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Claiming cosmopolitan citizenship: migrants' protests and border controls

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I. Introduction

Cosmopolitanism is, first of all, a normative idea about global justice, which represents one of the various proposals in dealing with the problem of migration. This is contrasted with the traditional approach based on a treaty-based conception of international law and state negotiations, which come together with the supposed right of a sovereign, that is, a state, to exclude by unilaterally controlling its borders. According to a certain view, the current failure of dealing successfully with the problem of migration can be attributed to a large extent to the failure of realizing the consequences and dealing with global *interdependence* under traditional international law.[1] For example, the failure of the EU's migration policies, so far, is characteristic of a solution-oriented logic that is premised on negotiations among sovereign states seeking to promote their relatively narrow national interests. The cosmopolitan alternative can take different normative forms: (a) the first form recognizes that we owe other people duties of humanitarian assistance beyond the state,

[1] Talking about migration here I will limit myself to the case of migrants conceived as refugees or stateless people, that is, I will focus on *forced* migration. Therefore, I will leave aside the further complications immigration creates, which ask for a different treatment.

but nothing more – this is a version of moral cosmopolitanism. (b) the second form claims we have duties of justice to other people and the best institutional form would be a cosmopolitan order, either under the constitution of a world state (a solution that could notoriously create more problems for freedom), or under other supranational institutional forms. (c) the third form, which also claims we have cosmopolitan duties of justice, leaves open the floor for the possible institutional form they can take. This is also because it sees cosmopolitanism not only as a normative idea, which has to be applied top-down, but also having a cognitive and epistemological dimension, which defines the self-understanding of (cosmopolitan) political community, that is based on the notion of cosmopolitan citizenship.

I will make an effort to derive such a conclusion by describing and evaluating migrants' protests. Looking closely at migrants' protests there seems to be a certain paradox, which I call 'the paradox of citizenship'. The paradox runs as follows: on the one hand, migrants protest against exclusionary policies of citizenship. If citizenship is allegedly always controlled by the state, migrants' protests seem to contest exactly this authoritative power of citizenship to exclude and control who can enter, who can be a citizen and what citizenship means. On the other hand, what they are asking for is a certain status akin to citizenship, something that may lead us to the revival of the old notion of 'cosmopolitan citizenship', or so I will argue.[2]

II. Closed European borders and migrants' protests in Idomeni, Greece

It is especially in cases of border controls, which have moved towards the center of recent discussion, that what I have called 'the paradox of citizenship'

[2] For an acknowledgement of such a paradox see I. Tyler and K. Marciniak, 'Immigrant protest: an introduction' *Citizenship Studies*, 17, no 2 (2013), 143-156, and A. McNevin, 'Irregular migrants, neoliberal geographies and spatial frontiers of 'the political'' *Review of international studies*, 33, no 4 (2007), 655-674.

is revealed. To this task the example of the closure of the European borders between Greece and the Republic of North Macedonia in 2016 provides a useful and instructive case of migrants' protests.[3] On March 7 2016 the EU heads of states and governments declared in Brussels that the 'illegalized' flows of migrants across the East Balkan path have been blocked. This was the result of the closure of borders and the obstruction of their crossing from Greece to North Macedonia, leaving more than 46.000 refugees and migrants trapped in continental Greece.[4] At the same time EU's promise that a legal way out from Greece for those applying for asylum would be found had remained to a great extent unfulfilled. According to information provided by the European Commission on April 12 2016 only 615 out of 66.400 asylum seekers for whom there was a commitment that they would be relocated from Greece on September 2016, had actually moved to another EU member state. Lack of political will on behalf of the receiving countries and the alleged right for state borders control were the basic reasons. Amnesty International accused EU member states for being responsible for failing to implement the agreed system of relocation adopted by Dublin II and therefore they have trapped asylum seekers and migrants in Greece.

Until March 8 2016, when North Macedonia's borders have been closed permanently, the vast majority of refugees and migrants reaching Greece continued their journey towards other countries passing through Balkans. This phenomenon was the result of a number of various reasons. A major one was and still is the desire of several migrants to reunite with members of their family who live in safe and rich countries such as Germany and the United Kingdom. Another reason is the hope that they could receive help and support from communities of co-nationals that have already settled elsewhere. One last, yet equally important reason is the complete lack of humane conditions or the ineffective and time consuming procedures of getting asylum and

[3] An earlier version of the argument presented here can be found in Kostas Koukouzelis, 'Migrants' protests, state borders and the paradox of citizenship' in T. Caraus and E. Paris (eds.), *Migration, Protest Movements and the Politics of Resistance,* London: Routledge, 2019, 51-72.

[4] Amnesty International, *Trapped in Greece*, Report, April 2016 (in Greek), 2.

papers or work permits – a situation that characterizes Greece as well. Actually in the case of Greece the last issue was of particular importance as Greece was convicted in 2013 by the Court of the EU because of the inhumane conditions asylum seekers were experiencing here.[5]

The closure of borders between Greece and North Macedonia in Idomeni, had the unfortunate result that thousands of refugees and asylum seekers mainly from Syria, Afghanistan and Iraq were trapped on the Greek side of the borders, with extreme needs for food, medical help and shelter.[6] The whole situation ended in a severe humanitarian crisis with people starving and having no shelter against weather conditions. Migrants became desperate since they could neither move forward nor go back. The *Medicins sans Frontiers* reported cases of refugees having met with severe violence from North Macedonia's border police.[7] No refugee was given the opportunity to explain her status or situation. This complex situation created progressively a massive feeling of anxiety, despair and anger. Migrants started, for the first time, to protest. Their protests involved their refusal to abandon their camps for other places in continental Greece and the occupation of the railway connecting Greece to Europe through North Macedonia blocking all cargos from Piraeus port and creating chaos in Greece's export flows to Europe.[8]

This case presented an example of migrants' protests in refugee and migrants' camps. Such protests, although grounded in a specific context, contested frameworks and assumptions that were also wider in scope. Their targets were not only the particular state they were in, but also the European

[5] Thus, the Court judged that asylum seekers should not be returned to Greece; see Court's decision in case C-4/11 *Bundesrepublik Deutschland v. Kaveh Puid* available in http://eur-lex.europa.eu/legal-ontent/EN/TXT/?uri=CELEX%3A62011CJ0004.

[6] For a good description of the dire straits see https://www.amnesty.org/en/latest/news/2015/08/Macedonia-thousands-trapped-and-at-risk-of-violence-as-border-sealed/

[7] Amnesty International. *op. cit*., 10.

[8] This is not of course the only case regarding border controls and migrants' protests. An important case study can be found in Calais, France; see J. Rigby & R. Schlembach, 'Impossible protest: no borders in Calais' *Citizenship Studies*, 17, no 2 (2013), 157-172.

Union's policies, so their goal was not just articulated in terms of state citizenship, but in terms of something autonomous and independent from it, claiming a distinct political subjectivity. Through protesting they constituted themselves as autonomous political agents, and therefore their status was no longer defined by the state they happened to be, nor by their humanity alone, but by the very act of *contestation*. This was moreover interestingly articulated in their refusal to be represented by Greek citizens or NGOs who acted in solidarity to them.[9] What exactly did they claim and in virtue of what? Did they simply claim their human right to freedom of movement, or something else?

III. Open borders: freedom of movement or finding a place in the world?

Contrary to much of the contemporary literature on migration and borders, I would like to stress the importance and the persistence of the notion of *citizenship* itself, casting some light to the 'paradox of citizenship' mentioned above. It is true that much of contemporary thought on migration, both of liberal and post-marxist origins, argues for the case for open borders and freedom of movement, instead of citizenship.[10] Certain liberals argue that citizenship is as arbitrary a factor, as race, sex and ethnicity for justifying inequalities. Closed borders create injustices, because it differentiates rights based upon one's origins.[11] Post-marxists argue that at the normative level citizenship is always a restriction of mobility, thus at the same time of freedom (of movement) to cross borders. At the descriptive level migrants who cross

[9] Indeed, in the case study of Idomeni, active citizens in solidarity created more problems, when they provided false information about open borders.

[10] Freedom of movement within one's state, the freedom to leave it, and the freedom to return to one's own state are now considered fundamental human rights; see *Universal Declaration of Human Rights*, 1948, art. 13. Nevertheless, the *Declaration* does not specify any obligation on the part of States to accept migrants in their territory.

[11] J. H. Carens, 'Aliens and Citizens: The Case for Open Borders' *The Review of Politics,* 49, no 2 (1987), 251-273, and more recently *The Ethics of Immigration*, NY: Oxford University Press, 2013.

borders do not want to be integrated into the institutional regime of the first hosting country, but want to move on. Migration is then autonomous in the sense that it has the capacity to develop its own logics and its own motivation - 'autonomy of migration thesis'.[12]

Both defenses of the case for freedom of movement and open borders fail in my view for various reasons I cannot pursue here in detail.[13] At the descriptive level migrants do not ultimately aim at mobility, but the opposite. It is because they are forced to move for reasons of persecution, personal liberty, and poor income, that they long for a place where they can feel at home, that is, they can be treated as free and equals. At the normative level our duties towards them are reductively described as duties we have to provide them with the fundamental *human right* to free movement. I think this is neither what they are asking for, nor what we owe them. This is because freedom of movement, however important it may be, it nevertheless, retains an instrumental value. It presumes direction towards somewhere and it is connected with certain goals to be achieved (fleeing from danger, association with others, professional career). Thus, the instrumental approach explains why the importance of mobility is a changing parameter.[14]

Hannah Arendt, a refugee herself, described in 1951 what is at stake. Her writings on the status of refugees are to my view still relevant and pregnant with revealing insights. Migrants, whom Arendt calls 'rightless' suffer from the loss of their homes in the sense of a loss of the entire social texture into which they were born. This means they have lost a place in the world, 'which makes opinions significant and actions effective'. In another formulation 'they are deprived, not of the right to freedom, but of the right to action, not of the right

[12] D. Papadopoulos. and V. Tsianos, 'After citizenship: autonomy of migration, organizational ontology and mobile commons'. *Citizenship Studies*, Vol. 17, no 2 (2013), 178-196, at 184

[13] For further discussion on the open borders argument see Shelley Wilcox, 'The Open Borders Debate on Immigration' *Philosophy Compass,* 4, no 5 (2009), 813-821.

[14] The value of mobility is different for a US businessman and an Afghan migrant.

to think whatever they please, but of the right to opinion'.[15] Together with a loss of government protection migrants therefore have lost what she has famously called as the 'right to have rights'. She argues that '[m]an, it turns out can lose all so-called Rights of Man without losing his essential quality as man, his human dignity. Only the loss of a polity itself expels him from humanity'.[16]

It seems that there is an important connection between rights and membership in a polity, or citizenship. In the social contract tradition outside a political community one finds herself in the so called 'state of nature', a condition variously described as fear of sudden death, insecurity, vulnerability to the arbitrary will of another, etc. In that sense every human being has the right and the duty to constitute a political community. This is the meaning of Arendt's 'right to have rights'. The 'right to have rights' is not just another right, but a political status that everyone has to enjoy in order to participate in humanity. This particular status means one has a voice, a capability to speak and find an addressee for her claims – this is what having a place in the world really means. It is most of the times argued that because migrants have lost exactly this status that we have moral duties to help them because they are human beings and in order for them not to lose their humanity, conceived as life, food, and movement. Open borders are conceived as a humanitarian correction to the state's right to (national) self-determination.

Hannah Arendt though goes much deeper. Loss of a place in the world, that is, loss of a home is not unprecedented in history. 'What is unprecedented is not the loss of a home, but the impossibility of finding a new one'.[17] The problem is not one of overpopulation, but of political organization. Furthermore she argues: 'The trouble is that this calamity arose not from any lack of civilization, backwardness, or mere tyranny, but on the contrary, that it

[15] All quotations are from Hannah Arendt, *The Origins of Totalitarianism,* with a new introduction by Samantha Power, New York: Schocken Books, [1951] 2004, 376.

[16] *Idem,* 376-377.

[17] *Idem,* 372.

could not be repaired, because there was no longer any "uncivilized" spot on earth, *because whether we like it or not we have really started to live in One World*. *Only with a completely organized humanity could the loss of home and political status become identical with expulsion from humanity altogether* (emphasis mine)*'*.[18]

It is therefore this 'One World' that also constitutes the figure of the migrant in our times. But here is Arendt's insight. Taken at its face value this argument shows that borders and especially unilaterally border controlling do not just separate places through states, but unify what is separated, otherwise migrants would find themselves in a desert when crossing borders, not in the territory of a foreign state. We are not merely talking about separate states, but about a unified space that excludes whoever has lost what everybody else enjoys. This form of interaction and interdependence creates duties of justice, not just moral duties, because borders can be coercive when they exclude people only because they are not members of the (nation-) state, that is, without adequate justification.[19] Yet, from the point of view of the migrant, the latter is already the victim of this political organization.

The force of Arendt's argument is, I think, still, unappreciated or, to say the least, partially appreciated. Everyone should have the right to be a member of a particular polity. However, who has the duty to fulfill this right? There are states that can do more than others in fulfilling their duties towards migrants, but, all of them should change their attitude towards migrants, not because the latter are *human beings* with certain rights, but because they are prevented to act *as citizens* of this political organization that already includes them only to ultimately exclude them. I think this is one of the lessons

[18] *Idem,* 376-377.

[19] See especially A. Abizadeh, 'Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders' *Political Theory*, 36, no 1 (2008), 37-65. I talk about how border controls dominate migrants in Koukouzelis, 'Migrants' protests, state borders and the paradox of citizenship', *op. cit*.

migrants' protests teach us, when they are trying to find a place in this 'one world'.

IV. Migrants as cosmopolitan citizens

Let us try to recapitulate and come to a preliminary conclusion. Opening borders and allowing for mere freedom of movement is doubly misguided. First, migrants do not ask to be treated merely as *humans*, because they do not protest or contest borders as humans, but as former citizens who have lost this essential feature that makes their humanity something more than membership in a biological species. Migrants' protests in Idomeni are an example of this. Second, what we owe them is not just humanitarian assistance, not even not to be deported (*non refoulement*), but a specific kind of protection, which goes beyond protecting physical existence. Such an approach has consequences on two fronts. First, freedom of movement only works along with a misconception of migrants' statuses conceived as just nomadic populations who are rootless. Second, it puts pressure on the late ad hoc solutions promoted by the E.U., which characterize the politics of funding detention camps in so called 'secure' receiving or third countries. Freedom needs space, albeit not in the sense of geographical space (which is not unlimited), but in the sense of a place in a political community.[20]

It is after all a matter of *place*, our place in the world, and the impossibility for them to find a place in it. It is therefore a matter of cosmopolitics, not just morality. It is a completely organized world and it also has a spherical shape, which means it is finite, as Kant reminds us. In virtue of these two features every human being in this world is at the same time a *cosmopolitan citizen*. Such a status silences any misleading discussion of whether migrants can be 'allowed' to be present somewhere. Note here that this would imply that if

[20] Hanna Arendt, *The Promise of Politics,* Chicago: Chicago University Press, 2005, 170 and Hans Lindahl, 'Finding Place for Freedom, Security and Justice: The EU's Claim to Territorial Unity' *European Law Review*, 29, no 3 (2004), 478.

such a place could be secured or re-established back in the polity migrants have lost then the duties of justice would be fulfilled. Admittedly this also puts pressure on dealing with the *structural* causes of transnational migration, which include, but are not limited to, global inequality and environmental risks, such as climate change.[21] Migrants are already citizens of a common world of interaction, which means that they should enjoy the status of non-domination by exercising the normative anti-power to contest. Without such a normative capacity even a system of human rights can become a system of infantilization.[22] This does not of course give migrants any right to secure permanent settlement, no further criteria applied, but gives them the recognition that whatever is decided for them by citizens of the hosting state or of any state can be *contested* on a fair basis.

Migrants' protests, as described in the case of Idomeni, can be conceived as a kind of 'cosmopolitanism from below'.[23] These protests provide empirical manifestations of cosmopolitan citizenship through their engagement with a transnational mode of contestation of border controls. In that sense they challenge methodological nationalism regarding borders. One of the errors of methodological nationalism is that is naturalizes borders, which are taken as natural walls, something that is surprisingly enough given the borderless flows of goods and services worldwide. To be sure, borders demarcate politically

[21] Arendt's argument unveils, in my view, a *structural* injustice, among others, which is the fruit of intended and unintended consequences of collective action and institutional interactions. The current regime of state borders creates such an injustice as it has been recently argued by Zuzana Uhde, 'Transnational Migration Contesting Borders of Responsibility for Justice' *Critical Sociology*, 45, no 6 (2019), 799-814.

[22] 'Non-domination', briefly speaking, means not to be dependent on the arbitrary will of another, as neo-republican political philosophy argues. Arendt's argument is exactly that stateless people suffer from this particular *vulnerability.* For an elaboration of this point see Koukouzelis, 'Migrants' protests, state borders and the paradox of citizenship', *op. cit.* and A. Gundogdu, *Rightlessness in an Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants*, Oxford: Oxford University Press, 2015.

[23] Fuyuki Kurasawa, 'A Cosmopolitanism from Below: Alternative Globalization and the Cretation of a Solidarity without Bounds' *European Journal of Sociology*, 45, no 2 (2004), 233-255, Thomas Nail, 'Migrant Cosmopolitanism' *Public Affairs Quarterly*, 29, no 2 (2015), 187-199, James Ingram, 'Cosmopolitanism from Below: Universalism as Contestation' *Critical Horizons*, 17, no 1 (2016), 66-78.

organized communities, which are self-determined and are necessary because politics must occur somewhere. Nevertheless they are still social constructions and need to be justified externally, because, as we have seen, they can dominate non-members. The local should be aware how it is connected to other localities and/or non-members, who have lost state citizenship.[24]

However, one of the possible objections that could be raised to our argument here would be that not all, indeed very few, migrants conceive themselves as cosmopolitan citizens. Migrants can be diverse with many of them having different agendas or wishing to be assimilated to nationalist narratives. This is true as protests contain a rich mixture of motives. Yet, first, I do not think this is relevant because migrants' protests only show that their civic activity is not bounded by the state there are in. Second, cosmopolitan citizenship does not lead to a denial of one's particular identity or nationality. Politics of assimilation has proved to be wrong-headed and cosmopolitanism is not about the imposition of a single identity, but a political status. Migrants' protests claim a voice, that is, repeating Arendt's words, they claim a place in the world, 'which makes opinions significant and actions effective'. In that sense they broaden the scope of the demos, which extends as far as justification goes. Despite the current shortcomings of the EU's migration policies there has been a recent effort on behalf of the EU to present itself as the laboratory of turning the idea of cosmopolitan citizenship into reality. The Lisbon and Rome Treaties defined a new kind of citizenship – European citizenship – as additional to that of the member states. This was built around 'free movement', but recognized that this should be accompanied by a certain political status. EU citizens who reside in a member state of which they are not nationals have the right to vote and to stand as candidates at local

[24] We should therefore distinguish methodological nationalism from the state's right to self-determination. Self-determination implies that those who are subject to the state's authority must be given an equal say in what that authority does. According to our argument here those who are subject to the state's authority are not only those who are within the state's territorial borders. The 'self' in 'self-determination' is expanded with border controls, as migrants are included (and dominated) when subject to the state's 'right to exclude'. See, especially Abizadeh, *op. cit.*

elections and in the elections of the European Parliament. In that sense the Lisbon Treaty proposed 'enacting European citizenship' as it connected citizenship with action that gives individuals the right to make claims to legal and political forms of access to rights – in Arendt's formulation the 'right to have rights'.[25]

I will conclude by noting that migrants reclaim cosmopolitanism in yet another respect, which shows why cosmopolitanism is primarily a political concept, not just a moral one, because it reveals itself as of urgent importance not only to migrants, but to *us.* Arendt argues with much insight: 'The danger is that a global, universally interrelated civilization may produce barbarians form its own midst by forcing millions of people into conditions which, despite all appearances, are the conditions of savages'.[26] The 21st century will be the century of the migrant. I hope it will also be the century of cosmopolitan citizenship.

[25] For the argument that migrants' protests exercise some form of cosmopolitan citizenship, putting in practice what the EU has been preaching see Nadia Urbinati, 'The joined destiny of migration and European citizenship' *Phenomenology and Mind*, 8 (2015), 78-92.

[26] Arendt*, op. cit*, 384.