's identity anomies. For this reason, during all times migrants were challenged with the stigmatization or being optimised on the front stage of everyday life. Their most faced challenge is discrimination on their ethnicity (such as Albanian migrants in Italian society). Another challenge of Albanian migration is the impact on the domestic and foreign policies of our country and host country. In our country, there are lack of migrant participation in the political process, for example, the participation in the voting process. For this reason a reorganization of policies on attracting Albanian migrants to participate during the voting process.

Besides these challenges caused by migration should be said that 'among the causes of migration in recent years ranked higher salaries, family financial support, better working conditions, better living conditions, education and better conditions for themselves or other family members, as well as in certain periods due to the level of security and order in the country. [12]

4. Minorities Rights and Eu

Nowadays migration and minority policy issues are at the forefront of the political debate in Europe. This denotes a dynamic and rapidly changing set of sensitive political, economic and social issues that affect domestic and international policy-making. For all the good one of these domestic policies is to encourage open borders and free movement, the political calculation on these issues seems to reflect a different rationale. As we know the EU is founded on the four freedoms" of capital, goods, services and people. Menz noted that the last of the freedoms, people, was employed to

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[8] *Dh. Sriskandarajah, Migration and development, A paper prepared for the Policy Analysis and Research Programme of the Global Commission on International Migration, Global Commission on International Migration, 2005, p. 8.*

[9] *L. Ikonomi, E drejta Migratore, Manual Trajnues, 2009, p. 13*

[10] *L. Ikonomi, E drejta Migratore, Manual Trajnues, 2009, p. 14,15*

[11] *B. Brody, Opening the Door, 2009, p. 20*

[12] *L. Ikonomi, E drejta Migratore, Manual Trajnues, 2009, p.13*

expedite the first three[13].

Migration flows among continents were the highest in the European continent of Europe (see Figure 2) in 2009 year. Even the migration policies are so influential in North American States, we can see that it is listed as the second continent that has a high percentage of migration flows. So it is important to ask why the European countries are so attractive to the migrant flows. Are the migration policies that make possible the permission of migrants or are non-discriminatory policies that make so attractive this continent? To answer these questions is important to explain the policies that the European continent, especially the European Union is applying to migration phenomena.
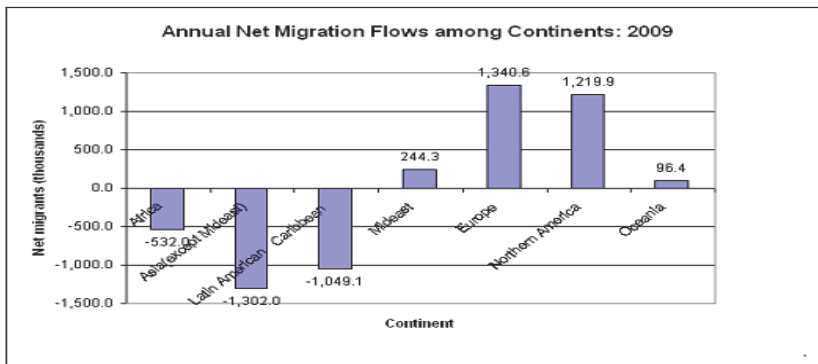

Fig.2: Migration Flows Among Continents[14]
Source: Bogue; 2001

'There is great electoral reward to be had by populist politicians using the 'threat' of open doors eastwards as a tool for berating the impact of the EU, in particular, the liberalisation of West European labour markets or employment legislation'[15]. Also, the enlargements of the European Union eastwards in May 2004 and January 2007 completed a geo-political shift in post-1989 Europe that in terms of the migration and mobility of populations poses the biggest demographic change in Europe since the devastation and flux at the end of the Second World War[16]. These fluxes of migration will vary in number and educational background. The young and well-educated individuals of Eastern countries will be a new mechanism of working in EU countries. Policies towards migrants are also both varied and changeable, characterized by both liberal and restrictive elements. In most industrialized countries concerns about labour market shortages and negative demographic trends mean that states have become more welcoming to particular groups of migrants. For example, in January 2005, following a long and difficult legislative process, the new German Immigration Act came into force which, for the first time in post-war Germany provides for a legislative framework that makes highly skilled workers eligible for a permanent settlement permit on entering Germany. Consequently, to this positive view, we must note that have been applied negative attitudes towards the migrants. The core human rights principles of relevance to migrant workers in general and migrant women in specific are non-discrimination, equality and equal protection of the law. But in reality, many times does not work like this.

In the area of migration, the EU has been most active in the de-regulation of the movement of EU citizens and the management of forced migration from outside the EU. In contrast, the rules concerning economic and family migrants from the rest of the world have largely remained in the hands of Member State authorities. The initial focus of the

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[13] *G. Menz,* Patterns in EU labour immigration policy: national initiatives and European responses*, Journal of Ethnic Migration Studies, No: 28(4), 2002, p.723-742*

[14] *D. J. Bogue,* International Migration: What is Driving it?What is its Future?, *Population Research Center and Center on Aging, University of Chicago, 2001, p.154*
[15] *A. Favell,* The New Face of East-West Migration in Europe*, Journal of Ethnic and Migration Studies Vol. 34, No: 5, 2008, p. 708*
[16] *G.J.Borjas,* Economic Research on the Determinants of Immigration*: Lessons for the European Union,. Washington DC: World Bank Technical Paper, 1999 p. 703*

integration process in migration matters was on free movement to enable citizens from the Member States to live and work anywhere in the EU. The Treaty provisions on free movement were further developed by the signing of the Schengen Agreement in 1990, which created an area within the EU in which residents and visitors from outside are free to travel as they wish without systematic passport checks at national borders. However, for such freedoms to be fully enjoyed, it was recognized that the EU's external borders have to be controlled effectively, and specific cooperation between the Member States on issues such as cross-border crime, police and judicial cooperation, and joint visa and asylum policies have been developing since the mid 1970's.

During the recent round of eastward enlargement 'the respect for and protection of minorities formed part of the EU's political conditionality enshrined in the first Copenhagen criterion. Although the ultimate effectiveness of this type of conditionality and the sustainability of the policy outcomes are still an issue of debate, it is clear that human and minority rights are a policy area in which the EU's external relations have driven a partial) rethinking of the EU's values and objectives. This development has taken place against a paradoxical backdrop: while minority issues have been at the forefront of the enlargement rhetoric and are often singled out as a prime example of the EU's positive stabilizing impact in the CEE states17.

The EU constitution-making process could have potentially raised legal and political questions relating to minorities to a new level of communitarization. "Article I-2 of the draft Constitutional Treaty of June 2004 refers to 'the respect for human rights, including the right of persons belonging to minorities as one of the Union's key values. Article 21 of the Charter of Fundamental Rights, incorporated as Part 2 of the draft Constitutional Treaty, makes an even more explicit reference to 'membership of a national minority' among the grounds for discrimination to be prohibited. Alongside Article 22, stipulating the Union's respect for 'cultural, religious and linguistic diversity', it would apply to any action of the EU institutions and the Member States when implementing the EU law if the draft Constitutional Treaty had been ratified or the charter had been made legally binding on its own merits. Member States are obliged to transpose the directive fully into domestic legislation, thereby legally embedding the norm of 'equal treatment between persons irrespective of racial or ethnic origin"18. Since then, EU developments aimed at jointly controlling migration from outside the EU have undergone rapid revisions. In particular, the European Union has been developing a more coordinated asylum and immigration policy so that asylum applicants are treated in the same way across the Member States, legal immigrants are integrated into the European societies and joint actions can be taken to prevent abuses of the system and to tackle illegal immigration more effectively. These developments have been sparked not only by the provisions of the Treaty of Amsterdam but also by the Vienna action plan and, the Tampere European Council conclusions. According to Sasse and Thelemann European Commission has negotiated more than a dozen re-admission agreements with third countries to facilitate the return of illegal immigrants and failed asylum-seekers. These policy developments have led to intense research interest in the areas of migration and minorities in recent years19.

According to the following figure (see fig.3), the percentage of the foreign-born population from 1999- 2005 is highest in these countries of Europe: Denmark (18.8%), Austria (12.5%), Sweden (11.8%), Netherlands (10.6%), Ireland (10.4%) and Germany (8.8%). As we mentioned before these states applied the welcome policies for migration flows and gave priority to the migrant's rights. It is so important to mention that these countries' economies have increased faster than all other states in Europe. The lower percentage of the foreign-born population is in the UK (5.2%) and Norway (361 persons) countries. So as we know, the migration policies of the UK have been strict and gave priority to all migrants that came from its colonial countries.

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[17] G. Sasse & E.Thielemann, *A Research Agenda for the Study of Migrants and Minorities in Europe, JCMS: Volume 43, Number: 4, 2005, p 660*

[18] G. Sasse & E.Thielemann, *A Research Agenda for the Study of Migrants and Minorities in Europe, JCMS: Volume 43, Number: 4, 2005, p 661*

[19] G. Sasse & E.Thielemann, *A Research Agenda for the Study of Migrants and Minorities in Europe, JCMS: Volume 43, Number: 4, 2005, p 662*

	1990	1995	2000	Most recent (year in brackets)
Austria	nil	nil	nil	12.5 (2001)
Belgium	8.9	9.1	8.8	8.3 (2004)
Canada	16.7 (1991)	17.8 (1996)	nil	18.1 (2001)
Denmark	3.5	4.3	nil	18.8 (2001)
France	6.3	nil	nil	5.6 (1999)
Germany	8.4	8.8	8.9	8.8 (2005)
Ireland	6.1 (1991)	7.0 (1996)	-	10.4 (2003)
Netherlands	nil	8.2	9.0	10.6 (2003)
Norway		233	292	361
Sweden	9.2	10.6	113	11.8 (2003)
UK	3.2	3.4	4.2	5.2 (2005)

Fig.3: Foreign-born population, Selected OECD Countries [20]
Source: Campbell;2009

Boeri and Brucker have summarized the four paths that states of the EU followed in anticipation of the entry of new members. Each policy is summarized below:

1) Follow the basic tenets of the four founding freedoms and allow for the free movement of people from Eastern Europe into the country, allowing access to the same social programs and services provided to pre-accession EU migrants. Only Sweden followed this route.

2) Allow for the movement of migrants from the new states based on work permits, with wage and working condition stipulations. Migrants would only qualify for benefits and continued residency permits if they were employed. Ireland, Britain and Denmark chose this option.

3) Impose a strict quota system for migrants from new member states. Once the quota per country is met, no further permits are to be offered unless in exceptional circumstances. This was the policy of Austria, Italy, Portugal and the Netherlands.

4) Permits would only be granted if the employer can prove that not only is there not a qualified native for the job, but that there is not a qualified migrant from an established member state as well. With this option, the best chance for entry is the reunification of the family. The majority of states (Belgium, Finland, Spain, Luxembourg, France, Greece and Germany) chose this path[21].

After the candidate for membership in the European Union, the Albanian migration flows and migrant consciences have been changed. Because they have formed new policies towards decreasing discrimination in the host country and also in the home countries are formed strong policies to protect the Albanian emigrants. 'Migrant workers enjoy equal treatment with nationals of the host countries for working conditions, payment of social security, union membership, regardless of nationality, race, sex and religion'. [22] 'There is a strong link between the European Union integration process and Albanian emigration. This process plays a very important role in the development of policies and priorities in the field of migration. Conditions of Albanian migrants in host countries to guarantee the rights of Albanian citizens abroad and to facilitate the visa application process. Consequently, they are considered a priority task of the diplomatic services of the Ministry of Foreign Affairs and Government as a whole'[23] So to conclude should be said that European Integration has brought out a cultural pluralist model toward Albanian migrants, especially after the visa liberalization. These models encourage them to speak and learn the Albanian language to transmit culture, religion, traditions and

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[20] *J. R. Campbell, "*Caught between the ideology and realities of development: Transiting from the Horn of Africa to Europe*", Migration Studies Unit Working Papers No: 01,2009, p.43*
[21] *T. Boeri & H. Brucker, why are Europeans so tough on migrants? Economic Policy, 2005, p. 703*
[22] PËR EMIGRIMIN E SHTETASVE SHQIPTARË PËR MOTIVE PUNËSIMI, *LIGJ Nr.9668, Article 17, datë 18.12.2006*
[23] *L. Ikonomi,* E drejta Migratore, Manual Trajnues*, 2009, p. 15*

customs from one generation to the other. The policies of implication make possible the Albanian migrant identity to be safe and non-anomic. 'The reorganization of migration policies during the European integration give opportunities not just to Albania for forming facilities for Albanian migrant, also give opportunities to European countries policies to be respected and to stop the flow of illegal migration'[24].

5. Conclusion

It is important to stress that migration and minority policy issues are at the forefront of the political debate in the EU. These policies affect directly the rate of migrant flow. Most of the time these policies make possible the reconstruction of migrants' identities. To conclude should be said that the EU has brought out a cultural pluralist model toward Albanian migrants, especially after the visa liberalization. These models encourage them to speak and learn the Albanian language to transmit culture, religion, traditions and customs from one generation to the other. The policies of implication make possible the Albanian migrant identity to be safe and non-anomic. The reorganization of migration policies during the European integration gives opportunities not just to Albania for forming facilities for Albanian migrants, but also give opportunities to European countries' policies to be respected and to stop the flow of illegal migration.

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[24] *G. Sasse & E.Thielemann, A Research Agenda for the Study of Migrants and Minorities in Europe, JCMS: Volume 43, Number: 4, 2005, p 659*